

GENERAL INFORMATION

Applicant:	LTF Real Estate Company, Inc. (Owner) Opus Development Company, LLC (Developer)
Location:	6701 West 78 th Street
Request:	1) Rezone 6701 West 78 th Street from C-4(FH) to C-4(PD) (FH); 2) Conditional Use Permit for a residential care facility in the C-4 zoning district; and 3) Preliminary and Final Development Plans for a four-story, 186-unit residential care and senior living facility with a 100-person day care.
Existing Land Use and Zoning:	Vacant; zoned C-4(FH) Freeway Office (Flood Hazard)
Surrounding Land Use and Zoning:	North – (City of Edina) Single-family and two-family residential; zoned R-1 and PRD-3 South – Interstate Highway 494 East – Office; zoned C-4 West – Office and Nine Mile Creek; zoned C-4 and C-4(FH)
Comprehensive Plan Designation:	Office

CHRONOLOGY

Planning Commission	06/28/2018	Recommended approval (Vote: 3-0 with one abstention)
City Council	07/23/2018	Public hearing scheduled

BACKGROUND

The subject property is the former health club and tennis center site operated by Northwest Athletic Club and Lifetime Fitness. The health club was demolished in 2006 and has been vacant since the demolition occurred.

Prior to the submission of this development application, the applicant submitted a privately initiated City Code amendment to allow residential care facilities and nursing homes/adult care homes as conditional accessory uses in the C-4 zoning district (Case #PL2018-125). The City Code amendment was necessary for the development to proceed, subject to the Planned Development and

Conditional Use Permit approval. The City Council approved the privately initiated City Code amendment on June 4, 2018 (Ordinance #2018-14).

PROPOSAL

Opus Development Company, LLC is proposing to construct a four-story residential care and senior living facility with an approximately 11,000 square-foot day care in the walk-out basement level. The residential care facility component would house 96 assisted living beds within 71 assisted living units, as well as 20 memory care units. In addition to the residential care facility use, the development includes 95 independent senior living units. The facility service model is a continuum of care for seniors. The day care use would allow for a maximum of 100 children, with 15 caregivers/employees on-site during the maximum shift. The mix of senior and assisted living with the proposed day care is intended to provide for an inter-generational campus. The facility would be served by an 86-stall underground parking garage and 121 surface parking spaces.

As part of the residential care and senior living facility, multiple on-site services and amenities are proposed. The facility would include a swimming pool, fitness center, dining area and bistro, spa, and salon. According to the applicant, these supportive services would be quasi-public, with some services available to nonresidents.

External site amenities associated with the development include an entry garden, memory garden, large outdoor patio, and an outdoor play area for the day care. The development would provide a drop-off area with porte-cochere at the main entrance. The site is served by three access drives to West 78th Street, a minor arterial roadway.

ANALYSIS

Rezoning

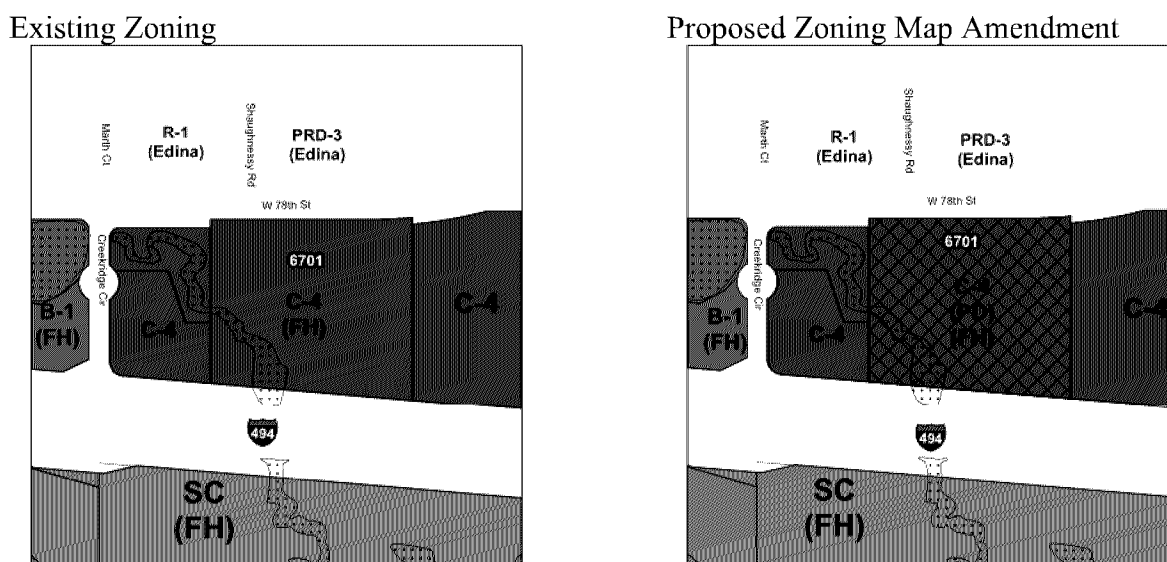
The applicants request a rezoning from C-4(FH) to C-4(PD)(FH) in order to apply the planned development overlay district to the site. Should the rezoning to a Planned Development be approved, the Preliminary and Final Development Plans must be approved to proceed with the permit application. The proposed rezoning is illustrated in Figure 1.

Rezoning carries a higher level of discretion than quasi-judicial actions. Although there are no explicit findings that must be made in conjunction with a rezoning, appropriate considerations include:

- Whether the proposed district is consistent with the Comprehensive Plan;
- How the proposed district differs from the existing district; and
- Whether there is a public benefit in the change.

The purpose of the Planned Development Overlay District is to promote creative and efficient use of land by providing design flexibility in the application of development standards. The subject application is seeking flexibility in the application of development standards to promote a creative use of land. The underlying zoning (C-4) and guidance (Office) are proposed to remain unchanged. As a result, the proposed rezoning is consistent with the Comprehensive Plan and does not differ from the existing underlying zoning district. The public benefit associated with the rezoning to the Planned Development Overlay District is to allow for the development of senior and assisted living, uses that the City's Comprehensive Plan explicitly promote and encourage to support life cycle housing.

Figure 1 – Proposed Rezoning from C-4(FH) to C-4(PD)(FH)



From a process standpoint, the rezoning approval to add the Planned Development Overlay District to 7801 West 78th Street must occur prior to the approval of the Preliminary and Final Development Plans. The Flood Hazard Overlay District would remain on the site regardless of the rezoning due to the presence of Nine Mile Creek.

Land Use

The proposed uses associated with the Preliminary and Final Development Plans are residential care facility, multiple-family residential, and day care. The uses are conditional accessory and accessory uses respectively. In this case, the designation of the uses as “accessory” in the Zoning Code reinforces the requirement that these uses are only allowed in the C-4 zoning district when combined with non-residential uses, as specified in Section 21.302.02 of the City Code. Standards specify the required amount of nonresidential floor area required. The residential care facility requires a Conditional Use Permit.

Conditional Use Permit

The application includes a request for a Conditional Use Permit (CUP) for a residential care facility use in the C-4 zoning district with 116 beds of assisted living and memory care. Residential care facilities serving seven or more persons are allowed as a conditional accessory use in the C-4 zoning district as a result of the recent approval of a privately initiated City Code amendment. Residential care facilities are designated as conditional uses in all of Bloomington's zoning districts where the use is allowed. The conditional use permit review is intended to ensure these facilities are reviewed and operated in a manner that protects the public health, safety and welfare.

City Code Section 21.302.23 includes specific performance standards for residential care facilities, such as the submission of a management plan and buffering and setback requirements to single-family residential uses. The subject application has submitted a management plan. In addition, the subject property does not abut any properties that are zoned or used as single-family dwellings. The City Code requires the Bloomington Police Department to approve a security plan for the facility. Staff added a condition related to this requirement. Subject to the review of the Preliminary and Final Development Plans for Code compliance and flexibility allowed under the Planned Development Overlay District, staff believes the application meets the required findings for a conditional use permit. More detail is found in the Findings section of the report. Staff recommends approval of the CUP.

Code Compliance

Table 1 provides an analysis of the proposed development according to the development standards of the C-4 zoning district and other performance standards throughout the City Code. Areas of noncompliance or nonconformance are identified, and additional discussion regarding conformance to various performance standards is provided in specific sections of the staff report.

Table 1: City Code Compliance Analysis

Standard and Code Section	Proposed	Meets Standard?
Site Area – 120,000 square feet (Sec. 21.301.01(d))	308,339 square feet	Yes
Minimum Lot Width – 200 feet (Sec. 21.301.01(d))	600 feet	Yes
Minimum Building Floor Area – 20,000 sq. ft. (Sec. 21.301.01(d))	225,605 square feet	Yes
Building Setback Along Streets – 55 feet due to planned widened right-of-way (Sec. 21.301.02(e))	55 feet	Yes
Building Rear Yard Setback – 30 feet (Sec. 21.301.02(e))	151 feet	Yes

Standard and Code Section	Proposed	Meets Standard?
Building Side Yard Setback – 30 feet (Sec. 21.301.02(e))	51.8 feet	Yes
Parking Setback (Along Street) – 40 feet due to planned widened right-of-way (Section 21.301.06)	40 feet	Yes
Parking setback (Rear and side yard) – 5 feet (Section 21.301.06)	15.1 feet	Yes
Impervious Surface Coverage – 90 percent (Sec. 21.301.01(c))	42.6 percent	Yes
Floor Area Ratio (FAR) – Minimum 0.4, Maximum 2.0 (Sec. 21.301.01(d))	0.73	Yes
Minimum Nonresidential FAR - 0.20 (Sec. 21.302.02(b))	0.04	Deviation requested – see further discussion
Building Height – No limit (Sec. 21.301.10(1)(A))	5 stories at rear facade / 62 feet	Yes
Residential Unit Min. Floor Area – Efficiency Units: 400 square feet One-Bedroom: 525 square feet Two-Bedroom: 700 square feet (Sec. 21.301.01(c)(3))	Efficiency: 480 sq. ft. One-Bedroom: 675 sq. ft. Two-Bedroom: 1,000 sq. ft.	Yes
Parking Quantity Required – 217 spaces (Section 21.301.06(d))	207 spaces (86 garage and 121 surface)	No – see further discussion
Parking Stall Size – 9 feet by 18 feet for 90 degree parking (Sec. 21.301.06(c)(2)(C))	9 feet by 18 feet	Yes
Drive Aisles – 24 feet for 90 degree parking (Sec. 21.301.06(c)(2)(C))	24 feet	Yes
Sidewalks – 5 feet in width, seven feet when perpendicular to surface parking (Section 21.301.04)	4.4 feet	No – see further discussion
Trash and Recycling Collection Area Minimum 1,072 sq. ft. (Section 19.51 and MN Admin Rules 1303.1500)	1,090 sq. ft.	Yes
Free-Standing Sign Setback (Along Street Frontages – 20 feet from planned widened right-of-way (Article X)	0 feet from planned widened right-of-way	Deviation requested – see further discussion
Tree Requirement – 77 trees (Sec. 19.52(c)(2))	71 trees (70 new, 1 existing)	No – see further discussion
Shrub Requirement – 191 shrubs (Sec. 19.52(c)(2))	284 shrubs (including perennial equivalent)	Yes

Standard and Code Section	Proposed	Meets Standard?
Parking Lot Island Trees – One in each parking lot island (Sec. 21.301.06(c)(2)(H)(iii))	Two parking islands do not have trees	No – see further discussion

Nonresidential Floor Area

The subject application includes two requests for flexibility through the Planned Development Overlay District (City Code Sec. 19.38.01) related to the required quantity of nonresidential floor area within the development. Section 21.302.02 of the City Code establishes that a multiple-family residential development in the C-4 zoning district must have a minimum Floor Area Ratio (FAR) of 0.2 of nonresidential uses. The City Code does not define nonresidential use. However, based on past policy and practice, staff would interpret nonresidential uses in this instance to relate to all uses and services that do not directly benefit or support the multiple-family residential use (senior living). For example, the proposed day care would qualify as a nonresidential use within the subject development.

The application is requesting PD flexibility related to nonresidential use FAR. In support of the request, the application argues a large portion of the property is not developable due to the presence of Nine Mile Creek, its associated floodplain and additional right-of-way requirements. The applicant requests PD flexibility for unusable land area. In addition, the applicant argues many of the supportive services and facilities that serve the residential care and senior living facility are semi-public or are above and beyond a typical multi-family residential use. According to the project description, the applicant estimates the campus will employ between 75 and 85 persons. Through PD flexibility, the applicant requests that these semi-public services and facilities qualify as nonresidential uses for the purposes of the FAR calculation.

Counting the full land area of the site, to achieve the required 0.2 FAR, 61,668 square feet of nonresidential uses are required on site. If flexibility is granted due to a portion of the site being undevelopable due to floodplain issues and future right of way needs, the remaining land area is 191,171 square feet and the required amount of nonresidential uses would be 38,234 square feet. The applicant argues that the semi-public amenities and supportive services of the residential care facility should receive credit towards the amount of nonresidential uses. Along with the day care, these areas would total 39,835 square feet, which is beyond the requirement after netting out unusable portions of the site. The City Code does not define nonresidential uses, although it clearly categorizes types of uses as residential. This request for flexibility would be the first of its kind since the performance standards for multiple-family residential uses in commercial zoning districts were adopted in 2006.

When evaluating the merits of a request for PD flexibility (Sec. 19.38.01(c)), such requests are evaluated on the basis of the request providing public benefit and meeting the intent of the Planned Development Overlay District. With respect to the public benefit, staff has identified the following benefits for consideration:

- **Senior and Life Cycle Housing** – The City’s Comprehensive Plan promotes the development of multiple-family and senior housing to provide housing for all age groups. The subject application to construct a residential care facility and additional senior housing would fulfill a community need based on previous housing market research completed on behalf of the City.
- **Employment** – The intent of the nonresidential floor area requirements is to ensure that commercially zoned sites provide services and employment. The applicant estimate that the day care and residential care facility use will require between 75 and 85 employees for effective operation. Allowing for such a development with this level of employment would be consistent with the intent of the base zoning district.
- **Site Vacancy** – The subject property has been vacant for a period of 12 years. The ongoing vacancy is related to a weak office market, an ongoing trend being experienced throughout the Twin Cities Metropolitan Area. From a tax base, economic activity and land utilization perspective, it would be beneficial for the site to develop.

The City’s Comprehensive Plan also encourages the multiple-family residential housing to be developed in close proximity to goods, services and transit. The subject property does not fulfill these goals, as the site is not in close proximity to the amenities referenced above. However, senior housing differs from typical multiple-family housing in that there is frequently more on-site services and amenities to fulfill resident needs. From a traffic perspective, senior living developments are the source of fewer vehicle trips than typical multiple-family residential development. For these reasons, staff is more supportive of a senior living and residential care facility with a day care in the subject location than typical multiple-family housing.

Finally, the City must determine if the requests for PD flexibility are consistent with the intent of the Planning Development Overlay District. With respect to the intent of the PD overlay district, staff would highlight the following from the ordinance (Sec. 19.38.01(a)(1) and (5)):

- (1) *Allowing improved site and structure design* – The multi-tenant design allows for separate “front doors” or front elevations for the two facilities proposed, the residential care facility and the day care.
- (5) *Allowing the shared use of facilities, including, but not limited to, parking, access and storm water management infrastructure* – The integration of the uses proposed allows for the shared use of circulation, parking, trash and other facilities that benefit both uses. The mixed-use nature of the development effectively incorporates nonresidential uses, meeting the intent of the underlying zoning district.

As a result of this analysis, the Planning Commission and staff are supportive of the PD flexibility requests related to nonresidential floor area, concluding there is public benefit associated with the flexibility requests and broader development as a whole. In addition, the intent of the PD Overlay

District is to promote creative and efficient use of land. Staff believes the subject requests for flexibility are consistent with the intent of the district. The Planning Commission and staff recommend approval of these specific flexibility requests related to nonresidential FAR.

Building Design

The proposed building is four stories in height with a walkout/basement level. Measuring the southern elevation of the building, the structure is 62 feet in height. The subject property is not limited by a maximum height restriction according to the City's Height Limits Map. The walkout/basement level contains the day care use, pool and fitness area, and the underground parking garage. The first floor contains various resident services (dining, spa, etc.), administrative offices, memory care units, and independent and assisted living units. Floors two through four are primarily comprised of assisted and independent living units.

The proposed exterior building materials of the four-story building are primarily brick, stucco, fiber cement panel and fiber composite lap siding. The proposed building materials have been revised since the review by the Planning Commission. The proposed roof is a flat design. City Code (Sec. 19.63.08(c)) has minimum standards for exterior building materials. Within the C-4 zoning district, primary exterior building materials are limited to glass, stucco, stone, brick architectural concrete or metal in accordance with adopted policies and procedures. As a result, fiber cement panel or fiber composite siding may not be utilized as primary exterior materials. However, the applicant has requested flexibility through the Planned Development Overlay District to allow a maximum of 21 percent of secondary building materials. Further discussion about the flexibility request is found in the Planning Commission Review section. The Planning Commission supported the flexibility request related to exterior materials.

Landscaping, Screening and Lighting

Based on the developable landscaping area for the site, City Code requires 77 trees and 191 shrubs. The applicant is proposing to install 70 trees and preserve seven existing trees on-site. However, staff is only able to identify six trees to remain, the majority of which are ash trees and may not be counted towards the landscape requirement. The landscape plan must include 77 total trees that are allowed by the City Code. The shrub requirement is exceeded, as 284 units of shrubs are proposed. The building foundation planting requirement as specified in the City's supplemental landscaping policy (50% of foundation facing public street frontages) is met. Two parking islands do not have deciduous trees as Code requires. City Code requires all parking lot islands to have one deciduous tree. Should the development be approved, the landscape plan must be revised to include the Code-required quantity of trees, and all parking lot islands must have one deciduous tree. Finally, some trees are located within the planned widened right-of-way or area needed for the construction of a public sidewalk. These trees will need to be relocated as part of broader plan revisions.

Regarding screening, the landscape plan complies with the parking lot screening requirement. Shrubs are proposed in between the surface parking areas and the public right-of-way. However, more detail must be provided for the height and species of the shrubs utilized, as the height must be

between three and four feet. In addition, roof-top equipment is proposed for the building. City Code requires the screening of roof-top equipment. The architectural plans show that screening will be utilized as needed.

The applicant has submitted a lighting plan for the exterior portions of the site. Parking dedicated to the day care use must be a minimum of 2.0 foot-candles (which can be reduced to 1.0 foot-candle along the perimeter 25 feet of the parking lot). Parking dedicated to the senior living use must be a minimum of 1.0 foot-candle (which can be reduced to 0.5 foot-candles along the perimeter 25 feet of the surface parking lot). It appears the majority of the surface parking areas meet Code, although light levels for parking in proximity to the day care use are below Code. In addition, the primary building entrance for the day care must have a minimum light level of 10.0 foot-candles. These deficiencies must be addressed through the submittal of revised lighting plans.

Initial and maintained photometric lighting plans must also be submitted for the underground parking garage. The parking garage must have a minimum light level of 3.0 foot-candles (which can be reduced to 1.5 foot-candles along the perimeter of the underground parking area). Lighting plans must be approved prior to the issuance of a building permit.

Access, Circulation, and Parking

The subject site has three existing access points to West 78th Street. These access drives served the previous health club and the curb cuts remain to this day. The subject application proposes to utilize the existing curb cuts for site circulation. The western and central access points are proposed to be “full” accesses, whereas the eastern drive is proposed to remain as a right-in/right-out design. In order to accommodate a full access for the western and central curb cuts, some modifications to the medians within West 78th Street are likely. All roadway modifications must be designed in consultation with the Bloomington Traffic Division and City of Edina. Any work within the right-of-way requires a right-of-way permit from the Public Works Department. It should be noted that the proposed accesses are under further review as a result of the discussion at the Planning Commission meeting. Based on the Planning Commission discussion and Bloomington Traffic Division review conditions for the accesses are described in the below Traffic Analysis section.

Site circulation is provided around the entirety of the building. Vehicles driving to the day care would utilize the western access, whereas visitors travelling to the assisted and senior living facility would utilize the central driveway. Both assisted living and day care traffic would be able to utilize the eastern right-out egress. The application included an auto-turn exhibit for Bloomington Ladder Truck 3, demonstrating adequate site circulation for emergency vehicles. In addition to vehicle movements, sidewalks are provided throughout the site for pedestrian circulation. Some of the proposed sidewalks do not meet the minimum dimensional requirements. Private sidewalks must have a minimum width of five feet. Sidewalks perpendicular to parking stalls must be seven feet in width to accommodate vehicle overhang. All sidewalks must comply with City Code. Finally, the applicant is not proposing to relocate the existing sidewalk along West 78th Street at this time. As the construction of a public sidewalk is a Code requirement (Sec. 21.301.04(b)(1)), the plans must be revised to accommodate an eight-foot sidewalk behind the planned-widened right-of-way within

a sidewalk/bikeway easement and the sidewalk must be constructed in conjunction with the development. The submitted landscaping plan will need to be revised to remove plant material from these areas that would conflict with the construction of the public sidewalk.

The application proposes to construct 207 parking spaces, 86 of which are located in an underground parking garage. The architectural plans show 87 garage parking stalls. However, in responding to DRC review comments, the applicants note that one stall must be removed to expand the trash storage facilities, lowering the number of garage stalls to 86. The proposed surface parking (121 stalls) is provided primarily in two areas: 1) front-field visitor parking area for the assisted and senior living facility, and 2) day care and employee/visitor parking along the southern and western circulation lane. The City Code requires 217 parking stalls. Table 2 provides a breakdown of the various uses within the development and their respective parking requirement. The Code-required quantity of parking identified in the previous staff report was reduced from 226 to 217 stalls as a result of recalculation of party room spaces. In addition, it is likely that two additional surface stalls will be provided through the elimination of two unnecessary mid-tier parking islands, increasing the quantity of parking provided to 209 stalls.

Table 2 – Parking Quantity Analysis

Use Description	Standard	Proposed	Stalls Required
Residential Care Facility (memory care and assisted living)	1.5 spaces for four beds	116 beds	43.5
Senior Citizen Housing	1.5 spaces per unit	95 units	142.5
Party Room (private dining service)	1 space per 100 square feet	355 sq. ft.	3.5
Day Care	1.2 spaces per 10 program participants, plus one space per caregiver on maximum shift	100 children 15 caregivers	27
Total Parking Requirement per City Code			217
Parking Proposed			207
Parking Deficit			10 (4.6%)

As noted in Table 2, the proposed development has a deficit of 10 parking stalls from the total City Code parking requirement. This deficit represents a 4.6 percent of total required parking. In order for the subject application to move forward, the development must demonstrate the ability to provide 217 parking stalls. To address the parking deficiency, the applicants have submitted an exhibit showing that additional parking can be provided by eliminating non-required handicap parking spaces and restriping some spaces for compact vehicles as allowed under City Code. To memorialize this proposal, the applicants are requesting a proof of parking agreement for the

deficiency in parking stalls as allowed in Section 21.301.06(e) of the City Code. Staff supports the proof of parking request and is recommending conditions that the development comply with the City's parking requirements by providing the Code-compliant quantity or by entering into a proof of parking agreement with the City.

Shore Area Regulations

Article IX of Chapter 19 of the City Code specifies the regulations concerning the use, development and alteration of shore areas of public waterbodies in the City of Bloomington. These provisions are adopted to protect natural characteristics of shore areas, prevent pollution of surface and ground waters, minimize flood damage and manage the effects of shore area development. The area within 50 feet from the top of bank of the channel (also known as the Ordinary High Water level) of Nine Mile Creek is designated as a shore area under the ordinance. As a result, any grading or filling in this area would require a shore area permit. In addition, the applicant is limited in the types of structures that can be located within a shore area. The shore area permit review is intended to ensure appropriate measures are taken from an erosion control and stormwater management perspective to protect the public waterbody.

As part of the subject application, the applicant proposes grading/filling activity within the shore area. In addition, permanent surface parking would encroach into the shore area of Nine Mile Creek. Grading/filling and surface parking within the shore area are allowed as long as certain criteria is met. The subject application does not propose to encroach further into the shore area than the previous development that was demolished in 2006. Both surface parking and tennis courts likely encroached into the shore area at the previous health club at this property. As long as erosion control and stormwater are effectively managed through construction and the permanent condition, the impact to Nine Mile Creek should be minimal. To further review the proposed grading/filing and erosion control and stormwater management methods, the applicant would need to obtain a shore area permit prior to the issuance of a grading permit. Staff has included a condition of approval requiring the shore area permit.

As part of the review of the shore area impacts, staff has notified the MN DNR. Review comments submitted by the DNR will be incorporated into future review of the development application and shore area permit should the application be approved. Nine Mile Creek Watershed District will also be consulted with respect to proposed disturbance or development impacts to the shore area of Nine Mile Creek. The applicants are responsible for obtaining a Nine Mile Creek Watershed District Permit in addition to obtaining a shore area permit from the City.

Stormwater Management

Stormwater will be managed to meet the City's and Watershed District's requirements for stormwater rate control (quantity), stormwater quality and volume. The Stormwater Management Plan calculations and narrative have been reviewed and appear to meet the requirements in the City of Bloomington Comprehensive Surface Water Management Plan. A maintenance plan has not yet

been provided and will be required to be signed and filed at Hennepin County. This site is located within the Nine Mile Creek Watershed District, so an additional permit will be required.

Utilities

The proposed residential care and senior living facility would utilize existing sanitary sewer and watermain within West 78th Street. These existing utility segments are unique in that they are owned by the City of Bloomington, but water and sanitary sewer service is provided by the City of Edina. The applicant will be responsible to coordinate all utility work with both jurisdictions as a result.

Traffic Analysis

West 78th Street is a minor arterial roadway that has adequate capacity to serve the proposed development. The subject site has three existing access points to West 78th Street that served the previous health club, and the curb cuts remain to this day. The subject application proposes to utilize the existing curb cuts for site circulation. The western and central access points are proposed to be full accesses, whereas the eastern drive is proposed to remain as a right-in/right-out design. Traffic staff have concerns about the middle driveway as proposed, in that it would allow for left turns out of the site through the median then directly across a left turn bay. This is an unsatisfactory configuration from a safety perspective as its difficult for exiting drivers to judge, and for drivers on W. 78th Street to anticipate. In combination with the other nearby site driveways and the traffic conditions on the roadway it has the potential to create safety issues. A condition is recommended that the applicant enter into a street modification agreement to include one of the following:

Access Options Recommended by Staff:

- 1) The middle driveway be permitted as $\frac{3}{4}$ access by restricting left turns out of the site via physical median modifications (approximately as shown in Figure 2), or;
- 2) The middle driveway be permitted as right-in, right-out via closing the median opening entirely. If additional westbound access is sought (in addition to the full access on the west driveway) then an opening in the median would be permitted for the easterly driveway to allow for full access at that location, provided the applicant design and build those median modifications as permitted by Bloomington and Edina (approximately as shown in Figure 3).

The City of Edina will be consulted as part of this process.

Figure 2 – Middle Driveway $\frac{3}{4}$ Access

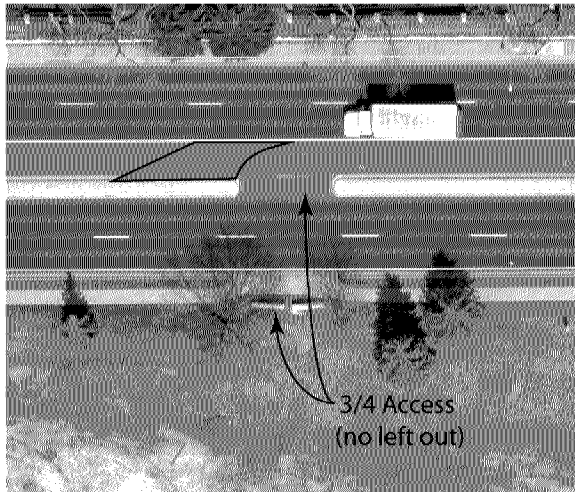
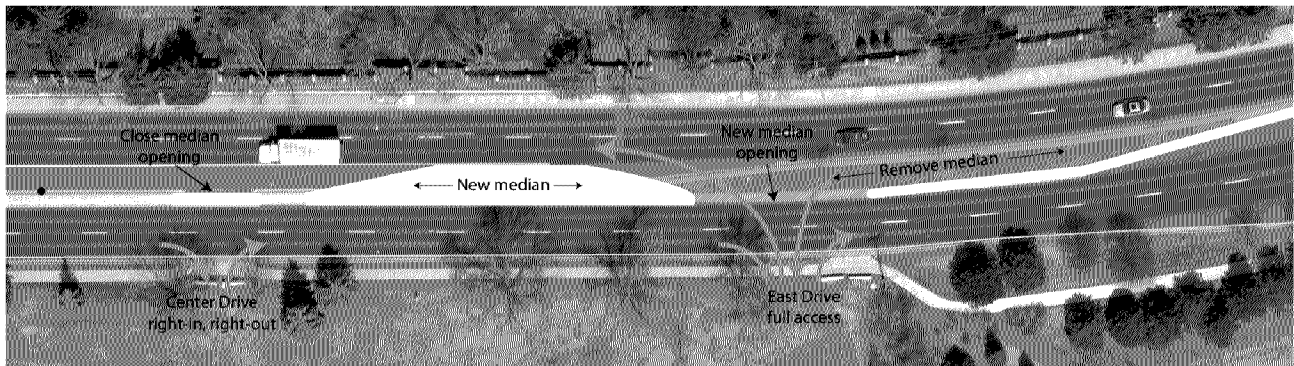


Figure 3 – Eastern Driveway Full Access



Transit and Transportation Demand Management (TDM)

This development will require a Tier 2 TDM plan, which allows the property owner to choose from a menu of TDM options. The owner has not yet submitted a Tier 2 TDM checklist.

Fire Prevention and Public Safety

The site plans meet a majority of the fire prevention requirements. The access and circulation design must meet or exceed the minimum standards for fire prevention and be maintained in accordance to the approved plan, including a surface to provide all weather driving capabilities. Apparatus access roads shall be asphalt or concrete and support a minimum of 80,000 pounds. Provide turning radius throughout the property to accommodate ladder 4.

The building must be addressed plainly and visible from the street or road using numbers that contrast with the background. The numbers must be a minimum of four inches, be Arabic numbers or alphabetic letters with a minimum stroke width of 0.5 inches. Wayfinding/directional signage shall be provided for the daycare center.

A Knox box will be required at the main entrances and other areas as designated by the Fire Prevention Division. Access shall be provided to and from all stairwells on all floors and parking levels with hose valves located at the floor landing. The applicant shall ensure the proposed landscaping plans don't interfere with access to the building.

The applicant proposes adequate water supply with a hydrant within 50 feet of the fire department connection and within 150 feet of any exterior wall. Hydrants will be approved by the Utilities and Fire Prevention Divisions.

A common concern for commercial kitchens, especially those producing grease laden vapors, is to assure the hood suppression system is tested to the UL300 Standard, be listed and labeled for the intended application and have the capability to flow water through the same nozzles upon discharge of the wet chemical.

Provide for emergency responder radio coverage throughout the complex and in all structures per the requirements of Appendix L in the 2015 Minnesota State Fire Code. Any future changes made to the current plans, including building location, access roads, water supply, and addressing, shall be reviewed by the Fire Marshal to insure continued compliance with the fire code.

Miscellaneous

The proposed development includes a commercial kitchen, dining area, bistro, and other food services. The review of these facilities will be completed by the City's Environmental Health Division. In addition, an external grease interceptor and odor control must be provided. Staff is recommending conditions of approval that related to the food service activities of the facility.

City Code Section 19.51 and the Minnesota State Building Code establish requirements pertaining to trash and recycling storage for the proposed facility. The facility must have a storage area that is 1,072 square feet in size, unless a trash compactor or waste management plan is approved. The applicant's response to the City's DRC comments notes 1,090 square feet of trash and recycling storage will be provided in the underground parking garage. Staff will need to verify compliance once the architectural plans are updated to show revised trash and recycling storage. Finally, the design requirements for trash facilities serving the food service use (Sec. 19.51(d)(2)) must also be accommodated.

The State of Minnesota has noise pollution control standards (MN Rules, Part 7030) in place, administered by the Minnesota Pollution Control Agency (MPCA). The rules establish maximum noise levels for various land uses, as well as acceptable methods for noise attenuation. Given the proximity of the subject property to Interstate Highway 494, it is possible that the maximum noise

levels for the proposed uses are exceeded. To ensure compliance with the State standards for noise pollution control, staff is recommending a condition that the development comply with MN Administrative Rules Chapter 7030.

City Code section 21.302.02 requires designated storage space must be located within each dwelling unit and must have a minimum of a four foot horizontal dimension and a minimum of a four foot vertical dimension and be at least 96 cubic feet. The applicant has requested a deviation related to this requirement, which was supported by the Planning Commission. Additional detail about this request is in the Planning Commission Review section that follows.

Signage

Regarding signage, the applicant is requesting flexibility through the Planned Development Overlay District for the number of freestanding signs allowed and to reduce the front-yard setback for said signage. Section 19.113 of the City Code specifies a property in the Class IV Sign District (correlates to C-4 zoning) may have one freestanding sign per street frontage. The application requests two freestanding signs be allowed due to the multi-tenant nature of the building. In addition, City Code requires a 20-foot front yard setback from the planned widened right-of-way for freestanding signs. The requested deviation would reduce the setback to zero feet. Staff has reviewed each request for flexibility related to signage and has found the following:

- 1) **Number of Monument Signs** – The basis of the flexibility request for multiple ground signs is the fact that there are two uses associated with the site – the residential care/senior housing facility and the day care. The site is designed to direct traffic to the different uses utilizing different access points (the day care use is to be accessed by the western driveway while the residential care facility is primarily accessed from the central driveway), staff understands the desire to have multiple freestanding signs. However, there is a significant number of multi-tenant buildings all over the City that do not have the same allowance. In addition, the City’s signage provisions (Sec. 19.116) allow for additional directional signs to be installed above and beyond the allowance for freestanding signage. Unlike many business locations, a majority of the patrons for a residential and daycare use are frequent users of the site and would not require permanent signage to minimize conflicts. As a result, staff is not supportive of this request for PD flexibility.
- 2) **Freestanding Sign Location** – City Code requires a setback of 20 feet from the planned widened right-of-way for freestanding signs. The subject property requires an additional 20 feet of right-of-way beyond the existing condition to be included in the required front setback, the freestanding signs as shown on the site plan are proposed at a zero-foot setback to the planned widened right-of-way. Given the additional right-of-way needs along West 78th Street require signs and other structures to be setback greater than usual, staff is understanding of the request to reduce the setback. However, if the proposed freestanding signs are located at a zero-foot setback to the planned widened right-of-way, the sign location would conflict with the public sidewalk location that is required by City Code. As a result, staff is supportive of reducing the required setback for the freestanding sign to the planned widened right-of-way from 20 feet to ten feet. A setback of ten feet would allow

for the construction of a new public sidewalk while still reducing the sign setback to the greatest extent possible.

Based on the analysis above, staff is not supportive of the PD flexibility request to allow for multiple freestanding signs, while staff would support reducing the setback of a freestanding sign from 20 feet to ten feet to the planned widened right-of-way. The building can utilize multiple wall signs, as long as they are of channel construction. Finally, due to the multi-tenant nature of the building, the property will need to obtain approval for a Uniform Sign Design (USD) prior to the issuance of sign permits per Section 19.109 of the City Code.

Status of Enforcement Orders

The property is not subject to any open enforcement orders.

Planning Commission Review

The Planning Commission held a public hearing on the subject application on June 28, 2018. Multiple persons from the surrounding residential neighborhood to the north spoke during the public hearing. Testimony provided by the speakers focused on concerns related to the amount of existing traffic and turning movements on West 78th Street, especially during the a.m./p.m. peak hours. Related to the peak a.m./p.m. traffic, the City's Traffic Engineer noted that the proposed use allows for a greater distribution of trip generation when compared to an office use, which would increase the peak hour traffic at a greater rate. Further detail of the public comment during the hearing can be found in the attached Planning Commission minutes.

In addition to the comments provided by members of the public, the applicant requested that the Planning Commission consider additional requests for PD flexibility. Additional requests for PD flexibility included the following:

- **Exterior Building Materials** – The applicant is requesting to utilize fiber composite siding, a secondary material, up to a maximum of 21 percent of any building elevation. City Code limits the amount of secondary materials of any one building elevation to 15 percent. The applicant desires additional fiber cement to include more materials that are consistent with residential projects. The elevations proposed with more than 15 percent of secondary materials would be interior and southern facing. The front (north) elevation would not exceed 15 percent of secondary materials. The Planning Commission supported this request for flexibility.
- **Storage Space** – The applicant is proposing to provide the dimensional storage requirement for 50 percent of the independent senior dwelling units. According to the applicant, the storage space proposed is reflective of market demand. The Planning Commission supported this request for flexibility. As a result of the Planning Commission recommendation, a previous condition of approval related to storage space was removed.

- **Sidewalk Location** – The applicant desires to move the sidewalk to a location further north than required by City Code. Due to the 20 feet of planned widened right-of-way along West 78th Street, the new sidewalk must be setback 20 feet within a sidewalk/bikeway easement. The Planning Commission did not support any flexibility related to sidewalk location. The applicant is working with the Traffic and Engineering Division regarding the sidewalk.

The Planning Commission did not make a formal recommendation regarding the requested flexibility related to freestanding signage. As a result, the recommended action would follow the staff recommendation of allowing for one freestanding sign directed towards West 78th Street, but allowing for a reduced setback of ten feet from the planned widened right-of-way.

Following the discussion about the requests for PD flexibility, the Planning Commission moved to recommend approval of the subject applications (Vote 3-0 with one abstention). The commissioner who abstained from supporting the application did so due to concerns about the middle full access as proposed in the plans. More specifically, concerns were shared about the ability to make westbound left-hand turns from the middle access due to the crossing of the westbound continuous left turn lane. The City's Traffic Engineer is working with the City of Edina to study the middle access further. In response to this issue, the applicant has submitted a follow-up letter noting that they desire and support the site access as originally proposed (west and central access being full and east access right-in/right-out only). As noted previously, the applicant must enter into a street modification agreement with the City.

FINDINGS

Required Preliminary Development Plan Findings - Section 21.501.02(d)(1-6):

Required Finding	Finding Outcome/Discussion
(1) The proposed development is not in conflict with the Comprehensive Plan.	Finding Made – The subject property is guided Office. The Office land use designation allows residential uses when integrated with nonresidential uses. The proposed development includes the construction of residential care facilities and senior housing. The Comprehensive Plan encourages the development of life cycle housing and promotes housing opportunities for all age groups. The proposed development is not in conflict with the Comprehensive Plan.
(2) The proposed development is not in conflict with any adopted District Plan for the area.	Finding Made – The proposed development is not in an area with an adopted District Plan.

Required Finding	Finding Outcome/Discussion
(3) All deviations from city code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval.	Finding Made – With exception of the deviations requested related to freestanding signage, all deviations requested are in the public interest and within the parameters allowed under the Planned Development Overlay District.
(4) Each phase of the proposed development is of sufficient size, composition and arrangement that its construction, marketing and operation is feasible as a complete unit without dependence upon any subsequent unit.	Finding Made – The subject development is to be constructed in a single phase. The operation of the facility would not be dependent upon any subsequent unit.
(5) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding Made – The subject property is directly served by a minor arterial roadway with adequate capacity. There is adequate utility infrastructure available to serve the development proposed. The proposed development is not anticipated to be an excessive burden on parks, schools, streets and other public facilities and utilities which are proposed to serve the development.
(6) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	Finding Made – The proposed development is not anticipated to be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

Required Final Development Plan Findings - Section 21.501.03(e)(1-7):

Required Finding	Finding Outcome/Discussion
(1) The proposed development is not in conflict with the Comprehensive Plan.	Finding Made – The subject property is guided Office. The Office land use designation allows residential uses when integrated with nonresidential uses. The proposed development includes the construction of residential care facilities and senior housing. The Comprehensive Plan encourages the development of life cycle housing and promotes housing opportunities for all age groups. The proposed development is not in conflict with the Comprehensive Plan.
(2) The proposed development is not in conflict with any adopted District Plan for the area.	Finding Made – The proposed development is not in an area with an adopted District Plan.
(3) The proposed development is not in conflict with the approved preliminary development plan for the site.	Finding Made – The subject application includes a new Preliminary Development Plan for the site. Should the Preliminary Development Plan be approved, the proposed development is not in conflict with the aforementioned plan.

Required Finding	Finding Outcome/Discussion
(4) All deviations from city code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval.	Finding Made – With exception of the deviations requested related to freestanding signage, all deviations requested are in the public interest and within the parameters allowed under the Planned Development Overlay District.
(5) Each phase of the proposed development is of sufficient size, composition and arrangement that its construction, marketing and operation is feasible as a complete unit without dependence upon any subsequent unit.	Finding Made – The subject development is to be constructed in a single phase. The operation of the facility would not be dependent upon any subsequent unit.
(6) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding Made – The subject property is directly served by a minor arterial roadway with adequate capacity. There is adequate utility infrastructure available to serve the development proposed. The proposed development is not anticipated to be an excessive burden on parks, schools, streets and other public facilities and utilities which are proposed to serve the development.
(7) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	Finding Made – The proposed development is not anticipated to be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

Required Conditional Use Permit Findings - Section 21.501.04(c)(1)-(5)

Required Finding	Finding Outcome/Discussion
(1) The proposed use is not in conflict with the Comprehensive Plan.	Finding Made – The subject property is guided Office. The Office land use designation allows residential uses when integrated with nonresidential uses. The proposed development includes the construction of residential care facilities. The Comprehensive Plan encourages the development of life cycle housing and promotes housing opportunities for all age groups. The proposed use is not in conflict with the Comprehensive Plan.
(2) The proposed use is not in conflict with any adopted District Plan for the area.	Finding Made – The proposed use is not in an area with an adopted District Plan.
(3) The proposed use is not in conflict with City Code provisions.	Finding Made – Subject to the approval of deviations requested as part of the planned development application and to compliance with the conditions of approval, the proposed use is not in conflict with City Code provisions.

Required Finding	Finding Outcome/Discussion
(4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding Made – The subject property is directly served by a minor arterial roadway with adequate capacity. There is adequate utility infrastructure available to serve the development proposed. The proposed use is not anticipated to be an excessive burden on parks, schools, streets and other public facilities and utilities which are proposed to serve the development.
(5) The proposed use will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	Finding Made – The proposed residential care facility is not anticipated to be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.

RECOMMENDATION

The Planning Commission and staff recommend approval of the subject development application through the following motions:

In Case #PL2018-191, I move to adopt an ordinance rezoning 6701 West 78th Street from C-4(FH) to C-4(PD)(FH).

In Case #PL2018-191, having been able to make the required findings, I move to approve the Preliminary and Final Development Plans for a four-story 116-bed residential care facility and 95-unit senior living facility with a 100-participant day care located at 6701 West 78th Street, subject to the conditions and Code requirements attached to the staff report.

In Case #PL2018-191, having been able to make the required findings, I move to adopt a resolution approving a Conditional Use Permit for a 116-bed residential care facility located at 6701 West 78th Street, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL2018-191

Project Description: Rezoning from C-4 to C-4(PD), Conditional Use Permit for a residential care facility, and Preliminary and Final Development Plans for a daycare, senior living and assisted living facility.

Address: 6701 West 78th Street

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

1. Prior to Permit A Site Development Agreement, including all conditions of approval, must be executed by the applicant and the City and must be properly recorded by the applicant with proof of recording provided to the Director of Community Development.
2. Prior to Permit Access, circulation and parking plans must be approved by the City Engineer. The applicant must provide the Code-required quantity of parking or enter into a proof of parking agreement.
3. Prior to Permit A Nine Mile Creek Watershed District permit must be obtained and a copy submitted to the Engineering Division.
4. Prior to Permit Street modification agreement must be executed by the developer and the applicant and proof of filing be provided to the Manager of Building and Inspection.
5. Prior to Permit Bicycle parking spaces must be provided and located throughout the site as approved by the City Engineer.
6. Prior to Permit An erosion control surety must be provided (16.08(b)).
7. Prior to Permit Landscape plan must be revised to be Code Compliant, must be approved by the Planning Manager and landscape surety must be filed (Sec 19.52).
8. Prior to Permit Parking lot and site security lighting plans must be revised to satisfy the requirements of Section 21.301.07 of the City Code.
9. Prior to Permit Building must be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903).
10. Prior to Permit Utility plan showing location of existing and proposed water main and fire hydrant locations must be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Minnesota State Fire Code Sec. 508).
11. Prior to Permit Food service plans must be approved by the Environmental Health Division (City Code Sec. 14.360).
12. Prior to Permit Revise sign plans to be Code compliant except for the deviation granted to reduce the freestanding sign setback along W. 78th St. from 20 feet from planned widened right of way to ten feet. Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.

13. Prior to Permit Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08).
14. Prior to Permit Tier 2 Transportation Demand Management plan must be submitted (Sec. 21.301.09(b)(2)).
15. Prior to Permit A National Pollutant Discharge Elimination System (NPDES) construction site permit and a Storm Water Pollution Prevention Plan (SWPPP) must be provided if greater than one acre is disturbed.
16. Prior to Permit Storm Water Management Plan must be provided that demonstrates compliance with the City's Comprehensive Surface Water Management Plan. A maintenance plan must be signed by the property owners and must be filed of record with Hennepin County.
17. Prior to Permit A Minnesota Pollution Control Agency (MPCA) Sanitary Sewer Extension or Modification Permit must be obtained or notification from the MPCA that this permit is not required must be submitted to the City.
18. Prior to Permit A Minnesota Department of Health (MDH) watermain review and approval must be obtained or notification from MDH that this permit is not required must be submitted to the City.
19. Prior to Permit Shore Area Permit must be obtained prior to any grading or development activity in the shore area of Nine Mile Creek (Sec. 19.87.04).
20. Prior to Permit An odor control system meeting the approval of the Environmental Health Division must be provided.
21. Prior to Permit An external grease interceptor must be provided if the proposed tenant will have food preparation and service that will produce fats, oils, grease or wax in excess of 100 mg/L. The external grease interceptor design must be approved by the Utilities Engineer. A grease interceptor maintenance agreement must be filed with the Utilities Division, if an external grease interceptor is installed.
22. Prior to Permit A building permit for all required changes to accommodate the proposed use be obtained.
23. Prior to Permit Grading, Drainage, Utility and Erosion Control plans must be approved by the City Engineer.
24. Prior to C/O The developer must submit electronic utility as-builts to the Public Works Department prior to the issuance of the Certificate of Occupancy.
25. Prior to C/O A 10-foot sidewalk/bikeway easement must be provided by document along West 78th Street as approved by the City Engineer and proof of filing must be provided to the Manager of Building and Inspection.
26. Prior to C/O Sidewalk must be installed along West 78th Street behind the planned widened right-of-way at the developer's expense and private sidewalks must comply with City Code (Sections 21.301.04(b)(1) and (2)).
27. Prior to C/O Fire lanes must be posted as approved by the Fire Marshal (MN State Fire Code Sec. 503.3).
28. Prior to C/O Prior to occupancy, life safety requirements must be reviewed and approved by the Fire Marshal.
29. Prior to C/O A building security system for the residential care facility must be approved by the Bloomington Police Department (Sec. 21.302.23(d)(3)(E)).
30. Prior to C/O Buildings must meet the requirements of the Minnesota State Fire Code Appendix L (Emergency Responder Radio Coverage) adopted through City Ordinance to have approved radio coverage for emergency responders based

upon the existing coverage levels of the public safety communication systems.

- 31. Ongoing All pickup and drop-off must occur on site and off public streets.
- 32. Ongoing Three foot high parking lot screening must be provided along W. 78th St. as approved by the Planning Manager (Sec. 19.52).
- 33. Ongoing Poured-in-place concrete curbs must be provided on the perimeter of parking lots and traffic islands (Sec 19.64).
- 34. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 19.51).
- 35. Ongoing All rooftop equipment must be fully screened (Sec. 19.52.01).
- 36. Ongoing A uniform sign design must be submitted for approval by the Planning Manager (Section 19.109).
- 37. Ongoing Compliance with MN Rules Chapter 7030 Noise Pollution Control is required.
- 38. Ongoing The nonresidential space proposed as a day care must remain in nonresidential use.
- 39. Ongoing Alterations to utilities must be at the developer's expense.