

<p>Chair: Tim Felton</p> <p>Commissioners: Geoff Fournier Tyler Ferhman James Hart Ruth Krueger Brianne Miller Andrew Hoffman</p>	 <p>City of South St. Paul Planning Commission Agenda</p> <p>Wednesday, March 6, 2024 7:00 p.m.</p>	<p>City of South St. Paul 125 Third Avenue North South St. Paul, MN 55075 Phone: (651) 554-3217 Fax: (651) 554-3271 www.southstpaul.org</p>
<p>Hearing assistance PA system is available – if you need a hearing assistance unit please notify City staff before the meeting. (If you use the hearing assistance PA system, please remove your hearing aid so it does not cause a feedback problem)</p>		
<p>Roll Call</p>		
<p>1. Agenda</p>		
<p>2. Minutes</p> <p>A. February 7, 2024</p>		
<p>3. New Business</p> <p>A. Planning Commission Rules of Order</p> <p>B. Planning Commission Officer Elections</p>		
<p>4. Public Hearings</p>		
<p>5. Other Business</p> <p>A. Discussion on Swimming Pool Barrier Requirement</p> <p>B. Discussion on Adding Craft Production and Funeral Homes as Allowed Uses in Commercial Zoning Districts</p> <p>C. 2023 Planning Commission Annual Report</p>		
<p>6. Staff Updates</p> <p>A. Proposed State Law Changes that Would Limit Local Zoning Authority and Block South St. Paul's Development Goals for the Concord Street Corridor</p>		
<p>7. Adjournment</p>		

Next Planning Commission Meeting: April 3, 2024

This meeting is being taped by Town Square Television (NDC4): phone: 651-451-7834 web: www.townsquare.tv
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MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISSION
February 7, 2024

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

Present: Tim Felton, Chair
 Geoff Fournier
 Jason Frankot
 James Hart
 Brianne Miller
 Chad Schlemmer
 Michael Healy, Planning Manager

Absent: Ruth Krueger

- 1) APPROVAL OF AGENDA – Chair Felton motioned to add a brief discussion on pool barrier requirements to the “Other Business” portion of the meeting- Motion to approve as amended – Frankot/Fournier (6-0)
- 2) APPROVAL OF MINUTES – January 3, 2024 - Motion to approve as presented – Miller/Schlemmer (6-0).
- 3) NEW BUSINESS
- 4) PUBLIC HEARINGS

A. Ordinance Amendment Updating Subdivision Regulations for Lot Splits and Updating Zoning Requirements for Residential Properties

Mr. Healy presented the staff report. The Applicant is the City of South St. Paul. Staff and the City Council have identified 5 issues that could be addressed with an ordinance update: the longstanding process for reviewing lot splits and boundary line adjustments was never added to the City Code; the City Code does not allow a side-by-side twin home to be split so each side can be sold off separately; the lot size and lot width rules that were adopted in 1967 do not “work” for most of South St. Paul’s neighborhoods; some homes on narrow 40-foot wide lots want to build a private driveway to the street even though they have alley access; the City Council would like restrictions on “garage forward” house design where a large attached garage juts out into the front yard and is the main architectural feature of the house. Staff presented the solutions to these issues that were identified in the staff report.

Chair Felton asked staff to clarify what would be considered an acceptable architectural treatment for an attached garage that is closer than 5 feet to the front property line that is looking to be expanded. Mr. Healy shared that windows or an architectural design on the door would be considered an acceptable architectural treatment.

Commissioner Frankot asked how many buildable lots were available in South St. Paul. Mr. Healy stated that the answer to the question is very nuanced. There are many homeowners in town who have a double or triple lot

and every few years, one or two of these properties will turn over and the new owner will want to split the lot to create a new buildable lot. Mr. Healy estimated that there were between 5 and 10 vacant lots that are buildable and for sale and a number of potentially buildable lots from houses that are a double or triple lot today. Commissioner Frankot asked if staff sees a lot of infill development where an existing double lot with one house on it is sold, torn down, split, and then two new homes are constructed on the two separate lots. Mr. Healy explained that the City used to do this through the Rediscover South St. Paul program. This program became unfeasible as land values increased. Mr. Healy added that there was not the market pressure for something like this in South St. Paul today.

Mr. Healy posed three questions to the Planning Commissioners to consider as they reviewed the proposed ordinance: does the proposed ordinance address the 5 issues identified by the City Council? Are the proposed restrictions on garage-forward design well-calibrated? Should the City continue to prohibit single-family homes from having flat roofs?

Commissioner Hart asked if everything that is redlined was proposed to be removed. Mr. Healy explained that the red lines were generally indicative of text that is proposed to be removed. Mr. Healy went into detail on the items that were proposed to be removed per the draft ordinance.

Chair Felton commented that he felt the ordinance addressed the 5 issues that were discussed. Chair Felton shared that he did not have a strong opinion on limiting garage forward design, though he felt it looked nice. Chair Felton shared that he would be in favor of keeping the ban on flat roofs for single-family homes.

Commissioner Fournier asked if the new regulations for splitting a twin home would also cover a townhome. Mr. Healy explained that there is a state statute requiring townhome buildings to be platted as a Common Interest Community (CIC). The ordinance the commissioners were reviewing would only apply to twin homes that were being split into two individual units. Mr. Healy explained that the other process could be used for twin homes, but it is prohibitively expensive.

Commissioner Frankot asked for clarification if the ordinance would ban flat roofs entirely as there were many properties in town where a section of the roof is flat. Mr. Healy explained that the way the code is written today, the main roofline of a house cannot be flat but you could have a flat roof over your porch or building addition. Commissioner Frankot asked if there was a way to quantify what is considered the "main portion of the roof." Mr. Healy stated that the topic had never come up before but that he would bring the item to the City Council for review if the house looked out of character and like it might devalue the neighborhood. Commissioner Frankot shared that he was in favor of allowing flat roofs as typically flat roof houses are nice houses, but also stated that he was ok with seeing the mix.

Commissioner Hart asked if the ban on flat roofs would remain, would a homeowner be able to apply for a variance to construct a house with a flat roof? Mr. Healy explained that a variance for this likely would not be granted as there would need to be a practical difficulty for granting the variance. Commissioner Frankot asked if 90% of the house had a flat roof and 10% of the house had a gabled roof, would this be allowed? Mr. Healy explained it would not be allowed because the main roofline needs to be gabled. Mr. Healy explained that this rule was based on what the front of the house looks like from the street.

Commissioner Fournier asked whether a low slope roof would be an issue. Mr. Healy explained that the code has a minimum roof pitch which is 2.5 feet of rise for each 12 feet of horizontal run, so as long as this requirement is being met, there is no issue.

Chair Felton opened the public hearing.

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

Chair Felton closed the public hearing.

Motion to recommend approval of an ordinance amendment updating the subdivision regulations for lot splits and updating the zoning requirements for residential properties- Hart/Frankot (6-0).

Chair Felton asked when the item would go before the City Council. Mr. Healy stated the first reading would occur on February 20th.

B. Ordinance Creating Performance Standards for Outdoor Dining

Mr. Healy presented the staff report. The Applicant is the city of South St. Paul. The zoning code does not currently have zoning rules for outdoor dining. The city has always processed requests for outdoor dining areas with a conditional use permit. As each request has been reviewed, the City has created case-by-case rules for each outdoor dining area. Like many other cities, South St. Paul temporarily suspended its standard review process to allow outdoor dining areas with administrative approval during COVID. In 2021, the City Council discussed outdoor dining at one of their work sessions and directed staff to establish a permanent process for the administrative review of outdoor dining areas. The project was an interdepartmental project with the engineering department and the city clerk's office. The proposed ordinance creates standards for outdoor dining areas. The ordinance also creates additional performance standards for sidewalk cafes. Sidewalk cafes would only be allowed on Marie Avenue, Concord Street, and Concord Exchange. Southview Boulevard is a County road and the County does not allow sidewalk cafes in their right-of-way so Southview Boulevard would not be eligible for sidewalk dining unless the County changes their policy. Alcohol is served at many of the restaurants that would want to offer outdoor dining or sidewalk cafes and so it is assumed that these businesses would want to serve alcohol as part of their outdoor dining offerings. A conditional use permit is required for a business with on-sale liquor and so staff has drafted language to address businesses that currently have a conditional use permit and plan to serve alcohol in their outdoor dining areas well as businesses that are "grandfathered" to sell alcohol without a conditional use permit. Mr. Healy explained that the final piece of this ordinance would clean up the code requirements for 3.2% beer to remove the conditional use permit requirement when the sale of 3.2% beer is an accessory use to the business (such as for gas stations and grocery stores).

Chair Felton asked if a business wanted to create an outdoor patio in their parking lot, would the business need to create additional on-site parking to compensate for the spaces that would be lost to the outdoor dining area? Mr. Healy explained that it would depend on if the business needed the parking space or not. The City's parking ordinance had been updated in the last few years to allow small restaurants and businesses to have more flexible parking requirements. If the patio area were to take up some of the required parking, the business would need a variance from the off-street parking space requirement. If the patio area would not take up required parking, the business could use their parking area without needing to obtain a variance. Chair Felton commented that he could see one of the shopping centers on the south end of the city wanting to offer outdoor dining in their parking lot, even though their parking lot is heavily utilized.

Commissioner Frankot asked how to differentiate between the County right-of-way and private property for the businesses along Southview Boulevard. Mr. Healy explained that each property has its own property line which differentiates where the right-of-way ends and a private property starts. Generally speaking, Southview Boulevard is a 60-foot-wide right-of-way so if you were to measure 30 feet back from the middle of the street, this would provide a good estimate of where the property line is. The only way to determine the location of the property line with total certainty would be to have the property surveyed. Mr. Healy added that on streets with a public sidewalk, the sidewalk is often built right up to or 6 inches behind the public sidewalk. A possible exception to this is the old TNT Galley (now El Jibarito), located at 901 Southview Boulevard, which has a large concrete area in front of their building that they may own. Commissioner Frankot asked if the business owned that property and if they would be eligible to place an outdoor space in this area. Mr. Healy answered that he was not sure, but generally speaking if the chairs were placed on their private property and satisfied the city's requirements, they would be able to have an outdoor dining space in that area.

Chair Felton recounted that Black Sheep Coffee Café used to have several tables outside along Southview Boulevard and asked staff to confirm that these tables would not be allowed to be placed in the same location again unless the County changed their policy. Mr. Healy confirmed that this was the County's rule. Chair Felton asked if the seating area had previously been lawful. Mr. Healy explained that it probably was not technically legal if the tables were in County right-of-way and they were probably placed without formal approval.

Chair Felton shared that he is in favor of allowing outdoor dining areas wherever possible.

Commissioner Frankot encouraged staff to work with the county to allow outdoor dining along Southview Boulevard. Mr. Healy explained that the City meets annually with the Dakota County Active Living group to discuss ways to improve health and quality of life in the community and the City brings this topic up to the group every year. Chair Felton asked if the County had provided rationale for why they do not allow sidewalk cafes in their street right-of-way. Mr. Healy explained that the County does not feel that their roads should be used for outdoor dining. South St. Paul is the only city in Dakota County where the county road has urban character. Commissioner Frankot asked if Concord Street was a county road. Mr. Healy explained that Concord Street is only a county road south of Grand Avenue. Commissioner Frankot asked if the County was responsible for snow removal in the winter. Mr. Healy explained that the City often takes care of the snow removal on these roads and is compensated for their work by the County. Mr. Healy explained that these relationships exist to benefit both parties: the City gets to benefit from county road infrastructure and the County pays for the maintenance of that infrastructure. Mr. Healy explained that county roads do get turned back over to the City periodically. For example Thompson Avenue used to be a county road but was turned back over to the City a few years ago. Commissioner Frankot asked if the County has a certain timeline they followed for when they turned roads back over to the City and when this might apply to Southview Boulevard. Mr. Healy explained that the County likes to have roads that are all interconnected so it is unlikely that they would want to turn over Southview Boulevard. Chair Felton asked if the County could give back the part of Southview leading up to Highway 62 and then retain ownership of the rest of the road. Mr. Healy explained that if any county road were to be turned back over to the City, we would then be financially responsible for the maintenance of the road. Chair Felton questioned if there was any additional reason beyond connectivity that the County would want to hold onto Southview Boulevard. Mr. Healy explained that there were additional factors that go into whether the County maintains a road as a County road. Mr. Healy concluded that turn backs do happen but there are not many streets in South St. Paul that connect to other communities so it seemed unlikely that the County would want to turn over the existing county roads that do connect to other communities.

Chair Felton opened the public hearing.

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

Chair Felton closed the public hearing.

Motion to recommend approval of an ordinance creating performance standards for outdoor dining- Schlemmer/ Fournier (6-0).

5) OTHER BUSINESS

A. Discussion on Pool Barrier Requirements

Chair Felton commented that he brought this topic up because a resident had reached out to him about it. Chair Felton asked Mr. Healy if the surrounding communities allowed a pool safety cover to be used in lieu of a 4-foot-tall pool barrier. Mr. Healy shared that he did not know off-hand but that he had also received an email from a resident earlier in the day informing him that Inver Grove Heights allows a pool safety cover to be used

in lieu of a fence and asking whether South St. Paul would consider amending its ordinance to have similar requirements. Chair Felton asked staff to review the topic and bring a report back to the Planning Commission. Chair Felton shared that he felt just allowing an automatic pool safety cover in lieu of fencing would have a significant benefit for many people. Mr. Healy commented that while he was not super familiar with how other communities handle pool regulation, South St. Paul had updated its swimming pool regulations a few years ago and he was very familiar with our local standards. Mr. Healy shared that the Building Official for South St. Paul and the previous cities he worked for have held the opinion that fencing is the most effective safety barrier. A pool safety cover works well until you forget to put it on.

Chair Felton commented that kids and animals can get through fencing. Commissioner Frankot commented that only allowing fencing does not protect children that live at the site and shared that as an individual that works in the insurance industry, pool covers are preferable for this reason. Commissioner Frankot shared his experience with automatic pool covers. Mr. Healy commented that pool auto covers do not appear to be effective for individuals that live in the neighborhood. Commissioner Frankot shared that most people that have an automatic pool cover will put on the cover right after they finish using the pool. Commissioner Frankot explained that the pool cover not only acts as a safety mechanism but helps to keep a pool clean by preventing leaves or other debris from falling into the pool. Mr. Healy stated staff would bring a report to the next Planning Commission meeting on the item.

6) STAFF UPDATES

A. Reminder Regarding Joint Work Session on February 12th to Review Draft Parks Master Plan

Mr. Healy reminded the Commissioners that the City Council was hosting a joint work session on February 12th with the Planning Commission and the Parks and Recreation Advisory Commission to review the concept plans for the community's parks. After the joint session, the City and its consultant would request additional feedback on the concept plans at various community meetings. After the engagement period is complete, the Parks Master Plan will be reviewed by the Planning Commission and the City Council prior to adoption. Mr. Healy added that the upcoming meeting would be important for those that want to be involved in the update of the Parks Master Plan.

Commissioner Frankot asked what room the meeting would be in. Mr. Healy stated that the meeting would be in the Fire Department Training Room.

Commissioner Miller asked if the meeting would be public. Mr. Healy stated that the meeting would be public but the room would likely be very crowded between the three commissions that would be present and reiterated that additional engagement would occur after the meeting.

7) ADJOURNMENT

Motion to adjourn- Hart/Schlemmer (6-0).



AGENDA ITEM 3.A

South St. Paul Planning Commission

Prepared By: <i>Monika Miller, Associate Planner</i>	Meeting Date: 3/6/2024
Item Description: <i>2024 Planning Commission Rules of Order</i>	

BACKGROUND

The Planning Commission adopts rules governing the operations of the group each year in March. These rules, called the Rules of Order, must be adopted every year to govern the operations of the Planning Commission for the duration of that year. The attached Rules of Order are the same formal rules of order the Planning Commission has adopted for the last several years.

ACTION REQUESTED

A motion approving or denying the adoption of the 2024 Planning Commission Rules of Order.

South St. Paul Planning Commission
Rules of Order

March 6, 2024

SECTION 1 MEETINGS

1.1 TIME Regular meetings shall be held on the first Wednesday of each month at 7:00 p.m., unless otherwise agreed to and so stated in the Agenda. When the regular meeting day falls on a legal holiday, the meeting shall be rescheduled to the Tuesday before the meeting date, Thursday following the meeting date, or the following Wednesday.

1.2 SPECIAL MEETINGS Special meetings may be called by the Chair or the City Planner.

1.3 PLACE Meetings shall be held at the South St. Paul City Hall, 125 Third Avenue North. Upon a majority vote of the Members, special meetings may be held at a location convenient to the matter under consideration.

1.4 PUBLIC All meetings and hearings, records, and minutes are open to the public.

1.5 QUORUM Four Members shall constitute a quorum for the transaction of business. When a quorum is not present, the Chair may adjourn the meeting or hold the meeting for the purpose of hearing interested parties on items on the agenda. No final or official action shall be taken at such a meeting, however, the facts and information gathered at such a meeting may be taken as a basis for action at a subsequent meeting at which a quorum is present.

1.6 VOTE Voting shall be by voice vote, except as otherwise stated herein. Members shall voice votes on each issue, which shall be recorded. All Members, except Staff Members, have the right to vote.

SECTION 2 ORGANIZATION

2.1 MEMBERSHIP “Members” refers to all members of the Planning Commission.

The Planning Commission shall consist of seven Members appointed by the City Council and may be removed by a five-sevenths vote of the Council. Members shall be appointed for terms of four years and until their successors are appointed or qualified. Vacancies during the term shall be filled by the Council for the unexpired portion of the term. Every appointed member shall, before entering upon the discharge of official duties, taken an oath to faithfully discharge the duties of office. All members shall serve without compensation.

2.3 ELECTION OF OFFICERS At the March meeting each year, the Members shall elect from its membership a Chair and a Vice-Chair by secret ballot. Each Member shall cast a ballot for Chair. If no one receives a majority of votes, the balloting shall continue until one Member receives majority support. The Vice-Chair shall be elected from the remaining Members by the same procedure.

If the Chair retires, the Vice-Chair becomes Chair. If both Chair and Vice-Chair retire, new Officers are elected at the next meeting. If the Chair and Vice-Chair are absent from a meeting, the Members shall elect a temporary Chair by voice vote.

The Commission may create and fill such other offices as it may determine.

2.4 TENURE OF OFFICERS The Chair and Vice-Chair take office immediately following their election and hold office until their successors are elected and assume office.

2.5 DUTIES OF OFFICERS The Chair, or in the absence of the Chair, the Vice-Chair presides at meetings, appoints committees, and performs other duties as may be ordered by the Members.

The Chair conducts meetings so as to keep them moving as rapidly and efficiently as possible and reminds the Members, witnesses, and applicants to discuss only the matter at hand.

SECTION 3 STAFF SUPPORT

3.1 SECRETARY The Secretary is responsible for recording the minutes and keeping records of actions.

3.2 CITY PLANNER The City Planner shall approve all items placed on the agenda. Approval is given only when all required data has been submitted by the applicant, and when the application fee and required information are submitted by the required deadline for the meeting. Upon receipt of an application or request for an item to appear on the agenda, the City Planner shall determine as to whether all necessary information and exhibits have been submitted. If the submitted information is deficient, the City Planner shall notify the applicant of the deficiencies.

Upon approval of the agenda, the City Planner shall forward copies of the application and supporting documentation to the appropriate Staff Members.

Written Staff reports are required from the City Planner. Written Staff reports may be submitted by any other City Department, including the Building Official, Engineering Department, and Fire Department.

The City Planner shall prepare the final agenda and assemble the packet of material (“the Packet”) for the meetings. The Packet shall contain the application and or application narrative, Staff reports and all other relevant information. The Packets shall be mailed to the Members and Staff Members no later than the Thursday preceding the next meeting or personally delivered by the Friday preceding the next meeting.

The City Planner shall be available for consultation with any applicant by appointment.

SECTION 4 PROCEDURE

4.1 PARLIAMENTARY PROCEDURE Parliamentary procedure governed by Robert Rules of Order shall be followed at meetings. At special meetings and when useful, the Members may hold group discussions not following any set parliamentary procedure, unless motions are before the Members.

4.2 PURPOSE OF HEARING The purpose of a hearing is to collect information and facts in order for the Members to make decisions or to develop a recommendation for the City Council.

4.3 HEARING PROCEDURE At hearings, the following procedure shall be followed on each matter:

- a. The Chair shall identify the case to be heard.
- b. The Chair may call upon the appropriate Staff Member to summarize the reports contained in the packets. A Staff Member from each Department that submitted a report should be present, when possible.
- c. The Chair shall ask the applicant to come forward and be heard on the application.
- d. Interested persons may address the Members regarding the particular matter, after providing their full name and address.
- e. After all new facts and information have been heard, the hearing shall be closed and interested persons shall not be heard again unless the hearing is reopened and unless all interested parties are given an opportunity to be heard again. Upon completion of the hearing on each matter, the Members shall discuss the matter and render a decision.

4.4 OTHER MATTERS Matters for discussion that do not appear on the agenda are considered and discussed by the Members only when initiated and presented by Staff or other Member, and shall be placed at the end of the regular agenda.

SECTION 5 MISCELLANEOUS

5.1 SUSPENSION OF RULES The Members may suspend any of these rules by majority vote.

5.2 AMENDMENTS These Rules of Order may be amended at any regular or special meeting by a vote of six (6) Members.

5.3 REVIEW At the March meeting of each year these Rules of Order shall be adopted by the Members.

5.4 ORIENTATION All new Members shall receive an orientation by the appropriate City Staff Members. At that time, the new Members shall be given a copy of the South St Paul Zoning Ordinance, Subdivision Regulations, Comprehensive Plan, Zoning Map, the Rules of Order and any other relevant information necessary to carry out their duties and responsibilities.



AGENDA ITEM 3.B

South St. Paul Planning Commission

Prepared By: <i>Monika Miller, Associate Planner</i>	Meeting Date: 3/6/2024
Item Description: <i>Election of Planning Commission Officers</i>	

BACKGROUND

The Planning Commission Rules of Order state that each year, the Planning Commission is to elect Officers. The Planning Commission has typically had two officers: Chair and Vice-Chair. The Chair will typically lead the meeting and the Vice-Chair will fill the role in the Chair's absence. Planning Commission officers serve their positions for the year and/or until officers can be elected for the following year.

ACTION REQUESTED

- A motion electing a Planning Commission Chair to serve from March 2024 to March 2025
- A second motion electing a Planning Commission Vice Chair to serve from March 2024 to March 2025.

ATTACHMENTS

A- How to Chair a Planning Commission Meeting

SOUTH ST. PAUL GUIDE TO CHAIRING A PLANNING COMMISSION MEETING



Duties of the Chair (or Vice Chair if the Chair is not present) include:

- Calling the Planning Commission meetings to order
- Introducing the approval of the agenda
- Introducing the approval of the minutes from the previous Planning Commission meeting
- Introducing any 'new business' items
- Introducing any 'public hearing' items
- Introducing any 'other business' items
- Opening and closing any public hearing(s)
- Recognizing commissioners or members of the public that wish to speak on an item
- Clarifying the motions that were made as well as who made and seconded each motion
- Calling for the meeting to be adjourned
- Keeping order during meetings

Calling the Meeting to Order

- The chair will call the meeting to order.

“Good Evening, I will now call this meeting of the South St. Paul Planning Commission to order. Today is Wednesday, (Month Day, Year). This meeting will now come to order.”

- The chair will then direct a city staff member to call roll.

“Mr. /Mrs. /Ms. (staff’s last name), would you please call the role?”

- City staff will then call roll and state the number of Planning Commissioners that are present at the meeting.
- The chair will then thank staff for calling roll.

“Thank you.”

Approval of Agenda

- The chair will introduce the agenda and ask staff if there are any additions or corrections to the agenda.

“The first item is the agenda. Are there any additions or corrections to the agenda?”

➤ IF THERE ARE NOT CHANGES TO THE AGENDA

- If no changes are made, the chair will ask for a motion to approve the agenda as presented.

“Seeing that there are none, is there a motion to approve the agenda as presented?”

- Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

“Moved by Commissioner _____, seconded by Commissioner _____.”

- The commissioners will then vote on the item. The chair will direct the commissioners to vote via a voice vote with those in favor of the motion voting ‘aye’ and those that are opposed to the motion voting ‘nay’.

“All in favor, say ‘Aye’.” “All opposed, say ‘Nay’.”

If the agenda is approved unanimously or by the majority, the chair will move on to the next item on the agenda. If there is not a consensus, the chair will request a roll-call vote and direct staff to call on each commissioner for their vote.

➤ IF THERE ARE CHANGES TO THE AGENDA

- If changes are made, the chair will ask for a motion to approve the agenda as amended.

“Is there a motion to approve the agenda as amended?”

- Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

“Moved by Commissioner _____, seconded by Commissioner _____.”

- The commissioners will then vote on the item. The chair will direct the commissioners to vote via a voice vote with those in favor of the motion voting ‘aye’ and those that are opposed to the motion voting ‘nay’.

“All in favor, say ‘Aye’.” “All opposed, say ‘Nay’.”

If the agenda is approved unanimously or by the majority, the chair will move on to the next item on the agenda. If there is not a consensus, the chair will request a roll-call vote and direct staff to call on each commissioner for their vote.

Approval of Minutes

- The chair will introduce the review/approval of the minutes from the previous planning commission meeting.

“In front of you are the minutes from the (date of previous meeting) meeting. Do we have any additions or corrections to the minutes?”

➤ **IF THERE ARE NO CORRECTIONS TO BE MADE**

- The chair will ask for a motion to approve the minutes as presented.

“If there are none, I will take a motion to approve the minutes as presented.”

- Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

“Moved by Commissioner _____, seconded by Commissioner _____.”

- The commissioners will then vote on the item. The chair will direct the commissioners to vote via a voice vote with those in favor of the motion voting ‘aye’ and those that are opposed to the motion voting ‘nay’.

“All in favor, say ‘Aye’.” “All opposed, say ‘Nay’.”

If the minutes are approved unanimously or by the majority, the chair will move on to the next item on the agenda. If there is not a consensus, the chair will request a roll-call vote and direct staff to call on each commissioner for their vote.

➤ **IF THERE ARE CORRECTIONS**

- The chair will ask for a motion to approve the minutes as amended.

“I will take a motion to approve the minutes as amended.”

- Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

“Moved by Commissioner _____, seconded by Commissioner _____.”

- The commissioners will then vote on the item. The chair will direct the commissioners to vote via a voice vote with those in favor of the motion voting ‘aye’ and those that are opposed to the motion voting ‘nay’.

“All in favor, say ‘Aye’.” “All opposed, say ‘Nay’.”

If the minutes are approved unanimously or by the majority, the chair will move on to the next item on the agenda. If there is not a consensus, the chair will request a roll-call vote and direct staff to call on each commissioner for their vote.

New Business

➤ IF THERE ARE NO NEW BUSINESS ITEMS

- If there are no 'new business' items listed on the agenda, the chair will acknowledge that there are no 'new business' items and move onto the public hearing.

"There is no new business at this time. We will now move onto the public hearing portion of the meeting."

➤ IF THERE ARE NEW BUSINESS ITEMS

- If there are 'new business' items listed on the agenda, the chair will introduce each item and direct staff to provide background on the item.

"We have a 'new business' item this evening. Agenda Item 3.A is (state the name of the item as shown on the agenda). Staff, could you please provide us background on the item?"

- If a motion is required for the item, the chair will ask for a motion.

"I am looking for a motion on the item."

- Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

"Moved by Commissioner _____, seconded by Commissioner _____."

- Once a motion has been made and seconded, the chair will direct staff to call roll.

"Mr. /Mrs. /Ms. (staff's last name), will you please call the roll?"

- Staff will call the roll for a roll-call vote and state the number of 'yeas' and 'nays.'
- After voting has concluded, the chair will address any other 'new business' items on the agenda or will move on to the 'public hearing' items.

"The next new business item is Agenda Item 3.B"/ "Moving on to the 'Public Hearing' portion of the agenda."

Public Hearings

- The chair will introduce the first public hearing item.

“The first public hearing is Item 4.A (state the name of the item as listed on the agenda). Staff, can you please give us background on this item?”

- Staff will step up to the podium and present.
- After staff have finished presenting the item, the commissioners can ask staff questions after being recognized by the chair.

“Commissioners, any questions for staff?”

- The chair must recognize a commissioner before they can ask staff a question or comment on the application.
- After the commissioners discuss any initial questions with city staff, the chair will ask the applicant to come forward to the podium. The chair will ask the Applicant to introduce themselves when they come forward.

“Is the Applicant present to speak on the item?” “Please come forward and introduce yourself.”

- The chair will ask the commissioners if they have any questions for the Applicant. Commissioners must be recognized by the chair before they speak to the Applicant.

“Commissioners, any questions for the Applicant?”

- After the commissioners have had their questions answered or if there are no questions, the chair will thank the Applicant and let them know that they should be seated.

“Thank you. You may be seated.”

- The chair will then open the public hearing.

“I will now open the public hearing”

- The chair will then ask if anyone is present to speak on the item.

“Is there anyone present to speak on this item?”

➤ IF A MEMBER OF THE PUBLIC WANTS TO COMMENT ON THE APPLICATION

- If a member of the public comes forward to speak on the item, the chair will direct the individual to state their name and address as they approach the podium.

“Please state your name and address.”

- Once the member(s) of the public have had the opportunity to speak to the application, the chair will ask staff if they have received any correspondence on the item.

“Mr. /Mrs. /Ms. (staff’s last name), are you in receipt of any correspondence?”

- Staff will either share the correspondence they have received or state that they have not received any correspondence.
- The chair will then close the public hearing.

“I will now close the public hearing.”

➤ **IF NO ONE COMES FORWARD TO COMMENT ON THE APPLICATION**

- If no one is present to speak on the item, the chair will ask staff if they have received any correspondence on the item.

“Mr. /Mrs. /Ms. (staff’s last name), are you in receipt of any correspondence?”

- Staff will share the correspondence they received or state that they have not received any correspondence.
- The chair will then close the public hearing.

“I will now close the public hearing.”

- The chair will encourage further discussion on the item.

“Commissioners, any discussion?”

- If any commissioners have points for further discussion, they must be recognized by the chair before they can speak.
- If no discussion follows, the chair will move the commissioners to make a motion on the item.

“If there is no further discussion, I am looking for a motion.”

- Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

“Moved by Commissioner _____, seconded by Commissioner _____.”

- The chair will direct staff to call the roll for a roll-call vote.

“Mr. /Mrs. /Ms. (Staff’s last name), will you please call the role?”

- Staff will call the roll for a roll-call vote and state the number of ‘yeas’ and ‘nays.’
- The chair will then state that the item has either been approved, denied or tabled.

- The Chair will let the Applicant know that the item will still need to be heard by the City Council at a specific date.

“The recommendation for this item is (approval/denial). We are an advisory body to the City Council who will make the final decision about your application. This item is tentatively scheduled to be reviewed by the City Council at their (state date of next meeting) meeting. You or a representative must be in attendance of this meeting.”

- If the motion is to table the item to the following meeting, the chair will let the applicant know the date of the next Planning Commission meeting.

“The recommendation is to table the item. We will review the item again at the (date of the next meeting) meeting.”

- The chair will then move on to the next item listed under public hearing portion of the agenda if there are additional items. Otherwise, the chair will move onto the other business items.

Other Business

➤ IF THERE ARE NO OTHER BUSINESS ITEMS

- *The chair will state that there is no other business and will confirm with staff that there is truly no other business to be addressed.*

“There are no other business items listed on the agenda. Mr. /Mrs. / Ms. (Staff’s last name), is there any other business?”

- *If Staff confirm that there are no other business items for the evening, the chair will move on to staff updates.*
-

➤ IF THERE ARE OTHER BUSINESS ITEMS

- *If there are other business items listed on the agenda, the chair will introduce them..*

“We have an other business item this evening. Agenda Item 5.A is (state the name of the item as shown on the agenda). Staff, is there any background on this item?”

- Staff will provide background on the item.
- If a motion is required for the item, the chair will ask for a motion. Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

“Moved by Commissioner _____, seconded by Commissioner _____.”

- The chair will then direct staff to call on each commissioner for their vote.

“Mr. /Mrs. /Ms. (Staff’s last name), will you please call the role?”

- Staff will call the roll for a roll-call vote and state the number of ‘yeas’ and ‘nays.’
- The chair will then move on to adjourn the meeting.

Staff Updates

➤ IF THERE ARE NO STAFF UPDATES LISTED

- The chair will state that there are no staff updates listed and will confirm with staff that there are truly no staff updates.

“We are now on to staff updates. There are no staff updates listed. Staff, any updates?”

➤ IF THERE ARE STAFF UPDATES LISTED

- The chair will introduce staff updates and let staff speak on the updates.

“We are now on to staff updates. Staff?”

Adjournment

- After each of the items on the agenda have been addressed, the chair will ask for a motion to adjourn the meeting.

“Moving on to the meeting adjournment. I am looking for a motion to adjourn.”

- Motions must be seconded by another commissioner. The chair will confirm who made the motion and who seconded the motion.

“Moved by Commissioner _____, seconded by Commissioner _____.”

- The commissioners will then vote on the item. The chair will direct the commissioners to vote via a voice vote with those in favor of the motion voting ‘aye’. The motion is non-debatable

-

“All in favor, say ‘Aye’.”

- The chair will adjourn the meeting.

“This meeting stands adjourned.”



AGENDA ITEM 5.A

South St. Paul Planning Commission

Prepared By: <i>Monika Miller, Associate Planner</i> <i>Michael Healy, Planning Manager</i>	Meeting Date: 3/6/2024
Item Description: <i>Discussion of Swimming Pool Barrier Requirement</i>	Reviewed By: <i>Joe Heimkes, Chief Building Official</i>

BACKGROUND

South St. Paul currently requires residential swimming pools to be enclosed with at least a 4-foot-tall barrier which is usually some type of fence or wall. The barrier can either go around the entire yard or it can go just around the pool itself, both setups satisfy the barrier requirement. Building walls (house, shed, garage, etc.) can be part of the barrier. Above-ground pools which have walls that are at least 4 feet in height do not need an additional barrier since the walls of the pool act as a barrier. Spas and hot tubs do not need a barrier if they have a cover that complies with the ASTM F 1346-91 (ASTM F 1346) safety standard.

The purpose of the barrier requirement is to prevent accidental drownings that occur when children gain access to an unsupervised pool. Most drowning victims at residential swimming pools are children who are between the ages of one and four. A 4-foot-tall barrier is sufficient to prevent a small child from entering the yard and accessing the pool. A child who is 4 years old or less is usually unable to climb a 4-foot-tall fence.

City Staff and several members of the Planning Commission recently received correspondence from members of the public who requested that the City consider changing its ordinance to remove the requirement that all residential swimming pools be enclosed by a 4-foot-tall barrier so long as a safety cover is used on the pool. The email that City Staff received noted that Inver Grove Heights waives the 4-foot barrier requirement for any swimming pool that has a pool cover which meets ASTM F 1346 safety standards. Inver Grove Heights allows both manual safety covers that the owner installs by hand after each use and “auto-covers” where the owner presses a button, and the cover closes itself.

The Planning Commission briefly discussed the swimming pool barrier requirement at their February 7th meeting and asked Staff to conduct additional research and report back on whether Inver Grove Heights’ approach is common and whether that approach might work well in South St. Paul.

CITY STAFF’S FINDINGS

Staff reviewed the swimming pool ordinances from 9 Dakota County communities and the metro’s 3 largest non-Dakota County communities. Staff only looked at urban and suburban communities and did not look at rural and semi-rural communities with large acreage lots. Out of the 12 communities that staff surveyed, 11 require at least a 4-foot-tall barrier around all residential swimming pools and do not allow a pool cover to be

used in lieu of a 4-foot-tall barrier. Only Inver Grove Heights allows a pool cover to be used in lieu of a barrier. Inver Grove Heights began allowing a pool cover instead of a 4-foot barrier in 2009 and other suburban communities in the area have not followed their example. Many studies have found that 4-sided fencing with self-latching gates that completely enclose the pool area is the most effective way to prevent accidental drownings at residential swimming pools.

In addition to surveying surrounding communities, staff reviewed the International Code of Property Maintenance (IPMC) which is regarded as the model code for regulating the use and maintenance of buildings and structures. The IPMC was intended to establish provisions that adequately protect the public, safety and welfare without unnecessarily increasing construction costs or giving preferential treatment to particular types of materials, products or methods of construction. The 2021 version of the IPMC recommends that private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier that is at least 4 feet tall and has gates/doors that are self-closing and self-latching. The IPMC does state that hot tubs or spas with an ASTM F 1346 safety cover should be exempt from needing a barrier. The IPMC does not exempt swimming pools with an ASTM F 1346 safety cover from needing a barrier.

INPUT FROM CHIEF BUILDING OFFICIAL

The City's Chief Building Official is responsible for enforcing the State Building Code and ensuring that all buildings and structures in South St. Paul are built safely. Previously, private outdoor swimming pools were regulated by the State Building Code, but they are considered "exempt" under the current version of the State Building Code. What this means is that the State Building Code does not have mandatory statewide safety standards for swimming pools, so instead each community gets to set its own local safety standards. Planning Staff worked closely with Chief Building Official Joe Heimkes to write South St. Paul's current swimming pool ordinance which was adopted in 2021 and includes safety standards.

Planning Staff sat down with Building Official Heimkes to discuss the Planning Commission's request that City Staff review Inver Grove Heights' swimming pool ordinance as it relates to pool covers. In summary:

- Chief Building Official Heimkes is opposed to allowing a swimming pool safety cover in lieu of a 4-foot barrier. He noted that swimming pool covers are easily forgotten, and a manual cover may be deliberately left open for an entire weekend if a property owner thinks they will use the pool every day. It is unlikely that someone who is going into the house to use the bathroom will set up their pool cover before going inside, even if they have an auto-cover. It doesn't take long for a drowning to occur and brief periods where the pool is unsupervised can be long enough for a drowning to happen.
- Heimkes reached out to Inver Grove Heights to learn more about their ordinance and how it works.
 - Inver Grove Heights changed their swimming pool ordinance in 2009 to allow a safety cover which conforms with the ASTM F 1346 safety standard in lieu of a 4-foot barrier. The Code change was in response to a request from a homeowner.
 - Inver Grove Heights City Staff do sometimes get complaints that pool covers are left open with nobody outside to supervise the pool. There is not much that they can do about these complaints other than politely ask the property owner to be more careful.
 - Most residents do not take advantage of the code provision to skip installing a fence. Most residential swimming pools in Inver Grove Heights have both a fence and a safety cover.

ADDITIONAL INFORMATION PROVIDED BY SWIMMING POOL CONTRACTOR

City Staff received a forwarded email from a swimming pool contractor, Shawn Racine of “A Pool a Day,” who has helped with efforts to eliminate the 4-foot barrier requirement in other communities in Minnesota when an ASTM F 1346 standard safety cover is employed. Mr. Racine believes that fences are inferior to pool covers because they can be climbed, and the gate can break or be left open. He also noted that a fence does a poor job of protecting children who live in the house with the pool since the fence does not protect them when they are playing next to the pool in their own back yard.

Per Mr. Racine, the 4-foot barrier requirement has been eliminated in Bay Township, May Township, Afton, Grant, and all of Scott County’s rural townships if the pool owner installs a safety cover. These are all rural communities that have large acreage lots where most residents live very far from their next-door neighbors. Mr. Racine also shared that there are at least two suburban Minnesota communities besides Inver Grove Heights that have eliminated the 4-foot barrier requirement- Orono and Medina. Like many parts of Inver Grove Heights, Orono and Medina are large lot communities where many neighborhoods have a rural character. Orono is unique in that it does not have any safety requirements for private swimming pools, so neither a fence nor a safety cover is required. Medina only waives the fencing requirement for pools with auto-covers and does not accept manual safety covers as a fencing alternative.

City Staff was unable to verify all of Mr. Racine’s claims. The City of Afton’s online City Code states that a 5-foot fence is required around all swimming pools unless the property is in the Rural Residential or Agricultural zoning district. Properties within the Rural Residential or Agricultural zoning district may use an automatic pool cover in lieu of a 5-foot-tall barrier fence. The City of Grant’s online City Code states that a fence is required unless the pool owner obtains an administrative variance from the Building Inspector to use an ASTM F 1346 pool cover in lieu of barrier fencing. The Building Inspector has the authority to reject safety covers that seem ineffective.

DISCUSSION

ASTM F 1346 pool covers are durable and effective when used as intended and they can be a great tool for improving overall pool safety. However, they are not a suitable alternative for a 4-foot barrier since they are focused on different safety goals and do not provide the same safety benefits to the neighborhood. Many homeowners like having a pool cover because it provides an extra layer of safety that is specifically aimed at protecting their own young children who live at the property. This is different than the barrier fence which often goes around the entire backyard and is primarily aimed at protecting young children who live at other properties in the neighborhood. As noted by Inver Grove Heights Staff, most pool owners choose to have both a fence and a pool cover so that they can maximize safety for both their own children and the neighborhood’s children. The pool cover has the added benefit of keeping the pool clean, preventing water waste, and lowering heating costs which can help justify the added expense.

Staff has a few additional thoughts:

- Many ASTM-certified pool safety covers are manual covers that take 5-10 minutes to remove and 10-20 minutes to put back on for a full-sized swimming pool. It is very unlikely that pool owners will put a manual cover back on every single time they go into their house to use the bathroom or take a break. These covers will certainly be left off occasionally while the pool is unsupervised, and it only takes a few moments for a drowning to occur.
- Some ASTM-certified pool covers are “auto-covers” where the owner presses a button, and the cover opens and closes automatically. This makes it more likely that the cover will be used consistently but

there is still room for user error if the owner forgets to press the button. Auto-covers are very expensive (\$10-\$25k), and repairs can also be expensive and may involve a specialty part that is difficult to find. If an auto-cover were to break and the owner cannot afford to repair it immediately, the pool may end up without a safety cover for an extended period.

- The City's current requirement of a 4-foot barrier with a gate that has a self-closing, self-locking latch leaves very little room for user error. The gate will automatically close and lock itself any time it is not in use. Replacing a broken gate is inexpensive and the parts can be obtained at most hardware stores. Children 4 years of age and younger cannot climb a 4-foot-tall fence and young children are the most frequent drowning victims in backyard swimming pools.
- In rural and semi-rural communities where most lots are 2 ½ to 40 acres in size, swimming pools are typically set back very far from shared property lines which may make fencing less important. In South St. Paul, swimming pools are only required to be set back five (5) feet from side property lines because most single-family home properties are only 40 feet wide and 1/8th acre in size. This means that a young child playing in their own backyard may only be five feet away from the edge of the in-ground swimming pool in their next-door neighbor's backyard and they could easily fall in by accident. If there is no fence and the neighbor goes inside to use the bathroom, that means that the child is now playing 5 feet away from an open unsupervised pool.
- It can be difficult for a property owner to obtain homeowner's insurance if they live on a normal-sized city lot and have a swimming pool without fencing which is only secured by a safety cover. It would be dangerous for the community if some houses with in-ground swimming pools ended up not having homeowner's insurance because the property owner failed to take this into consideration while completing their swimming pool project.

STAFF RECOMMENDATION

City Staff strongly and unanimously recommends keeping the swimming pool ordinance "as-is" when it comes to the safety barrier requirements. The ordinance is consistent with best practices and aligns with what most other urban and suburban communities in the area require (with the exception of Inver Grove Heights). The City of South St. Paul already waives the fencing barrier requirement in situations where it makes sense and can be done safely, such as with most above-ground pools, hot tubs, and spas.

ACTION NEEDED

This is a discussion item, and no formal action is needed. If the Planning Commission wants to see changes to the swimming pool ordinance, they can provide Staff with direction. All zoning code changes require a public hearing at a Planning Commission meeting followed by 1st and 2nd readings at two separate City Council meetings.

ATTACHMENTS

- A- South St. Paul Swimming Pool Ordinance Adopted in 2021
- B- Comparison of Swimming Pool Barrier Rules in Nearby Urban and Suburban Communities

ATTACHMENT A
SOUTH ST. PAUL SWIMMING POOL ORDINANCE ADOPTED IN 2021

Sec. 118-255. Swimming pools.

(a) *Swimming pool requirements.*

- (1) *Building permit.* A building permit shall be required for swimming pools over 24 inches in depth with a capacity of more than 5,000 gallons. Temporary pools over 24 inches in depth with a capacity of more than 5,000 gallons do not require a building permit, provided they are entirely above ground and only set up between April 1 and October 31. See section 106-56 for building permit requirements.
- (2) *Setback standards.*
 - a. Swimming pools, including temporary pools, are subject to the setback requirements for accessory structures as found in section 118-208.
 - b. In residential districts, above-ground or below ground swimming pools shall be located at least six feet away from any principal structure or frost footing with the exception of a deck that services the pool area. This requirement shall not apply to above-ground hot tubs, spas or temporary pools.
 - c. Swimming pools shall not be located beneath overhead utility lines, over underground utility lines, nor within any private or public utility, walkway, or drainage or other easement.
- (3) *Barrier requirements.* All swimming pools shall be equipped with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening, or other enclosure or any combination thereof of sufficient density as to be impenetrable. If fences are employed, they shall be at least four feet in height for all pools of less than four feet in elevation above the ground. In addition to the fencing requirements in section 118-199, fence openings or points of entry into the pool area shall be equipped with self-closing and self-latching devices placed at sufficient heights so as to be inaccessible to small children.
 - a. *Exceptions:*
 1. Hot tubs or spas with approved locking safety covers, meeting ASTM standard F1346-91, provided the cover is locked at all times during periods of nonuse.
 2. Above-ground pools, spas, and hot tubs with sides or attached fences that create a barrier at least four feet in height above grade.
 3. Temporary swimming pools, provided all means of access (ladders, etc.) are removed from the pool during periods of nonuse.
- (4) *Drainage.*
 - a. Pools shall be constructed and operated in such manner that backflush or emergency water or water from pool drainage shall pass into an approved public drainage way or shall remain on the property of the owner, and water shall not be permitted to drain from the pool, directly or indirectly onto property other than that of the owner.
 - b. Swimming pools must be dechlorinated before discharging in an area where drainage to street or storm sewer systems may occur. For pools to be considered dechlorinated, the pool water must be allowed to sit seven days without the addition of chlorine to allow for chlorine to evaporate.

ATTACHMENT B
COMPARISON OF SWIMMING POOL BARRIER RULES IN NEARBY URBAN AND SUBURBAN COMMUNITIES

Communities that Require a 4-Foot Barrier Around All Swimming Pools

- Hastings
- West St. Paul
- Saint Paul
- Mendota Heights
- Bloomington
- Lakeville
- Eagan
- Minneapolis
- Burnsville
- Apple Valley
- Rosemount

Communities that Accept an ASTM F 1346-91 Safety Pool Cover in Lieu of a 4-Foot-Tall Barrier

- Inver Grove Heights



AGENDA ITEM 5.B

South St. Paul Planning Commission

Prepared By: <i>Michael Healy, Planning Manager</i>	Meeting Date: 3/6/2024
Item Description: <i>Discussion on Adding Craft Production and Funeral Homes as Allowed Uses in Commercial Zoning Districts</i>	

ACTION REQUESTED

The Planning Commission is asked to discuss a proposal to update the use lists for the C-1, CGMU, MMM, and GB zoning districts. If the Planning Commission is generally in favor of the proposed updates, City Staff will further refine the draft ordinance and bring it forward for a public hearing at an upcoming meeting.

BACKGROUND/ DISCUSSION

OVERVIEW

Background

Each commercial zoning district in South St. Paul has a list of what types of commercial uses are allowed. In each district, some uses are allowed automatically as “permitted” and other uses require a conditional use permit and review by the Planning Commission & City Council. The City has four commercial zoning districts:

1. The C-1 Retail Business district covers Southview Boulevard and Marie Avenue as well as several neighborhood business areas.
2. The Concord Gateway Mixed Use (CGMU) district covers Concord Exchange and a few adjacent areas.
3. The GB- General Business District covers Concord Street South and some of the commercial areas directly north of Interstate 494.
4. The Mixed Markets and Makers (MMM) district covers Concord Street North. It has four subdistricts which each have slightly different rules.

The C-1 and GB districts both have “allowed use” lists that were written in the 1990’s and have received minor updates since. The CGMU district’s “allowed use” list was written in 2003 and it has received minor updates since then. The MMM district was created as the result of a corridor study in 2021 and its list of allowed uses received a lot of careful attention from City Staff, the Planning Commission, and the City Council. South St. Paul created an entirely new commercial “use” for the MMM district which is called craft production.

Craft production refers to artisan manufacturing operations that have a public-facing component. For instance, a building may be primarily used to manufacture ice cream, but a small part of the building is turned into a retail space where customers can purchase the ice cream that is manufactured on-site. Breweries and distilleries are another example of craft production, and the public-facing component in those buildings is typically a taproom or cocktail room. Many communities are updating their zoning codes to embrace craft production because these types of businesses can become destinations that visitors seek out for a unique experience. Many traditional retailers are struggling due to competition from online shopping, but craft production businesses are often able to thrive because they offer something special that cannot be matched online. This is how the City defines craft production in its zoning code:

Craft production means a commercial use that involves the production of arts, crafts, foods, beverages or other product with on-site production and assembly of goods primarily involving the use of hand tools and/or small-scale equipment. Due to the limited scale of the activities and small boutique nature of craft production establishments, they are compatible, and are often co-located with, retail sales and service uses. This use category includes but is not limited to ceramic art, glass art, candle-making, custom jewelry manufacture, bakeries, confectionaries, butchers, coffee roasting establishments, and food and/or beverage production.

City Staff has scoped out a proposed ordinance update that would do three things:

1. Create rules for craft production for the C-1, GB, and CGMU zoning districts. *Some types of craft production are already allowed in these zoning districts (i.e. bakeries, butcher shops, candy shops, brewpubs, etc.) but the code could be updated to be more welcoming to a diverse range of craft production uses.*
2. Add funeral homes to the City Code. *The City Code does not currently allow funeral homes in any zoning district, which is likely an oversight. There are two existing funeral homes in the C-1 Retail Business district.*
3. Clean up some issues with the existing zoning district commercial “use” lists and add clarity to these lists.

Craft Production

The City generally wants to steer purely manufacturing businesses that do not have a public-facing component down into the Bridgepoint Business Park and the other industrial areas near the Mississippi River. The only types of manufacturing businesses that belong in traditional commercial-retail-restaurant areas are artisan businesses that will add to the overall visitor experience in those areas. With this in mind, the City has standards that it enforces in the MMM district on Concord Street North:

- Craft production businesses must include a retail/eating/drinking/tasting component that is open to the public and occupies at least 10% of the usable space within the building.
- All production and processing activities must take place within an enclosed building.
- Businesses that are selling alcohol need a conditional use permit and review by the Planning Commission & City Council.
- Any craft production business with a gross floor area greater than 10,000 square feet or with exterior storage needs a conditional use permit and review by the Planning Commission & City Council.

Funeral Homes

Most communities allow funeral homes in their commercial areas. Many require funeral homes to obtain a conditional use permit because they have some unique attributes that can require “case by case” review:

- They have an intense parking demand during services, and they can create unique traffic issues due to funeral processions.
- They may involve cremation facilities and storage of bodies and the City may want to establish regulatory parameters around these activities.

Staff would recommend that the City consider adding funeral homes as a conditional use in all four of its commercial zoning districts.

What Would the Draft Ordinance Do?

The draft ordinance would do the following:

- Create a zoning definition for “funeral home.”
- Allow funeral homes in the C-1, GB, CGMU, and MMM districts with a conditional use permit.
- Allow craft production businesses in the C-1, GB, and CGMU districts:
 - In the CGMU district on Concord Exchange, the rules would be the same as in the MMM district except that exterior storage would not be allowed.
 - In the GB district, which is a quasi-industrial district, the rules would be the same as in the MMM district except that a conditional use permit is not required until the craft production use exceeds 20,000 square feet of gross floor space.
 - In the C-1 district on Southview Boulevard and Marie Avenue, all craft production would require a conditional use permit except for “permitted uses” like bakeries, butcher shops, and candy stores which have less than 10,000 square feet of gross floor area. Exterior storage would not be allowed. *The conditional use permit requirement would allow for “case by case” review, and the City could potentially deny a conditional use permit or attach strict conditions of approval if a proposed craft production business might cause a nuisance for neighboring properties.*
- Clean up existing use lists by doing the following:
 - Deleting two uses from the C-1 district that date back to when this district covered properties along Concord Street.
 - Add health clubs and martial arts studios to the list of permitted uses in the C-1 district. *Currently, only ‘dance studios’ are listed.*

- Clarify that contractors' operations in the GB-General Business district only need a conditional use permit if they want to have exterior storage. Contractors with no exterior storage should be a permitted use.
- Clean up some of the use descriptions for consistency with other parts of the City Code.

Action Requested

The Planning Commission should discuss whether the City Code should be updated to incorporate "craft production" into additional commercial zoning districts, add funeral homes to the City Code, and clean up issues with the existing commercial district "use" lists.

ATTACHMENTS

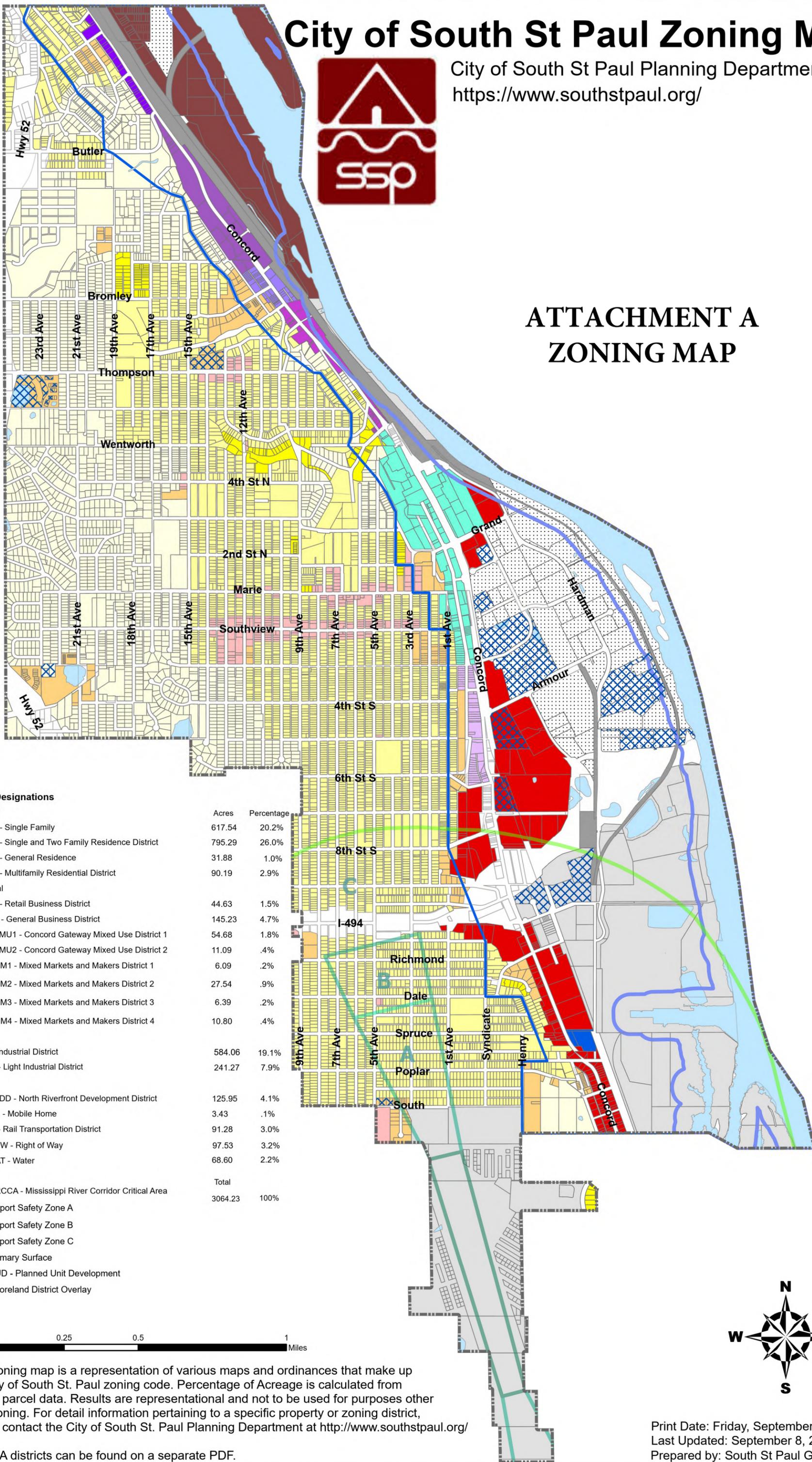
- A. Zoning Map
- B. Draft Ordinance

City of South St Paul Zoning Map

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



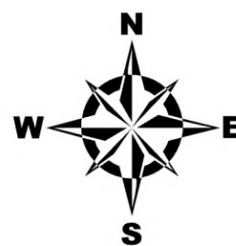
ATTACHMENT A ZONING MAP



Zoning Designations

	Acres	Percentage
Residential		
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%
Commercial		
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%
Industrial		
I - Industrial District	584.06	19.1%
I-1 - Light Industrial District	241.27	7.9%
Other		
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%
Total	3064.23	100%

0 0.25 0.5 1 Miles



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
DRAFT ORDINANCE**

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

Ordinance No. 14XX

**AN ORDINANCE AMENDMENT UPDATING THE LIST OF ALLOWED USES IN THE
CITY'S COMMERCIAL ZONING DISTRICTS TO INCORPORATE CRAFT
PRODUCTION AND FUNERAL HOMES**

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

SECTION 1. AMENDMENT. South St. Paul City Code Section 118-8 is hereby amended as follows:

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

Funeral home means a building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; and (d) the storage of funeral vehicles. This definition excludes cemeteries. A funeral home may have a maximum of 1 crematory retort under the following conditions:

- (1) The retort is located within the same structure as the funeral home.
- (2) The crematory retort complies with all state and federal statutes, regulations, and requirements.
- (3) The crematory retort is used only for bodies for which the funeral home has prepared such body for cremation.

SECTION 2. AMENDMENT. South St. Paul City Code Section 118-125 is hereby amended as follows:

Sec. 118-125. CGMU, Concord Gateway mixed-use district.

(b) *Permitted uses.* Within either the CGMU-1 or CGMU-2 subdistricts, no structure or land may be used except for one or more of the following uses, provided such use is less than 10,000 square feet in gross floor area:

- (15) Copy service or printing service.
- (16) Craft production, including the production of alcoholic beverages.
 - a. Must include a retail/eating/drinking/tasting component that is open to the public and occupies a minimum of ten percent of usable space.

b. All production, processing, and distribution activities except for the loading of finished products onto trucks are to be conducted within an enclosed building.

c. Craft production of alcoholic beverages shall require a conditional use permit for off-sale or on-sale liquor.

d. Any craft production use with a gross floor area that is greater than 10,000 square feet shall require a conditional use permit.

SECTION 3. AMENDMENT. South St. Paul City Code Section 118-126 is hereby amended as follows:

Sec. 118-126. C-1, retail business district.

(a) *Permitted uses.* No land or buildings within the C-1 district shall be used except for one or more of the following uses:

(6) Bakery ~~employing not over five employees.~~

(21) Dance studio, health club, martial arts studio, and similar uses.

(b) *Uses by conditional use permit.* The following uses shall require a conditional use permit:

(3) Gasoline service station ~~and~~, auto repair, ~~sales, and storage.~~

~~(8) Bakery employing more than five employees when the site is located within 350 feet of State Highway 56 (as measured from the property boundary nearest the highway).~~

~~(9) Food warehousing in conjunction with a permitted or conditional use when the site is located within 350 feet of State Highway 56 (as measured from the property boundary nearest the highway).~~

(8) Craft production

a. Must include a retail/eating/drinking/tasting component that is open to the public and occupies a minimum of fifteen percent of usable space.

b. All production, processing, and distribution activities except for the loading of finished products onto trucks are to be conducted within an enclosed building.

c. Craft production of alcoholic beverages shall require a conditional use permit for off-sale or on-sale liquor.

d. Craft production uses that are listed as permitted uses, such as bakeries and butcher shops, shall only require a conditional use permit if they have a gross floor area that is greater than 10,000 square feet.

(9) Funeral home.

- (d) *Accessory uses.* The following accessory uses shall be permitted:
- (1) Off-street parking and loading, signs, fences, and decorative landscape features, as regulated herein.
 - (2) Temporary construction buildings and storage as may be approved by the Zoning Administrator ~~code enforcement officer~~.
 - (3) Customary uses incidental to the principal use as may be approved by the Zoning Administrator ~~city engineer~~.
 - (4) Residential garage as allowed in the R-1 and R-2 districts.

SECTION 4. AMENDMENT. South St. Paul City Code Section 118-127 is hereby amended as follows:

Sec. 118-127. MMM, mixed markets and makers district.

(c) *Table 1. Permitted, Conditional and Accessory Uses.*

Table 1 Principal Use	MMM1	MMM2	MMM3	MMM4	Notes
Single family detached dwelling	P	X	X	X	
Two family dwelling	P	X	X	X	
Three-family dwelling	P	X	X	X	
Multi-family dwelling (four or more units)	C	P	P	P	
Mixed residential and commercial building	C	P	P	P	
Live-work unit	P	P	P	P	(f)
Adult day care facility	C	P	P	P	
Auto repair	C	C	X	C	
Auto sales, leasing, and rental (may include service)	X	X	X	C	(f)
Body art establishment that offers body art procedures other than micropigmentation and cosmetic tattooing (defined and regulated by Section 118-276)	C	P	P	P	
Child day care facility	P	P	P	P	(f)
Catering	C	P	P	P	
Churches, chapels & other worship buildings	P	P	P	P	
Contractor operations with no exterior storage or overnight parking of fleet vehicles & trailers	P	P	P	P	
Craft production	C	P/C	P/C	P/C	(f)
Essential services	P	P	P	P	
<u>Funeral Homes</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	
Gasoline service station	X	C	X	C	
General retail business (within a building)	P	P	P	P	

General service business (within a building)	P	P	P	P	
Health club, dance studio or similar uses	P	P	P	P	
Hotel or motel	X	P	P	P	
Indoor commercial recreation	X	C	C	C	
Medical or dental clinic	C	P	P	P	
Municipal buildings & uses	P	P	P	P	
Museum, library, theater & similar uses	C	P	P	P	
Office	P	P	P	P	
On-sale, off-sale liquor, beer or wine establishments	C	C	C	C	
Parking ramps, garages & surface lots	X	C	C	C	
Pet boarding, kenneling, training & grooming	C	C	C	C	(f)
Public & private parks & playgrounds	P	P	P	P	
Reception or meeting hall	X	C	C	C	
Recording studio	C	P	P	P	
Restaurant, cafe, coffee shop, cafeteria or deli	C	P	P	P	
School, public or private	C	P	P	P	
Small wireless facility (see Sec. 54-402)	P	P	P	P	
Veterinary Clinic	C	P	P	P	
Accessory Uses					
Car washes (accessory to gas station)	X	C	X	C	
Drive thru facilities	X	C	X	C	(f)
Exterior storage for contractor operations and craft production	X	C	X	C	(f)
Fences, signs, & decorative landscape features	P	P	P	P	
Garages & accessory structures (see Sec. 118-208)	P	P	P	P	
Home occupation (see Sec. 118-249)	P	P	P	P	
Commercial indoor storage	X	C	X	C	(f)
Off-site storage for contractor operations	X	C	X	C	(f)
Off-street parking and loading	P	P	P	P	
Outdoor display/sales (no vehicles, boats or trailers)	X	C	C	C	(f)
Vehicle Rental	X	C	X	C	(f)
P = Permitted Use					
C = Conditional Use					
X = Prohibited Use					
Note: Uses marked with an (f) have special performance standards that are unique to the MMM district which are listed in subdivision (f) of this section.					

- (f) *Performance standards for specific uses.* In addition to performance standards found elsewhere in the City Code, the following performance standards are in effect for a number of specific uses in the MMM district:

(5) *Craft production.*

- a. Must include a retail/eating/drinking/tasting component that is open to the public and occupies a minimum of ten percent of usable space.
- b. All production and processing activities are to be conducted within an enclosed building. Distribution activities except for the loading of finished products onto trucks must be conducted within an enclosed building unless otherwise allowed by conditional use permit.
- c. May include accessory exterior storage, subject to the provisions outlined in this section.
- d. Craft production of alcoholic beverages shall require a conditional use permit.
- e. Any craft production use with a gross floor area that is greater than 10,000 square feet shall require a conditional use permit.

SECTION 5 AMENDMENT. South St. Paul City Code Section 118-128 is hereby amended as follows:

Sec. 118-128. GB, general business district.

- (a) *Permitted uses.* ~~Uses permitted in the general business (GB) district shall include and be limited to the following: All uses permitted in the C-1 retail business district.~~
- (1) All uses listed as permitted in the C-1 Retail Business district unless that use is listed as requiring a conditional use permit in the GB General Business district.
 - (2) Body art establishment (defined and regulated by section 118-276)
 - ~~(3) Contractor operation when there is no exterior storage~~
 - ~~(3) Craft production.~~
 - ~~a. Must include a retail/eating/drinking/tasting component that is open to the public and occupies a minimum of ten percent of usable space.~~
 - ~~b. All production, processing, and distribution activities except for the loading of finished products onto trucks are to be conducted within an enclosed building.~~
 - ~~c. May include accessory exterior storage by conditional use permit.~~
 - ~~d. Craft production of alcoholic beverages shall require a conditional use permit for on-sale or off-sale liquor.~~
 - ~~e. Any craft production use with a gross floor area that is greater than 20,000 square feet shall require a conditional use permit.~~
- (b) *Uses by conditional use permit.* Within the GB district, the following uses may be allowed only by conditional use permit:

- (1) Adult day care facility.
- (2) Armories, skating rinks, convention halls, and similar uses.
- (3) Auditorium or recreational building.
- (4) Automobile and truck service uses.
- (5) Automobile car wash.
- (6) Boat, marine, trailer, farm equipment, automobile, truck, and similar sales.
- (7) Bottling works.
- (8) Bowling alley.
- (9) Carpet or rug cleaning.
- (10) Child day care facility.
- (11) Church.
- (12) Commercial recreation and equipment storage.
- (13) Contractor operation, if open exterior storage is utilized.
- (14) ~~Dance and other commercial schools.~~ Vocational schools.
- (15) Drive-in business of all types.
- (16) Dry cleaning.
- (17) Dwelling units in any building.
- (18) Equipment and vehicle rental.
- (19) Essential services.
- (20) ~~Exterior storage, or Open~~ sales lots, provided the same business occupies space in a building on the same lot.
- (21) Food locker plant.
- (22) Funeral home
- (22) Laundry.
- (23) Lumber yard.
- (24) Manufacturing as permitted in the I-1 Light Industrial district.
- (25) Medical uses (human and animal).
- (26) On-sale and off-sale liquor sales
- (27) Other uses deemed by the city council to be similar in purpose and character to those set forth in this subsection and in subsection (a) of this section.
- (28) Parking garage.
- (29) Pet boarding, kenneling, training, and grooming provided that:

- a. Unless expressly allowed by the conditional use permit, all activity must take place within a completely enclosed building with odor and sound control except for the walking of dogs. No outdoor kenneling shall be permitted.
- b. There shall be no overnight kenneling of customers' pets and no animal may be present inside the business between the hours of 10:00 p.m. and 6:00 a.m. unless their owner is also present.
- c. Any outdoor off-leash exercise/relief area that is provided shall be entirely enclosed by a fence. Pets may not be off-leash in these areas between the hours of 8:00 p.m. and 7:00 a.m.

(30) PWS antennas.

(31) PWS tower.

(32) Reception or meeting hall.

(33) Seasonal business.

(34) Spur tracks.

(35) Supper club.

(36) Structures exceeding 45 feet in height.

(37) Theater.

(38) Wholesaling.

(39) Alternative financial establishment, subject to the supplemental regulations in section 118-275.

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 amendment updates the use lists in the City's commercial zoning districts to allow craft production and funeral homes in all commercial districts. It also includes minor updates to some of the listed uses.

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

Approved: _____

Published: _____

KimberLee Landgreen, Deputy City Clerk



AGENDA ITEM 5.C

South St. Paul Planning Commission

Prepared By: Monika Miller, Associate Planner	Meeting Date: 3/6/2024
Item Description: Review of 2023 Planning Commission Annual Report	

BACKGROUND

The City Code requires that the Planning Commission submit to the City Council a report of its work from the previous year. This report summarizes the activity of the Planning Commission in 2023 and includes highlights of the substantial projects that were reviewed, maps showing the distribution of the reviewed cases, and building permit information.

In summary:

- 25 individual zoning applications were reviewed by the Planning Commission throughout the year.
- The Planning Commission said goodbye to two commissioners: Matthew Thompson (who moved on to serve as a member of the City Council) and Angela DesMarais.
- The Planning Commission welcomed two new commissioners: Brianne Miller and Chad Schlemmer.
- Long-time Planning Commissioner Tim Felton was elected as the chair of the Planning Commission. Geoff Fournier was elected as the vice chair of the Planning Commission.
- The most common zoning approval requested was a conditional use permit. The Planning Commission reviewed 12 conditional use permit requests. The second most common type of zoning approval requested was an ordinance amendment. The Planning Commission reviewed 6 zoning ordinance amendments.
- The Planning Commission reviewed 3 rezoning requests.
- No new residential dwelling units were constructed in 2023.

ACTION REQUESTED

A motion to approve and forward the 2023 Planning Commission Annual Report to the City Council.



City of South St. Paul 2023 Annual Planning Commission Report

2023 Planning Commission Members

Angela DesMarais
Tim Felton
Geoff Fournier
Jason Frankot
James Hart
Ruth Kruger
Brianna Miller
Chad Schlemmer

Approved: March 4, 2024
Planning and Zoning Department

INTRODUCTION

The South St. Paul Planning Commission is a seven-member body, appointed by the City Council, that is responsible for the review of land use and zoning matters for the City of South St. Paul. The Planning Commission makes recommendations on various matters to the City Council who is ultimately responsible for making a final decision on planning and zoning related matters. This report provides relevant information about the Commission's activities and fulfills the requirements of City Code 101-22 which specifies that the South St. Paul Planning Commission is to submit to the City Council an annual report of its work during the preceding year.

2023 PLANNING COMMISSION MEMBERS

Angela DesMarais (Term ended in March)

Geoff Fournier, Vice Chair

Tim Felton, Chair

Jason Frankot

James Hart

Ruth Krueger

Brianne Miller (Appointed in March, replaced Angela DesMarais)

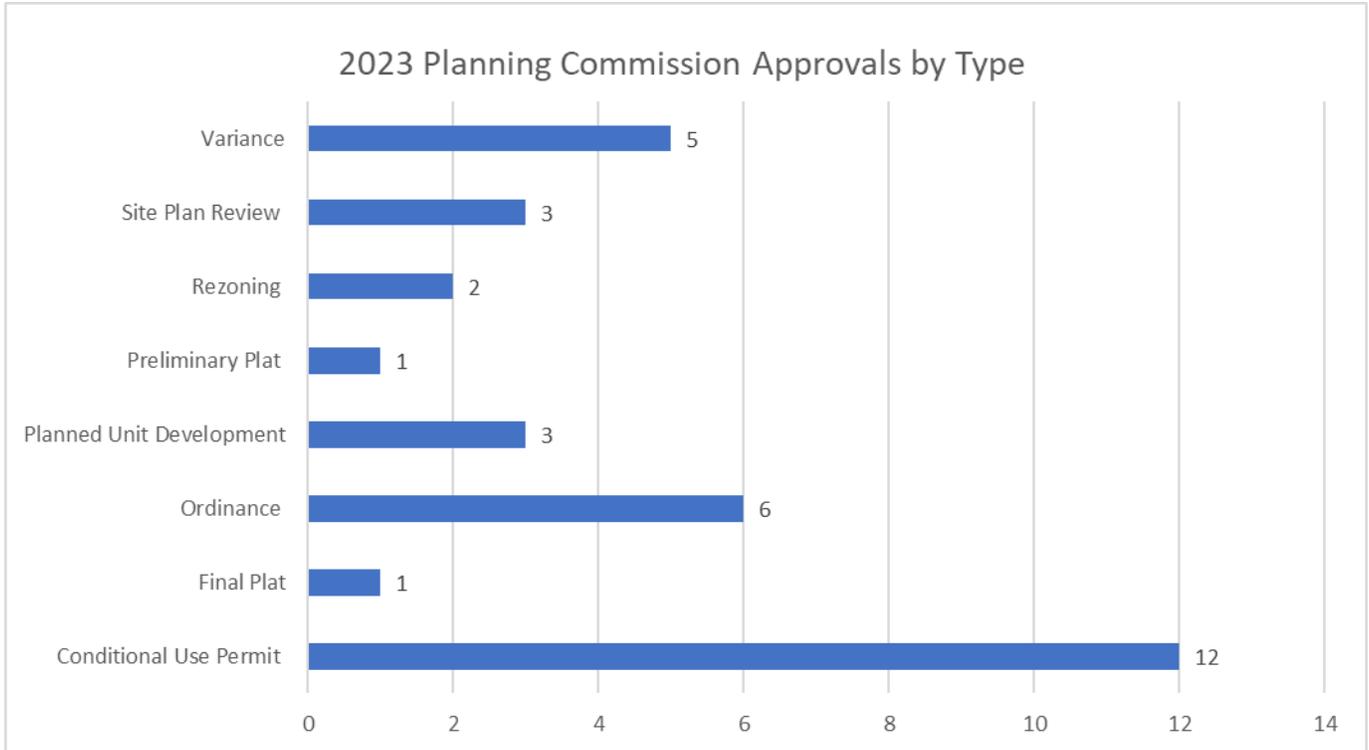
Chad Schlemmer, (Appointed in March, replaced Matthew Thompson)

The Planning Commission met 11 times in 2023. Below is a table illustrating each member's attendance for the year.

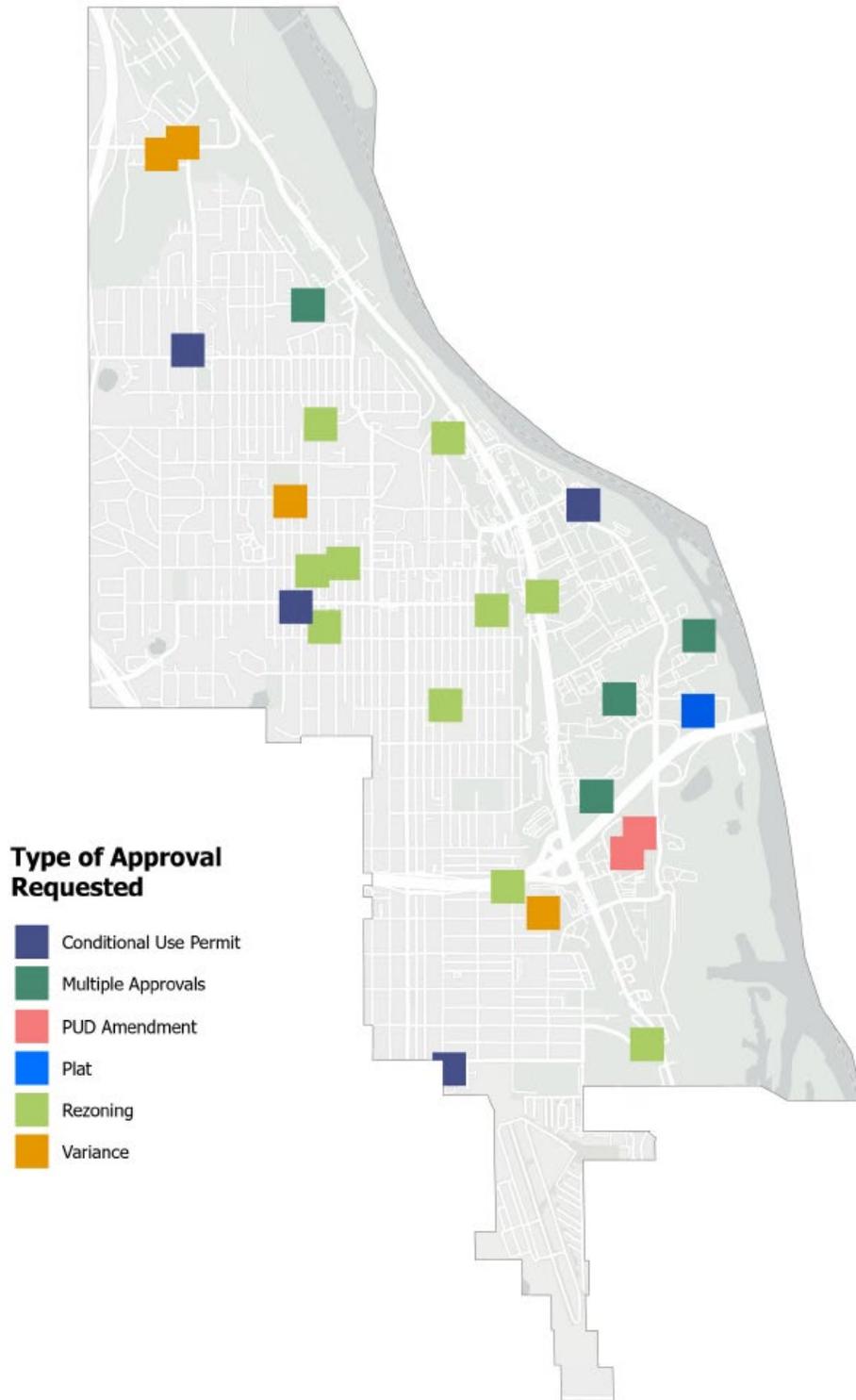
Member Name	Meetings in Attendance	Meetings Absent
Angela DesMarais (1 meeting, term ended in March)	1	0
Tim Felton	11	0
Geoff Fournier	11	0
Jason Frankot	9	2
James Hart	8	3
Ruth Krueger	10	1
Brianna Miller (Term started in March)	10	0
Chad Schlemmer (term started in March)	7	3

ZONING APPROVAL TOTALS BY TYPE

The Planning Commission reviewed 25 unique cases during 2023 (not including discussion items or items related to the rules of order). The figure below shows the types of zoning approvals that were reviewed as part of these 25 unique cases. For projects that required multiple zoning approvals, such as Luther Auto which needed a site plan review and a conditional use permit, each approval is considered to be one zoning approval. Conditional use permits were the most common zoning approval requested in 2023, followed by ordinance amendments.

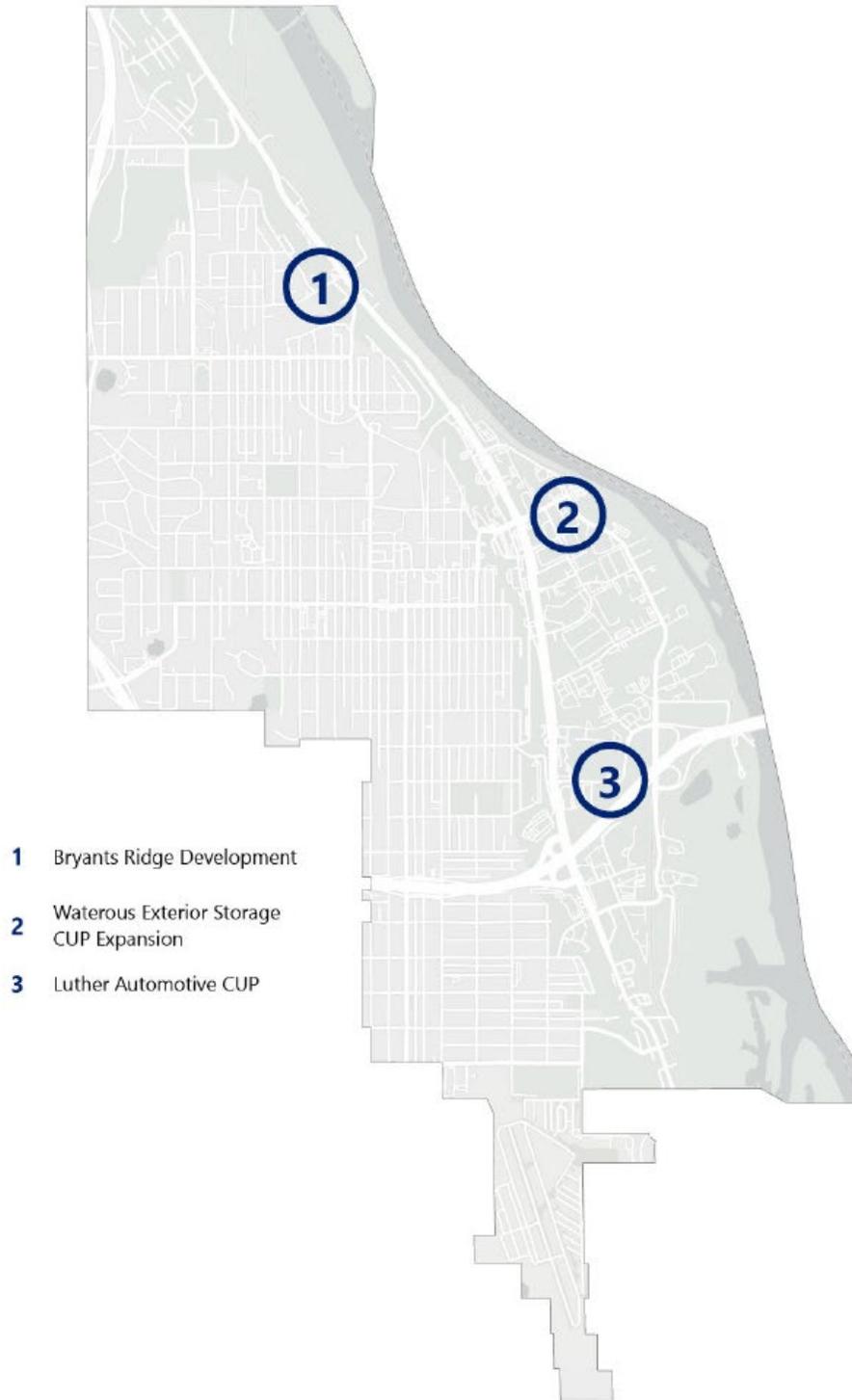


Zoning Case Distribution by Type, South St Paul, 2023



MAJOR PROJECTS

Highlighted Zoning Cases, South St Paul, 2023



1. Bryant's Ridge Development

South St. Paul is a fully built out community with very little space for additional residential development. The few places in South St. Paul that have enough land to support new residential development are often unattractive to developers due to the extensive amount of work that needs to be done to the site to make it buildable. In 2023, one development team decided that they were willing to work through the various challenges of the vacant 8-acre property along Bryant Avenue which was previously used as a sand/gravel mining pit and demolition landfill.

TJ Hammerstrom, on behalf of Bryant's Ridge LLC, applied for a preliminary plat, a conditional use permit for a planned unit development, a conditional use permit for a building that is taller than 38 feet in height, a conditional use permit for a multifamily development with more than 20 units, a conditional use permit for a ground-mounted solar energy system larger than 200 square feet, and a site plan review for two apartments and two townhome buildings. The proposed village, which would include 2 apartment buildings, 2 townhome buildings, 2 twin homes, and 2 single-family homes, would be called "Bryant's Ridge." The two market-rate apartment buildings will feature premium amenities such as a rooftop deck, an exercise room, and a community room. The proposed housing development will include some common area elements such as a stormwater pond, a walking trail, and a tot lot which will be owned and managed by a private association.

The application was reviewed twice by the Planning Commission: Once in February of 2023 and again in June of 2023. The Planning Commission did not make a conclusive recommendation on the application in February due to a lack of approved motion. The City Council initially denied the project, but Mr. Hammerstrom reapplied for the same approvals. In June, the Planning Commission reviewed the application again and this time voted to recommend approval of the application unanimously with a 5-0 vote (Commissioner Schlemmer abstained).



2. Luther Automotive CUP

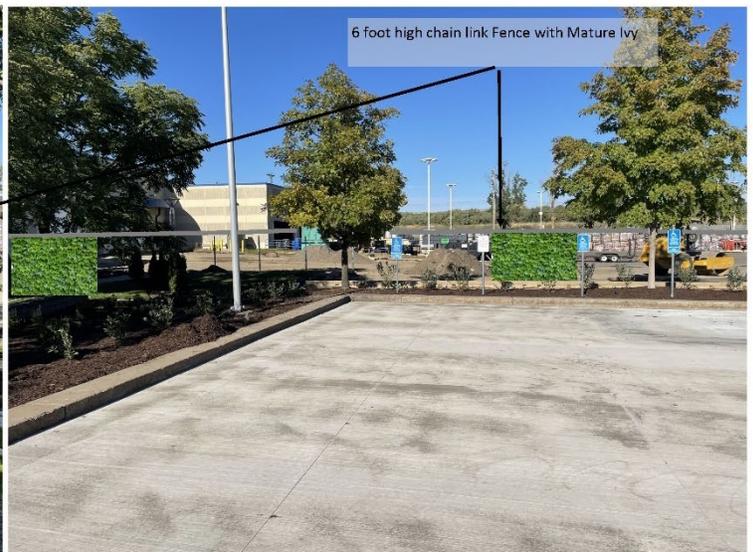
For years, 490 Villaume Avenue was known for being a manufacturing facility for animal tags for the Fearing Manufacturing Company (later known as Destron Fearing). After finding that they needed additional space, the business left South St. Paul, leaving their facility up for grabs. The facility was used by a landscaping company and an HVAC contractor until early 2023. In late spring, the building was purchased by the Luther Company, the parent company of Luther Automotive. In July, the Planning Commission reviewed an application from the Luther Auto Company for a conditional use permit to operate a vehicle collision center and a site plan approval to expand and reconfigure the existing parking lot. At the Planning Commission meeting Linda McGinty, Director of Real Estate and Development, shared that Luther would be investing \$4 million into the site, not including the new equipment purchased for the site. Additionally, the facility would bring in a number of new long-term, high-paying jobs to South St. Paul. The Planning Commission recommended approval of the conditional use permit and site plan review request with a unanimous 7-0 vote.



3. Waterous Exterior Storage CUP

Waterous Company, one of South St. Paul's oldest businesses, is best known as being one of the largest manufacturers of firefighting equipment. Their large 201,558 sq. ft. facility at 125 Hardman Avenue South includes both indoor manufacturing space as well as an exterior storage yard where manufactured equipment is stored while it awaits sale. In November, the business applied for a Conditional Use Permit to expand their exterior storage yard. The business last received city approval to expand their exterior yard in 1999 in conjunction with a building addition project. Since then, Waterous has expanded their exterior storage yard twice without realizing that additional City approvals were required. Upon finding out that they needed city approval for the project, the business immediately applied for a Conditional Use Permit. The business cited changes in the supply chain in the wake of COVID-19 and the need to create a more secure storage yard after having several issues with theft as the reasoning for their request.

The expansion proposed to add an additional 34,880 sq. ft. of exterior storage to the site. To screen the additional storage area, Waterous Company proposed additional landscaping to hide the exterior storage yard from Hardman Avenue. The proposed screening included arborvitae trees and chain link fencing covered with ivy vines. As part of the project review, city staff analyzed the existing city utilities that ran through the site and determined that there were not sufficient easements covering these utilities. Waterous Company agreed to hire a company to prepare an ALTA survey for the site and grant the city the appropriate easements over these utilities. The Planning Commission reviewed Waterous's request at their November 1st meeting and unanimously approved the conditional use permit request with a 6-0 vote.



ZONING CODE AMENDMENTS

- Ordinance Updating Setback and Height Requirements and Establishing Design Criteria

Each year, staff identify a handful of sections of the city code that would benefit from updates to better align the code with the City's existing or desired development pattern. One area that was identified as needing updates was the setback requirements for driveways, parking pads and fences as well as the height and setback standards for buildings in the C-1, retail business district.

The code previously had a strict 2-foot setback requirement for parking pads or off-street parking areas from a residential property and a strict 1-foot setback for fences from any street side property line. These strict setback requirements were a common point of contention when a homeowner would come in for a driveway or fence permit. At the direction of the City Council, the ordinance reduced the 2-foot required setback for a driveway or off-street parking area that was adjacent to a residential property. The 1-foot fence setback rule was also eliminated after staff determined this requirement did not benefit the City as the regulation was intended to.

A more fundamental issue that the ordinance addressed was the needed improvements to the C-1, retail business district regulations. Many of the properties in the C-1 retail business district, which governs the commercial areas "up the hill" such as Southview Boulevard, Marie Avenue, Thompson Avenue, and 5th Avenue, include main-street style buildings that were built up to the sidewalk or with minimal side or rear yard setbacks. The City's code encouraged more suburban-style commercial development, effectively prohibiting the development style these buildings were constructed with. If one of these buildings burned down or if a developer wanted to construct a new building in this style, they would not be able to do so without a variance. The ordinance amended the code to allow more buildings in the C-1 district to be built using the main-street-style development. Additionally, the C-1 district regulations lacked written architectural standards or guidelines for new buildings. All new buildings were required to be submitted to the Planning Commission and the City Council for case-by-case review but staff were unable to provide applicants with codified guidelines of the desired architectural style for this district. The ordinance incorporated some basic exterior building material and architectural requirements. The Planning Commission recommended approval of the ordinance at their May 3rd meeting with a 6-0 vote.

- Mississippi River Critical Corridor Area Ordinance Update

The Mississippi River Critical Corridor Area (MRCCA) is an area near the Mississippi River that is protected by statewide environmental regulations which govern land use planning and development. The State adopted its first set of MRCCA regulations in the late 1970's and required all communities with land in the protected area to adopt a local ordinance to implement the Statute. The Department of Natural Resources (DNR) is responsible for working with each community to develop and maintain a local ordinance. Each community's local MRCCA ordinance is slightly different and reflects local development conditions, political realities, and the character of the river as it passes through the community.

In 2017, the State adopted updated MRCCA rules. These rules replaced Executive Order 79-19

as the state regulation governing local land use and zoning regulations in the MRCCA. These rules made significant changes to the way development is regulated in the protected area. The State directed the DNR to work with all communities with land in the MRCCA to update their comprehensive plans and zoning ordinances to comply with the new rules. The DNR notified City Staff that South St. Paul would be required to update their MRCCA ordinance to comply with the new state rules by August of 2023.

The DNR provided cities with a model ordinance to use as a template when drafting their new ordinance. Provisions of this new ordinance included:

- ❖ The MRCCA area will be broken up into subdistricts which will each have slightly different rules.
- ❖ The City must start requiring permits for certain types of vegetation removal and land alteration.
- ❖ There are new protections in place for “primary conservation areas” which are natural features that the State wants to preserve. This includes the area at the toe of the bluff, significant existing vegetative stands, natural areas, the area along the river’s shore, and wetlands.
- ❖ There are new rules for environmental conservation for large developments that are 10 or more acres that are directly adjacent to the river or 20 or more acres that are separate from the river.
- ❖ The City is now officially required to involve the DNR and the National Park Service in some types of development review. *The City was already voluntarily involving the DNR in development review.*

Cities could essentially get automatic DNR approval if they were willing to adopt the model ordinance verbatim. If a City needed flexibility from the model ordinance because of unique local development conditions, they needed to go through a formal process to request flexibility and get approval from the DNR. The City Council instructed City Staff to seek flexibility from the model ordinance for bluff setback requirements and bluff impact zone regulations in the redevelopment area along Concord Exchange and Concord Street. Without flexibility, many of the parcels along Concord Exchange and Concord Street would have become unbuildable under the new MRCCA regulations. The DNR granted conditional approval to the City for their areas of requested flexibility on January 31, 2023. City Staff then prepared a full MRCCA ordinance which the DNR conditionally approved on April 20, 2023. Staff brought the ordinance to the Planning Commission for a public hearing at their July 5th meeting. The Planning Commission recommended approval of the ordinance with a 6-0 vote (Commissioner Frankot abstained).

- Body Art Establishment Regulations

Since 2011, South St. Paul has had very strict regulations in the city code for body art establishments (businesses that offer tattooing and other body modification services) to discourage this type of business from operating in South St. Paul. In the early summer, Tony Lodge, the owner of the 5th Avenue Shopping Center, approached city staff about changing the local regulations to allow one of his tenants to start offering cosmetic tattooing and micropigmentation (permanent make up services) as a part of their salon business. This was not possible at the time because body art establishments were not allowed “up the hill.” The request sparked an overhaul of the City’s body art establishment regulations.

Following a City Council work session to discuss the request, an ordinance was drafted to reflect the City Council’s feedback. The ordinance proposed the following changes: eliminating the local body art license requirement; treating cosmetic tattooing and micropigmentation the same as a beauty parlor and making the use permitted in any commercial zoning district that already allowed salons; removing the conditional use permit requirement for any body art establishment in the GB, General Business district; allowing body art establishments that offer services beyond cosmetic tattooing “up the hill” with a conditional use permit, and moving the “common sense” regulations for body art establishments from the licensing code to the zoning code.

The ordinance was reviewed by the Planning Commission at their August 2nd meeting. At the meeting, the commissioners discussed the perceptions around tattoos and other types of body art in today’s society and where in town the use was appropriate based on the community’s values. At the end of the discussion, the Planning Commission voted to recommend approval of the ordinance with a 4-2 vote (Chair Felton and Commissioner Frankot abstained).

- Truck and Trailer Parking Ordinance

Many of South St. Paul’s neighboring communities adopted bans on large trucks from parking on any public street unless they are actively being loaded or unloaded. As a result, City staff received complaints about tractor-trailers and other large commercial vehicles being parked on public streets in South St. Paul. Additionally, staff received complaints about large commercial vehicles being parked long-term on private properties in commercial-retail and residential areas. To address these issues, the City Council directed staff to prepare an ordinance that would address these issues by limiting where, when, and how large of a truck can be parked on a public street as well as enacting new restrictions on parking large trucks and commercial vehicles outdoors in the parking lots of some private properties.

The existing city code had base regulations that the ordinance was built on. The city code already prohibited trucks from being parked on a public street if it is adjacent to a residential property unless the truck is being loaded or unloaded. Additionally, vehicles of any type were prohibited from parking on a city street for more than 20 hours without being moved. The new ordinance expanded the existing truck parking ban to cover all public streets west of Concord Street and north of Grand Avenue, which covered all of the parking areas “up the hill.” Any public street that is not subject to the total ban on truck parking would be subject to an overnight parking ban. Size restrictions were added for trucks and trailers that are parked on a public street next to a residential property and are no longer allowed to provide exterior storage if they are not being actively loaded or unloaded or delivering a service. New size restrictions were placed on large

trucks and commercial vehicles that are parked outdoors on private property to prevent properties from using their parking lots as a permanent storage solution for particularly large trucks, such as a bucket truck, a furniture truck, or a truck tractor.

The Planning Commission reviewed the ordinance at their December 6th meeting. After a lengthy discussion over the intended and unintended consequences of the ordinance, the Planning Commission voted to recommend approval of the ordinance with a 5-0 vote.

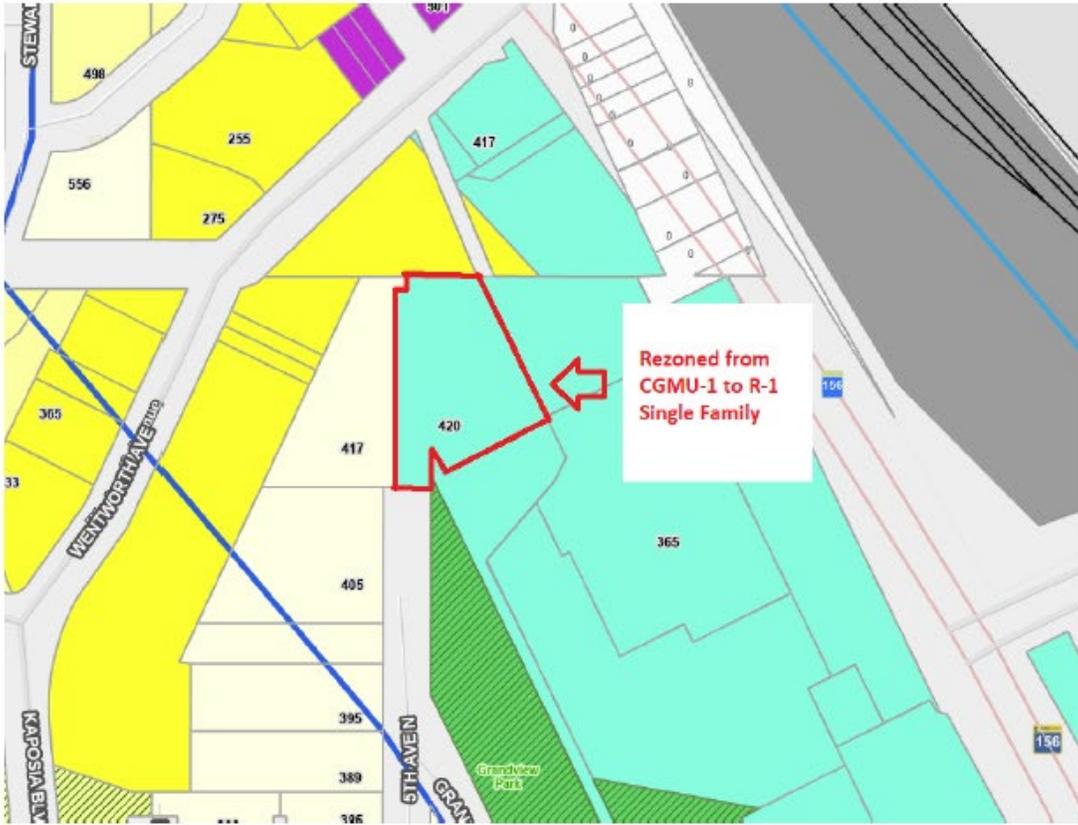
REZONINGS

- Rezoning to Implement the Comprehensive Plan

All cities within the seven-county metro are required to adopt a 20-year Comprehensive Plan and update it every 10 years. The City adopted its 2040 Comprehensive Plan in 2020, which includes a future land use map that shows what the City wants its land use to look like in 20 years. The future land use map was given a major update in early 2023 when the City Council approved a comprehensive plan amendment for the community's mixed-use areas.

Future land use map guidance is significant because the City is legally obligated to adhere to its future land use map when making rezoning decisions. If the future land use map guides properties in a way that is inconsistent with the City's current zoning map, the City should be actively working to rezone those properties so that the two maps align. As part of the City's work to align the City's zoning map with the future land use map, the City undertook a large rezoning project to address parcels that were not aligned on the two maps. The rezoning covered 17 parcels located in 8 different areas throughout the City. The Planning Commission reviewed the rezonings and voted to recommend approval at their July 5, 2023 meeting with a 6-0 vote (Commissioner Hart abstained). Properties that were rezoned included:

Single Family Home at 420 5th Ave N



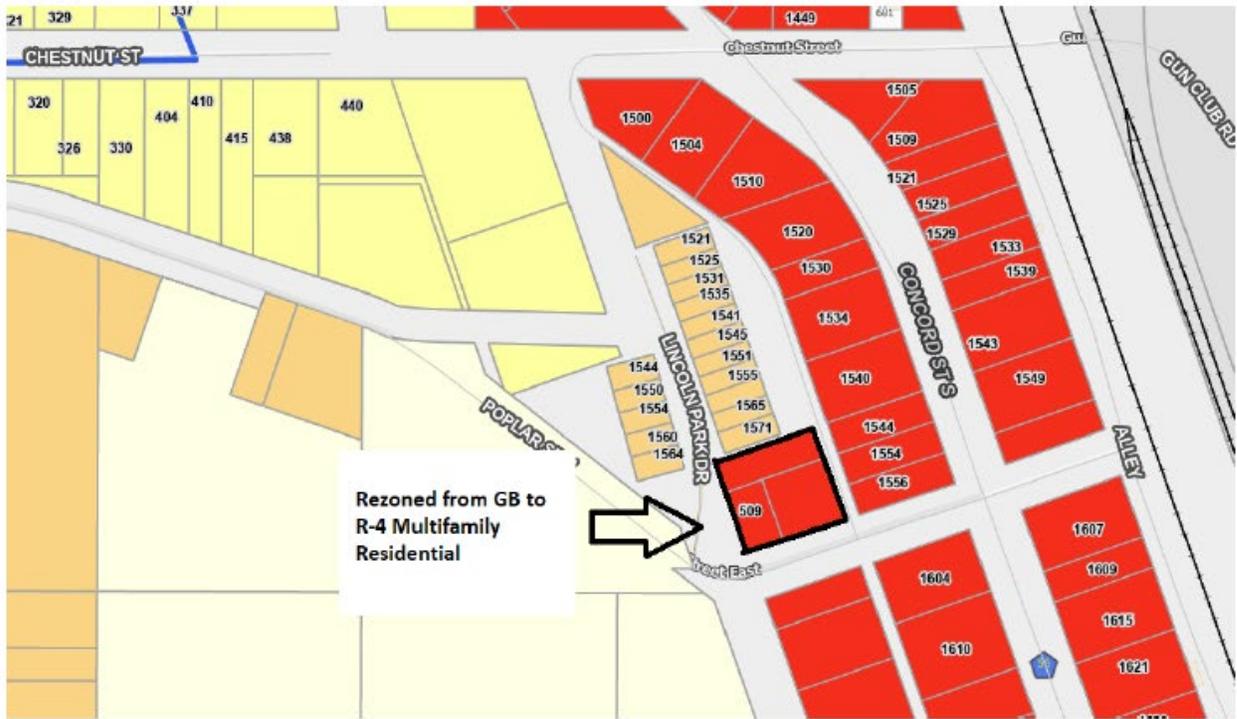
REZONING ACTION #1:
Single Family Home at 420 5th Avenue North Should be Rezoned to R-1 Single Family

Apartment At the Intersection of Marie Avenue and 12th Ave North



REZONING ACTION #3:
1201 Marie Avenue Should be Rezoned to C-1 Retail Business

A Single-Family Home with a Vacant, Buildable Lot



REZONING ACTION #6:

Three Parcels Next to the Lincoln Park Townhomes on Poplar Street East Would be Rezoned to R-4 Multifamily Residential

- 1020 Marie Avenue

South St. Paul was largely developed in the 1900s when neighborhoods were designed to be walkable with small neighborhood businesses to serve the area. 1020 Marie Avenue was constructed in 1955 as a small neighborhood business building. The building was historically used as a doctor's office/dental facility and more recently as a chiropractic facility until the building went vacant in the late 2010s /early 2020s. The building was vacant long enough to lose its "grandfathered" right to be a medical/dental clinic, leaving the building with few options for future uses given its R-2, single-and-two family residence zoning. At the time the building was constructed, the property was zoned for commercial use. This changed in 1969 when the city overhauled its zoning code and implemented policies that were intended to stamp out the community's small neighborhood businesses in favor of creating large suburban-style shopping areas. As part of this overhaul, the building was rezoned from commercial to "RD, residential duplex district." The RD district later became the R-2 district. With R-2 zoning, the building could be converted to a single-family home or a duplex. Or could be used as a church, a day care for fewer than 12 children or adults, or a residential care facility for up to 6 residents. With a conditional use permit, the building could have been used as a school, a large day care, or for a charitable or philanthropic use.

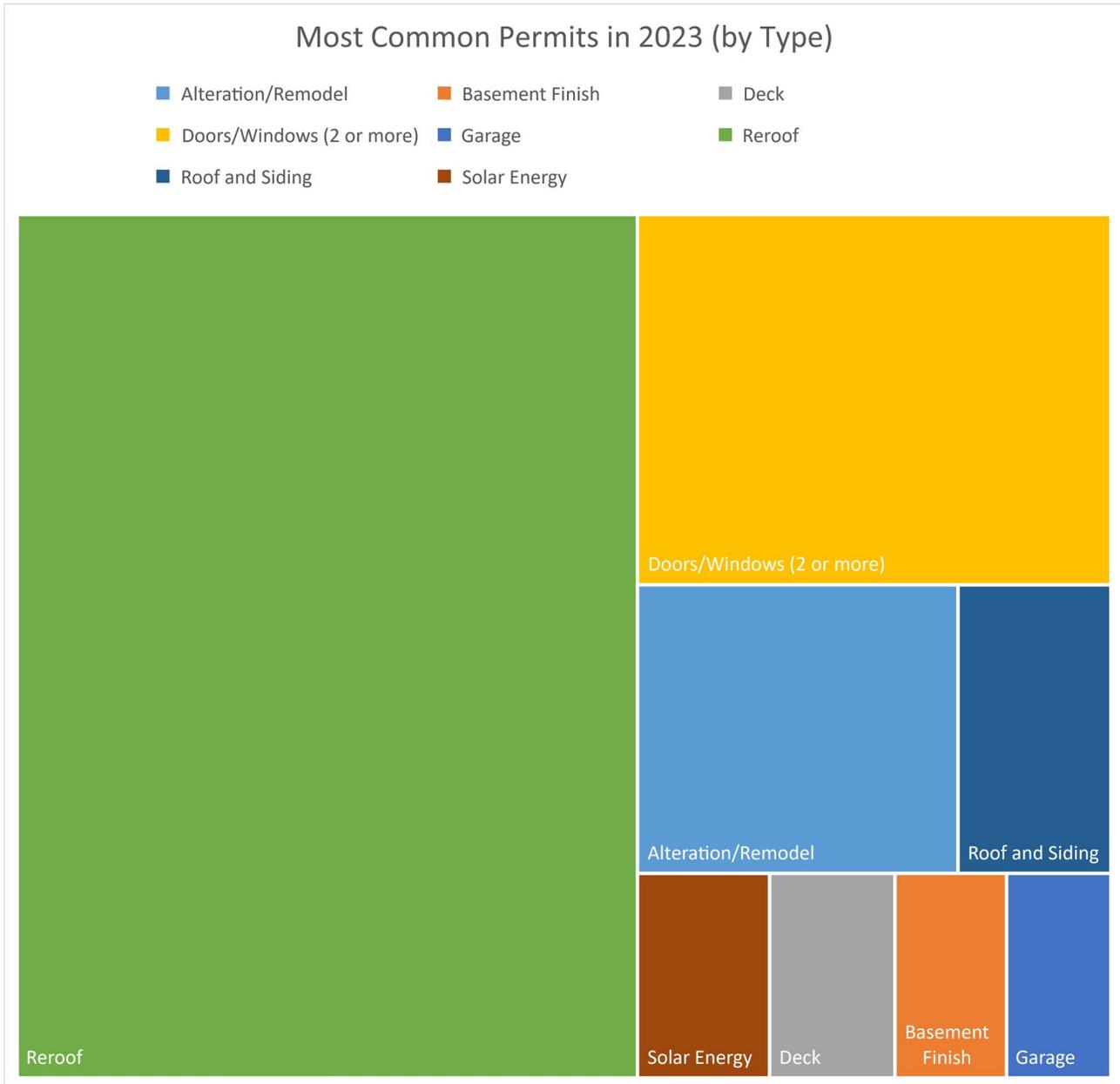
In February, the owners of a small contractor's operation reached out to staff about using the building as an office for their business. Staff informed them that they would need to apply for a rezoning in order to be eligible to use the building as an office space as this was not an allowed use in the R-2 zoning district. The business owners submitted a rezoning petition to rezone the property from R-2 to C-1, retail business district which the Planning Commission reviewed at their March 1st meeting. At the conclusion of the public hearing, the Planning Commission voted to recommend approval of the rezoning request with a 6-0 vote.

- 444 12th Avenue North

444 12th Avenue North is another small neighborhood commercial building with a similar story to 1020 Marie Avenue. The building was constructed in 1958 as an insurance office and had commercial zoning at the time. In 1969, the property was rezoned from commercial to R-2, single-and-two family residence. The parking lot for the building was acquired in 1992 by the owner at the time and was zoned R-3, general residence district. The residential zoning of the property severely limited the potential uses for the site which led the owner to come in to petition for a rezoning of the parcels from residential to commercial. The Planning Commission reviewed the rezoning petition at their August 8th meeting. At the conclusion of the meeting, the Planning Commission voted to recommend approval of the rezonings with a 6-0 vote.

DEVELOPMENT AND BUILDING PERMITS

884 building permits were issued in calendar year 2023 with the largest number of permits coming from reroofing, doors/windows, and alterations/remodels. The most common type of remodel project was a bathroom remodel. Two building permits were issued for new commercial buildings: one to Danner Inc. for their new facility at 587 Verderosa Avenue and the other for the new Pet Fresh Dog Wash facility at 1301 Southview Boulevard. One permit was issued for a new institutional/ public building, the new water treatment facility on Kaposia Boulevard.



No new residential units were constructed in 2023. This is likely the result of several factors, including record high interest/ mortgage rates and the lack of available land that can support new housing. Interestingly, while no new housing was constructed, development entitlements were secured for 178 new housing units as part of the Bryant’s Ridge development.

New Residential Unit Count (2013-2023)					
Year	Building Permits for New Residential Units	Single Family	Duplex/ Townhome	Multi-Family Buildings	New Residential Units
2023	0	0	0	0	0
2022	2	1	0	1	112
2021	4	2	1	1	156
2020	3	2	1	0	3
2019	8	8	0	0	8
2018	5	5	0	0	5
2017	5	5	0	0	5
2016	4	4	0	0	4
2015	3	3	0	0	3
2014	6	6	0	0	6
2013	5	5	0	0	5



AGENDA ITEM 6.A

South St. Paul Planning Commission

Prepared By: Michael Healy, Planning Manager	Meeting Date: 3/6/2024
Item Description: Proposed State Law Changes that Would Limit Local Zoning Authority and Block South St. Paul's Development Goals for the Concord Street Corridor	

ACTION REQUESTED

This update is for informational purposes only. City Staff wants to make the Planning Commission aware of two proposed bills at the State Legislature that would greatly limit local zoning authority and also prevent the City of South St. Paul from achieving its development goals for the Concord Street corridor. Planning Commissioners and members of the public who have opinions about the proposed bills are encouraged to contact their State Legislators.

South St. Paul's State Representative is Rick Hansen:

- Phone #: 651-296-6826
- Email Address: rep.rick.hansen@house.mn.gov.

South St. Paul's State Senator is Matt Klein:

- Phone #: 651-296-4370
- Emails can be sent using a form on the State Senate website: <https://www.senate.mn/members/email-form/1235>

BACKGROUND/ DISCUSSION

OVERVIEW

The State Legislature is currently reviewing two bills which would greatly limit local government's ability to regulate multifamily housing developments. The bills would instead establish a rigid set of statewide zoning standards for multifamily housing developments that all Minnesota communities must follow. Many of the proposed statewide zoning standards would be difficult to administer and would cause problems even if administered correctly. The proposed statewide zoning rules directly conflict with South St. Paul's comprehensive plan goals. As written, the bills would allow almost unlimited multifamily residential development in the part of the community that is "up the hill" which runs counter to the City's goal of keeping existing neighborhoods stable and encouraging context-sensitive infill development. At the same time, the proposed bills would make much of the Concord Street corridor "down the hill" completely unbuildable for multifamily housing so the City cannot achieve its redevelopment goals for that corridor.

Summary of Proposed Bills

In Minnesota, cities do not have any automatic powers and have only those powers which are delegated to them by the State. Cities only have local zoning control because the State has given cities local zoning control. Because of this, the State Legislature has complete authority to override local zoning rules through a process called preemption. The two proposed bills use preemption to replace local zoning rules for multifamily housing development with a new set of statewide rules. Staff has compiled a bullet-point list of how the proposed statewide regulations would affect South St. Paul:

Bill #1: HF 4009- Missing Middle Housing Bill

- Would require SSP to allow a small multifamily residential building with up to four (4) dwelling units on any lot. SSP also must choose a commercial district that is in a residential area and allow any residential lot within ½ mile of the designated commercial district to have up to eight (8) dwelling units on any lot.
- Cities cannot require more than one parking stall per dwelling unit.
- Cities will have very limited control over lot size and lot width for multifamily residential developments.
- Cities cannot require multifamily residential developments to be reviewed by their Planning Commission or City Council. These development projects must be reviewed administratively by City Staff as building permit applications. City Staff will only have 60 days to review a building permit application.
- Cities cannot establish architectural requirements for residential buildings.
- Cities must allow affordable housing developments to exceed height requirements and/or lot coverage maximums using a formula contained in the proposed bill. A City must allow any affordable housing development to be at least as tall as the tallest building allowed in any zoning district within 1 mile, up to 150 feet in height.

Bill #2: HF 4010- Multifamily Residential Developments in Cities Requirements Established

- This law would build off HF 4009 to impose additional rules for multifamily housing.
- Cities must allow multifamily residential developments on ANY property that is not zoned industrial or agricultural.
- Multifamily residential developments are not allowed within 500 feet of a rail line, airport, or interstate highway.
 - This would make much of the Concord Street corridor unbuildable for housing because the Union Pacific Railroad runs parallel to Concord Street along the Mississippi River.
 - It would make some development areas and redevelopment areas near the Fleming Field Municipal Airport unbuildable for housing.

South St. Paul Comprehensive Plan Goals Would Be Blocked by HF 4010

The City has focused a lot of time, energy, and money in planning for the revitalization of the northern part of the Concord Street Corridor as a series of dense walkable mixed-use neighborhoods with housing, restaurants, retail, and entertainment. The City has spent millions of dollars acquiring land, rebuilding Concord Street with pedestrian infrastructure, completing land use studies, and comprehensively updating zoning requirements. If HF 4010 passes “as written” and multifamily housing is no longer allowed within 500 feet of a rail line, much of the Concord Street corridor will become unbuildable overnight.

Below are links to some of the City’s adopted plans for this corridor which would be blocked by HF 4010:

1. The Hardman Triangle Plan calls for the redevelopment of a superblock near the Mississippi River as a mixed-use urban village: southstpaul.org/DocumentCenter/View/7618/Hardman-Triangle-Study
2. The Concord Street North Corridor Vision calls for creating a unique mixed-use corridor along the narrow strip of Concord Street that is north of Wentworth Avenue:
<https://www.southstpaul.org/DocumentCenter/View/9727/North-Concord-Corridor-Vision--FINAL>

Why is the State Legislature Considering Zoning Preemption Bills?

It is generally agreed that there is an overall housing shortage in Minnesota and nationwide. There is also a shortage of housing that is affordable for low-income and middle-class individuals. The reasons for this are complicated but, in many areas, at least one contributing factor is that local governments have adopted zoning and subdivision regulations which increase the cost of housing and/or prevent some units of housing from being constructed which otherwise would be built if development was left totally up to the “free market.”

Many zoning and subdivision regulations are necessary and serve an important public purpose (i.e., safety rules, environmental protections, provisions ensuring adequate utility service, etc.). There is a general feeling, however, that some communities have gone too far with their zoning regulations and are stifling the housing market and worsening the housing shortage. Consequently, it is becoming common for State Legislatures to pass laws requiring cities to implement targeted zoning reforms related to housing. For instance:

- The California State Legislature has passed laws requiring cities to allow accessory dwelling units (also known as granny flats) and to allow lot splits to create additional housing units.
- The Maine State Legislature passed a law that requires most cities to allow duplexes on all single-family home lots.
- The Oregon State Legislature passed a law that requires most cities to allow duplexes on all single-family home lots.

Existing Missing Middle Housing and Ongoing Zoning Reform Efforts in South St. Paul

South St. Paul did not adopt its first zoning code until 1948 so almost all the original neighborhoods “up the hill” were initially developed without formal zoning rules. As a result, there are duplexes, triplexes, quadplexes, and small apartment buildings mixed into almost all the original neighborhoods. This is what people mean when they talk about the “missing middle,” they are talking about types of housing that fall between a single-family home and a large apartment complex. Most of South St. Paul is currently zoned R-2 Single-and-Two-Family Residence which is a zoning district that allows single-family homes on all lots and duplexes on any lot that is at least 60 feet wide and 7,500 square feet in size. Some areas are zoned R-3 and R-4 which are zoning districts that allow larger “missing middle” residential buildings.

The Planning Commission and the City Council have worked diligently in recent years to ensure that South St. Paul has a range of housing choices throughout the community. The City’s current comprehensive plan, which was adopted in 2020, calls for “amending zoning and subdivision ordinances to allow for the construction of diverse housing types in a wider variety of zoning districts throughout the City.” The City Council also adopted a Master Housing Strategy in 2020 which acknowledges that the City Code’s performance standards for multifamily housing are not calibrated correctly (setback requirements, lot dimension requirements, lot coverage requirements, etc.). The Master Housing Strategy states that those standards should be updated to make it easier to build housing in South St. Paul.

The City is taking zoning reform very seriously and has undertaken numerous zoning code updates over the past 4 years to implement the 2040 Comprehensive Plan. Each of these updates has been handled carefully at the local level to ensure that the zoning standards “work” for South St. Paul and balance the need for more housing with the needs of the existing community. The proposed statewide solutions contained in the preemption bills are poorly calibrated and will undermine ongoing local efforts to address zoning reform in a thoughtful manner.

Discussion

The Minnesota State Legislature does have an important role to play when it comes to local zoning. Preemption can sometimes be an appropriate tool that can help Minnesota cities navigate sensitive issues that are too big or complicated for one municipality to address on its own. For instance, the State Legislature has written many environmental laws that apply across the state and are enforced by local planning & zoning departments. The State Legislature has also written laws that lay out how lawful nonconformity rights (“grandfather rights”) work so that landowners in all Minnesota cities have a consistent set of standards in place to protect their private property rights.

Many planning professionals would acknowledge that there are some aspects of zoning that could benefit from targeted statewide reforms. However, HF 4009 and HF 4010 are problematic for several reasons:

- HF 4009 has the support of the construction industry, the real estate industry, and a number of nonprofits and community activists that are focused on providing housing. However, the authors of HF 4009 are missing important perspectives because they did not involve local government officials or local land use planners when drafting their bill. They fail to account for many key issues such as how sewer and water utility systems have capacity limits and not all neighborhoods have enough surplus capacity to handle a large increase in housing density. The League of Minnesota Cities has written a letter (Attachment A) outlining many of these concerns.

- HF 4009 is complex and very far-reaching and some parts of it simply will not work, at least not as written. For instance, it is not logistically possible for City Staff to administratively review/approve large multifamily developments as building permits within a 60-day window.
- HF 4009 appears to be poorly calibrated and could result in a built environment that many residents find highly unpleasant. The bill requires the City to potentially allow affordable housing developments to be up to 150 feet in height (roughly 14 stories) regardless of zoning district. This could result in a 150-foot-tall building next to a low-density neighborhood.
- HF 4010 has some of the same issues as HF 4009 and it contains poison-pill provisions that do not have a clear public policy purpose. There is no reason why the State should prohibit cities from allowing multifamily housing within 500 feet of rail lines, highways, and airports. The Star Tribune recently published an article about how Wayzata has some of the highest real estate prices in the Twin Cities metro and is considered one of the hottest markets. There is a rail line running through downtown Wayzata so part of this hot market would become “unbuildable” if HF 4010 was passed. Hot neighborhoods in Minneapolis (i.e., the North Loop), Saint Louis Park, Hopkins, and many other Minnesota communities are also within 500 feet of rail lines.

NEXT STEPS

The State Legislature is in session until May 20, 2024, and then they will adjourn until 2025. They will be considering and voting on many bills over the next three months. Planning Commissioners and members of the public who have an opinion about HF 4009 and/or HF 4010 are encouraged to contact their State Senator and State Representative and share that opinion. If any Planning Commissioners decide that they generally support the goals of these two bills, they may still want to consider asking their State Senator and State Representative to work to remove the proposed statewide zoning rule that would require all multifamily developments to be set back at least 500 feet from rail lines, highways, and airports. That provision serves no clear public purpose and would make it impossible for South St. Paul to achieve its development goals for the Concord Street corridor.

ATTACHMENTS

- A. Letter from the League of Minnesota Cities
- B. Draft of HF 4009
- C. Draft of HF 4010

LINKS

Webpage for HF 4009: <https://www.revisor.mn.gov/bills/bill.php?b=house&f=HF4009&ssn=0&y=2024>

Webpage for HF 4010: <https://www.revisor.mn.gov/bills/bill.php?b=house&f=HF4010&ssn=0&y=2024>

ATTACHMENT A



February 20, 2024

Re: City comments on HF 4009 (“Missing Middle Housing”)

Dear Chair Howard, Vice Chair Agbaje and Members of the House Housing Finance and Policy Committee:

The League of Minnesota Cities, Coalition of Greater Minnesota Cities, Metro Cities, Minnesota Association of Small Cities, and Municipal Legislative Commission appreciate the opportunity to provide comments in opposition to HF 4009 (Kraft) as amended by the DE amendment. Our organizations and the cities we represent are deeply concerned with provisions in the bill that broadly preempt city zoning and land use authorities, remove public input in the residential development process, ignore long range local comprehensive plans and lack consideration for how cities utilize zoning and land use to ensure the health safety and welfare for residents and scale infrastructure to support new housing density.

Cities across the state have implemented innovative changes at the local level with community engagement to address their individual zoning and land use ordinances, provide local resources to ensure affordability, and create opportunities for new development across the housing spectrum. Zoning is hyper local as is each community’s locally identified housing needs, public infrastructure capacity to accommodate new density, and advancing other individual community goals including historic preservation and protection of natural resources. While housing is a statewide issue, addressing housing affordability and availability must continue to be locally driven to account for these nuances.

The Missing Middle Housing bill as currently drafted, unfortunately falls short of policy that supports state-local partnership for residential development. Instead, the bill as written replaces existing zoning and land use authorities with an overly broad and rigid framework that eliminates the ability for all cities to account for nuances and be responsive to local conditions. In addition to the overall breadth of the preemptive nature of the policy proposed in the bill, numerous provisions in the proposed legislation pose serious practical questions for how city operations would function under the bill and either lack clarity or directly conflict with existing statute in ways that would likely result in litigation including:

- Section 1 of the bill creates minimum levels for density on all residential lots, which would force cities of the first class to allow between four and ten residential units and all other cities to accept between two and eight residential units on any residential lot regardless of its size or water and sewer infrastructure capacity or other state and federal requirements including stormwater management, fire and EMS access, and other standards.
- The bill does not consider overall lack of public infrastructure capacity, but forces cities to accept additional density without any consideration for how re-sizing infrastructure will be paid for to support the additional density, which will ultimately be borne by existing residents.
- Section 1 of the bill imposes unreasonable minimum lot size requirements to support the level of density mandated in the bill.
- Both Section 1 of the Missing Middle Housing bill and the DE amendment mandate new administrative review requirements that eliminates a resident’s ability to voice concerns over material impacts a project would have on their property by eliminating all public hearing requirements for most residential development projects.

- Section 1 of the bill requires cities without a major transit stop to identify a commercial district in the city where high density development must be accepted despite most cities in Minnesota having neither and in hundreds of cities would result in allowing higher density multifamily buildings on all lots despite being well beyond the capacity of most greater Minnesota cities.
- The bill as amended by the DE amendment would force a city to accept by right up to a 150-foot multifamily building in certain areas of a city on any parcel even if that parcel was next to a single-family owner-occupied home without adequate ability to ensure reasonable setbacks for fire and safety.
- Section 1 of the bill also creates an exhaustive list for city zoning and land use authority, which leaves out significant life safety and public, health, safety, and welfare considerations that are included in longstanding city zoning and land use authority including emergency services access, fire safety, public infrastructure capacity, utility access, etc. The exhaustive list in the Missing Middle Housing bill, which includes height restrictions appear to directly contradict provisions in the DE amendment that prohibit restrictions on height.
- The bill in limiting minimum parking requirements while requiring higher density could result in developers underbuilding parking resulting in spillover onto city streets that were not designed to accommodate dense on street parking.
- The bill also includes contradictions within the bill itself including references that missing middle housing must be “compatible in scale, form, and character” with other housing while also broadly eliminating the ability for cities to impose those standards with the preemption of architectural design standards in section 2, which is overly broad and subjective likely resulting in legal challenges.

Thank you for consideration of our concerns. We look forward to continuing to work with Representative Kraft and other legislators to identify incentives-based approaches that support cities in their efforts to address local housing needs. Rigid state-mandated frameworks that remove community-engagement and lack consideration for how cities pay for and plan for infrastructure to support new residential density will create serious consequences for cities across the state.

Sincerely,

Daniel Lightfoot
League of Minnesota Cities

Ania McDonnell
Metro Cities

Elizabeth Wefel
Coalition of Greater Minnesota Cities

Tom Poul
Municipal Legislative Commission

Patricia Nauman
Metro Cities

Cap O'Rourke
Minnesota Association of Small Cities

This Document can be made available in alternative formats upon request

REVISOR

State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4009

02/19/2024 Authored by Kraft, Howard, Nash, Elkins, Wolgamott and others
02/22/2024 Adoption of Report: Amended and re-referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to local government; establishing minimum allowable densities on
1.3 residential lots in cities; requiring the authorization of middle housing types to be
1.4 built on residential lots; authorizing subdivision of residential lots; limiting parking
1.5 requirements established by cities; requiring the Minnesota Housing Finance
1.6 Agency to create a model ordinance for cities; limiting city aesthetic mandates on
1.7 residential building permits; establishing requirements for multifamily residential
1.8 developments in cities; proposing coding for new law in Minnesota Statutes,
1.9 chapter 462.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. [462.3571] MULTIFAMILY RESIDENTIAL DEVELOPMENTS.

1.12 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.13 the meanings given them.

1.14 (b) "Affordable housing development" means a multifamily residential development in
1.15 which:

1.16 (1) at least 20 percent of the residential units are for households whose incomes do not
1.17 exceed 50 percent of the area median income; or

1.18 (2) at least 40 percent of the residential units are for households whose incomes do not
1.19 exceed 60 percent of the area median income.

1.20 The deed or declaration for an affordable residential unit must also contain a restrictive
1.21 covenant requiring the property to remain affordable housing for at least 30 years.

1.22 (c) "City" means a home rule charter or statutory city.

1.23 (d) "Residential unit" means a residential dwelling for the use of a single owner or tenant.

2.1 (e) "Structure" means anything constructed or installed for residential or commercial
2.2 use which requires a location on a parcel of land.

2.3 Subd. 2. **Multifamily residential developments.** (a) Subject to compliance with all
2.4 municipal standards, multifamily residential developments are a permitted use in any
2.5 commercial zoning district. A multifamily residential development may not be constructed
2.6 on a lot zoned for a single-family home unless otherwise authorized by law, rule, or
2.7 ordinance.

2.8 (b) A multifamily residential development may be mixed use so long as at least 50
2.9 percent of the square footage of the development is dedicated to residential use.

2.10 Subd. 3. **Compliance with comprehensive plan; zoning.** A multifamily residential
2.11 development must be approved by a city if it is consistent with the comprehensive plan on
2.12 the date of submission and complies with the requirements of this section and all state and
2.13 municipal standards.

2.14 Subd. 4. **Applicable zoning standards.** (a) A city may not impose more restrictive
2.15 standards on a multifamily residential development than those that apply to property zoned
2.16 for the current use of the parcel.

2.17 (b) A city must not impose a height requirement on a multifamily residential development
2.18 that is less than the tallest structure within a one-quarter mile radius of the parcel on which
2.19 the development will be built, or the maximum height permitted under the city's official
2.20 controls, whichever is higher, so long as the maximum height of the development is no
2.21 more than 150 feet.

2.22 (c) A city must not impose a setback requirement on a multifamily residential
2.23 development that is less than the smallest minimum setback distance required of a structure
2.24 within a one-quarter mile radius of the parcel on which the development will be built.

2.25 Subd. 5. **Parking requirements limited.** A city may not require more than one off-street
2.26 parking space per residential unit.

2.27 Subd. 6. **Affordable housing development; height requirements.** (a) An affordable
2.28 housing development must be permitted to exceed both a maximum height requirement and
2.29 a maximum floor area ratio limitation imposed by city official controls as provided in
2.30 paragraphs (b) and (c). The authority in paragraphs (b) and (c) that will produce the tallest
2.31 development with the most number of affordable housing units on the parcel shall be applied
2.32 to the affordable housing development.

2.33 (b) An affordable housing development may either:

3.1 (1) exceed the height requirement for the zoning district where the affordable housing
3.2 development will be located by 35 feet in height; or

3.3 (2) match the maximum allowed height in any zoning district within one mile of the
3.4 affordable housing development, so long as the maximum height is no more than 150 feet.

3.5 (c) An affordable housing development must be permitted to do one of the following,
3.6 whichever results in the largest development:

3.7 (1) exceed the maximum density as permitted by city standards or the city's
3.8 comprehensive plan by 30 percent;

3.9 (2) exceed the lot coverage ratio by 30 percent;

3.10 (3) exceed the floor area ratio by 30 percent; or

3.11 (4) exceed the maximum impervious lot coverage area by 30 percent.

3.12 Subd. 7. **Administrative review process.** (a) Notwithstanding any law, rule, or ordinance
3.13 to the contrary, a city must establish an administrative review process for building permit
3.14 applications for multifamily housing development projects. The administrative review
3.15 process must review and approve or deny such building permit applications based on the
3.16 application's conformity with the city's comprehensive plan, other applicable zoning
3.17 requirements, and state law. An application may not be approved contingent on the
3.18 development being a part of planned unit development, the approval of a conditional use
3.19 permit, the completion of a study, or other condition that is not related to conformity with
3.20 the city's comprehensive plan, zoning requirements, and state law.

3.21 (b) An application denial must be in writing and must describe the reasons for denial
3.22 and the ways the application or development design can be amended to receive approval at
3.23 a future date. Nothing in this subdivision prevents an applicant who received a denial from
3.24 submitting a new application for the same multifamily housing development, which shall
3.25 be treated as a new submission by the city.

3.26 (c) The administrative review process shall not involve a public hearing unless one is
3.27 required by state or federal law. Approval or denial of an application does not require
3.28 approval by the city council or a subcommittee of the council.

3.29 (d) An application subject to the administrative review process under this subdivision
3.30 must be approved or disapproved within 60 days following the receipt by the city of a
3.31 completed application by the applicant. If the city fails to approve or disapprove an
3.32 application within 60 days, the application shall be deemed approved. The city may not
3.33 request an extension for review of the application from the applicant.

4.1 (e) A city may request that an applicant incorporate certain design elements into the
4.2 development that go beyond the criteria in state law and city official controls. The applicant
4.3 may incorporate those elements in the design of the development but is not required to do
4.4 so.

4.5 Subd. 8. **Local funds.** Notwithstanding any law, rule, or ordinance to the contrary, a
4.6 city may not impose requirements on a multifamily housing development that are more
4.7 restrictive than the requirements in this section if a multifamily housing development is
4.8 funded in whole, or in part, with local funds or is located in a tax increment financing district
4.9 or other special district created by the city.

4.10 **EFFECTIVE DATE.** This section is effective January 1, 2025.

4.11 Sec. 2. **[462.3575] CITY MINIMUM RESIDENTIAL DENSITIES AND**
4.12 **ASSOCIATED REQUIREMENTS.**

4.13 Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have
4.14 the meanings given them.

4.15 (b) "Accessory dwelling unit" means any building that contains one dwelling unit used,
4.16 intended, or designed to be built, used, rented, leased, let, or hired out to be occupied, or
4.17 occupied for living purposes and is located on the same property as an existing dwelling.
4.18 An accessory dwelling unit may be attached or detached from the existing dwelling.

4.19 (c) "Affordable housing" means a residential dwelling unit affordable to households at
4.20 or below 115 percent of the area median household income, for an owner-occupied unit, or
4.21 at or below 60 percent of the area median household income, for a unit that is leased. The
4.22 deed or declaration for the unit must also contain a restrictive covenant requiring the property
4.23 to remain affordable housing for at least ten years, if the unit is owner-occupied, or at least
4.24 30 years if the unit is leased.

4.25 (d) "All-electric and efficient home" means a residential dwelling unit that utilizes
4.26 electricity as its sole source of energy for heating, hot water heating, cooling, and appliances,
4.27 and meets the most current minimum efficiency standards of a zero energy ready home
4.28 under the Zero Energy Ready Home program administered by United States Department
4.29 of Energy.

4.30 (e) "City" means a home rule charter or statutory city.

4.31 (f) "Cottage housing" means residential dwelling units on a lot with a common open
4.32 space that either:

- 5.1 (1) is owned in common; or
- 5.2 (2) has units owned as condominium units with property owned in common and a
5.3 minimum of 20 percent of the lot size as open space.
- 5.4 (g) "Courtyard apartment" means a building with up to four attached residential dwelling
5.5 units arranged on two or three sides of a yard or garden.
- 5.6 (h) "Duplex" means a two family home, classified as an IRC-2 in the State Building
5.7 Code and not meeting the definition of townhouse.
- 5.8 (i) "Fiveplex" means a building containing five residential dwelling units intended for
5.9 nontransient occupancy and not meeting the definition of townhouse.
- 5.10 (j) "Fourplex" means a building containing four residential dwelling units intended for
5.11 nontransient occupancy and not meeting the definition of townhouse.
- 5.12 (k) "Lot" means any contiguous parcel of land in the possession of, owned by, or recorded
5.13 as the property of the same claimant or person.
- 5.14 (l) "Major transit stop" means a stop or station for a guideway or for a busway, as the
5.15 terms are defined in section 473.4485, subdivision 1.
- 5.16 (m) "Metropolitan area" has the meaning under section 473.121, subdivision 2.
- 5.17 (n) "Middle housing" means buildings that are single-family detached homes and
5.18 residential properties that are compatible in scale, form, and character with single-family
5.19 detached homes. Middle housing includes all of the following housing types:
- 5.20 (1) duplexes;
- 5.21 (2) triplexes;
- 5.22 (3) fourplexes;
- 5.23 (4) fiveplexes;
- 5.24 (5) sixplexes;
- 5.25 (6) townhouses;
- 5.26 (7) stacked flats;
- 5.27 (8) courtyard apartments;
- 5.28 (9) cottage housing; and
- 5.29 (10) single-family detached homes.

6.1 (o) "Residential dwelling unit" or "unit" means a residential dwelling unit for the use of
6.2 a single owner or tenant, and applies to any type of residential structure unless otherwise
6.3 specified.

6.4 (p) "Single-family detached home" means any building that contains one residential
6.5 dwelling unit used, intended, or designed to be built, used, rented, leased, let, or hired out
6.6 to be occupied, or occupied for living purposes that is not attached to another structure.

6.7 (q) "Sixplex" means a building containing six residential dwelling units intended for
6.8 nontransient occupancy and not meeting the definition of townhouse.

6.9 (r) "Stacked flat" means a nontransient residential building of no more than three stories
6.10 on a lot zoned for residential development in which each floor is a residential dwelling unit.

6.11 (s) "Townhouse" means a single-family residential dwelling unit constructed in a group
6.12 of three or more attached units in which each unit extends from the foundation to the roof
6.13 and with open space on at least two sides. Each single-family residential dwelling unit shall
6.14 be considered to be a separate building. Separate building service utilities shall be provided
6.15 to each single-family residential dwelling unit when required by the Minnesota State Building
6.16 Code.

6.17 (t) "Triplex" means a building containing three residential dwelling units intended for
6.18 nontransient occupancy and not meeting the definition of townhouse.

6.19 Subd. 2. **Middle housing types permitted.** Any city in the metropolitan area and any
6.20 city outside of the metropolitan area with a population of 10,000 or more must authorize at
6.21 least six types of middle housing other than single-family detached homes to be built on
6.22 residential lots in the city to achieve the density requirements in this section.

6.23 Subd. 3. **Cities of the first class; required residential densities.** (a) A city of the first
6.24 class must permit the development of at least four residential dwelling units on any residential
6.25 lot that is more than one-half mile from a major transit stop, unless one of the following
6.26 criteria are met:

6.27 (1) if all of the units are all-electric and efficient homes, the city must permit the
6.28 development of at least six residential dwelling units on the lot;

6.29 (2) if at least two of the units are affordable housing, the city must permit the development
6.30 of at least six residential dwelling units on the lot; or

6.31 (3) if all of the units are all-electric and efficient homes and at least two of the units are
6.32 also affordable housing, the city must permit the development of at least eight residential
6.33 dwelling units on the lot.

7.1 (b) A city of the first class must permit the development of at least six residential dwelling
7.2 units on any residential lot that is one-half mile or less from a major transit stop, unless one
7.3 of the following criteria are met:

7.4 (1) if all of the units are all-electric and efficient homes, the city must permit the
7.5 development of at least eight residential dwelling units on the lot;

7.6 (2) if at least two of the units are affordable housing, the city must permit the development
7.7 of at least eight residential dwelling units on the lot; or

7.8 (3) if all of the units are all-electric and efficient homes and at least two of the units are
7.9 also affordable housing, the city must permit the development of at least ten residential
7.10 dwelling units on the lot.

7.11 (c) The requirements of this subdivision apply regardless of the types of middle housing
7.12 authorized by the city under subdivision 2.

7.13 Subd. 4. **Greater Minnesota small cities; required residential densities.** A city with
7.14 a population of less than 10,000 that is located outside of the metropolitan area must permit
7.15 the development of at least two residential dwelling units on any residential lot.

7.16 Subd. 5. **Other cities; required residential densities.** (a) A city to which the
7.17 requirements of subdivisions 3 and 4 do not apply must permit the development of at least
7.18 two residential dwelling units on any residential lot that is more than one-half mile from a
7.19 major transit stop, unless one of the following criteria are met:

7.20 (1) if all of the units are all-electric and efficient homes the city must permit the
7.21 development of at least three residential dwelling units on the lot;

7.22 (2) if at least one of the units is affordable housing, the city must permit the development
7.23 of at least three residential dwelling units on the lot; or

7.24 (3) if all of the units are all-electric and efficient homes and at least one of the units is
7.25 also affordable housing, the city must permit the development of at least four residential
7.26 dwelling units on the lot.

7.27 (b) A city subject to this subdivision must permit the development of at least four
7.28 residential dwelling units on any residential lot that is one-half mile or less from a major
7.29 transit stop, unless one of the following criteria are met:

7.30 (1) if all of the units are all-electric and efficient homes, the city must permit the
7.31 development of at least six residential dwelling units on the lot;

8.1 (2) if at least two of the units are affordable housing, the city must permit the development
8.2 of at least six residential dwelling units on the lot; or

8.3 (3) if all of the units are all-electric and efficient homes and at least two of the units are
8.4 also affordable housing, the city must permit the development of at least eight residential
8.5 dwelling units on the lot.

8.6 (c) The requirements of this subdivision apply regardless of the types of middle housing
8.7 authorized by the city under subdivision 2.

8.8 Subd. 6. **Municipal standards.** (a) Any standards, performance conditions, or
8.9 requirements imposed by a city for residential dwelling units permitted under subdivisions
8.10 3, 4, and 5 must directly relate to protecting public health, safety, and general welfare.

8.11 (b) A city may not use official controls to prohibit the application of this section, including
8.12 imposing performance conditions, standards, requirements, ordinances, fees, exactions, and
8.13 dedications on any residential dwelling unit or development that are more restrictive than
8.14 those in this section or other law or rule.

8.15 Subd. 7. **Commercial district designation.** A city with a population of 10,000 or more
8.16 that does not have a major transit stop within the boundaries of the city must designate the
8.17 boundaries of at least one commercial district in the city. The commercial district must be
8.18 adjacent to residential property. The boundaries of the commercial district must be treated
8.19 as a major transit stop for the purposes of determining properties to which the densities in
8.20 subdivisions 3 and 5 apply.

8.21 Subd. 8. **Accessory dwelling units authorized.** (a) An accessory dwelling unit may be
8.22 built on any residential lot in a city, regardless of total lot size, street frontage, connectivity
8.23 between the accessory dwelling unit and the primary dwelling on the lot, and whether the
8.24 lot is occupied by the property owner, so long as the accessory dwelling unit is built in
8.25 conformance with the Minnesota State Building Code.

8.26 (b) A city may permit more than one accessory dwelling unit to be built on a residential
8.27 lot.

8.28 (c) An accessory dwelling unit qualifies as a residential dwelling unit for the purposes
8.29 of subdivisions 3, 4, and 5.

8.30 Subd. 9. **Minimum lot size permitted.** (a) A city may, by ordinance, require a minimum
8.31 lot size in accordance with this subdivision to which the density requirements of subdivisions
8.32 3 and 5 apply.

8.33 (b) A minimum lot size for a city of the first class must not be greater than:

9.1 (1) 2,500 square feet for a single-family detached home, duplex, triplex, fourplex,
9.2 fiveplex, sixplex, stacked flat, and courtyard apartment; or

9.3 (2) 1,200 square feet for a townhome and cottage housing.

9.4 (c) A minimum lot size for a city subject to subdivision 5 must not be greater than:

9.5 (1) 4,000 square feet for a single-family detached home, duplex, triplex, fourplex,
9.6 fiveplex, sixplex, stacked flat, and courtyard apartment; or

9.7 (2) 1,200 square feet for a townhome and cottage housing.

9.8 (d) This subdivision does not apply to a city located outside of the metropolitan area
9.9 with a population of less than 10,000.

9.10 Subd. 10. City official controls; limitations. (a) City official controls establishing,
9.11 directly or indirectly, the permitted size, scale, or form of a building may only impose the
9.12 following limitations:

9.13 (1) building height maximums;

9.14 (2) yard or setback requirements;

9.15 (3) maximum lot coverage;

9.16 (4) impervious surface maximums;

9.17 (5) lot width minimums;

9.18 (6) lot area minimums; and

9.19 (7) a maximum number of residential units per lot.

9.20 (b) City official controls must not impose architectural features, minimum square footage,
9.21 garage square footage, or floor area ratios, and must not create practical difficulties in the
9.22 placement of residential units on any lot.

9.23 (c) City official controls establishing, directly or indirectly, the maximum square footage,
9.24 gross floor area, or other size standard for residential dwelling units must be increased by
9.25 at least ten percent per single-family unit built on a lot where multiple single-family units
9.26 will be developed. A city may opt not to adjust a height standard for single-family units
9.27 entitled to other standard adjustments under this paragraph.

9.28 (d) A city must reduce a setback standard by at least one foot for an all-electric and
9.29 efficient home.

10.1 Subd. 11. **Parking requirements limited.** (a) A city may not require off-street parking
10.2 space for a residential dwelling unit that is one-half mile or less from a major transit stop.

10.3 (b) A city may not require more than one off-street parking space per residential dwelling
10.4 unit that is over one-half mile from a major transit stop.

10.5 Subd. 12. **Affordable housing; replacement required.** Affordable housing on a
10.6 residential lot may only be demolished, in whole or in part, for the construction of middle
10.7 housing if the middle housing development will create at least as many affordable housing
10.8 units as exist in the structure to be demolished.

10.9 Subd. 13. **Subdivision of lots permitted; administrative review process established.** (a)
10.10 Notwithstanding any law, rule, or ordinance to the contrary, a city must permit a residential
10.11 lot to which the density requirements of subdivisions 3, 4, and 5 apply to be subdivided in
10.12 a manner that allows all units to be built on the property to be single-family detached homes.

10.13 (b) A residential lot created from the subdivision of property under paragraph (a) that
10.14 is smaller than a minimum lot size required pursuant to subdivision 9 is not subject to the
10.15 density requirements under subdivisions 3, 4, and 5.

10.16 (c) A city shall process an application to subdivide a residential lot in accordance with
10.17 the procedures under subdivision 14.

10.18 Subd. 14. **Administrative design review process established.** (a) Notwithstanding
10.19 section 462.358, subdivision 3b, or any other law, rule, or ordinance to the contrary, a city
10.20 must establish an administrative design review process for building permits for middle
10.21 housing development projects and subdivision applications under subdivision 13. The
10.22 administrative review process must review and approve or deny such building permit and
10.23 subdivision applications based on the application's alignment with the city's comprehensive
10.24 plan and other applicable zoning requirements. The administrative review process shall not
10.25 involve a public hearing unless one is required by state or federal law or the project involves
10.26 or affects a lot located in a historic district under section 138.73. The city may hold a public
10.27 hearing on a building permit or subdivision application under this section for requests for
10.28 variances from city zoning requirements. Except as provided in paragraph (b), an application
10.29 subject to the administrative design review process under this paragraph must be approved
10.30 or disapproved within 60 days following the receipt by the city of a completed application
10.31 by the applicant. If the city fails to approve or disapprove an application within 60 days,
10.32 the application shall be deemed approved.

11.1 (b) A city must specify in writing all requirements for an application for a building
11.2 permit for middle housing or for a subdivision to be considered complete. The written
11.3 completion requirements must accompany each application.

11.4 (c) An applicant may direct the city to toll the 60-day review period for an application
11.5 for a building permit for middle housing or for a subdivision application under subdivision
11.6 13. The applicant may also direct the city to begin to run the 60-day time period for an
11.7 application that was previously tolled upon request by the applicant. A request under this
11.8 paragraph must be in writing. A city may not charge a fee to the applicant for a request
11.9 under this paragraph.

11.10 Subd. 15. **Model ordinance.** (a) On or before December 31, 2024, the commissioner of
11.11 the Minnesota Housing Finance Agency must develop and publish a model ordinance for
11.12 adoption by cities that addresses the requirements of this section. On or before July 1, 2025,
11.13 a city must adopt the model ordinance under this subdivision or amend its official controls
11.14 to be consistent with the requirements of this section as part of an alternative density plan
11.15 under subdivision 16.

11.16 (b) The Minnesota Housing Finance Agency must convene an advisory group of
11.17 stakeholders to provide information during the development of the model ordinance. The
11.18 advisory group must represent expertise in city administration, housing affordability, housing
11.19 construction, municipal land use planning and zoning, and any other topics that the agency
11.20 determines are necessary.

11.21 Subd. 16. **Alternative density plans.** A city may develop an alternative density plan
11.22 and submit the plan to the commissioner of the Minnesota Housing Finance Agency for
11.23 approval. The commissioner may approve an alternative density plan under this subdivision
11.24 only if the city demonstrates that the plan will result in an equal or greater amount of middle
11.25 housing production that would occur with the adoption of the model ordinance under
11.26 subdivision 15. The commissioner must approve or disapprove an alternative density plan
11.27 within 120 days of the day of receipt of the plan by the commissioner.

11.28 Subd. 17. **Exception.** Nothing in this section authorizes a residential dwelling unit that
11.29 is prohibited by state or federal law, or an ordinance adopted pursuant to such a state or
11.30 federal law, that protects floodplains, areas of critical concern, wild and scenic rivers, or
11.31 that otherwise restrict residential dwelling units to protect the environment or scenic areas.

11.32 Subd. 18. **State Building Code; State Fire Code.** This section does not modify any
11.33 requirement of the State Building Code or State Fire Code.

12.1 **EFFECTIVE DATE.** This section is effective July 1, 2025, except that subdivisions
12.2 1, 15, and 16 are effective July 1, 2024, and that subdivisions 4 and 5 are effective July 1,
12.3 2026.

12.4 Sec. 3. **[462.3576] LIMITATION ON AESTHETIC MANDATES FOR CITIES.**

12.5 A home rule charter or statutory city must not condition approval of a residential building
12.6 permit, subdivision development, or planned unit development on the use of one or more
12.7 of the following:

12.8 (1) specific materials for aesthetic reasons for property used for a residential purpose as
12.9 defined by the State Building Code;

12.10 (2) minimum square footage or floor area ratios;

12.11 (3) architectural design elements including, but not limited to, decks, balconies, porches,
12.12 gables, roof pitch, and elevation design standards;

12.13 (4) garage square footage; or

12.14 (5) common space, pools, or any common property necessitating a homeowner's
12.15 association.

12.16 **EFFECTIVE DATE.** This section is effective July 1, 2024.

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State of Minnesota HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4010

02/19/2024 Authored by Kozlowski, Howard, Agbaje, Hollins, Wolgamott and others The bill was read for the first time and referred to the Committee on Housing Finance and Policy

1.1 A bill for an act
1.2 relating to local government; establishing requirements for multifamily residential
1.3 developments in cities; proposing coding for new law in Minnesota Statutes,
1.4 chapter 462.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 462.3571 MULTIFAMILY RESIDENTIAL DEVELOPMENTS.

1.7 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.8 the meanings given.

1.9 (b) "Affordable housing development" means a multifamily residential development in
1.10 which:

1.11 (1) at least 20 percent of the residential units are for households whose incomes do not
1.12 exceed 50 percent of the area median income; or

1.13 (2) at least 40 percent of the residential units are for households whose incomes do not
1.14 exceed 60 percent of the area median income.

1.15 The deed or declaration for an affordable residential unit must also contain a restrictive
1.16 covenant requiring the property to remain affordable housing for at least 30 years.

1.17 (c) "City" means a home rule charter or statutory city.

1.18 (d) "Residential unit" means a residential dwelling for the use of a single owner or tenant.

1.19 Subd. 2. Multifamily residential developments. (a) Multifamily residential
1.20 developments are a permitted use in any zoning district that is not zoned as industrial or
1.21 agricultural, subject to compliance with all municipal standards.

2.1 (b) A multifamily residential development may be mixed use so long as at least 50
2.2 percent of the square footage of the development is dedicated to residential use.

2.3 Subd. 3. Proximity to certain transportation infrastructure. A multifamily residential
2.4 development must not be located less than 500 feet from a federal interstate highway, airport,
2.5 or rail line. The limitation under this subdivision does not apply to a state trunk highway,
2.6 county state-aid highway, or other local road.

2.7 Subd. 4. Compliance with comprehensive plan; zoning. A multifamily residential
2.8 development must be approved by a city if it is consistent with the comprehensive plan on
2.9 the date of submission and complies with all state and municipal standards.

2.10 Subd. 5. Applicable zoning standards. (a) A city may not impose more restrictive
2.11 standards to a multifamily residential development than those that apply to property zoned
2.12 for the current use of the parcel.

2.13 (b) A city must not impose a height requirement on a multifamily residential development
2.14 that is less than the tallest structure within a one-quarter mile radius of the parcel on which
2.15 the development will be built or the maximum height permitted under the city's official
2.16 controls, whichever is higher, so long as the maximum height of the development is no
2.17 more than 150 feet.

2.18 (c) A city must not impose a setback requirement on a multifamily residential
2.19 development that is less than the smallest minimum setback distance required of a structure
2.20 within a one-quarter mile radius of the parcel on which the development will be built.

2.21 Subd. 6. Parking requirements limited. A city may not require more than one off-street
2.22 parking space per residential unit.

2.23 Subd. 7. Affordable housing development; height requirements. (a) An affordable
2.24 housing development must be permitted to exceed both a maximum height requirement and
2.25 a maximum floor area ratio limitation imposed by city official controls as provided in
2.26 paragraphs (b) and (c). The authority in paragraphs (b) and (c) that produces the tallest
2.27 development with the most number of affordable housing units on the parcel shall be applied
2.28 to the affordable housing development.

2.29 (b) An affordable housing development may either:

2.30 (1) exceed the height requirement for the zoning district where the affordable housing
2.31 development will be located by 35 feet in height; or

2.32 (2) match the maximum allowed height in any zoning district within one mile of the
2.33 affordable housing development, so long as the maximum height is no more than 150 feet.

3.1 (c) An affordable housing development must be permitted to do one of the following,
3.2 whichever results in the largest development:

3.3 (1) exceed the maximum density as permitted by city standards or the city's
3.4 comprehensive plan by 30 percent;

3.5 (2) exceed the lot coverage ratio by 30 percent;

3.6 (3) exceed the floor area ratio by 30 percent; or

3.7 (4) exceed the maximum impervious lot coverage area by 30 percent.

3.8 Subd. 8. **Administrative review process.** (a) Notwithstanding any law, rule, or ordinance
3.9 to the contrary, a city must establish an administrative review process for building permit
3.10 applications for multifamily residential development projects. The administrative review
3.11 process must review and approve or deny such building permit applications based on the
3.12 application's conformity with the city's comprehensive plan, other applicable zoning
3.13 requirements, and state law. An application may not be approved contingent on the
3.14 development being a part of planned unit development, the approval of a conditional use
3.15 permit, the completion of a study, or other condition that is not related to conformity with
3.16 the city's comprehensive plan, zoning requirements, and state law.

3.17 (b) An application denial must be in writing and must describe the reasons for denial
3.18 and the ways the application or development design can be amended to receive approval at
3.19 a future date. Nothing in this subdivision prevents an applicant who received a denial from
3.20 submitting a new application for the same multifamily residential development, which shall
3.21 be treated by the city as a new submission.

3.22 (c) The administrative review process shall not involve a public hearing unless one is
3.23 required by state or federal law. Approval or denial of an application does not require
3.24 approval by the city council or a subcommittee of the council.

3.25 (d) An application subject to the administrative review process under this subdivision
3.26 must be approved or denied within 60 days following the receipt by the city of a completed
3.27 application by the applicant. If the city fails to approve or deny an application within 60
3.28 days, the application shall be deemed approved. The city may not request an extension for
3.29 review of the application from the applicant.

3.30 (e) A city may request that an applicant incorporate certain design elements into the
3.31 development that go beyond the criteria in state law and city official controls. The applicant
3.32 may incorporate those elements in the design of the development but is not required to do
3.33 so.

4.1 Subd. 9. **Local funds.** Notwithstanding any law, rule, or ordinance to the contrary, a
4.2 city may not impose requirements on a multifamily residential development that are more
4.3 restrictive than the requirements in this section if a multifamily residential development is
4.4 funded in whole, or in part, with local funds or is located in a tax increment financing district
4.5 or other special district created by the city.

4.6 **EFFECTIVE DATE.** This section is effective January 1, 2025.