

<p><b>Chair:</b> Tim Felton</p> <p><b>Commissioners:</b> Geoff Fournier Jason Frankot James Hart Ruth Krueger Brianne Miller Chad Schlemmer</p>	 <p><b>City of South St. Paul Planning Commission Agenda</b></p> <p><b>Wednesday, January 3, 2024 7:00 p.m.</b></p>	<p>City of South St. Paul 125 Third Avenue North South St. Paul, MN 55075 Phone: (651) 554-3217 Fax: (651) 554-3271 <a href="http://www.southstpaul.org">www.southstpaul.org</a></p>
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<p><b>Roll Call</b></p>		
<p><b>1. Agenda</b></p>		
<p><b>2. Minutes</b> A. December 6, 2023</p>		
<p><b>3. New Business</b></p>		
<p><b>4. Public Hearings</b></p> <ul style="list-style-type: none"> <li>A. Ordinance Amendment Allowing Dynamic Display Off-Premises Signs in the GB-General Business Zoning District</li> <li>B. Conditional Use Permit for Blue Ox Media Group’s Proposed Dynamic Display Off-Premises Sign</li> <li>C. Ordinance Amendment Updating the Zoning Standards for Permitted Encroachments, Accessory Structures, and Nonconforming Buildings</li> </ul>		
<p><b>5. Other Business</b></p>		
<p><b>6. Staff Updates</b></p>		
<p><b>7. Adjournment</b></p>		

Next Planning Commission Meeting: February 7, 2024

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**MINUTES OF MEETING  
SOUTH ST. PAUL PLANNING COMMISSION  
December 6, 2023**

MEETING CALLED TO ORDER BY CHAIR FELTON AT 7:00 P.M.

Present: Tim Felton, Chair  
Geoff Fournier  
James Hart  
Ruth Krueger  
Brienne Miller  
Chad Schlemmer  
Michael Healy, Planning Manager  
Monika Miller, Associate Planner

Absent: Jason Frankot  
Chad Schlemmer

- 1) APPROVAL OF AGENDA – Motion to approve as presented –Miller/Fournier (5-0)
- 2) APPROVAL OF MINUTES – November 1, 2023 –Motion to approve the minutes as presented-  
Hart/Fournier (5-0).
- 3) NEW BUSINESS

None

- 4) PUBLIC HEARINGS

A. Conditional Use Permit to Allow Tattooing at the 5<sup>th</sup> Avenue Shopping Center

Ms. Miller presented the staff report. The Applicant is Tony Lodge, the owner of the 5<sup>th</sup> Avenue Shopping Center. One of the Applicant’s tenants would like to start offering small decorative tattoos in addition to cosmetic tattooing. The property is located in the C-1 district where tattooing beyond cosmetic tattooing is a conditional use. The Applicant is requesting a conditional use permit on behalf of his tenant. As part of the request, the Applicant has asked that the approval cover the entire facility as opposed to just the current suite his tenant is located in. Staff is comfortable with the request and recommends approval of a sitewide conditional use permit for tattooing beyond cosmetic tattooing, subject to the conditions listed in the staff report.

Chair Felton asked staff to clarify that the application was for the whole plaza as opposed to just the tenant that would like to start offering tattooing. Ms. Miller confirmed that was the case. Chair Felton asked if the conditional use permit would address the size of the tattoos provided by a body art establishment whose use would be regulated by the approval. Ms. Miller explained that while the Applicant’s narrative stated that his tenant would be offer “small, decorative tattoos,” the code does not distinguish between small and large tattoos. The code only distinguishes between cosmetic tattooing and tattooing beyond cosmetic tattooing.

Commissioner Miller asked if there were other conditional use permits for the property that covered the entire building. Ms. Miller explained that there were several other conditional use permits that had been approved for the property. Commissioner Miller asked staff to clarify if the conditional use permits were suite specific or if

they covered the whole building. Ms. Miller stated that the conditional use permits were suite specific. Ms. Miller explained that this request to have the conditional use permit apply to the whole building was different than previous conditional use permit requests which were for a specific space. Ms. Miller added that staff had very carefully drafted conditions for this conditional use permit to be able to address problematic tenants as if the conditional use permit was suite specific.

Commissioner Hart asked why staff had chosen to allow the conditional use permit to apply to the whole building as opposed to just the specific suite where the tenant that would like to offer tattooing is located. Ms. Miller explained that staff had discussed this internally as well as with the City Attorney. The internal staff consensus was that this specific use would not pose an issue if a conditional use permit was building-wide. Mr. Healy asked Ms. Miller if the Applicant has requested the conditional use permit apply to the whole shopping center or if this was a staff-led decision. Ms. Miller responded that the Applicant had specifically requested that the conditional use permit apply to the whole building as opposed to just his specific tenant's suite. Commissioner Hart asked staff if allowing this conditional use permit to apply building wide would set a precedent. Ms. Miller responded that the beauty of a conditional use permit is that it involves a deep dive into a specific property and case-by-case conditions can be drafted that fit for that specific property. Approving one conditional use permit would not set a precedent for approving a different conditional use permit if it does not meet the conditional use permit review criteria or different conditions appear to be necessary. Commissioner Hart asked about the zoning of the subject property. Ms. Miller stated that the zoning of the property was c-1, retail business district.

Chair Felton asked for clarification that the conditional use permit would run with the property. Ms. Miller confirmed that the conditional use permit would stay with the property unless it was revoked.

Chair Felton asked if not knowing the future tenants that would use the conditional use permit impacts how staff feels about the approval. Ms. Miller explained that the zoning code looks at uses, not specific businesses. A conditional use permit allows the city to look at a specific business and their proposed use. This specific conditional use permit was written to cover the entire property but allows the City to take a look at individual businesses and address businesses that are bad actors even though the use applies to the entire shopping center. Chair Felton added that his question came from wondering if a conditional use permit could be vetted based on the business requesting the approval.

Tony Lodge, the owner of the 5<sup>th</sup> Avenue Shopping Center, came forward to speak about the application. Chair Felton asked Mr. Lodge if he wanted to add any additional information. Mr. Lodge explained that he had requested the conditional use permit apply to the whole building to allow his tenants to move from one suite to another without having to come back each time to request a new conditional use permit. Mr. Lodge explained he had already moved his tenant that would like to start offering tattooing from a smaller space into their current, larger suite.

Commissioner Hart asked staff if it was normal for a conditional use permit to stick with a suite as opposed to the tenant. Ms. Miller stated it was.

Mr. Lodge commented that he felt like the City was trying to break up and regulate body art establishments in an unnecessary way when the state already regulates and monitors body art establishments. Mr. Lodge asked what would happen if his tenants wanted to start offering piercings or other body art services beyond tattooing.

Chair Felton commented that he felt strongly about the City regulating where in the community certain types of body art services could be offered, such as tongue bifurcation. Mr. Healy commented that certain types of piercings, namely the piercing of earlobes, are not considered body art and are exempt. Mr. Healy shared that the City Attorney and staff felt that as long as the conditional use permit only covered tattooing, it would be appropriate to allow the conditional use permit to cover the entire building. Any other types of body art would require a conditional use permit amendment.

Commissioner Hart asked if the Planning Commission would be reviewing conditional use permit amendments for the site in the future. Ms. Miller stated that this was a question for the Applicant who would have a better idea of his tenant's uses. Commissioner Hart asked about what the enforcement process would look like if the state issued a license to one of the site's tenants for piercing when the conditional use permit only covers tattooing. Ms. Miller explained that there is not typically communication between the state and cities related to where body art establishment licenses are issued. Mr. Healy added that there are a number of state licenses that cities are typically not aware of or involved in, such as the licensing of hotels and restaurants. Mr. Healy added that the conditional use permit has a condition that allows the City to ask for a copy of a body art establishment's license at any time and can revoke the conditional use permit if a tenant is unable to provide their state-issued license. Commissioner Hart asked for clarification about how the City would review a request to offer additional types of body art at the 5<sup>th</sup> Avenue Shopping Center. Mr. Healy stated that the Applicant would need to apply for a conditional use permit amendment. Mr. Healy added that going forward, the City may consider eliminating the conditional use permit requirement and adding performance standards for the use to the City Code if the City Council feels the use requires less oversight.

Chair Felton opened the public hearing.

No comments had been received prior to the meeting and no one was present to comment on the application.

Mr. Lodge brought up again that he was concerned about the City unnecessarily breaking up and regulating body art services.

Chair Felton commented that it was not appropriate to consider other types of body art services at this time when the conditional use permit request was specifically for tattooing. Commissioner Krueger commented that the commissioners would not be able to predict the types of body art that would become commonplace in the future so any other types of body art services should be reviewed at a separate time.

Chair Felton asked how the public was informed of the conditional use permit request. Ms. Miller explained that the City sent out a notice to all the properties within 350 feet of a property requesting a conditional use permit. Notice of the request was also published in the City's designated newspaper 10 days ahead of the meeting. Chair Felton commented that the notice of public hearing was just for tattooing and so it would be negligent of the city to entertain other types of uses when it was not included in the notice. Ms. Miller confirmed the notice of public hearing was specifically for a conditional use permit for tattooing. Mr. Healy added that the Applicant's request was specifically to allow tattooing.

Chair Felton closed the public hearing.

Commissioner Hart commented that it would be helpful to know where each of the Commissioners stand in regard to their comfort level with the various types of body art services and mentioned the decisions that the group was making could set a precedent for future requests. Commissioner Miller shared that the City Council made a recent policy decision to reduce the number of local regulations that restrict body art establishments and encouraged the commissioners to keep the City Council's recent policy decision in mind.

Motion to recommend approval of a Conditional Use Permit for tattooing at the 5<sup>th</sup> Avenue Shopping Center-Miller/Fournier (5-0).

#### B. Ordinance Amendment Updating Truck and Trailer Parking Regulations

Mr. Healy presented the staff report. Staff received an increased number of complaints about tractor trailers and other larger commercial vehicles being parked on city streets and in private parking lots in commercial-retail areas. This coincided with neighboring communities adopting a citywide ban of street parking of large trucks. The City Council has asked staff to create an ordinance which addresses the parking of large commercial trucks and trailers on City streets "up the hill"; trucks being parked in the Bridgepoint Business Park overnight; semi-

trucks and other large trucks being parked in neighborhoods and the City's commercial-retail areas, and overly large utility trailers and camper trailers being parked on neighborhood streets. The City Council discussed the issue at two different worksessions and gave staff direction to go forward with amending the City's parking standards to address these situations. The ordinance that was drafted addressed the City Council's request.

Chair Felton asked if the new restrictions on parking large trucks on private properties would apply to residential driveways. Mr. Healy explained that the city code already specifies that only passenger vehicles and recreational vehicles can be parked on residential driveways. Chair Felton asked if a 45-foot-long RV could be parked on a residential driveway. Mr. Healy explained that residential properties can only have passenger vehicles and recreational vehicles parked on them. Today, the code does not limit the size of a recreational vehicle on a residential property, but the size of the vehicle may trigger additional regulations about where the vehicle can be placed. Chair Felton asked if a large recreational vehicle can be placed on the street. Mr. Healy explained that the way the draft ordinance was written, a large self-propelled RV could still be parked on the street, but it would need to be moved every 20 hours, just as it is today. The ordinance adds new street parking restrictions for trailers in residential areas as these have been causing most of the issues. Chair Felton commented that he would hate to have a neighbor with a very large RV or trailer sitting on the street. Mr. Healy added that the recommendation could be to regulate all RVs that are longer than 23 feet. Commissioner Krueger added that there are few self-propelled RVs that are shorter than 23 feet. Mr. Healy responded that this was correct and that the group would effectively ban motorhomes from parking on the street if a regulation was added to regulate self-propelled RVs longer than 23 feet. Commissioner Krueger commented that she had owned a 27-foot motorhome that they had moved every 20 hours if it was on the street. Mr. Healy added that most people do not park their big camper in front of their neighbor's house because they know it bothers people and that the neighbor will likely call the police to make sure the 20-hour parking restriction is enforced.

Chair Felton asked about whether the City anticipated receiving a large number of requests for conditional use permits for off-street parking and what the enforcement of the rules would look like once the ordinance is adopted. Mr. Healy noted that the main thing the ordinance would change is the rules for street parking and added that he was not aware of any plans from the police department to start doing proactive enforcement of street parking violations. Mr. Healy commented that the existing rule that no vehicle can be parked on a public street longer than 20 hours cannot realistically be proactively enforced. The rule does allow the Police Department to effectively address complaints and clear up identified problem areas. Mr. Healy added that the City Attorney has advised that complaint-based code enforcement is the best method because it prevents the City from being accused of targeting individual properties or property owners. Mr. Healy explained that the only commercial-retail area that would be eligible for a conditional use permit for off-street parking of large trucks would be Concord Exchange due to the street's proximity to a heavier industrial area and the types of business that are on the street. Chair Felton asked about the proposed trailer regulations for private parking lots "up the hill" and whether this would negatively impact the school district which owns some trailers that are parked in a parking lot. Mr. Healy commented that today, there are no regulations about trailer parking in the parking lot of an institutional property. If the new ordinance goes into effect, the cutoff will be a 15,000-pound gross vehicle weight rating but this should still allow the school district's marching band trailers to be parked outside because they likely fall below that weight. Mr. Healy added that he was mindful of the school district's trailers as he wrote the ordinance and had also written an exception to allow large institutional uses to have a bus stored on their property.

Commissioner Hart asked for an estimate of the volume of complaints related to off-street parking. Mr. Healy shared that the complaints were not constant and that the Police Department receives most of the off-street parking complaints. Mr. Healy added that many of the complaints that he had received directly were from elected officials. Commissioner Hart asked about the potential impacts of the ordinance on small businesses. Mr. Healy commented that ordinance writing is always a balancing act. The City does not want to negatively impact small businesses but there are several residential properties that stage large trailers for their business on the

residential street in front of their house which is not appropriate in a residential area. Commissioner Hart commented that he sees a lot of trailers for small, private landscaping or construction businesses and he was concerned that the ordinance would impact these individuals. Commissioner Hart added that there should be a generous grace period and communication with these small businesses once the ordinance is approved. Mr. Healy shared that the changes to the ordinance would be promoted through the City's social media and newsletter and added that there would likely be a grace period.

Chair Felton commented that he had seen an increase in the parking of construction equipment and trailers in the City and stated he was happy to see an ordinance coming forward to address this. Chair Felton asked if the City fielded complaints related to parking and sent them to the proper channel to ensure that the complaints are addressed. Mr. Healy explained that any complaints the City receives are sent to the appropriate department.

Commissioner Miller commented that she was concerned about the band trailer at Lincoln Elementary but that the concern had been addressed.

Chair Felton opened the public hearing.

No correspondence had been received prior to the meeting and no one was present to comment on the application.

Chair Felton closed the public hearing.

Motion to recommend approval of the ordinance amendment updating truck and trailer parking regulations-Krueger/Hart (5-0).

## 5) OTHER BUSINESS

### A. Discussion on Permitted Encroachment and Nonconformity Ordinance Update

Ms. Miller presented the staff report. Throughout the year, situations arise that highlight opportunities to update the City Code. Many of these situations arise during the spring and summer months when staff is busy reviewing building permits and development applications. Over this past year, three topics were highlighted as potential areas for improvements: the setback standards for certain permitted encroachments, the rules for accessory buildings in residential districts, and small additions onto existing single-, two- or three-family homes with a nonconforming setback. Staff is recommending updates to these topics to help better align the code with how development looks in South St. Paul. Staff requested feedback from the Planning Commission on the proposed updates to these topics.

Chair Felton asked for clarification that the draft ordinance limited the maximum size of an addition to a nonconforming structure to 250 square feet. Ms. Miller stated that this was correct, and that staff had intentionally drafted a stricter ordinance to use for discussion. The Planning Commission could increase or decrease this standard as they see fit. Chair Felton commented that 250 square feet seemed too small. Commissioner Hart echoed that 250 square feet seemed small and asked what cities with more liberal standards allowed. Ms. Miller shared that the City of Hopkins did not have a maximum allowable size for an addition to a nonconforming structure, their ordinance simply states that a nonconforming structure can be expanded using a nonconforming setback if the addition follows the setbacks of the existing house.

Commissioner Krueger asked if chicken coops were covered by this ordinance. Ms. Miller explained that chicken coops are regulated by the licensing regulations in the City Code, not the zoning code. Commissioner

Krueger asked for clarification if chicken coops were considered an accessory structure. Ms. Miller stated they were not.

Chair Felton asked about the types of accessory structures that would be allowed under the proposed ordinance in addition to a garage or shed. Ms. Miller stated that gazebos, greenhouses and large playhouses would be permitted in addition to a garage and shed under the proposed regulations.

Chair Felton commented that he was in favor of opening up the code to allow a homeowner to improve their property.

Chair Felton asked about how the City would calculate lot coverage in the case where a property has a pergola. Ms. Miller explained that lot coverage is calculated by adding the total square footage of any structures on a property (house, shed, garage, pergola, gazebo, etc.). The code also has a regulation that any property that is improved must still have at least 25% greenspace after all of the improvements have been made.

Commissioner Krueger asked about how a situation would be handled if a property has a tuck under garage and the property owner wants to construct a detached garage. Ms. Miller explained that in that situation, the homeowner would be required to obtain a conditional use permit to be eligible to build a detached garage.

Chair Felton asked for input from the commissioners on whether to allow additions to nonconforming garages in addition to nonconforming houses. Ms. Miller shared staff's intention behind this provision. Chair Felton asked if lot coverage requirements would still need to be met if a non-conforming garage was expanded. Ms. Miller explained that any structure that was expanded under the proposed rules for a nonconforming structure would still need to meet all other applicable zoning regulations.

Commissioner Krueger asked if the change to the setback regulations would negatively impact the ability of emergency services to access a property in the event of an emergency. Ms. Miller explained that she had reviewed the ordinance with the Building Official to ensure that the proposed setbacks would meet the building and fire code safety regulations.

Chair Felton asked the commissioners if they would be comfortable with allowing a home with a nonconforming setback to be expanded vertically. Chair Felton commented that this could impact relationships between neighbors. Chair Felton asked staff to clarify whether a house that did not meet the side yard setback requirements would be eligible to expand vertically within the footprint of the nonconforming setback. Ms. Miller confirmed this was the case. Commissioner Hart shared that he would be open to allowing second story additions. Mr. Healy added that the ordinance was written with a 3-foot minimum required setback, so if a property was 1-foot from a side property line, they would not be eligible to expand vertically with their 1-foot-setback and would need to seek a variance.

Ms. Miller asked the commissioners for feedback on how large of an expansion to a nonconforming building they were comfortable with. Commissioner Miller stated she would like to see the allowable size for an addition be larger than 250 square feet. Ms. Miller asked if the group would prefer to see the allowable size be a percentage of the house's existing footprint as opposed to an arbitrary number. Mr. Healy commented that it seemed common to allow an expansion that was 50% of the footprint of the existing house. Chair Felton commented that 50% of a house seemed reasonable but could result in a house being fairly large, even if it still had to adhere to lot coverage and building height requirements. Chair Felton asked why a community would choose to not have a limit and instead have an expansion be limited by lot coverage and building height requirements. Ms. Miller answered that the community might want to have tighter control on these types of expansions. Mr. Healy added that the reason some cities offer a cap is because there are weird houses, especially

in lake front communities, where homeowners will try to construct a very large addition using the nonconforming setback. The idea is to keep an individual from exploiting the nonconforming setback to avoid the required zoning setbacks. Chair Felton commented that you would need a situation where there is a small house on a very large lot and asked staff if that was common in South St. Paul. Mr. Healy commented that there were a few properties in town with alley houses that could exploit the rules, which would be a reason to keep the cap. Chair Felton asked if an expansion of a nonconforming house that was larger than 50% of the existing footprint would still be reviewed by the Planning Commission. Ms. Miller stated this was correct. Mr. Healy added that the ordinance would effectively empower staff to approve these additions administratively instead of with a variance. Chair Felton asked Mr. Healy to confirm that a variance would still be required if a proposed addition using a nonconforming setback would go beyond 50% of the footprint of the existing house. Mr. Healy confirmed it would.

Commissioner Krueger commented that she walks around the community a lot and was in favor of creating a process that would allow smaller houses to be expanded instead of having to tear the small house down and start over.

Chair Felton asked if staff was looking for additional feedback. Ms. Miller asked the commissioners how they felt about allowing an expansion to a garage with a nonconforming setback. Mr. Healy chimed in that there are situations where there are detached garages that are grandfathered to be located in a front yard and asked the commissioners if they would want the homeowner to make the garage larger and block the view of the house from the road. Mr. Healy stated that if the Planning Commission wanted to go this route, staff would put together performance standards to allow this in only very specific situations. Chair Felton commented that it appeared the only way to avoid getting in trouble would be to prohibit expansions to nonconforming garages, even though there are many one car garages in town. Commissioner Krueger commented that the city should be lenient with allowing two car garages to reduce the number of cars parking on the street. Mr. Healy suggested that staff draft standards to bring forward to the Planning Commission for review at the public hearing.

6) STAFF UPDATES

7) ADJOURNMENT

Motion to adjourn- Hart/Miller (5-0).



# AGENDA ITEM 4.A

## South St. Paul Planning Commission

<b>Prepared By:</b> Michael Healy, Planning Manager	<b>Meeting Date:</b> 1/3/2024
<b>Item Description:</b> Public Hearing for an Ordinance Amendment Allowing Dynamic Display Off-Premises Signs in the GB-General Business Zoning District	

### **ACTION REQUESTED**

A motion recommending approval or denial of an ordinance amendment allowing dynamic display off-premises signs in the GB-General Business zoning district.

### **BACKGROUND/ DISCUSSION**

#### **OVERVIEW**

#### **Application**

The Applicant is the City of South St. Paul. The Applicant is proposing an ordinance amendment that would allow dynamic display off-premises signs (AKA electronic billboards) as a conditional use in the GB-General Business zoning district.

#### **Review Timeline**

**Application Submittal:** NA

**Planning Commission:** January 3, 2024

**Tentative City Council Meeting for 1<sup>st</sup> Reading:** January 15, 2024

**Tentative City Council Meeting for 2<sup>nd</sup> Reading:** February 5, 2024

**60-Day Review Deadline:** NA

#### **Background**

South St. Paul, like many communities in Minnesota, currently prohibits billboard signs. The existing static billboard signs along Interstate 494 and Concord Street are “grandfathered” but no additional billboard signs can be constructed within city limits, and the current billboards cannot be expanded. Off-site advertising signage, which is signage that advertises a business that is not located on the same property as the sign, is not currently allowed in any zoning district in any part of South St. Paul. Cities that prohibit off-site advertising generally do so for aesthetic reasons with the goal of preventing visual clutter.

There are a number of municipalities in the metro area, including West St. Paul, that have made the decision to legalize electronic billboards. Some of these communities have partnered with billboard advertising

companies to build new highway-oriented electronic billboard signs on City-owned land. In these situations, typically the City would continue to own the land but would lease it to a private company which would construct, maintain, and operate the billboard. The lease can be a very good revenue generator for the City. Regardless of ownership, having an electronic billboard in town allows the City to promote community events and share public safety messages such as Amber Alerts with drivers using the highway. Many cities require electronic billboard owners to provide a fixed amount of free public service messaging each month.

The City Council has previously demonstrated support for allowing limited electronic billboards. Earlier this year, the City Council directed staff to update the code to allow electronic billboards in the GB-General Business district with a conditional use permit.

### **Process for Developing the Proposed Ordinance**

To prepare for writing the proposed ordinance, City Staff reviewed Plymouth and White Bear Township's electronic billboard ordinances. City Staff also looked to the 2040 Comprehensive Plan which calls for improving the aesthetics of the I-494 corridor and protecting the aesthetics of the Mississippi River Critical Corridor Area (MRCCA).

The proposed ordinance includes numerous "best practices" that are designed to prevent nuisances to neighboring properties and ensure that the sign will be aesthetically pleasing and not distracting to drivers. Staff facilitated several conversations with the City Council and there are a few basic principles that underpin the proposed ordinance:

1. The Department of Natural Resources requires the City to adopt minimum MRCCA standards but actively encourages Cities to take additional steps to protect the aesthetics of the MRCCA. New electronic billboards should not be allowed in the Mississippi River Critical Corridor Area to protect the aesthetics of the river area. The existing static billboards in the river area are "grandfathered" but they are not allowed to expand. Existing static billboards in the river area should not be allowed to be converted to electronic billboards, as this would undermine river and bluff aesthetics.
2. The City does not want to see any new static billboards in town since they result in visual clutter, are inefficient, and do not allow for community event messages or Amber Alerts.
3. Performance standards need to be carefully calibrated to minimize impacts to adjacent properties.

### **Where Would New Electronic Billboard Signs be Allowed?**

The draft ordinance would allow electronic billboards only in the GB-General Business zoning district on properties that abut Interstate 494. It would prohibit any new billboards in the Mississippi River Critical Corridor Area (MRCCA) so only properties with GB zoning that are outside of the MRCCA would be eligible.

## Key Features of Proposed Ordinance

As proposed, all electronic billboards will require a conditional use permit. This means that the City can attach “case by case” conditions to each project and can potentially deny a conditional use permit in a situation where Code criteria are not being met. Some other key features of the proposed ordinance are:

- The ordinance is designed to prevent visual clutter and protect the aesthetics of the I-494 corridor.
  - Static billboards are prohibited. Only electronic billboards are allowed.
  - There is a 2,000-foot spacing requirement between electronic billboards.
- Height is restricted to 50 feet above the highway surface of I-494. Up to 30 feet of additional height may be allowed at the City’s sole discretion only if MnDOT denies a permit for a 50-foot billboard due to obstructions.
- The total size of the sign face is restricted to 700 square feet per side.
- The base of the sign must be decorated with brick, stone, block, EIFS, or some similar decorative material.
- The message on the sign cannot change more often than once every 8 seconds. *This is the same rule the City already has in place for other electronic signs.*
- There are specific “maximum brightness” levels that are different depending on whether it is day or night. The sign must have light monitoring technology that will automatically adjust the brightness.
- The sign must use light blocking technology so those who look at it from the side do not perceive the full brightness.
- The sign operator must provide all of the lighting specifications at the time of permit application. After the sign has been built, they must provide proof that it is being operated in accordance with the City Code upon request by the City.
- The sign operator is required to enter into an agreement to provide the City with up to 30 hours of free messaging each month.
- A property or business that wants to have an electronic billboard is allowed to have up to 200 square feet of total site signage in addition to the billboard. If they have more than 200 square feet of signage today, they must reduce their site signage to qualify for a conditional use permit to have a billboard.

## Conditional Use Permit Criteria

If electronic billboards are allowed with a conditional use permit, each proposed sign will be reviewed using the following criteria:

1. That the conditional use, which such conditions as the commission shall determine and attach, conforms to the general purpose and intent of this chapter.
2. If the application is based on the conditional use provision in this chapter that the issuance conforms to the general characteristics of the district of which it will become a part.
3. That the conditional use will not impede the normal and orderly development and improvement of property in the neighborhood for uses permitted in the district or districts affected.
4. That adequate utilities, access roads, streets, drainage, and other necessary facilities have been or will be provided.
5. That adequate measures have been or will be taken to provide ingress and egress in such a manner as to minimize traffic congestion and hazards in the public streets.
6. In business districts, certain uses are considered, as a rule, unsuitable in commercial areas because of inherent characteristics (e.g., traffic hazards, noise, light glare), proximity to residential areas, the fact that they tend not to serve nearby residential areas, or may adversely affect nearby permitted business uses.

## **DISCUSSION AND STAFF RECOMMENDATION**

Allowing electronic billboards is a policy decision that the City Council must make. The City Council has previously told Staff that they are in favor of legalizing electronic billboard signs in South St. Paul so long as the location and operation of these signs is carefully regulated. They have expressed to Staff that they do not believe electronic billboards will have a negative impact on community aesthetics if there is a spacing requirement, and new billboards are not allowed in the Mississippi River Critical Corridor Area (MRCCA).

Staff feels confident that the proposed ordinance is consistent with “best practices” and will be an effective tool for regulating this type of signage if the Planning Commission and City Council want to move forward with the legalization of electronic billboards along Interstate 494.

### **Required Action**

The Planning Commission has the following actions available on the proposed application:

- A. Approval. If the Planning Commission wishes to recommend approval of the Ordinance Amendment, the following action should be taken:
  - Motion to recommend approval of an ordinance amendment to allow dynamic display off-premises signs in the GB-General Business zoning district.
- B. Denial. If the Planning Commission wishes to recommend denial of the Ordinance Amendment, the following action should be taken:
  - Motion to recommend denial of an ordinance amendment to allow dynamic display off-premises signs in the GB-General Business zoning district.

## **ATTACHMENTS**

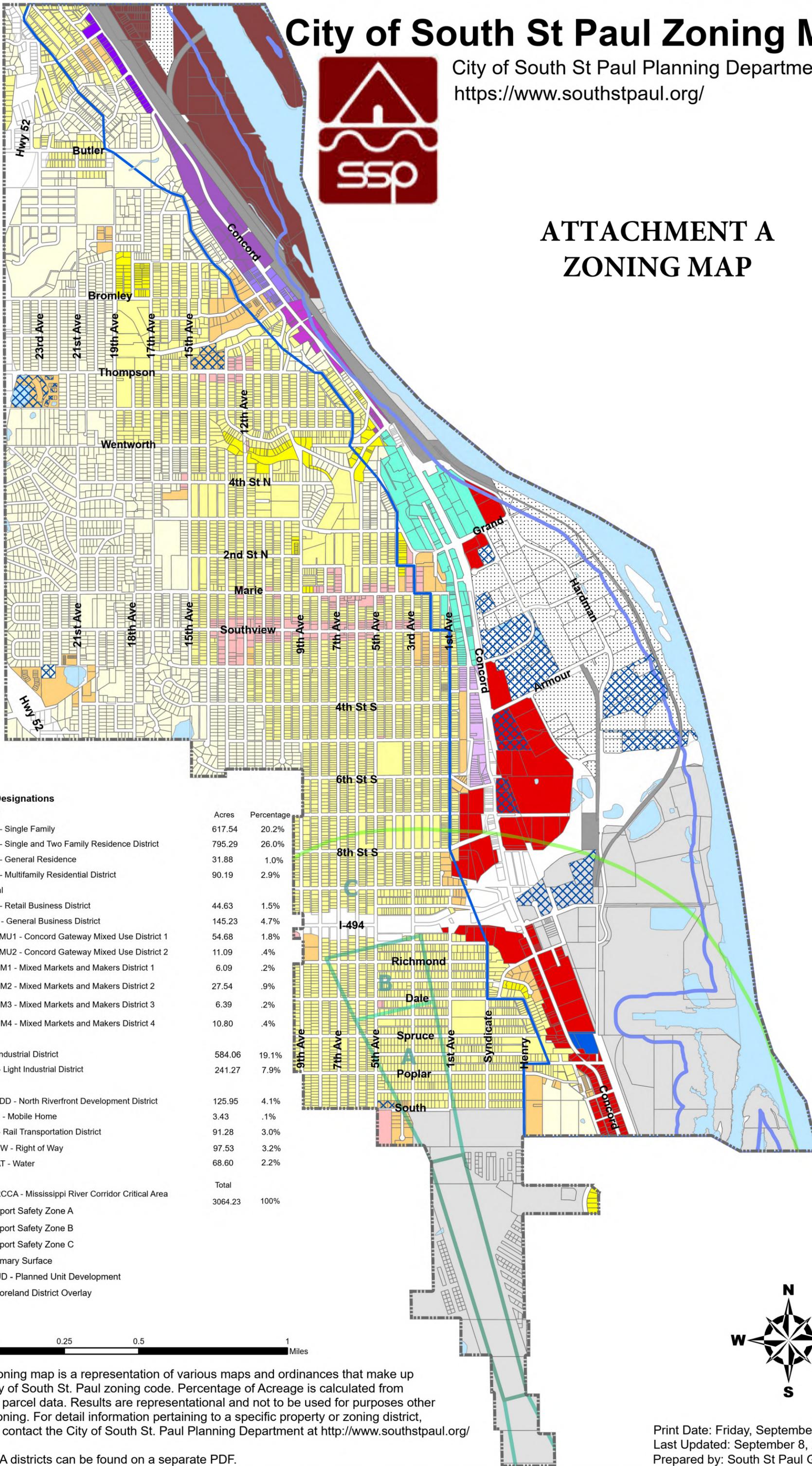
- A. Zoning Map
- B. Proposed Ordinance Amendment

# City of South St Paul Zoning Map

City of South St Paul Planning Department  
<https://www.southstpaul.org/>

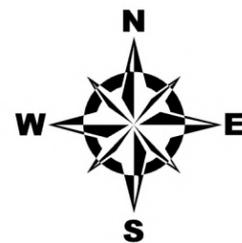
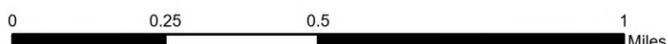


## ATTACHMENT A ZONING MAP



### Zoning Designations

	Acres	Percentage
<b>Residential</b>		
R1 - Single Family	617.54	20.2%
R2 - Single and Two Family Residence District	795.29	26.0%
R3 - General Residence	31.88	1.0%
R4 - Multifamily Residential District	90.19	2.9%
<b>Commercial</b>		
C1 - Retail Business District	44.63	1.5%
GB - General Business District	145.23	4.7%
CGMU1 - Concord Gateway Mixed Use District 1	54.68	1.8%
CGMU2 - Concord Gateway Mixed Use District 2	11.09	.4%
MMM1 - Mixed Markets and Makers District 1	6.09	.2%
MMM2 - Mixed Markets and Makers District 2	27.54	.9%
MMM3 - Mixed Markets and Makers District 3	6.39	.2%
MMM4 - Mixed Markets and Makers District 4	10.80	.4%
<b>Industrial</b>		
I - Industrial District	584.06	19.1%
I-1 - Light Industrial District	241.27	7.9%
<b>Other</b>		
NRDD - North Riverfront Development District	125.95	4.1%
MH - Mobile Home	3.43	.1%
RT- Rail Transportation District	91.28	3.0%
ROW - Right of Way	97.53	3.2%
WAT - Water	68.60	2.2%
<b>Total</b>	<b>3064.23</b>	<b>100%</b>



This Zoning map is a representation of various maps and ordinances that make up the City of South St. Paul zoning code. Percentage of Acreage is calculated from county parcel data. Results are representational and not to be used for purposes other than zoning. For detail information pertaining to a specific property or zoning district, please contact the City of South St. Paul Planning Department at <http://www.southstpaul.org/>

MRCCA districts can be found on a separate PDF.

Print Date: Friday, September 8, 2023  
 Last Updated: September 8, 2023  
 Prepared by: South St Paul GIS

**ATTACHMENT B  
PROPOSED ORDINANCE AMENDMENT**

**City of South St. Paul  
Dakota County,  
Minnesota Ordinance  
No. 14XX**

**AN ORDINANCE ALLOWING ELECTRONIC BILLBOARD SIGNS IN THE  
GENERAL BUSINESS ZONING DISTRICT**

The City Council of the City of South St. Paul does ordain:

**SECTION 1. AMENDMENT.** South St. Paul City Code Section 118-333 is hereby amended as follows:

**Sec. 118-333. Definitions.**

*Dynamic display off-premises sign means an off-premises sign or portion thereof that displays electronic static or dynamic text, images, graphics, or pictures where the message change sequence is accomplished by any method other than physically or mechanically removing and replacing the sign face or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the billboard. This includes a display that incorporates a technology or method allowing the sign face to change the image without physically or mechanically replacing the sign face or its components. This also includes, but is not limited to, any display that incorporates light bulbs, fiber optics, LED lights manipulated through digital input, "digital ink", or any other method or technology that allows the sign face to present a series of text, images, or displays. An off-premises sign is a sign that bears a message promoting a use that is not located on the subject property or premises.*

**SECTION 2. AMENDMENT.** South St. Paul City Code Section 118-337 is hereby amended as follows:

**Sec. 118-337. Prohibited signs.**

- (a) Abandoned signs.
- (b) Balloon signs.
- (c) Flags other than noncommercial flags.
- (d) Illegal signs.
- (e) Off-premises signs, except dynamic display off-premises signs as allowed in subsection 118-338(p) and sandwich board signs as permitted in subsection 118-336(g).

**SECTION 3. AMENDMENT.** South St. Paul City Code Section 118-338 is hereby amended as follows:

**Sec. 118-338. General provisions applicable to all zoning districts.**

- (d) *[Distance from lot lines.]* Except for projecting signs, attached wall signs, awning and canopy signs, dynamic display off-premises signs, and signs that are listed as exceptions in section 118-336, signs in all zoning districts shall be located at least five feet from all lot lines.

(i) *Pylon signs.* Pylon signs are prohibited in all zoning districts except for the following: freeway signs which are only allowed by a conditional use permit in the general business (GB) and industrial (I) zoning districts. Unless a more restrictive size is stated in each zoning district, freeway signs shall not exceed 15 feet above the height of the interstate roadway surface at the point thereof nearest the proposed sign. The gross area of the individual sign shall not exceed 200 square feet. When in conflict, the more restrictive size shall apply.

(1) Freeway signs may be allowed by conditional use permit in the General Business (GB), Industrial (I), and Light Industrial (I-1) zoning districts. Unless a more restrictive size is stated in a particular zoning district, a freeway sign shall not exceed 15 feet above the height of the interstate roadway at the point thereof nearest the proposed sign. The gross area of the individual sign shall not exceed 200 square feet. When in conflict, the more restrictive size shall apply.

(2) Dynamic display off-premises signs may be allowed by conditional use permit in the General Business (GB) district, subject to the standards listed in subdivision 118-338 (p).

(p) *Dynamic display off-premises signs.*

(1) *Findings, Purpose, and Intent.* The City desires to facilitate communication between area businesses and nonprofits and drivers utilizing the Interstate 494 corridor and also desires to promote the health, safety, and welfare of the community through public service messaging. Dynamic display off-premises signs are able to cycle through a number of different messages and can communicate all of these messages effectively without causing a proliferation of sign structures and sign surfaces along the highway corridor. With this type of signage, there are opportunities for the City and public safety agencies to communicate about local events and critical emergencies. The City does not allow static off-premises billboard signage because these signs are inefficient, result in visual clutter, and are unable to support emergency messaging or the efficient promotion of community events.

The City is committed to protecting the aesthetics of the Mississippi River Corridor Critical Area (MRCCA), a part of the community that is protected by State Statute and shares a border with the Mississippi National River and Recreation Area, a unit of the National Park Service. Consistent with State Statute, the City administers a local MRCCA ordinance which contains numerous provisions designed to protect the community's scenic vistas, especially views to and from the river and river bluffs. The Department of Natural Resources requires the City to adopt minimum MRCCA standards but actively encourages Cities to take additional steps to protect the aesthetics of the MRCCA. To protect this critical resource area from visual clutter, is the City's intention that no new billboard signage shall be permitted in the MRCCA and no existing nonconforming billboard signage in the MRCCA shall be permitted to be expanded or intensified.

(2) *Location and Eligibility*

a. Dynamic display off-premises signs shall only be allowed on properties that are zoned GB-General Business.

- b. A dynamic display off-premises sign may only be erected on a property abutting Interstate Highway 494. The dynamic display off-premises sign must be oriented towards and designed to be viewed from Interstate Highway 494.
  - c. Dynamic display off-premises signs are prohibited on properties located within the Mississippi River Corridor Critical Area (MRCCA) overlay district.
  - d. The minimum distance in any direction between any two off-premises dynamic display signs shall be two thousand (2,000) feet.
- (3) Conditional Use Permit Required. A conditional use permit shall be required for any dynamic display off-premises sign.
- (4) Performance Standards. Dynamic display off-premises signs are subject to the following requirements:
- a. All dynamic display off-premises signs shall comply with federal and state rules and regulations for signs along interstates and highways and shall obtain any required federal and state permits.
  - b. The maximum allowable size shall be seven hundred (700) square feet per sign surface and no sign shall contain more than two (2) sign surfaces. Each sign surface must be designed to be read from an opposite direction.
  - c. The maximum allowable height is fifty (50) feet from the grade of the travel lane of Interstate 494.
  - d. The design of the sign and its support structure shall be approved by the City. The base or support structure shall incorporate EIFS, veneer, brick, stone, decorative block, or a similar cladding material that has been approved by the City.
  - e. Dynamic display off-premises signs shall have a minimum display duration of eight (8) seconds. Such displays shall contain static messages only. The change from one static message to another shall either be instantaneous without any special effects or shall employ a dissolve or fade transition or another subtle transition technique that does not have the appearance of moving text or images. No transition may take longer than one second.
  - f. The sign shall be rectangular in shape and all messages must be contained within the sign. The portion of any dynamic or illuminated sign that is used for the conveyance of any message will be included within the overall size of the sign.
  - g. The sign must be freestanding and shall not be affixed to any building.
  - h. The sign may not emit any sound.
  - i. The sign shall have ambient light monitors installed and shall be configured to allow such monitors to automatically adjust the brightness level of the electronic sign based on light conditions at all times.
  - j. The sign shall comply with the following brightness standards: the sign shall not exceed seven thousand five hundred (7,500) Nits (candelas per square meter) between the hours of civil sunrise and civil sunset measured from the face of the sign. During nighttime hours, the sign shall not exceed five hundred (500) Nits. The light level shall not exceed 0.3 footcandles above ambient light as measured from a pre-set distance depending on

sign size. Measuring distance shall be determined using the following equation: the square root of the message center sign area multiplied by 100. Example: 12 square foot sign  $\sqrt{(12 \times 100)} = 34.6$  feet measuring distance.

- k. Dynamic display billboards shall be constructed with the use of light-blocking technology. As measured from a point on the sign face furthest from the right-of-way, the area on the ground more than 22.5 degrees from the roadway must be light protected by light-blocking technology. "Light protected" is defined as having a reduction of brightness/luminance (and visibility) of over 90 percent, or equivalently, a remaining brightness of less than ten percent as compared to the nominal forward brightness of the sign.
- l. The sign shall have a fully-functional monitoring off switch system that shuts the dynamic display sign off when the display deteriorates, in any fashion, five (5) percent or greater until the dynamic display sign has been repaired to its fully-functional factory specification.
- m. The lamp wattage and luminance level in Nits of the sign shall be provided at the time of permit application from the owner or operator of the sign. The sign must at all times be operated in accordance with City Code and the owner or operator shall provide proof of such conformance upon request of the City.
- n. Public service messages, in addition to emergency messages such as Amber Alerts, shall be provided on the dynamic display billboard sign at no cost to the public. Any Applicant for a conditional use permit for an off-premises dynamic display sign shall enter into an agreement with the City to provide up to 30 hours of no-cost display time per month on each face of the sign, with each display lasting 8 seconds. The messages shall be reasonably distributed throughout a 24-hour period and shall not be relegated to the midnight to 6:00 AM time frame.
- o. Portable dynamic display off-premises signs are not allowed in any district.
- p. Nonconforming static off-premises signs may not be converted to dynamic display off-premises signs.

**SECTION 4. AMENDMENT.** South St. Paul City Code Section 118-339 is hereby amended as follows:

**Sec. 118-339. Permitted signs by district.**

See Figure A-1 detailing permissible signs by district.

**Figure A-1**

	R-1 R-2 R-3	R-4	CGMU-1	CGMU-2	MMM	C-1	GB	I
Maximum Gross Area of all Signage on the Property (Square Feet)	6*	24*	150	150	150	150	200*	200*
Individual Sign Maximum Gross Area (Square Feet)	6	24	100	100	100	100	100*	100*

Maximum Height (Feet)	6	6	6	6	6	6	10*	10*
Area Identification Signs	P	P	P	P	P	P	P	P
Box or Cabinet Signs	C*	P	P	P	P	P	P	P
Dynamic Display Signs	C*	C*	C*	C	C	C	C	—
Dynamic Display Off-Premises Signs	—	—	—	—	—	—	C*	—
Electronic Changeable Copy Signs	C*	C*	C*	C	C	C	C	C
Electronic Graphic Display Signs	C*	C*	C*	C	C	C	C	—
Freeway Signs	—	—	—	—	—	—	C*	C
Illuminated Canopy and Awning Signs	C	P	C	C	C	C	C	C
Menu Board Signs	—	—	C*	C	C	C	C	C
Monument Signs	C*	P	C*	P*	P*	P	P	P
Nonelectronic Changeable Copy Signs	C	P	C*	C*	C*	P	P	P
Nonilluminated Awning and Canopy Signs	P	P	P	P	P	P	P	P
Projecting Signs	C	P	P	P	P	P	P	—
Pylon Signs	—	—	—	—	—	—	—	—
Wall Signs	C	P	P	P	P	P	P	P

(g) Within the GB: General business zoning district signs must comply with the following regulations:

- (1) Aggregate property signage: The maximum gross signage for a property shall not exceed one and one-half times the lineal feet of the longest building frontage facing a public street or 200 square feet in gross area, whichever is greater, unless otherwise excepted below in [subsection] 118-339(g)(5)d.
- (2) Individual signs: The maximum gross area per sign shall not exceed 100 square feet in gross area and 12 feet in height, or as otherwise excepted below in subsection 118-339(g)(5)d.
- (3) Freeway signs are not permitted in that part of the GB district north of I-494, east of Trunk Highway 56 (Concord Street), south of Wentworth extended easterly and west of the Mississippi River.
- (4) The following types of signs are permissible:
  - a. Area identification signs.
  - b. Box or cabinet signs.
  - c. Monument signs, which may be up to ten feet in height.
  - d. Nonelectronic changeable copy signs.
  - e. Nonilluminated awning and canopy signs.
  - f. Projecting signs.
  - g. Wall signs.
- (5) The following types of signs require a conditional use permit:
  - a. Dynamic display signs, subject to the requirements of subsection 118-339(c)(4)c.

- b. Electronic changeable copy and electronic graphic display signs, subject to the requirements of subsection 118-339(c)(3)b.
- c. Illuminated canopy and awning signs.
- d. Menu board signs subject to the requirements of subsection 118-338(g).
- e. Freeway sign subject to the following requirements:
  - 1. One freeway sign is allowed per property.
  - 2. The maximum gross area of a freeway sign shall not exceed 200 square feet in area and 15 feet above the height of the interstate roadway surface at the point thereof nearest the sign.
  - 3. The sign must be located on the portion of the property closest to the freeway and may not be closer than 350 feet from any other freeway sign on the same side of the freeway, as measured in a straight line from the base of the sign to the base of any other freeway sign.
  - 4. A property with a freeway sign shall be allowed to have a maximum aggregate property signage of at least 300 square feet, regardless of the length of the building frontage.

f. Dynamic display off-premises signs on properties that are outside of the Mississippi River Critical Corridor Area (MRCCA), subject to the requirements of Section 118-338(p). A property or business that has a dynamic display off-premises sign shall be permitted to have up to 200 square feet of total site signage in addition to the dynamic display off-premises sign. A property or business that currently exceeds 200 square feet of site signage must reduce their total site signage to 200 square feet or less in order to qualify for a conditional use permit to have a dynamic display off-premises sign.

**SECTION 5. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

This ordinance legalizes dynamic display off-premises signs in the GB-General Business zoning district and establishes performance standards for this type of signage.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall become effective upon publication.

Approved: \_\_\_\_\_

Published: \_\_\_\_\_

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Deanna Werner, City Clerk



# AGENDA ITEM 4.B

## South St. Paul Planning Commission

<b>Prepared By:</b> Michael Healy, Planning Manager	<b>Meeting Date:</b> 1/3/2024
<b>Item Description:</b> Public Hearing for a Conditional Use Permit for Blue Ox Media Group's Proposed Dynamic Display Off-Premises Sign	

### **ACTION REQUESTED**

A motion recommending approval or denial of a conditional use permit for Blue Ox Media Group's proposed dynamic display off-premises sign.

### **BACKGROUND/ DISCUSSION**

#### **OVERVIEW**

##### **Application**

The Applicant, Blue Ox Media Group, is proposing to enter into an agreement with the City of South St. Paul to place a dynamic display off-premises sign (aka electronic billboard) on a piece of City-owned land that is adjacent to US Interstate 494. The property hosts a pump house that helps supply drinking water for the City's water system. The City would continue to own the land and the Applicant would enter into a long-term lease to place their electronic billboard there. The Applicant is seeking a Conditional Use Permit for a dynamic display off-premises sign.

##### **Review Timeline**

- Application Submittal:** December 7, 2023
- Planning Commission:** January 3, 2024
- Tentative City Council Meeting:** February 5, 2024
- 60-Day Review Deadline:** February 5, 2024

##### **Background**

South St. Paul, like many communities in Minnesota, currently prohibits all billboard signs. The existing static billboard signs along Interstate 494 and Concord Street are "grandfathered" but no additional billboard signs can be constructed, and the current billboards cannot be expanded or intensified. Off-site advertising signage, which is signage that advertises a business that is not located on the same property as the sign, is not currently allowed in any zoning district in any part of South St. Paul. Cities that prohibit off-site advertising generally do so primarily for aesthetic reasons with the goal of preventing visual clutter.

There are a number of municipalities in the metro area, including West St. Paul, that have made the decision to legalize electronic billboards. Some of these communities have partnered with billboard advertising companies to build new highway-oriented electronic billboard signs on City-owned land. In these situations, typically the City would continue to own the land but would lease it to a private company which would construct, maintain, and operate the billboard. The lease can be a good revenue generator for the City. Regardless of ownership, having an electronic billboard in town allows the City to promote community events and share public safety messages such as Amber Alerts with drivers using the highway. Many cities require electronic billboard owners to provide a fixed amount of free public service messaging each month.

The City Council has previously demonstrated support for allowing limited electronic billboards and directed staff to release a request for proposal (RFP) to determine if any advertising companies were interested in a partnership. The City released the RFP and received two proposals. The City selected the proposal from Blue Ox Media Group, a Minnesota company that specializes in digital billboard advertising in the Twin Cities.

The City is currently reviewing a proposed ordinance amendment that would allow dynamic display off-premises signs in the GB-General Business zoning district with a conditional use permit. The City is the Applicant for the ordinance amendment. Blue Ox Media Group's conditional use permit request can only be approved if the City's ordinance amendment is approved first.

### **Site Information**

The subject property is a 10,269 square foot parcel located directly adjacent to the south side of Interstate 494. The property sits by itself and is at the same elevation as the highway. The property hosts a pump house that helps supply drinking water for the City's water system. The pump house is essentially a 225 square foot utility shed with a large emergency generator behind it. Underneath the subject property, there are significant buried utilities that support the pump house's operations.

There is a residential neighborhood to the south of the subject property, but the houses and their yards sit on top of a bluff and the houses all have an elevation roughly 30 feet higher than the subject property. The pump house property is about 778 feet above sea level and the back of the nearby houses at the top of the bluff are about 810 feet above sea level. The bluff is wooded and many of the trees are quite tall. There is a platted but unbuilt alley that separates the subject property from the residential properties at the top of the bluff.

### **Zoning**

The subject property is zoned GB-General Business and guided "Right-of-Way" in the 2040 Comprehensive Plan. It is not located within the Mississippi River Critical Corridor Area which means that it will qualify for a conditional use permit for a dynamic display off-premises sign if the ordinance amendment currently under review is approved.

## CONDITIONAL USE PERMIT

### Height

As proposed, the highest part of the billboard sign would be roughly 45 feet above the surface of Interstate 494 since it is a 45-foot-tall sign, and the subject property has roughly the same elevation as the surface of the Interstate. This is less than the 50-foot maximum height allowed under the proposed ordinance. Staff has the following comments about the proposed height:

- The main factor that prevents a lower sign height from being workable is the City's pump house facility which is located on the subject property. The pump house and its back-up generator are serviced by large heavy equipment. The bottom of the billboard sign needs to be high enough off the ground to allow equipment to pass beneath it. It is not possible to go around the sign with the equipment because the pump house is surrounded by the interstate highway and bluffs on three sides. The Applicant is working to keep the sign's height down as low as possible while still providing access to the pump house. It may be possible to reduce the sign's height to 44- or 43-feet during fabrication and installation.
- The residential neighborhood next to the proposed billboard sign sits 30 feet above the highway at the top of a bluff. The proposed sign will rise roughly 15 feet higher than the top of this bluff. The top of the bluff is vegetated with tall trees. During leaf-on conditions, the view of the billboard should be greatly obscured for the properties on top of the bluff because of the grade difference and the tree coverage. The Applicant is willing to plant a row of coniferous trees at the top of the bluff to increase the screening if that is something the Planning Commission believes would be valuable.
- The neighborhood across the highway to the north is buffered from the highway by a large MnDOT sound wall. This provides a significant amount of visual screening for the properties that are north of the wall.
- The billboard will be oriented so the faces are visible to drivers on the highway. One face will be visible to drivers on I-494 East and one face will be visible to drivers on I-494 West. The digital billboard will be required to use light blocking technology which should greatly limit the visual impact to anyone who is not looking at the sign directly.

### Spacing

There is a static billboard at 425 Clinton Street which has a small digital display screen attached to one side of it which currently promotes upcoming events at Treasure Island Resort and Casino. The small digital display screen has been attached to the static billboard sign since at least 2007 which is when the earliest Google Streetview photographs were taken. It is not clear what type of regulatory process the sign company that operates that billboard went through to install the small digital display screen on their static billboard.

The proposed sign at the pump house property is roughly 2,400 feet away from the existing digital display sign at 425 Clinton Street so it does conform with the 2,000-foot spacing requirement between electronic billboards contained in the proposed ordinance.

## **Setback**

The proposed ordinance does not establish a default setback requirement for electronic billboard signs. Instead, the setbacks for any individual sign are regulated through the conditional use permit. The proposed sign will have a significant setback from the south property line since that area is a bluff. It will likely be set back a few feet from the highway right-of-way but the final location is still being coordinated with the City Engineer and MnDOT. In any case, the sign face will not overhang into MnDOT right-of-way.

## **Size and Shape**

The proposed ordinance allows dynamic display off-premises signs to be up to 700 square feet in total size. The proposed sign will be 14 feet tall and 48 feet wide which is a total of 672 square feet. Billboard signs are required to be rectangular in shape and the proposed sign complies with that requirement. The pump house property does not have any existing signage so there are no conflicts with the property's total signage allowance.

## **Sign Structure Design**

The proposed ordinance requires the design of the sign structure to incorporate EIFS, veneer, brick, stone, decorative block, or a similar cladding material. The proposed sign structure will be a column pole that is wrapped in molded EIFS and Expanded Polystyrene vertical panels made to look like limestone cladding.

## **Lighting**

The Applicant has submitted a detailed light study that demonstrates compliance with the standards listed in the proposed ordinance. They will be required to operate the digital billboard in accordance with these standards and the City can request proof of compliance at any time if it appears that the standards are not being met.

## **Proposed Screening**

As previously stated, the neighborhood south of the proposed billboard sits at the top of a roughly 30-foot-tall bluff that currently is covered with deciduous trees. During leaf-on conditions, the existing trees will greatly obscure the view of the billboard sign. The Applicant has expressed a willingness to plant up to 6 coniferous trees at the top of the bluff which, when fully grown, should provide year-round screening that will obscure the view of the billboard sign from the south side. The site plan that they have submitted shows 6 coniferous trees being planted at the subject property.

## **CUP Review Criteria**

If the proposed ordinance amendment is approved, the proposed sign will become a conditional use in the GB district. The Planning Commission should evaluate the Conditional Use Permit request using the criteria that are listed in the City Code:

- (1) That the conditional use, with such conditions as the commission shall determine and attach, conforms to the general purpose and intent of this chapter.
- (2) If the application is based on the conditional use provision in this chapter that the issuance conforms to the general characteristics of the district of which it will become a part.

- (3) That the conditional use will not impede the normal and orderly development and improvement of property in the neighborhood for uses permitted in the district or districts affected.
- (4) That adequate utilities, access roads, streets, drainage, and other necessary facilities have been or will be provided.
- (5) That adequate measures have been or will be taken to provide ingress and egress in such a manner as to minimize traffic congestion and hazards in the public streets.
- (6) *In business districts.* Certain uses are considered, as a rule, unsuitable in commercial areas because of inherent characteristics (e.g., traffic hazards, noise, light glare), proximity to residential areas, the fact that they tend not to serve nearby residential areas, or may adversely affect nearby permitted business uses.

**COMMENTS FROM OTHER DEPARTMENTS AND AGENCIES**

**City Engineer**

The City Engineer and Public Works Director have reviewed this proposal to ensure that the proposed sign will not conflict with the continued operation of the pump house and its underground utilities. The City Engineer has provided some “conditions of approval” to address the department’s concerns.

**Airport Manager**

The Applicant will probably have to file a 7460 form with the Federal Airline Administration (FAA). This is a requirement any time a structure with significant height is built anywhere close to an airport. The sign will be shorter than nearby trees and power lines so there should not be any issues with its height.

**STAFF RECOMMENDATION**

If the City Council makes the policy decision to approve the proposed ordinance amendment legalizing electronic billboards, Staff recommends approval of the conditional use permit with the following conditions:

1. **Approved Plans.** The conditions of this approval are based on the following plans:
 

a. <b>Application (Blue Ox Media Group)</b>	<b>12/7/2023</b>
b. <b>Narrative (Blue Ox Media Group)</b>	<b>Undated</b>
c. <b>Site Plan (LHB)</b>	<b>12/23/2023</b>
d. <b>Survey (LHB)</b>	<b>12/22/2023</b>
e. <b>Light Study (Watchfire)</b>	<b>8/1/2022</b>
f. <b>Renderings of Proposed Sign (Blue Ox Media Group)</b>	<b>Undated</b>
  
2. **Building Permit and Sign Permit Required.** The Applicant shall obtain a building permit and sign permit prior to construction. Signed plans prepared by a structural engineer shall be required for the building permit.
  
3. **Preconstruction Meeting Required.** The Applicant and installation team shall attend a preconstruction meeting with the Building Official and City Engineer. The City Engineer and Public Works Director must approve the final location of the sign pole and the final orientation of the sign faces to ensure that there are no conflicts with pumphouse operations.

4. **Lease Required.** The Applicant shall enter into a lease with the City of South St. Paul for the billboard site. Public service messages, in addition to emergency messages such as Amber Alerts, shall be provided on the dynamic display billboard sign at no cost to the public. The Applicant shall enter into an agreement with the City to provide up to 30 hours of no-cost display time per month on each face of the sign, with each display lasting 8 seconds. The messages shall be reasonably distributed throughout a 24-hour period and shall not be relegated to the midnight to 6:00 AM time frame.
5. **Minimum Display Duration.** The sign shall have a minimum display duration of eight (8) seconds. The display shall contain static messages only. The change from one static message to another shall either be instantaneous without any special effects or shall employ a dissolve or fade transition or another subtle transition technique that does not have the appearance of moving text or images. No transition may take longer than one second.
6. **Brightness Standards.** The sign shall not exceed seven thousand five hundred (7,500) Nits (candelas per square meter) between the hours of civil sunrise and civil sunset measured from the face of the sign. During nighttime hours, the sign shall not exceed five hundred (500) Nits. The light level shall not exceed 0.3 footcandles above ambient light as measured from a pre-set distance depending on sign size. Measuring distance shall be determined using the following equation: the square root of the message center sign area multiplied by 100. Example: 12 square foot sign  $\sqrt{(12 \times 100)} = 34.6$  feet measuring distance.
7. **Light Blocking Technology Required.** The billboard shall be constructed with the use of light-blocking technology. As measured from a point on the sign face furthest from the right-of-way, the area on the ground more than 22.5 degrees from the roadway must be light protected by light-blocking technology. "Light protected" is defined as having a reduction of brightness/luminance (and visibility) of over 90 percent, or equivalently, a remaining brightness of less than ten percent as compared to the nominal forward brightness of the sign.
8. **Ambient Light Monitors Required.** The sign shall have ambient light monitors installed and shall be configured to allow such monitors to automatically adjust the brightness level of the electronic sign based on light conditions at all times.
9. **No Sound Permitted.** The sign may not emit any sound.
10. **Height.** No part of the sign may be taller than 50 feet above the nearest driving surface of Interstate 494. Measured from the base of the pole to the top of the sign, no part of the sign may be taller than 45 feet without an amendment to this conditional use permit. Every effort shall be made during sign fabrication and installation to bring the height closer to 43 feet if practical.
11. **Sign Structure Design.** Unless otherwise approved by the City Council, the sign structure shall incorporate EIFS cladding that is designed to replicate the look of limestone.
12. **Sign Location.** No part of the sign may overhang into MnDOT right-of-way. The sign shall be placed in substantial conformity with the approved site plan but, due to the complications of navigating around the pump house infrastructure, the final location of the support pole and orientation of the sign faces is subject to review and approval of the City Engineer. The two sign faces must be directed towards drivers using the interstate highway and each face must be designed to be visible from traffic coming from an opposite direction.

13. **Screening Trees Required.** The Applicant shall plant a row of coniferous screening trees at the top of the bluff in accordance with the submitted site plan. The trees shall be a minimum of 6 feet in height at the time of planting and must be of a variety that is expected to grow to be at least 15 feet in height. The final selection of trees shall be subject to review and approval by the Zoning Administrator.
14. **Screening Tree Maintenance and Financial Guarantee.** The Applicant is required to keep the required screening in a healthy condition. To ensure that the screening trees are correctly installed and maintained, the Applicant shall provide the City with a financial guarantee. The financial guarantee shall be \$7,500 or 125% of the total estimated cost of the required trees, whichever is less. The financial guarantee shall be in the form of a cash escrow or letter of credit. It can be released one year after the required trees have been planted, provided the Applicant replaces any trees that have died during that period.
15. **MnDOT Approvals Needed.** The Applicant shall secure any necessary approvals from the Minnesota Department of Transportation (MnDOT).
16. **FAA Approvals Needed.** The Applicant shall secure any necessary approvals from the Federal Airlines Administration (FAA).
17. **Sign Turned Off if Display Falls into Disrepair.** The sign shall have a fully functional monitoring off switch system that shuts the dynamic display sign off when the display deteriorates, in any fashion, five (5) percent or greater until the dynamic display sign has been repaired to its fully-functional factory specification.
18. **Sign Turned Off if Operation Found to Be Non-Compliant.** The sign must always be operated in accordance with the City Code and this Conditional Use Permit and the owner or operator shall provide proof of conformance upon request of the City. If it is determined that the sign is out of conformance, the Zoning Administrator may require the sign display to be turned off until its operation can be brought back into compliance.
19. **Applicant Responsible for Any Costs Related to Temporarily Relocating the Sign if Necessary for Pumphouse Repairs, Replacement, and Servicing.** The sign is being designed to avoid conflicts with existing pumphouse operations and the existing equipment that is used to service the pumphouse. If the sign does conflict with future repairs, replacement, or servicing of the pumphouse, the Applicant is wholly responsible for the cost of temporarily relocating the sign or otherwise providing the City with a level of access to the pumphouse that the City Engineer determines is acceptable.
20. **Termination of the Conditional Use Permits.** The Conditional Use Permits will terminate if improvements have not substantially begun within one year from the date of approval. The violation of any condition of approval in the conditional use permit may terminate the conditional use permit, following a hearing by the City Council.

## Required Action

The Planning Commission has the following actions available on the proposed application:

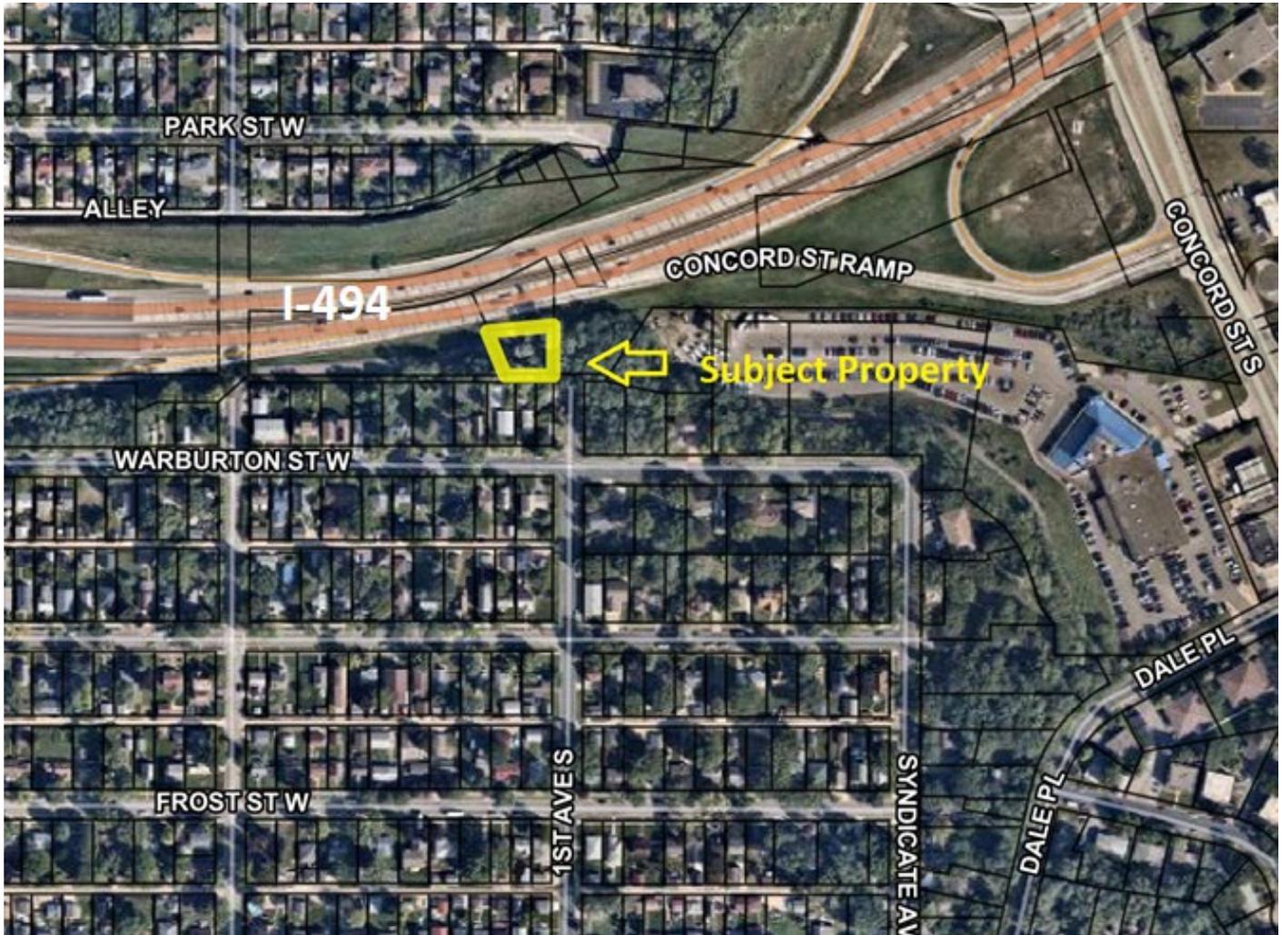
- A. Approval. If the Planning Commission wishes to recommend approval of the Conditional Use Permit, the following action should be taken:
- Motion to recommend approval of a Conditional Use Permit for a dynamic display off-premises sign at the City's pump house property along Interstate 494.
- B. Denial. If the Planning Commission wishes to recommend denial of Conditional Use Permit, the following action should be taken:
- Motion to recommend denial of a Conditional Use Permit for a dynamic display off-premises sign at the City's pump house property along Interstate 494.

*If the recommendation is denial, the Planning Commission should adopt findings. The CUP cannot be recommended for approval unless the Planning Commission recommends approval of the ordinance amendment. If the Commission recommends denial of the ordinance amendment, the finding for denying the CUP can be that the project does not comply with the sign ordinance which currently prohibits billboards.*

## ATTACHMENTS

- A. Site Location Map
- B. Aerial Photograph of Existing Conditions'
- C. Aerial Photograph with Contour Lines to Show Elevations
- D. Google Streetview Photographs of Proposed Billboard Site
- E. Applicant's Narrative
- F. Survey
- G. Site Plan
- H. Renderings of Proposed Billboard Sign
- I. Light Study

ATTACHMENT A  
SITE LOCATION MAP



ATTACHMENT B  
AERIAL PHOTOGRAPH



**ATTACHMENT C  
AERIAL PHOTOGRAPH WITH CONTOUR LINES TO SHOW ELEVATIONS**



**NOTES:**

- Each yellow line represents a 2-foot change in elevation
- The base of the sign's support pole will be at roughly 780 feet above sea level. The top of the 45 foot tall sign will be at roughly 825 feet above sea level.
- The rear property lines of the residential properties south of the project site are roughly 810 feet above sea level.
- The rear property lines of the residential properties across the highway and behind the MnDOT sound wall are roughly 804 feet above sea level.

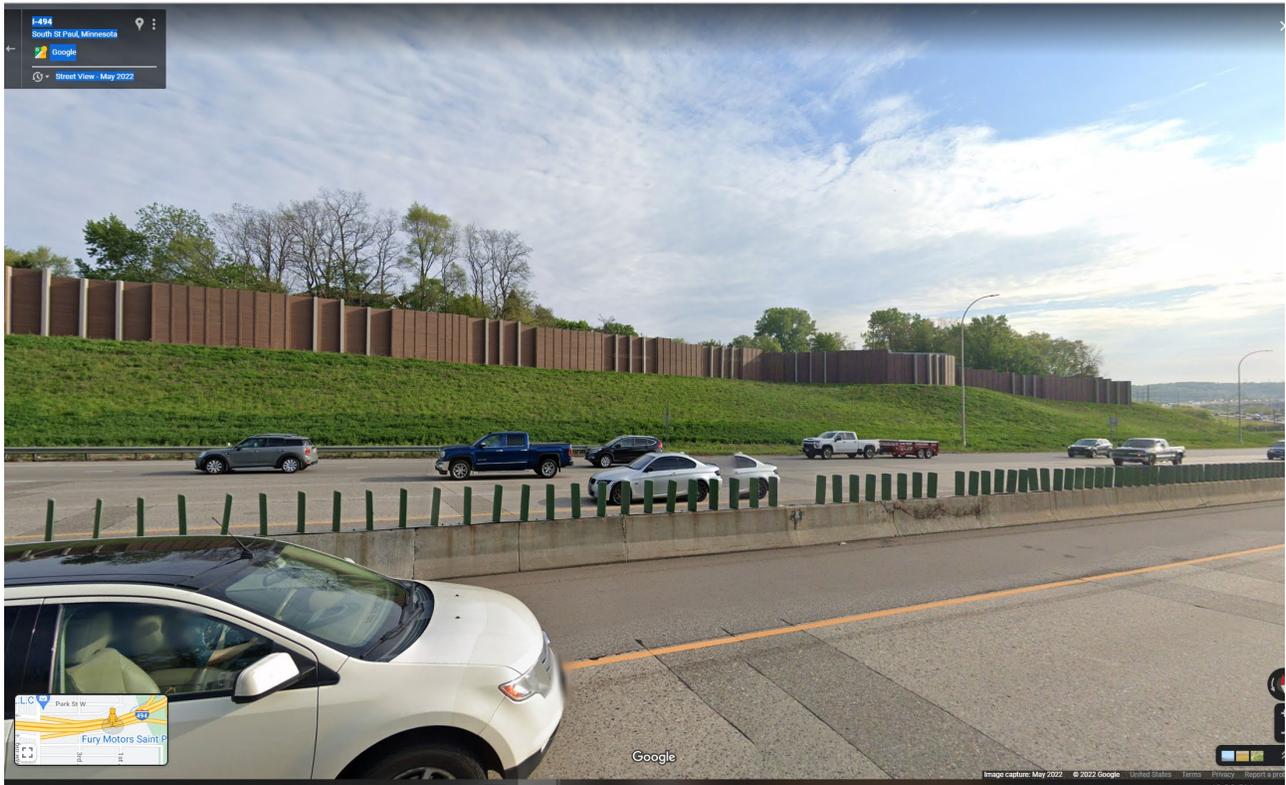
**ATTACHMENT D  
GOOGLE STREETVIEW PHOTOGRAPHS OF PROPOSED BILLBOARD SITE**



**SUBJECT PROPERTY DURING LEAF-ON CONDITIONS**



**SUBJECT PROPERTY DURING LEAF-OFF CONDITIONS**



**MNDOT SOUND WALL ACROSS THE HIGHWAY FROM THE SUBJECT PROPERTY**

## ATTACHMENT E APPLICANT'S NARRATIVE



### **Blue Ox Media Group CUP Narrative**

Blue Ox Media Group proposes to construct a double faced, 14X48 foot digital billboard at 1003 3<sup>rd</sup> Avenue South. The site is currently used as well house number 4 and is directly adjacent to Interstate 494. The sign location depicted on the survey considers the water mains and overhead power lines on the property. The sign will have dynamic displays facing east and west as depicted in the site plan. These sign faces utilize light blocking technology that focus the message to the roadway to minimize light intrusion. A light study showing compliance with ordinance requirements has been included as part of the application. The proposed overall height is 45 feet. The sign base and column pole will be wrapped in a durable EIFS material shown in the attached renderings.

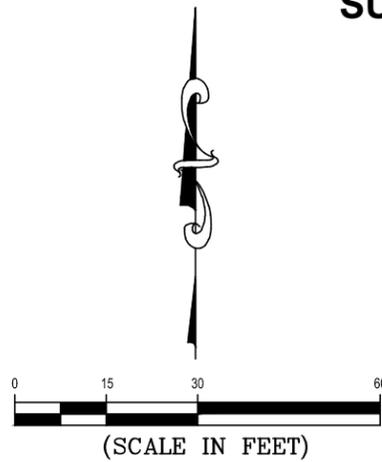
### **Architectural Pole Wrap material**

The column pole of the sign will be wrapped in molded EIFS and Expanded Polystyrene (EPS) vertical panels made to look like limestone cladding. The façade comes in 2 sections that are installed on each side of the column pole. These sections are bolted together and adhered to the pole with spray foam. It is a very durable product that is used in sign manufacturing and building accents throughout the region.

**ATTACHMENT F  
SURVEY**

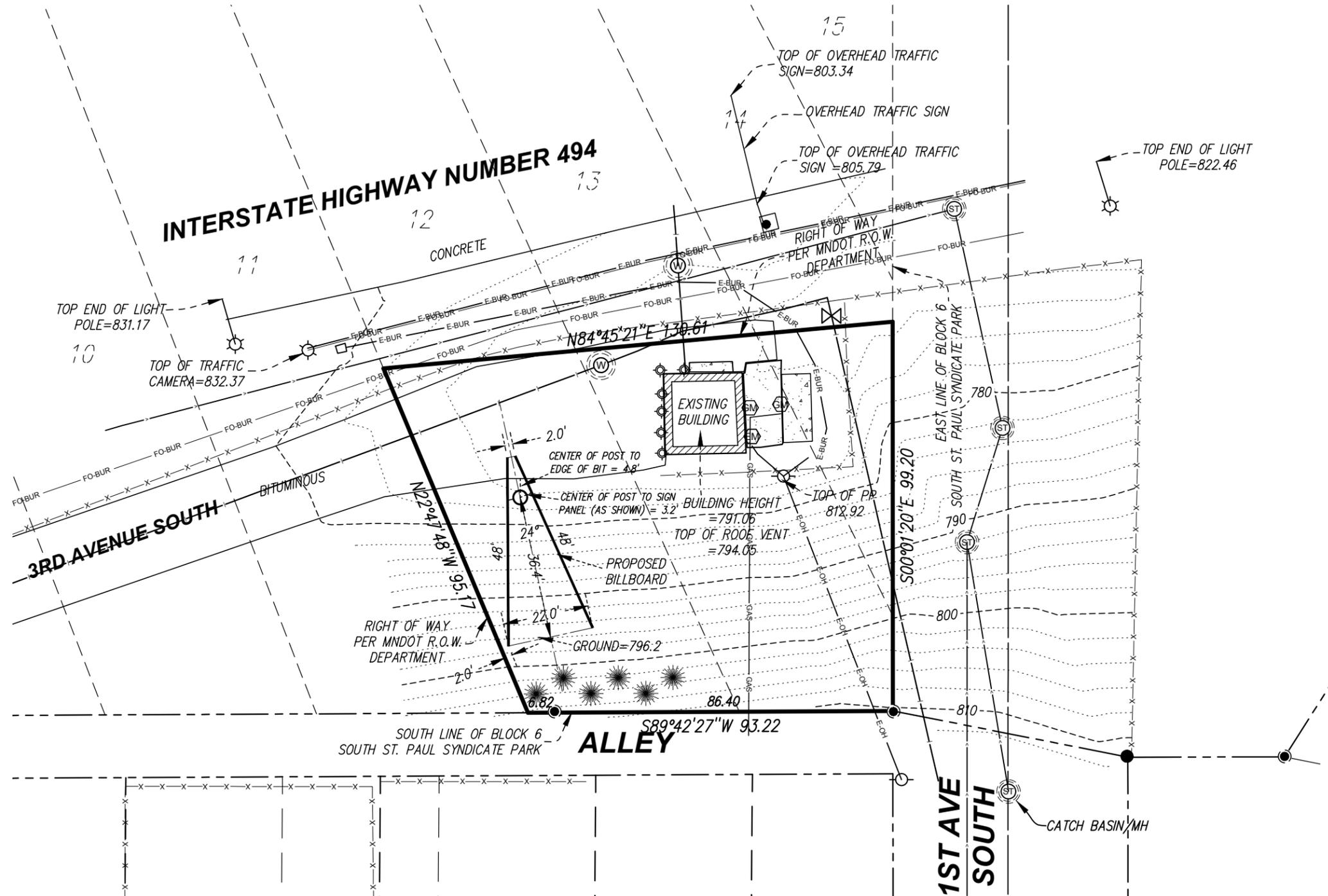
# TOPOGRAPHIC SURVEY

Prepared for: Blue Ox Media Group



**LEGEND**

- DENOTES FOUND IRON PIPE
- DENOTES FOUND REBAR
- ⊕ DENOTES GAS METER
- ⊕ DENOTES ELECTRIC METER
- DENOTES POWER POLE
- ⊕(ST) DENOTES STORM SEWER MANHOLE
- ⊕(W) DENOTES WATER MANHOLE
- ☼ DENOTES PROPOSED EVERGREEN (APPROXIMATE)



**NOTE REGARDING UNDERGROUND UTILITIES**  
The subsurface utility information in this plan is utility quality level d. this utility quality level was determined according to the guidelines of CI/ASCE 38-02, entitled "Standard Guidelines for the Collection of Existing Subsurface Utility Data"

**PARCEL DESCRIPTION**

Lots 12, 13, 14, and 15, Block 6, SOUTH ST. PAUL SYNDICATE PARK, Dakota County, Minnesota, EXCEPTING THEREFROM any portion of said lots lying within the right of way of Minnesota Trunk Highway No. 494, as shown on Right of Way Map No. 17-83.

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Print Name: Kyle J. Roddy

License # 42627

Signature: *Kyle J. Roddy*

Date: 12/22/2023

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701 Washington Ave. N, Ste 200 | Minneapolis, MN 55401 | 612.338.2029

CLIENT:  
**BLUE OX MEDIA**

# ATTACHMENT G SITE PLAN

 THIS SQUARE APPEARS 1/2"x1/2"  
ON FULL SIZE SHEETS

NO	DATE	REVISION

**PRELIMINARY  
NOT FOR CONSTRUCTION**

COPYRIGHT 2022 BY LHB, INC. ALL RIGHTS RESERVED.

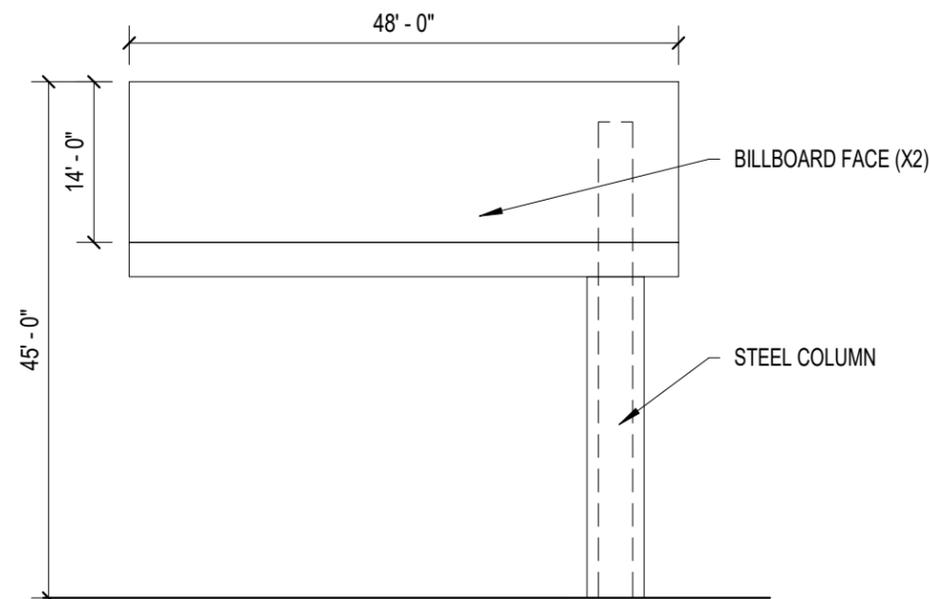
PROJECT NAME:  
**SOUTH ST. PAUL 494  
BILLBOARD**  
1001 3RD AVE S  
SOUTH ST. PAUL, MN

DRAWING TITLE:  
**SITE PLAN AND  
ELEVATION**

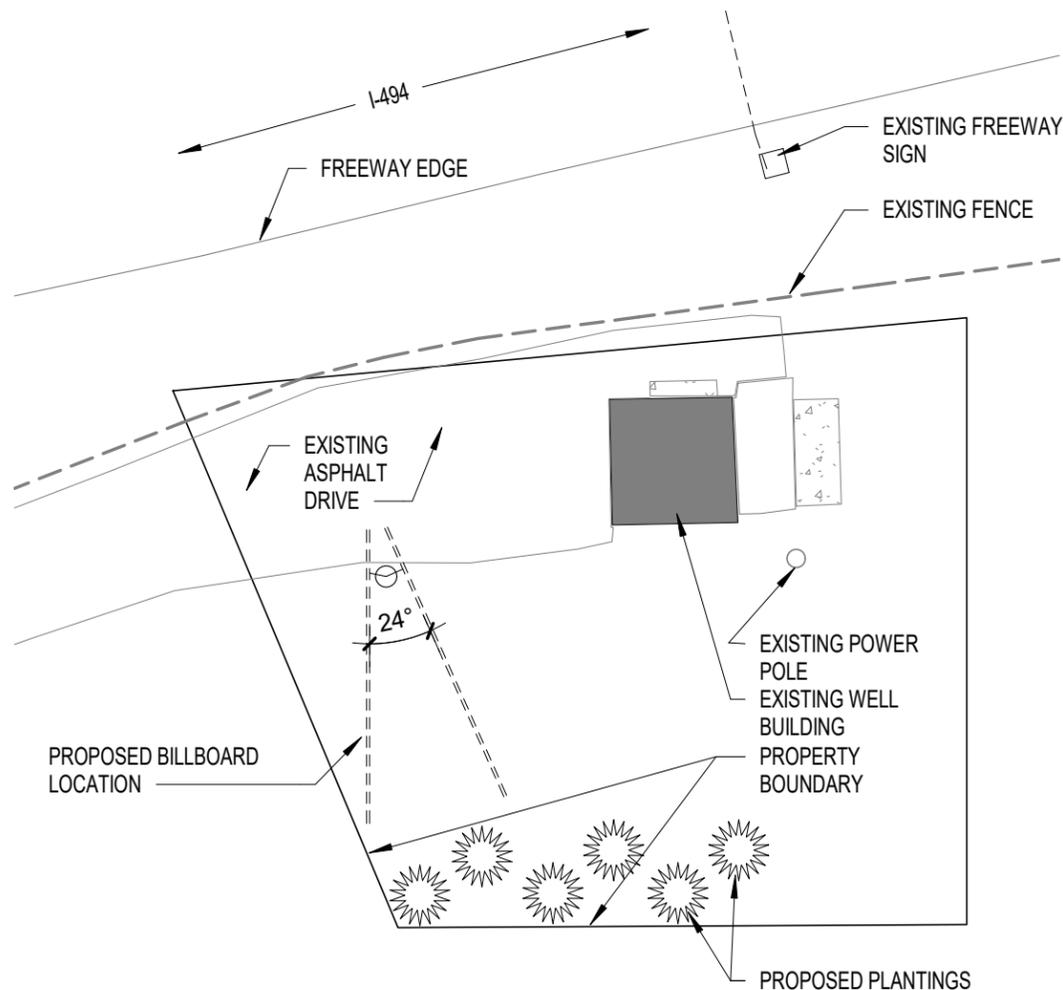
DRAWN BY: SS  
CHECKED BY:  
PROJ. NO: 220601  
DRAWING NO:

**A101**

B



**1A BILLBOARD ELEVATION**  
1/16" = 1'-0"



**2A CONCEPTUAL SITE PLAN**  
1" = 30'-0"

# ATTACHMENT H

## RENDERINGS OF PROPOSED BILLBOARD SIGN

CONCEPTUAL RENDERING:  
WESTBOUND



CONCEPTUAL RENDERING:  
EASTBOUND



8/1/2022

## LIGHTING STUDY

Watchfire Signs has been manufacturing outdoor electric signs since 1932 and LED signs since 1996. Currently, we have more than 60,000 LED signs in operation worldwide.

### History of Optical Measurements and Calculations

Outdoor signs using incandescent light bulbs commonly measured illuminance using meters that report brightness in foot-candles. This unit is the standard measurement partly because a light bulb is a source of light that illuminates equally in all directions. LED signs are measured with the same meter even though its light does not illuminate equally in all directions. LED signs are designed to be highly directional, which is an advantage. LEDs allow light to be directed toward an intended audience, rather than dispersed in a wider arc out from the face of the sign.

In the LED industry luminance, or the intensity of visible light, is measured by nits, where one candela per square meter is equal to one nit. However, luminance meters are expensive, difficult to use in the field, and are not ideal for lighting studies commonly used for meeting local permitting requirements. As a result, LED signs are often evaluated using foot-candle measurements.

A foot-candle is the amount of light produced by a single candle when measured from one foot away. For reference, a 100-watt light bulb produces 137 foot-candles from 1 foot away, .0548 foot-candles from 50 feet away, and .0137 foot-candles from 100 feet away.

### Watchfire Signs is Compliant with National Lighting Requirements

Watchfire Signs has adopted brightness standards endorsed by both the International Sign Association (ISA) and Outdoor Advertising Association of America (OAAA). These standards were the result of detailed analysis and recommendations for lighting control completed by Dr. Ian Lewin of Lighting Sciences Inc. The studies are based on accepted practices by the Illuminating Engineering Society of North America (IESNA) for evaluating and controlling "light trespass". Watchfire Signs' products meet the requirements set forth by both associations, based on these studies and recommendations, which results in lighting impact of no more than 0.3 foot-candles above existing ambient light levels. Total foot-candles are dependent on size and distance and can be adjusted as needed. Please see below for the site-specific lighting study and Exhibit A for details surrounding the OAAA lighting standards and practices

### Automatic Brightness Adjustment:

Watchfire's billboard displays are set to have a maximum daytime brightness level of 7,500 nits and a maximum nighttime brightness level of 300 nits. All Watchfire signs automatically adjust brightness levels using a primary 100-step hardware photocell, with a software photocell backup. The hardware photocell will automatically adjust the sign's brightness relative to changes in ambient light levels. If the software photocell is used, the sign will automatically adjust brightness based on the longitude and latitude location of the sign. The sign is appropriately dimmed or brightened based around daily sunrise and sunset. For both options, a sign operator can manually decrease the brightness from standard

---

### **Night Skies:**

All Watchfire signs are designed with night skies in mind. To achieve the best image quality and power efficiency, we are interested in having light reach only the audience. We have implemented technology into our products that prevent them from being brightened in the field after installation and allow for downward adjustment when the impact is too great for a specific area or application. Watchfire has developed specially designed louver panels that not only protect the LEDs from damage but limit the vertical impact of the light output. This technology, coupled with the automated brightness adjustments, limits impact to vertical ambient lighting.

### **Title 24 Compliance:**

Watchfire displays was the first in the industry to meet the requirements for UL Greenleaf certifications set forth by Title 24 of the California Code of Regulations. A copy of the Certificate of Conformance is available upon request

### **Redundancy:**

All Watchfire displays have intelligent control with Automated Diagnostics down to individual LED level. In the unlikely event that a lighting control fails, or a sign malfunction, the operator and Watchfire are immediately notified. If necessary, there are protocols in place to have the sign go dark along with hardware installed in each display to allow for remote power control.

### **Equipment used by Watchfire Signs to Measure Luminance**

Foot-candles/Lux - Minolta Illuminance Meter T-10

Nits/candela/sq. m – Minolta Luminance Meter LS-100

Sign Calibration – Minolta CS-1000 Spectra radiometer

*The proceeding study uses actual lab measurements made on modules using an illuminance meter. These measurements and extrapolations were then scaled up to the size of the billboard and distance corrections were made using the inverse square law.*

## SIGN LIGHTING STUDY

### Billboard Details

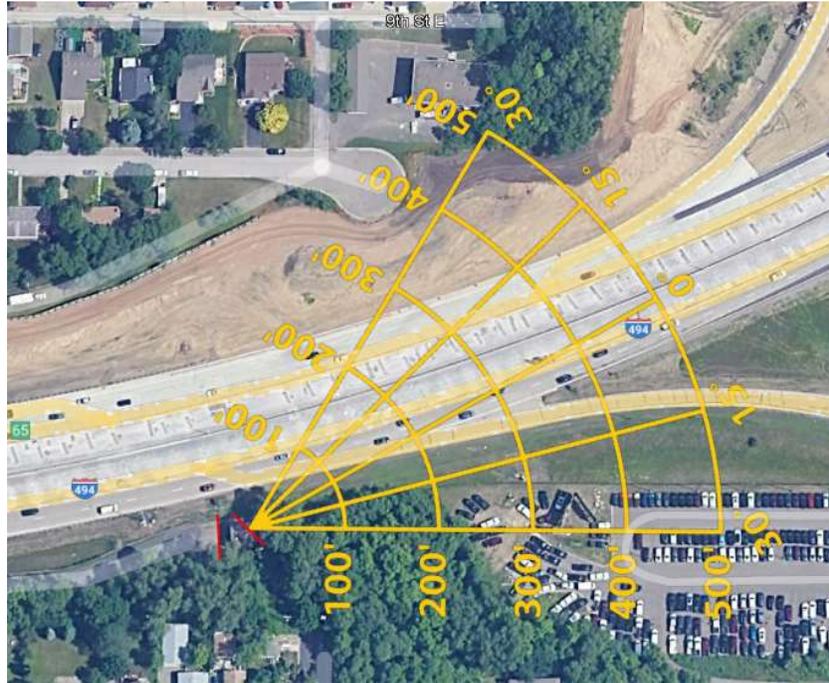
Size: 14'x48'

Location: 1003 3rd Ave S South St Paul, MN 55075

The table below represents a large LED billboard, demonstrating the increase in illuminance from the billboard during normal night operation. Smaller billboards would have less effect than shown below. The values are within the standards of both the ISA and OAAA and indicate that the ambient light broadcast into the surrounding area has minimal effect.

Foot-candles at night under normal operation with Light Blocking Louvers					
	Horizontal Viewing Angle				
Viewing Distance (ft)	0°	15°	30°		
100	0.68	0.41	0.02		
200	0.17	0.10	0.01		
300	0.08	0.05	0.00		
400	0.04	0.03	0.00		
500	0.03	0.02	0.00		

### Example Broadcast of Light at Distances and Angles



## Conclusion

Given the above comparisons and measurements, the area will see an almost undetectable difference in ambient light after installation of the digital LED billboards.

## Rob Caudill

Account Manager

Phone 217-474-1481

Watchfire Headquarters · [watchfiresigns.com](http://watchfiresigns.com)

sales 800-219-0496 service 800-406-6091

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## Exhibit A: OAAA Lighting Standards

### Brightness Criteria

A. OAAA Guidelines: The OAAA recommended brightness criteria for digital billboards is as follows:

- Light produced by a digital billboard should not exceed 0.3 Footcandles over ambient light levels.
- Measurement should be taken utilizing a Footcandle meter from the following distances perpendicular to the face of the digital billboard):
  - o Posters: 150 feet
  - o 10'6x36 Bulletins: 200 feet
  - o 14x48 Bulletins: 250 feet
  - o 20x60 Bulletins: 350 feetThe measurement distances are based on the average minimum viewing distances for each type of billboard.
- Digital billboards must have automatic dimming capability.

B. Basis for the Guidelines. These guidelines are based on recommendations by lighting expert Dr. Ian Lewin, Lighting Sciences Inc. (Scottsdale, AZ), in a March, 2008 report to the OAAA. Dr. Lewin developed brightness criteria to meet the following general guidelines:

- Appropriately Legible Copy. Digital advertising copy is appropriately legible and not overly bright.
- Simplicity. Provide a guideline that can be easily implemented and enforced. Measurement of the ambient light level of the sign on and off is conducted by a footcandle meter. If the difference in measurements is less than 0.3 footcandles, the digital billboard is in compliance.
- Established Guidelines. The criteria are based on established scientific methodology and established industry standards from the Illuminating Engineering Society of North America (IESNA) publication TM- 11-00 "light trespass" theory which is an accepted standard in the lighting industry.
- Flexibility. Ensure proper brightness levels in a variety of lighting environments.

### C. Additional Issues/Clarification

- Automatic Dimming Capability. A digital billboard must be able to automatically adjust as ambient light levels change. An automatic light sensing device (such as photocell or similar technology) should be utilized for adjusting the digital billboard's brightness. Sunset-sunrise tables and manual methods of controlling brightness are not acceptable as a primary means of controlling brightness.
- Brightness Measurement Methodology. The brightness standard requires the use of a Footcandle meter (also known as a "Lux meter"; ~\$100-1000). A Footcandle meter measures the amount of light arriving at the meter (illuminance), as opposed to an absolute measurement of the amount of light emanating from a light source or light sources (luminance). A Footcandle is a measure of lumens (light rays) that fall on one square foot area; Lux is the metric equivalent of a Footcandle. In contrast, a Candela Meter / NIT Gun (~\$3,000) measures the amount of light emanating from a specific light source (luminance). A NIT gun measures candelas (a measure of luminance or brightness) per meter squared (also known as "NITS"), which is a measure of the brightness emanating from a specific light source. It excludes ambient light (which may include light from many sources) from the measurement. Standard NIT levels and/or utilization of a NIT gun are not a part of the OAAA recommended brightness guideline.

OAAA Washington, DC Headquarters | 1850 M Street, N.W., Suite 1040 | Washington, D.C. 20036 Phone: (202) 833-5566 | Fax: (202) 833-1523

[www.oaaa.org](http://www.oaaa.org)



## AGENDA ITEM 4.C

### South St. Paul Planning Commission

<b>Prepared By:</b> <i>Monika Miller, Associate Planner</i>	<b>Meeting Date:</b> <i>1/3/2024</i>
<b>Item Description:</b> Public Hearing for an Ordinance Amendment Updating the Zoning Standards for Permitted Encroachments, Accessory Structures, and Nonconforming Buildings	<b>Reviewed By:</b> <i>Michael Healy, Planning Manager</i>

#### ***ACTION REQUESTED***

A motion to recommend approval of an ordinance amendment which would update the zoning standards for permitted encroachments, accessory structures, and nonconforming buildings.

#### ***BACKGROUND/ DISCUSSION***

##### **Application**

The Applicant is the City of South St. Paul. *The Planning Commission discussed a draft ordinance at their December 2023 meeting and directed Staff to move forward with holding a public hearing to implement the proposed ordinance.*

##### **Review Timeline**

*Planning Commission/Public Hearing: January 3, 2024*

*Tentative City Council First Reading: January 16, 2024*

*Tentative City Council Second Reading: February 5, 2024*

##### **Background**

Throughout the year, situations sometimes arise that highlight potential improvements to code requirements. City Staff are very busy with building permits and development review during the spring and summer months and often notice that certain code requirements are causing friction with building projects. This past construction season, the following topics were highlighted as areas where code improvements could potentially be made:

- Setback standards for some permitted encroachments, such as open decks, patios, arbors and trellises, chimneys, bay windows, and air conditioning units. *The existing standards could use refinement.*

- The rules for accessory buildings in residential zoning districts. *Each property currently gets 1 detached garage and 1 “other” detached building. This causes friction with many residents who want both a storage shed and a gazebo or other recreational structure. Also, the rules for pergolas are somewhat unclear and need to be refined.*
- Small additions onto existing single-family, two-family, and three-family homes that have a nonconforming setback. *Currently, these additions all require a variance if they are going to have the same nonconforming setback as the existing building.*

## **Permitted Encroachments**

Cities have setback requirements for houses, garages, and sheds to create uniform development with adequate space between structures for practicality and safety reasons. Certain property features, such as decks, patios, chimneys, bay windows, air conditioning units, etc., often extend beyond the house and encroach into the yard space around a house. To legalize these features, cities typically adopt regulations for “permitted encroachments.” In South St. Paul, these regulations are listed in Section 118-273. The permitted encroachments section frequently uses the terms “required setback” and “required yards” interchangeably to refer to the front, side or rear setback that is required in the respective zoning district. The term “actual yard” refers to the physical yard space of a property.

### *Air Conditioning Units, Chimneys, and Trellises*

Staff have noticed some inconsistencies between the code regulations about where air conditioning units, chimneys, and decorative garden trellises can be placed versus where they are actually placed on most properties. The code requires air conditioning units to be at least 5 feet away from a side property line. Most South St. Paul houses only have a 5-foot side yard setback which means that air conditioners are often placed in that 5-foot space, which is technically a code violation. Staff would like to eliminate this side yard setback requirement to make the code consistent with actual practices. Chimneys also require a 5-foot side yard setback, which again is difficult to meet as most South St. Paul houses have a 5-foot side yard setback. Staff would like to reduce the side yard setback for chimneys to 3 feet. Additionally, the code strictly regulates where small garden trellises can be placed. Small garden trellises are more of a landscaping feature than a permanent structure and many residents like to use them as decorative entry gateways for their front yards, which is technically a code violation. Staff is proposing to allow small decorative trellises to encroach into a required front, side or rear yard as long as they do not exceed 9 feet in height or 20 feet in area.

### *Patios*

Currently, at-grade concrete and paver patios are only allowed to encroach into a “required front yard” if there is still at least a 20-foot yard between the patio and the front property line. This means that most residents with small front yards are not legally allowed to have a patio in their front yard. As a result, it is common to see front yard patios constructed unlawfully without permits.

Front yard patios are attractive and encourage neighborly interactions. Having “more eyes on the street” also serves as a deterrent to crime and makes neighborhoods safer. Staff is proposing to allow at-grade concrete and paver patios to encroach up to 6 feet into an actual front yard which means that even properties with a small front yard would be allowed to have a small patio.

## *Egress Window Wells and Bay Windows*

The Code does not currently have clear rules for egress window wells. Staff is proposing to codify the procedures that the Planning and Zoning Department and Building Department have been using for decades. Staff would like to add egress window wells as an official “permitted encroachment” and allow them to extend 4 feet off of a house, which is the standard size for an egress window well. Egress window wells would not be allowed to encroach into drainage and utility easements or cross property lines.

Bay windows and bow windows are an architectural type of window with three panes that angle out beyond the wall of the house. Today, the code allows these windows to encroach 2 feet into a required setback as long as the house is setback at least 20 feet from the front and rear property lines and 5 feet from the side property line. This standard works for properties that were constructed with larger setbacks but prohibits properties with small setbacks from being able to make architectural upgrades. Staff is proposing to allow bay and bow windows to encroach two feet into any required or actual front, side or rear yard as long as a front or rear setback of at least 3 feet and a side setback of at least 5 feet shall be maintained.

## **Accessory Structures**

### *General Accessory Structure Regulations Clean Up*

Detached accessory structures are regulated in Section 118-208. Prior to 2013, accessory structure regulations were listed in each of the zoning districts where accessory structures were allowed. In 2013, when Section 118-208 was enacted, most of the provisions related to accessory structures were removed from the respective sections of the City code but a few provisions were left behind, specifically in the R-1 section. This includes the 10-foot spacing requirement between structures. Staff is proposing to clean up any remaining provisions left in the R-1 code from after Section 118-208 was enacted and clarify some of the accessory structure language in Section 118-208. These clarifications include the following:

- Clearly stating which standards apply to detached accessory structures versus attached garages.
- Adding stucco, brick, and stone as allowable siding materials for accessory buildings and making it clear that a property owner can always have their garage match their house’s siding and roofing.
- Stating that an accessory structure must be on the same lot as the principal structure. *The Code is currently written to allow a detached garage on an adjacent lot in some rare situations which is problematic from a property title standpoint and could cause zoning issues in the future.*

### *Number of Accessory Structures*

Today, each residential property is allowed to have up to 2 detached accessory structures: one detached garage and one “other” detached structure that is not a garage. Over the summer, Staff saw an uptick in requests for backyard gazebos (detached accessory structures with a roof intended for social or recreational shelter) as several large retailers were offering heavy discounts on this type of product. Many homeowners were frustrated to find out that they were ineligible to have a gazebo because they already had a shed in their yard and could only have one “other” building.

Staff reviewed the zoning codes of several other communities and found that it is relatively common to allow properties to have up to 3 accessory structures. The proposed ordinance would update the accessory

structure standards to allow residential properties to have up to 3 detached accessory structures: one garage, one storage shed, and one other structure that cannot be used for storage (such as a gazebo or a greenhouse). The total square footage allowance for all detached accessory structures would remain unchanged at 1,200 square feet.

### *Codifying Standards for Pergolas*

Pergolas, which are different than gazebos in that they have a mostly open roof that only provides shade, currently live in a gray area in the City Code. Some parts of the code suggest that they are accessory buildings and other parts of the code suggest otherwise. They are called out in the “permitted encroachments” section as having extra setback requirements which does not make sense since that section is intended to grant setback flexibility. The code’s inconsistencies make it unclear what rules pergolas should follow when it comes to setbacks, height rules, and lot coverage maximums. It is also unclear whether a pergola “counts” as one of the two accessory buildings or whether pergolas are something else entirely.

Over the years, Staff has worked with the City Attorney to interpret the existing code and develop standards for pergolas. Staff would like to codify those standards so that things are clearer for residents:

- Attached pergolas are treated the same as attached decks and must follow those setback requirements. They require a building permit.
- Detached pergolas require a zoning permit and are required to follow the same setback as an accessory structure but do not count towards the maximum number of detached accessory structures.
- Both attached and detached pergolas count towards the total lot coverage.

### **Making it Easier to Build an Addition Onto a Structure with a Setback Nonconformity**

Under State Statute, nonconforming structures (“grandfathered” structures) have the right to be repaired, maintained, replaced, or improved. State Statute does not, however, grant nonconformities any expansion rights but permits cities to do so if they wish. South St. Paul currently only allows nonconforming structures to be expanded if the expansion meets all zoning requirements. This means, for instance, that an existing house with a “grandfathered” 7-foot street side yard setback cannot be expanded unless the home addition has a small jog and has a 9-foot street side setback. Historically, the City has been very generous with granting setback variances to allow home additions to maintain the same nonconforming setbacks as the original house.

The majority of South St. Paul’s residential development was constructed prior to the adoption of modern zoning standards. Approximately 33% of the housing stock was constructed before the City adopted its first zoning rules in 1948 and 75% of the housing stock was constructed prior to 1969 when the City adopted the current setback requirements. Consequently, there are a very large number of “grandfathered” buildings in South St. Paul that have setback nonconformities.

Staff reviewed the zoning regulations of several other communities with older housing stock to see how they address expansions of homes with setback nonconformities. Staff found that other communities tend to at least allow small expansions to nonconforming structures so long as the addition does not encroach further into the nonconforming setback than the existing structure. This type of approach could be

beneficial to South St. Paul and would allow good projects to move forward without needing to go through the variance process. In recent years, the Planning Commission and City Council have approved a number of variances for building additions to a home with a nonconforming setback that kept the same setback as the existing house. These variances were all approved with almost no discussion and with unanimous support which suggests that this could be an area where the Code should simply be updated to be more flexible. The City Council discussed this at a recent meeting and gave Staff clear direction that they wished to see this part of the Code updated.

The proposed ordinance would allow principal structures with a nonconforming side or rear yard setback to be expanded vertically or laterally by up to 50% of the footprint of the existing building so long as the building is at least 3 feet from a side or property line. There may be some situations that warrant a larger expansion so the draft ordinance includes language that would allow additions that exceed 50% of the footprint of the principal structure with a conditional use permit. A conditional use permit is the best way to allow these types of expansions because the tool allows the Planning Commission to review these requests on a case-by-case basis to ensure that the expansion would be consistent with the character of the surrounding neighborhood. Staff anticipate that these requests will be infrequent as there are very few properties that would be able to accommodate an expansion of this size while still meeting lot coverage and other zoning requirements.

The proposed changes to the City's nonconformity rules would allow additions to a residential dwelling with a nonconforming side or rear yard setback but would not allow the addition to deviate from any other zoning regulations without a variance. For example, if homeowner would like to construct a bedroom addition that utilizes their nonconforming side yard setback, they would be eligible to do so without a variance, but they would still need to meet all other zoning regulations, including lot coverage and building height.

### **Planning Commission Discussion Recap**

Staff brought the item to the December 6, 2023 Planning Commission meeting for discussion. Staff requested feedback on whether the proposed standards seemed reasonable, how large of an expansion to a nonconforming structure the Planning Commission would be ok with, and whether a grandfathered accessory structure should be eligible for expansion. The Planning Commission shared that they were in favor of the updates to the standards for permitted encroachments and for increasing the number of accessory structures from 2 to 3. For principal structures with a side or rear yard setback nonconformity, the Planning Commission encouraged staff to draft standards that would allow for reasonable expansions of nonconforming structures while keeping some type of cap on the size of the expansion.

### **Summary of Proposed Updates**

The proposed ordinance would implement the following code amendments:

- Codifying existing practices for regulating pergolas.
- Separating patios from uncovered porches, balconies, open decks, and terraces and allowing patios to encroach 6 feet forward of a residential structure regardless of the yard size.
- Updating the standards for small arbors and trellises to allow them to be used as yard decorations.
- Reducing the setback requirements for air conditioning units to reflect what residents are actually doing.

- Reducing the setback requirements for chimney and bay/bow windows to allow these architectural features on lots with small setbacks.
- Adding standards for egress window wells to codify current practices.
- Increasing the number of allowable detached accessory structures on a residential property from 2 to 3, subject to the additional structure being used for recreation and not storage.
- Clarifying various parts of the accessory structure regulations.
- Adding stucco, brick, and stone as allowable materials for accessory structures and making it clear that a property owner can always design their accessory building to use the same siding and roofing as their existing home.
- Removing all leftover regulations for detached accessory structures that are found in the R- 1 district code.
- Allowing additions on to single-, two-, or three-family dwellings with a side or rear yard setback nonconformity that utilizes the nonconforming setback.

### **Staff Recommendation**

Staff recommend the Planning Commission recommend approval of the proposed ordinance, either as presented or with amendments.

### **Required Action**

The Planning Commission has the following actions available on the proposed application:

- Approval. If the Planning Commission wishes to recommend approval of the proposed ordinance, the following action should be taken:
  - Motion to recommend approval of the ordinance amendment updating the zoning standards for permitted encroachments, accessory structures, and expansions onto single-, two-, or three family homes with a nonconforming side or rear yard setback.
- Denial. If the Planning Commission wishes to recommend denial of the proposed ordinance, the following action should be taken.
  - Motion to recommend approval of the ordinance amendment updating the zoning standards for permitted encroachments, accessory structures, and expansions onto single-, two-, or three family homes with a nonconforming side or rear yard setback.

### **ATTACHMENTS**

- Example of a Decorative Trellis That is Technically a Code Violation
- Pergola Versus Gazebo Photos
- Examples of Recently Approved Additions to Nonconforming Structures
- Excerpts of Nonconforming Structure Regulations in Other Cities
- Proposed Ordinance

**ATTACHMENT A**  
**EXAMPLE OF A DECORATIVE TRELLIS THAT IS TECHNICALLY A CODE VIOLATION**

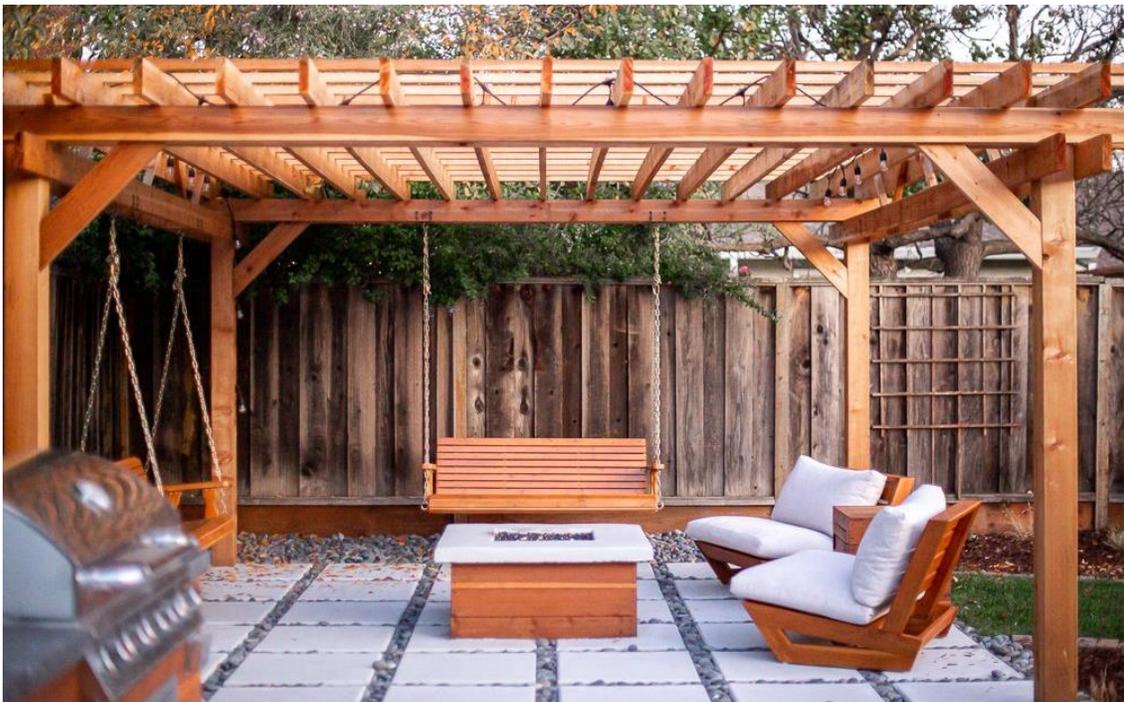


**Trellises are technically only allowed in front yards if kept at least 15 feet from the front property line**

**ATTACHMENT B  
PERGOLA VERSUS GAZEBO PHOTOS**

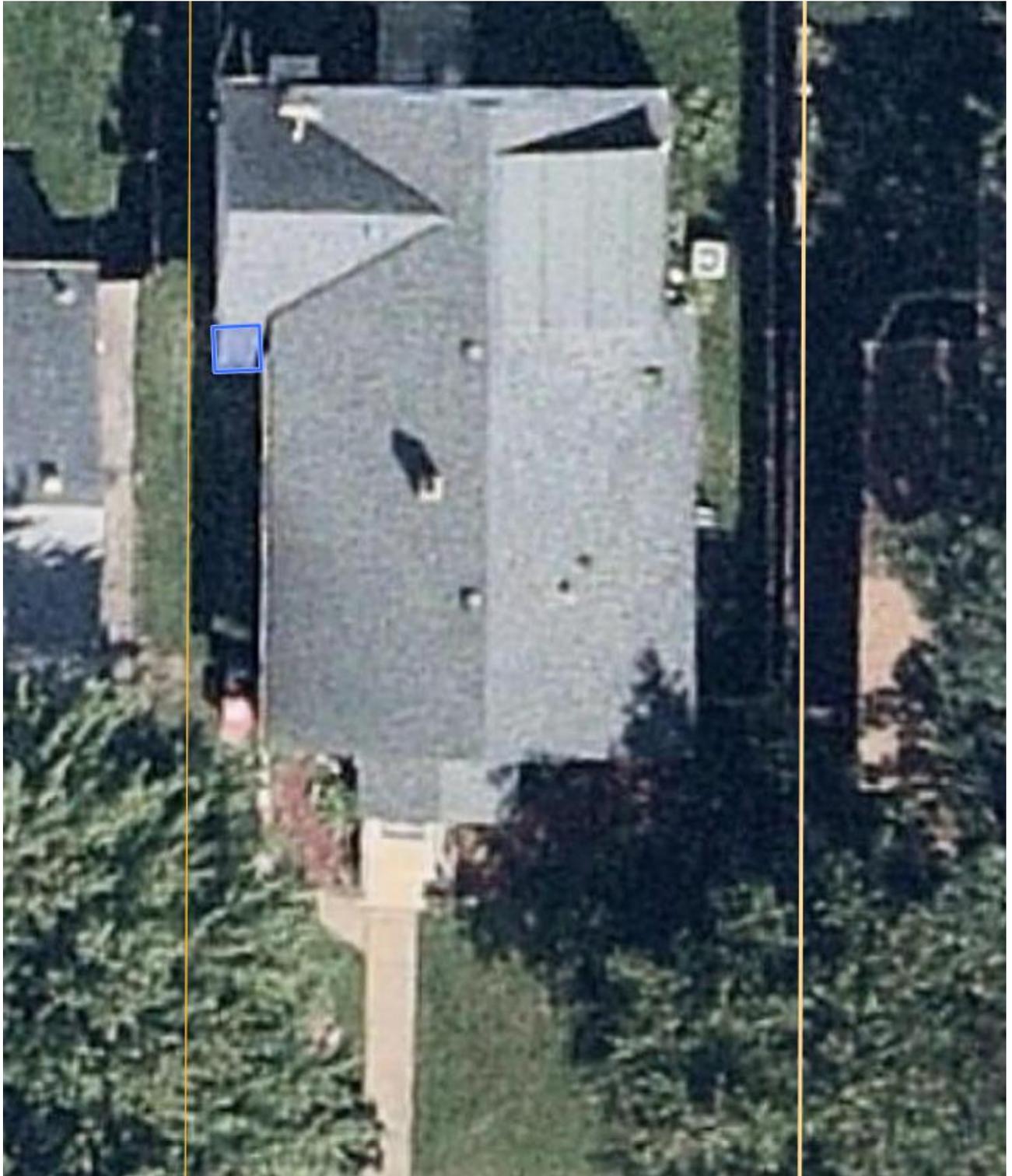


Example of a gazebo (covered roof)

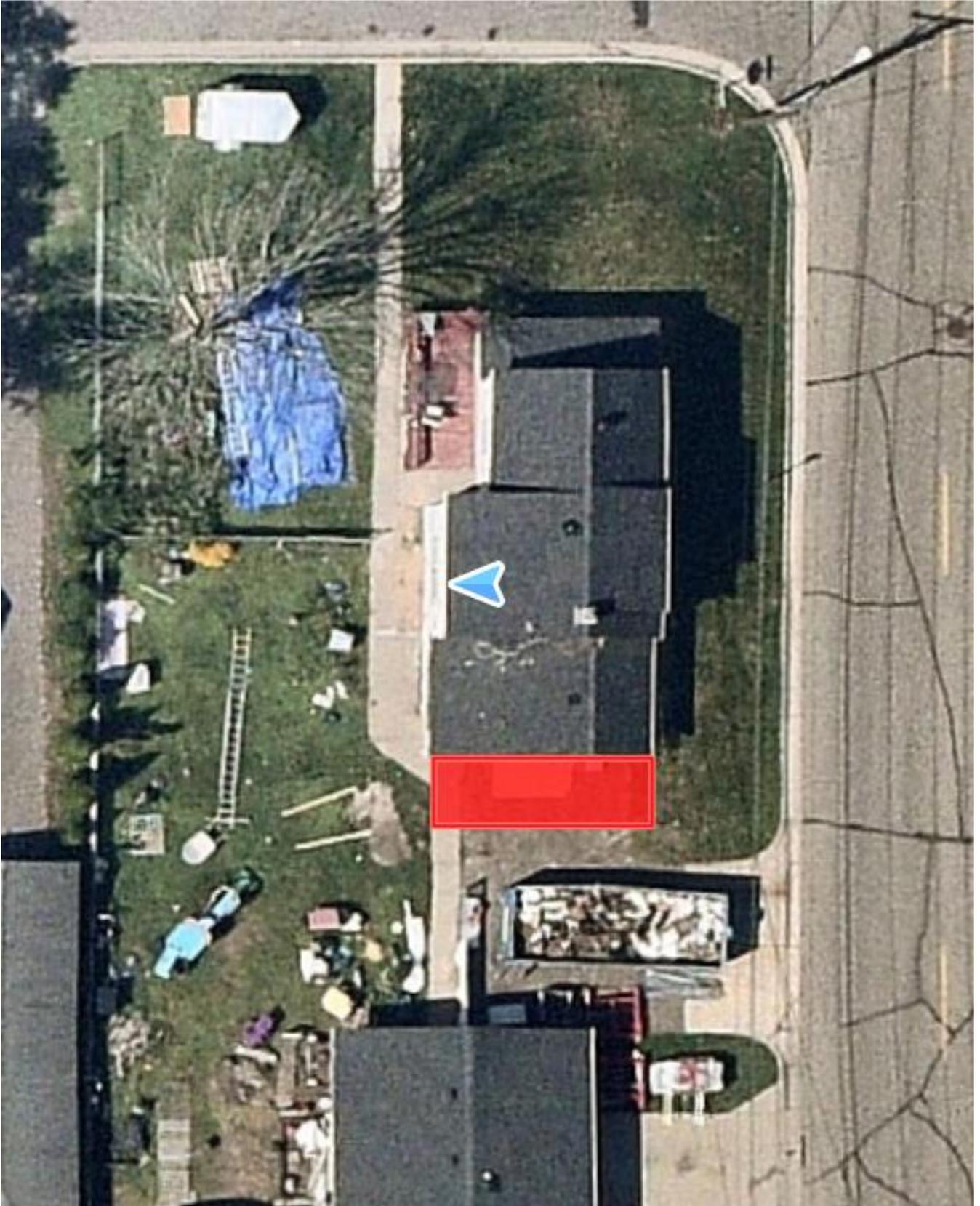


Example of a pergola (open roof)

**ATTACHMENT C**  
**EXAMPLES OF RECENTLY APPROVED ADDITIONS TO NONCONFORMING STRUCTURES**



9 Square Foot Addition Within Roofline of Existing Building at 151 Richmond Street East



114 Square Foot Kitchen Addition Off Rear of House at 256 14<sup>th</sup> Avenue North

**ATTACHMENT D**  
**EXCERPTS OF NONCONFORMING STRUCTURE REGULATIONS IN OTHER CITIES**

➤ ***City of Richfield***

**Section 509.25.- Nonconformities**

Subd. 5.           Enlargement of nonconforming structures.

- a) Except as noted below, a nonconforming building or structure occupied by a conforming use may not be expanded or altered in any way so as to increase that nonconformity. Expansions that meet all applicable city code requirements are permitted.
- b) A legally nonconforming single- or two-family dwelling or garage which existed on or before June 1, 1995, which is occupied by a conforming use, and which does not meet current setback requirements can be expanded up to 100 percent of the floor area of the existing structure, as long as the following conditions are met:
  - i. The expansion does not extend any farther into the required setback than the existing structure;
  - ii. The existing structure does not infringe on the setback more than 50 percent of the required setback distance; and
  - iii. The expansion meets all other applicable city code requirements. (Added, Bill No. 1998-13)

➤ ***City of Stillwater***

Sec. 31-216.- Nonconforming uses or structures.

Any nonconformity, including the lawful use or occupancy of land, buildings, structures, or premises existing at the time of the adoption of an additional control under this Chapter 31, may be continued (including through repair, replacement, restoration, maintenance, or improvement, but not including expansion) unless:

(d) The enlargement of a structure is not considered an expansion of the nonconformity as long as it does not expand, increase, enlarge or make the extent of the nonconformity more severe.

➤ ***City of Edina***

**Sec. 36-1270. Nonconforming uses, buildings and lots.**

- (a) *Nonconforming buildings.*
  - (1) *Alterations, additions and enlargements.*
    - a. A nonconforming building, other than a single dwelling unit building, shall not be added to or enlarged, in any manner, or subjected to an alteration involving 50 percent or more of the gross floor area of the building, or 50 percent or more of the exterior wall area of the building, unless such nonconforming building, including all additions,

alterations and enlargements, shall conform to all of the restrictions of the district in which it is located. The percentage of the gross floor area or exterior wall area subjected to an alteration shall be the aggregate percentage for any consecutive three-year period.

- b. Alternate setbacks. An addition to a single dwelling unit building with a nonconforming setback, or an addition to a structure accessory to a single dwelling unit building with a nonconforming setback, may be constructed within the existing nonconforming setback, which is the shortest distance from the applicable lot line to the existing structure, subject to the following limitations:
  1. The addition shall not exceed the existing square footage encroachment into the nonconforming setback or 200 square feet, whichever is less; and
  2. The addition may only be constructed on the same floor as the existing encroachment into the nonconforming setback.

➤ ***City of Hopkins***

**Section 102-1540- Nonconforming Structures**

**(c) Alterations and Expansions**

Alterations, including enlargements and expansions, are prohibited unless the proposed alteration or expansion complies with all applicable building siting and height regulations, and does not increase the extent of the existing nonconformity. A building with a nonconforming side setback, for example, may be expanded to the rear as long as the expansion complies with applicable rear setbacks and all other building siting and height regulations. On the other hand, building additions on the side, may not increase or extend the side setback nonconformity.

➤ ***City of Saint Paul***

**Sec. 66.105.- Nonconforming Structures with conforming uses.**

Nonconforming structures with conforming uses are subject to the following provisions:

(b) A nonconforming structure may be physically expanded or altered so long as such expansion or alteration does not increase its nonconformity and the use in the expanded or altered area of the structure meets any zoning separation requirement. A structure with a nonconforming setback shall not be expanded horizontally or vertically within the setback area, with the exception that an addition to a one- or two-family dwelling may be built along an existing nonconforming side setback line providing:

- (1) The addition is on the back of the building or fills in a jog on the side of the building, does not alter the front facade, and does not create a building height greater than twenty-two (22) feet; and
- (2) The footprint of the addition does not exceed two hundred fifty (250) square feet; and
- (3) The roof pitch on the front third of the building is not altered.

➤ *City of Minneapolis*

**Sec 531.30- Establishment of nonconforming rights; certificate of nonconforming use**

(2) Nonconforming structures. Where an application seeks a nonconforming use certificate to establish the legal nonconforming status of a structure only, or a use nonconforming as to parking only, and not to establish the legal nonconforming status of any use, the zoning administrator may issue or deny such certificate upon review of a certified survey, building permits, or other documentation deemed necessary or sufficient by the zoning administrator.

a. Single-, two-, and three-family dwellings nonconforming as to side and rear yards only. A single-, two-, or three-family dwelling nonconforming as to side and rear yards only shall have all the rights of a conforming structure, provided the structure is located not closer than three (3) feet from the side and rear lot line, and provided further that the structure shall not be enlarged, altered or relocated in such a way as to increase its nonconformity. For the purposes of this section, the extension of a single- or two-family dwelling along the existing setback or the addition of a second story or half-story shall not be considered as increasing its nonconformity, provided the portion of the structure within the required side or rear yard comprises at least sixty (60) percent of the length of the entire structure, and provided further that the structure shall not be enlarged, altered or relocated within the required front yard and all other requirements of this zoning ordinance are met. If substantial alteration of a single- or two-family dwelling results in demolition of the structure, the entire structure shall be subject to the yard requirements applicable to a new structure, except as authorized by section 531.40 related to buildings that are damaged or destroyed.

➤ *City of Hastings*

**Section 155.06 Nonconforming Lots, Uses of Land, Structures, Uses of Structures and Premises, Characteristics of Use**

D. Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter because of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, the structure may be continued while it remains otherwise lawful, subject to the following provisions.

1. No nonconforming structure may be enlarged or altered except as follows:
  - a. A structure or portion thereof may be altered to decrease its nonconformity.
  - b. A nonconforming structure may be expanded provided it does not exceed beyond the Established Structure Setback.

**ATTACHMENT E  
PROPOSED ORDINANCE**

**City of South St. Paul  
Dakota County, Minnesota**

**Ordinance No. 14XX**

**AN ORDINANCE AMENDMENT UPDATING THE STANDARDS FOR PERMITTED  
ENCROACHMENTS, ACCESSORY BUILDINGS, AND SMALL ADDITIONS TO  
NONCONFORMING STRUCTURES**

The City Council of the City of South St. Paul does ordain:

**SECTION 1. AMENDMENT.** South St. Paul City Code Section 118-273 is hereby amended as follows:

**Sec. 118-8. - Lots, distances, and definitions.**

*Pergola* means a structure usually consisting of parallel colonnades supporting an open of girders and cross rafters used for recreational purposes. Attached pergolas shall be subject to the same setback requirements as attached decks while detached pergolas shall be considered detached accessory structures when determining setback requirements. A detached pergola shall not count towards the total limit on the number of detached accessory structures that are permitted on a property. Pergolas do count towards total lot coverage.

**SECTION 2. AMENDMENT.** South St. Paul City Code Section 118-273 is hereby amended as follows:

**Section 118-273.- Exceptions to the minimum requirements for all districts.**

(2) Permitted encroachments into required yards and setback areas.

c. In all zoning districts:

3. *Steps, stoops, and landings.* Steps, stoops and exterior landings are permitted in a front, side or rear yard and may be built up to a property line provided that all Building Code requirements are met. The Building Code may require additional setbacks for steps, stoops, and landings if they are built out of combustible materials. ~~providing that front, side and rear setbacks of not less than five feet shall be maintained for steps constructed of combustible material. Steps constructed of noncombustible materials, such as concrete or masonry products, may be built up to the property line.~~
8. *Ramps and other devices in compliance with the ADA.* Ramps and other devices for access to buildings and sites by disabled persons in compliance with the American Disabilities Act may encroach into any required front, side or rear setback provided all

Building Code requirements are met. The Building Code may require additional setbacks for some ramps that are built out of combustible materials. As per the Minnesota State Building Code, a setback of no less than five feet shall be maintained for ramps constructed of combustible materials that are physically attached to the principal structure. Unattached combustible ramps may be built up to the side property line. Ramps construction of non-combustible materials, such as concrete or masonry products, whether attached or unattached to the principal structure, may be built up to the side property line.

9. *Window Wells.* Egress window wells may encroach up to 4 feet into a required or actual front, side or rear yard setback, subject to review and approval by the Building Official. Window wells shall not be permitted to cross property lines and may not be placed in public drainage and utility easements. Any egress window well that is closer than 2 feet to a property line must be fitted with a cover that can support at least 250 lbs. of weight.

d. In residential zoning districts (R-1, R-2, R-3, and R-4) and single-family dwellings, two-family dwellings, and three-family dwellings in the MMM1 sub-district:

1. *Uncovered Porches, Balconies, Open Decks, and Terraces.* ~~Uncovered patios, terraces, open decks and balconies. Uncovered patios, Uncovered porches,~~ terraces, open decks, and balconies may encroach six feet into a required front setback, four feet into a required side setback and 15 feet into a required rear setback, provided that a front setback of not less than ~~20~~ 10 feet, a side setback of not less than five feet and a rear setback of not less than ten feet shall be maintained. A railing and spindles must be used around the open deck or balcony if the structure is located in a front yard or a street side yard on a corner lot, regardless of whether the Building Code would normally require this treatment for safety. If unfinished wood components are used to construct the deck or balcony, the wood must be stained, painted, or sealed. Concrete and paver patios that are built flush at grade and may be built up to the side or rear property line but shall be built to ensure that drainage is directed to a public way (toward the street or alley) so that the drainage does not adversely affect a neighboring property. In no instance shall such structures cover more than  $\frac{2}{3}$  of the rear yard. ~~If unfinished wood components are used to construct the patio, deck, or balcony, the wood must be stained, painted, or sealed.~~
2. *Patios.* Uncovered concrete and paver patios that are built flush at grade level may be built up to the side or rear property line but shall be built to ensure that drainage is directed to a public way (toward the street or alley) so that the drainage does not adversely affect a neighboring property. In no instance shall a patio cover more than  $\frac{2}{3}$  of the rear yard. Uncovered concrete and paver patios that are built flush at grade may also encroach up to six (6) feet into any required or actual front yard.

- ~~32.~~ *Chimneys.* Chimneys may encroach two feet into a required front, side, or rear setback, provided that front and rear setbacks of not less than 22 feet and a side setback of not less than ~~five-three~~ feet shall be maintained.
- ~~43.~~ *Awnings.* Awnings may encroach three feet into a required front, side or rear setback, provided that front and rear setbacks of not less than 22 feet and a side setback of not less than five feet shall be maintained. An awning may encroach up to six feet into a required front or rear setback and up to five feet into a required side setback when placed over steps, stoops or an exterior landing, provided that the encroachment shall not exceed eight feet in width along the wall plane and that front and rear setbacks of not less than 20 feet and a side setback of not less than five feet shall be maintained.
- ~~54.~~ *Clothes lines.* Clothes lines and laundry drying equipment are not permitted within the front yard and shall be located only in side and rear yards. In instances where the side or rear yard abuts a public street, the required setback shall be no less than the required setback for a principal building in that zoning district.
- ~~65.~~ *Arbors and trellises.* ~~Arbors, and trellises, or other growing support structures that do not exceed 20 square feet in area may encroach into a required or actual front, side or rear yard. Such encroachments shall not exceed 9 feet in height. Both the sides and the roof must be at least fifty (50) percent open, or, if latticework is used, shall be less than sixty (60) percent opaque. Such structures shall not be constructed out of a razor wire, chain link, chicken wire, railroad ties, utility poles, plywood, or other similar materials. Detached arbors and trellises larger than what is described above and pergolas must comply with the setback requirements for a detached accessory building. no larger than nine feet in height, six feet in width and three feet in depth may encroach ten feet into a required front setback, five feet into a required side setback, and 20 feet into a required rear setback, provided that a front setback of not less than 15 feet, a side setback of not less than five feet and a rear setback of not less than ten feet shall be maintained. Arbors larger than prescribed above and pergolas (which are typically larger structures than arbors) shall be required to comply with the applicable setbacks for the zoning district. A setback of not less than 15 feet shall be maintained from any public street. If unfinished wood components are used to construct the porch, the wood must be stained, painted, or sealed.~~
- ~~7-6.~~ *Permanently installed outdoor fireplaces and barbeques.* Permanently installed outdoor fireplaces and barbeques are not permitted within the front yard and shall be located only in side and rear yards. Such features shall not encroach into the required side setbacks and may encroach up to ten feet into the required rear setback provided that a rear setback of not less than 15 feet shall be maintained. In instances where the side or rear yard abuts a public street, a setback of not less than the required front setback shall be maintained.

87. *Basketball backboards.* Basketball backboards, rims, and support structures may encroach 20 feet into required front and rear setbacks and four feet into a required side setback in the front yard, provided that front, rear, and side setbacks of not less than five feet shall be maintained. Such features may encroach on public easements of record with the written approval of the city.

98. *Other recreation equipment.* Other permanent recreational equipment and play apparatus over four feet in height are not permitted within the front yard. Such features are permitted in side and rear yards provided that the side and rear setbacks of not less than five feet shall be maintained, including those instances where the side or rear yard abuts a public street. Such features may encroach on public easements of record with the written approval of the city.

109. *Air conditioning equipment.* Air conditioning equipment may encroach into a required or actual side or rear yard. Air conditioning equipment may encroach five feet into any required front yard, provided that a front setbacks of not less than 15 feet and side setbacks of not less than five feet shall be is maintained. Air conditioning equipment encroaching into a front setback shall be screened by landscaping, a fence, or a wall. Air conditioning equipment encroaching into a front setback shall be screened by landscaping, a fence or a wall.

1140. *Bay and bow windows.* Bay and bow windows may encroach up to two feet into any required or actual front, side and rear yard setback, provided that front or rear a setback of at least 3 feet, and a side setback of a least 5 feet shall be maintained. that front and rear setbacks of not less than 20 feet and a side setback of not less than five feet shall be maintained.

1244. *Entry vestibules.* Entry vestibules, enclosed areas that have walls, doors, windows, or screens, and are less than eight feet in width may encroach six feet into any required front and rear setback, provided that front and rear setbacks of not less than 20 feet shall be maintained. Permitted encroachments under this section shall be of high quality durable materials that are consistent with the front of the principal structure and that are consistent with the zoning regulations for the district. Roofing on these encroachments shall be asphalt shingle or standing seam metal roofing, corrugated metal or plastic are not permitted. The base of the entry vestibule, defined as the area from the floor of the entry vestibule down to grade, shall not be open; the base shall be either a masonry perimeter foundation (note: Frost footings will be required for a building permit), or be screened by a solid fascia consistent with the front of the principal structure or lattice with openings no larger than two inches by two inches and painted to be consistent with the front of the principal structure.

1342. *Porticos.* Porticos, which are small covered porches that do not have walls, doors, windows or screens, may encroach six feet into any required front setback, provided the portico is less than eight feet in width and a front setback of ten feet is maintained. No

encroachment shall be allowed into a required side or rear setback. Permitted encroachments under this section shall be of high quality durable materials that are consistent with the front of the principal structure and that are consistent with the zoning regulations for the district. Roofing on these encroachments shall be asphalt shingle or standing seam metal roofing, corrugated metal or plastic are not permitted. A railing and spindles must be used around the portico. The base of the portico, defined as the area from the floor of the portico down to grade, shall not be open; the base shall be either a masonry perimeter foundation (note: frost footings will be required for a building permit), or be screened by a solid fascia consistent with the front of the principal structure or lattice with openings no larger than two inches by two inches and painted to be consistent with the front of the principal structure. If unfinished wood components are used to construct the portico, the wood must be stained, painted, or sealed.

~~1413~~. *Covered but open porches.* Covered but open porches without walls, doors, windows or screens may encroach eight feet into any required front setback, provided that a front setback of not less than ten feet is maintained. No encroachment shall be allowed into a required side or rear setback. Permitted encroachments under this section shall be of high quality durable materials that are consistent with the front of the principal structure and that are consistent with the zoning regulations for the district. Roofing on these encroachments shall be asphalt shingle or standing seam metal roofing; corrugated metal or plastic are not permitted. A railing and spindles must be used around the covered but open porch. The base of the covered porch, defined as the area from the floor of the porch down to grade, shall not be open; the base shall be either a masonry perimeter foundation (note: frost footings will be required for a building permit), or be screened by a solid fascia consistent with the front of the principal structure or lattice with openings no larger than two inches by two inches and painted to be consistent with the front of the principal structure. If unfinished wood components are used to construct the porch, the wood must be stained, painted, or sealed.

~~1514~~. *Driveways.* A driveway may be allowed to encroach into the required two-foot setback from an adjacent property that is zoned or used for residential purposes if either of the following requirements is met:

- i. The driveway or a portion of the driveway is a shared driveway governed by an easement agreement between the two adjacent properties. The easement document must be provided to the City at the time of driveway permit application.
- ii. The driveway is accessory to a single-family dwelling, two-family dwelling, or three-family dwelling and the driveway is built to ensure that drainage is directed to a public way (toward the street or alley) so that the drainage does not adversely affect a neighboring property.

**SECTION 3. AMENDMENT.** South St. Paul City Code Section 118-208 is hereby amended as follows:

**Sec. 118-208. - Accessory buildings and structures.**

The requirements and regulations specified in this chapter shall be subject to the following:

(b) *Number.*

(1) All residential zoning districts: Up to ~~two~~ three (3) detached accessory structures are allowed as follows:

a. One detached garage ~~used as an accessory to the dwelling and located upon the same lot~~, intended or capable of providing for the storage of motor vehicles and in which no business, occupation or service for profit is in any way conducted unless an interim use permit has been obtained in accordance with the standards contained in [section 118-249](#), home occupations. If there is an attached garage, a detached garage may only be allowed by conditional use permit.

b. One detached ~~shed or other accessory storage building detached accessory building or structure intended for storage (i.e. shed) the use of which is incidental to and located on the same lot as the dwelling~~, which cannot be used as a garage.

c. One additional detached accessory building such as a greenhouse or a gazebo, which cannot be used as a garage or for storage.

(c) *Location.*

(1) All zoning districts:

a. All accessory buildings must be located on the same lot as the principal building.

b.a. No accessory building shall be located nearer to the front lot line than the principal building on that lot.

c.b. The required setbacks shall apply to all types of corner lots and accessory buildings shall adhere to any front or side setbacks as may be applicable to any principal building on such lots from both streets.

d.e. The minimum distance between the principal building and a detached accessory building shall be determined by the Minnesota State Building Code.

e.d. No detached accessory building shall be placed within ten feet of any dwelling unit on an adjacent lot.

~~f.e.~~ No accessory buildings shall be located within utility and drainage easements. It is the owner's responsibility to verify the location of the property lines.

(e) *Maximum size.*

(1) Single- and two-family residential dwellings in any zoning districts:

a. Detached garages or any accessory structure intended to or capable of storing vehicles:

i. The maximum size for a garage shall be 1,000 square feet.

b. All other detached accessory buildings:

i. Structures larger than 200 square feet shall require a conditional use permit.

c. The maximum allowable size for all detached accessory buildings combined (garages and other accessory buildings) is 1,200 square feet.

(f) *Construction and finish.*

(1) All zoning districts:

a. All accessory buildings shall require a surfaced floor, except greenhouses.

b. Accessory buildings shall be anchored to a concrete slab, or otherwise securely fastened to the ground by other methods approved by the building inspection department.

c. Exterior materials and finish must match or complement the exterior finish of the principal structure in material, color and texture. Exterior surfaces of all accessory buildings shall be maintained in new or like new condition, free from cracked and peeling paint, rusting and deteriorating materials.

(2) All residential zoning districts:

a. If constructed of metal, the accessory structure shall have prefinished enamel siding and roof.

b. No galvanized siding or roofing shall be used.

c. Galvanized steel-covered pole buildings are prohibited.

d. Wood frame accessory buildings or structures shall conform to the Minnesota State Building Code and shall have one of the following types of siding: Masonite, stucco, brick, stone, shakes, redwood, exterior plywood panel, hardboard, decorative steel, decorative aluminum, vinyl, hardie-board, decorative fiberglass and/or rough-cut exterior siding, and the roofing material shall consist of asphalt shingles, standing-seam metal roofing, or when the pitch of the roof is less than 5/12, decorative rolled roofing will be permitted. In addition to the listed materials, a detached accessory building shall be permitted to match the existing siding and roofing materials of the principal structure.

(3) All other districts:

a. In business, mixed use, and industrial districts, all accessory structures, screen walls, and exposed areas of retaining walls shall be of a similar type, quality, and appearance as the principal structure.

(g) Approvals.

(1) ~~No person, firm or corporation shall construct, erect or replace an accessory structure without obtaining the required permit. Except for in single and two family dwellings, no accessory building shall be constructed, erected or installed without approval of final site plans and building plans by the city.~~

(2) No accessory building occupying an area greater than 200 square feet shall be constructed erected or installed without a building permit issued by the city. No accessory building occupying an area of 200 square feet or less shall be constructed without a permit from the zoning administrator.

(3) No accessory building or use shall be constructed or developed on a lot prior to construction of the principal building.

(4) Two-story accessory buildings are not permitted.

(5) No accessory building or structure shall be used for living purposes as a dwelling unit.

(h) Other structures.

(1) Freestanding tents and canopies for the purpose of housing motor or recreational vehicles or storage are prohibited, except for municipal purposes in an industrial district.

(2) Fish houses shall be stored as regulated herein by the exterior storage regulations in section 118-240.

**SECTION 4. AMENDMENT.** South St. Paul City Code Section 118-121 is hereby amended as follows:

Section 118-121. R-1, single-family district.

(a) Permitted Uses

(1) Accessory uses.

- a. Garages used as an accessory to the dwelling and located upon the same ~~parcel lot~~ ~~or an adjacent lot under single ownership~~, intended or capable of providing for the storage of motor vehicles, as regulated herein by the performance standards section 118-208. No business, occupation, or service may be conducted in any garage unless an interim use permit has been obtained in accordance with the standards contained in section 118-249.
- b. One accessory storage building or structure, in addition to the garage, the use of which is incidental to and located on the same ~~parcel lot~~ as the dwelling, as regulated herein by the performance standards section 118-208.
- ~~c. One accessory building that cannot be used as a storage building, such as a greenhouse or gazebo, as regulated herein by the performance standards section 118-208.~~
- ~~d.~~ Swimming pools and tennis courts, as regulated herein by the performance standards section.
- ~~e.~~ Keeping of domestic pets.
- ~~f.~~ Fences, signs, and recreation equipment, as regulated herein.
- ~~g.~~ Home occupations and home offices, subject to the standards contained in section 118-249 of this Code.
- ~~h.~~ A PWS antenna located entirely inside a building or structure.
- ~~i.~~ Keeping of chickens as per the backyard chicken regulations found in section 15-9.
- ~~j.~~ Group family day care located in a single-family dwelling or duplex serving no more than 14 children.

(d) Lot Requirements. Within the R-1 district, the following requirements shall apply:

- (5) *Side yard.* There shall be a side yard of not less than five feet along each side of each building located on an interior lot having a frontage of 60 feet or less; such side yard on a lot having a frontage of more than 60 feet shall be not less than nine feet; provided, however, that the side of the house which includes an attached garage with having no basement below it may have a side yard of not less than five feet. ~~If located in the front two-thirds of the lot, and no less than three feet if located~~

~~entirely within the rear one-third of the lot.~~ There shall be a side yard of not less than nine feet on the street side of any structure constructed on a corner lot. No attached garage building shall be placed within ten feet of any dwelling unit on an adjacent lot. When an alley runs parallel to a side property line, a garage with an entrance facing said alley must be set back at least eight feet from the alley right-of-way line.

- (6) *Rear yard.* Each lot shall have a rear yard of not less than 25 feet in depth, ~~except that a garage may be constructed within the 25-foot rear yard. A garage shall have a setback from the rear property line of not less than three feet unless the entrance faces an alley. If the garage entrance faces an alley, then the garage shall be set back no less than eight feet from the alley right-of-way line.~~

**SECTION 5. AMENDMENT.** South St. Paul City Code Section 118-65 is hereby amended as follows:

**Sec. 118-65.- Nonconforming building or structure**

- (a) Nonconformities. ~~Except as provided in this subsection, a~~ **A** nonconforming building or structure shall not be added to, enlarged, or expanded in any manner unless such additions and enlargements are made to conform with all the requirements of the zoning district in which such building or structure is located.

- (1) Additions to an existing single-family, two-family, or three-family dwelling with a nonconforming side lot line or rear lot line setback. An addition onto a single-family, two-family, or three-family dwelling with a side or rear property line setback nonconformity may be built with the same nonconforming setback without a variance provided:

- a. The addition does not encroach further into the required setback than the existing structure and at least a three-foot setback from the property line is maintained.
- b. The addition's footprint must not exceed 50% of the footprint of the principal structure in order to be approved administratively. An addition with a footprint that exceeds 50% of the footprint of the principal structure may be approved by conditional use permit.
- c. The addition meets all other applicable City Code requirements.

**SECTION 6. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance:

This ordinance updates the setback standards for certain permitted encroachments, amends the number of allowable accessory buildings for residential properties, and

creates language to allow small additions onto single, two-, or three-family residential properties with a side or rear yard setback nonconformity.

**SECTION 7. EFFECTIVE DATE.** This ordinance shall become effective upon publication.

Approved: \_\_\_\_\_

Published: \_\_\_\_\_

\_\_\_\_\_  
Deanna Werner, City Clerk