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| <p><b>Chair:</b><br/>Tim Felton</p> <p><b>Commissioners:</b><br/>Geoff Fournier<br/>Tyler Fehrman<br/>James Hart<br/>Ruth Krueger<br/>Brienne Miller<br/>Andrew Hoffman</p>  |  <p><b>City of South St. Paul<br/>Planning Commission Agenda</b></p> <p><b>Wednesday, June 5, 2024<br/>7:00 p.m.</b></p> | <p>City of South St. Paul<br/>125 Third Avenue North<br/>South St. Paul, MN 55075<br/>Phone: (651) 554-3217<br/>Fax: (651) 554-3271<br/><a href="http://www.southstpaul.org">www.southstpaul.org</a></p> |
| <p>Hearing assistance PA system is available – if you need a hearing assistance unit please notify City staff before the meeting.<br/><i>(If you use the hearing assistance PA system, please remove your hearing aid so it does not cause a feedback problem)</i></p> |   |  |
| <p><b>Roll Call</b></p>  |   |  |
| <p><b>1. Agenda</b></p>  |   |  |
| <p><b>2. Minutes</b></p> <p>A. May 1, 2024</p>   |   |  |
| <p><b>3. New Business</b></p>  |   |  |
| <p><b>4. Public Hearings</b></p> <p>A. Front Yard Setback Variance for an Enclosed Porch Addition at 120 2<sup>nd</sup> Avenue South</p> <p>B. Conditional Use Permit for On-Sale Liquor at Black Sheep Coffee</p> <p>C. Sign Code Overhaul Ordinance</p>              |   |  |
| <p><b>5. Other Business</b></p>  |   |  |
| <p><b>6. Staff Updates</b></p>   |   |  |
| <p><b>7. Adjournment</b></p>   |   |  |

Next Planning Commission Meeting: July 3, 2024

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**MINUTES OF MEETING**  
**SOUTH ST. PAUL PLANNING COMMISSION**  
**May 1, 2024**

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

Present: Geoff Fournier  
Tyler Fehrman  
Andrew Hoffman  
Brienne Miller  
Ruth Krueger  
Michael Healy, Planning Manager  
Monika Miller, Associate Planner

Absent: Tim Felton  
James Hart

- 1) APPROVAL OF AGENDA - Motion to approve as presented– Fehrman/Miller (5-0).
  - 2) APPROVAL OF MINUTES –April 3, 2024 –Motion to approve as presented– Fehrman/Hoffman (5-0).
  - 3) NEW BUSINESS
- None.
- 4) PUBLIC HEARINGS
    - A. Amendment to Honduras Kitchen LLC’s Conditional Use Permit for On-Sale Liquor at 1519 5<sup>th</sup> Avenue South.

Mr. Healy presented the staff report. The Applicant is Honduras Kitchen LLC. The business operates as a traditional restaurant Monday through Friday between 9:00 AM and 9:00 PM and on some Sundays for brunch. On weekends after 9:00 PM, Honduras Kitchen is used as an event space where private ticketed events are held after the restaurant closes to the public. In 2023, a previous restaurant in the same space was granted a conditional use permit for on-sale liquor. Under that conditional approval, large events with alcohol that have over 100 guests must conclude by midnight. The Applicant is requesting a conditional use permit amendment to allow private events with alcohol to be allowed to go until 1:00 AM on Friday and Saturday nights instead of midnight. Staff did not provide a recommendation on whether to approve the application but provided recommended conditions of approval if the Planning Commission and City Council wish to extend the hours the business can operate.

Commissioner Fehrman asked Mr. Healy what additional tools the City had to address excessive noise complaints generated by the business. Mr. Healy explained that the main tool would be adding a condition to the conditional use permit approval that could allow the conditional use permit to be revoke in the case of excessive noise violations. Mr. Healy added that there could also be additional coordination between his office and the police department to issue citations in the case of additional violations of the noise ordinance. Commissioner

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Fehrman asked if a condition of approval could be added to require that alcohol sales be cut off by midnight. Mr. Healy answered that the Planning Commission had the authority to do so but encouraged the Commissioners to discuss this with the Applicant to make sure they are comfortable with the condition.

Commissioner Fehrman brought up the topic of surveillance cameras, specifically the Police Department's desire for surveillance cameras at the property and whether this could be required. Mr. Healy explained that there was a very lengthy debate on this topic during the Planning Commission and City Council meetings when the original Conditional Use Permit for On-Sale Liquor at the property was approved in 2023. It is very unusual to require a surveillance camera upfront as part of a zoning approval. It is more common to require them as part of a provisional liquor license after there have been issues related to alcohol at the site. The consensus from the discussion with the Planning Commission and the City Council in 2023 was that it is more appropriate to require surveillance cameras in the case that there are issues with the property.

Commissioner Krueger asked for additional information about the noise complaints that occurred on March 1<sup>st</sup>. Mr. Healy shared that he was just provided information by the Police Department that complaints occurred on March 1<sup>st</sup>. He noted that there appeared to be some disconnect with the Police Department about what time the music needed to be turned down by. Commissioner Krueger asked staff to confirm that the complaint that was received was for loud music. Mr. Healy confirmed it was.

Commissioner Miller asked what other large event venues in the area were open until 1:00 AM. Mr. Healy shared that there weren't any venues in town and encouraged Commissioner Miller to ask this question to the Applicant. Commissioner Miller asked if entertainment and liquor licenses were handled by the city or by the state. Mr. Healy confirmed the licenses were handled by the city.

Commissioner Hoffman asked if any other businesses had been required to install surveillance cameras. Mr. Healy explained that the city has never required a business to have a surveillance camera as part of their conditional use permit approval. Mr. Healy added that the property owner had stated they planned to install a surveillance camera on site.

Commissioner Fehrman asked if the City had ever revoked a license or approval similar to the one being requested by the Applicant as a result of complaints or code violations. Mr. Healy explained that in 2020 the City revoked the liquor license for Las Islas due to issues with overserving and police calls. The business was ultimately able to get a provisional liquor license and they changed their hours and shifted their business model towards being a restaurant as opposed to a night club.

Acting Chair Fournier asked about compliance with the noise ordinance and if it is quicker to address noise ordinance violations if the language about excessive noise is included in the liquor license versus the conditional use permit approval. Mr. Healy explained that it would depend on the circumstance. The City generally uses administrative citations to address code violations. This process includes a citation with a monetary penalty every time the code is violated. If the citations are not paid upfront, the citations are added to the property taxes. By having language about potentially revoking the approval/license attached to the conditional use permit or liquor license, the City has additional tools to handle violations of the noise ordinance if there are consistently issues and the administrative citation process is not successful.

Diego Castro from Honduras Kitchen and Tony Lodge of Lodge Properties were present to speak to the application.

Commissioner Miller asked Mr. Castro about if there are similar businesses that are open until 1:00 AM. Mr. Castro explained that their main competitor is Los Portales in Inver Grove Heights. Commissioner Miller asked if Los Portales also had ticketed events. Mr. Castro stated Los Portales does.

Commissioner Fehrman asked Mr. Castro how many people typically attend the events Honduras Kitchen hosts. Mr. Castro explained that they are able to have up to 360 people at each event but they typically see around 150 people at their events. Mr. Castro explained that they are requesting later operating hours in an attempt to increase the turnout at the events they host. Commissioner Fehrman asked Mr. Castro if he had specific examples of situations where Honduras Kitchen was unable to book a band or a DJ due to the current operating hours. Mr. Castro stated he did not but there have been several instances where a band or a DJ has been hesitant to book with them due to their operating hours.

Acting Chair Fournier asked the applicant about the incident on March 1<sup>st</sup> and the steps that had been taken since then to prevent future issues. Mr. Castro explained that Mr. Lodge had added new insulated panels and sheet rock to try to prevent the bass from carrying beyond the property. Mr. Castro added that on the night of March 1<sup>st</sup>, the police officers that responded to the noise complaint seemed satisfied when he informed them that the event would be done by 12:30 PM.

Commissioner Fehrman asked Mr. Castro if he had conversation or interactions with residents in the surrounding neighborhood. Mr. Castro stated he had not.

Acting Chair Fournier opened the public hearing.

Kelly Behlen, 1444 5<sup>th</sup> Avenue South, came forward to share her experience of the March 1<sup>st</sup> incident. Ms. Behlen explained that she called the police twice that evening. The first call was around 11:20 PM after feeling thumping through the whole house from the music. Ms. Behlen explained that she went over to the business to ask them to turn the music down as they were violating the noise ordinance and was escorted out before she could ask a manager to have the music turned down. Ms. Behlen explained that after the first police call, the volume of the music was reduced for around 10 minutes before the music was turned back up. At this point, she called the police again and the issue was dealt with at this point. Ms. Behlen added that Los Portales is located 1,500 feet away from the nearest residential area whereas there are many residential properties that are directly adjacent to the 5<sup>th</sup> Avenue Shopping Center. Ms. Behlen explained that while she can't hear the music, she can feel the vibration from the music for hours. Ms. Behlen stated she was here on behalf of her and her neighbors despite her long day to emphasize how disruptive the noise from this business is.

Commissioner Fehrman asked Ms. Behlen if there have been any instances since March 1<sup>st</sup>. Ms. Behlen explained that there was one instance after March 1<sup>st</sup> and 6 or 7 instances that took place before March 1<sup>st</sup>. Commissioner Fehrman shared that he asked because the business had taken steps to create additional sound proofing since March 1<sup>st</sup> which raised the question of whether the additional sound proofing had been effective. Ms. Behlen commented that there had been one or two instances since then and that sound proofing is effective for sound but not for vibration.

Commissioner Krueger asked the Applicants who is in charge during events. Mr. Castro explained that he or his mother were always present during events. Mr. Castro explained that on March 1<sup>st</sup>, he was called to the front when Ms. Behlen came in. When the police arrived the first time, they turned the volume down. The second time the police officer came they shared that the complaint was from the same individual and asked Mr. Castro what time the event would conclude.

Mr. Castro, Mr. Lodge and Ms. Behlen discussed the March 1<sup>st</sup> incident further.

Mr. Lodge commented that he planned to invest more time and energy into creating additional soundproofing to prevent the noise/bass for future events from negatively impacting the residents that lived near the site.

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Commissioner Fehrman asked if a citation from the police department was issued to the Applicants or the property owner for the noise violation. Mr. Castro stated they had not. Ms. Castro stated that the officer had not given them a citation or a ticket because the music could not be heard from outside of the suite.

Commissioner Hoffman asked Mr. Lodge when he installed the sound proofing at the site. Mr. Lodge stated it was around March 1<sup>st</sup>.

Ms. Behlen reiterated how disruptive the events on March 1<sup>st</sup> were.

Acting Chair Fournier asked if any written correspondence had been received prior to the meeting. Mr. Healy shared that no correspondence had been received.

Acting Chair Fournier closed the public hearing.

Commissioner Krueger asked if it is possible to regulate the level of the bass as part of the approval. Mr. Healy explained that in statute there are rules for how many decibels of sound can cross a property line. In the past, the city has required certain businesses as part of their zoning approvals to have noise testing done and to submit the results to the City to confirm that their business complies with state and local noise regulations. The previous situations where this condition had been added to a zoning approval were situations where there was a consistent level of sound being made (i.e. from a car wash or a firing range). Mr. Healy stated he was not sure how applicable noise testing would be in this circumstance.

Commissioner Fehrman asked if the City's noise ordinance is decibel specific or vaguely limited to noise spilling over the property lines. Mr. Healy explained that the noise ordinance has several provisions to address different types of noise including quiet hours regulations, noise from construction activities, and general noise decibel allowances. Mr. Healy explained that the City has the right to enforce its code and if this continues to be an issue, the City might invest in equipment to determine compliance with the noise ordinance.

Commissioner Fehrman asked Mr. Healy to explain the potential actions the Planning Commission could take on the application. Mr. Healy explained that one option would be to recommend approval of the conditional use permit amendment with the conditions of approval that were recommended in the staff report or with additional conditions. The other option would be to recommend denial which would mean the business's current operating conditions would stay as they are. If the Planning Commission were to recommend denial, they would need to adopt findings that the request is not consistent with the criteria for when to approve a conditional use permit.

Commissioner Krueger summarized that the issue at hand is not the hours of operation so much as the impacts of the bass on the surrounding neighborhood. Commissioner Krueger suggested creating a condition that would regulate the bass. Mr. Healy stated that if the Planning Commission decides they would be willing to recommend approval but only if they have more information from city staff on how to regulate bass, the best option would be to table the item until the next meeting and give staff specific instructions about the type of information they would like brought back to them. Commissioner Krueger stated that would be helpful.

Commissioner Miller commented that noise seems to have been less of an issue since March 1<sup>st</sup>. Commissioner Miller asked the Applicant how many events they had held since March 1<sup>st</sup>. Mr. Castro stated that there have been two events the last two weekends, which had not been ticketed events. Mr. Castro added they are making an extra effort to iterate to the DJs that they need to be respectful with level of bass. Commissioner Hoffman asked Mr. Castro how late events typically wrap up. Mr. Castro stated that events start wrapping up around 11:30 PM. Alcohol sales end at 11:00 PM or 11:30 PM and the events conclude by midnight.

Commissioner Fehrman asked Mr. Castro if they had held ticketed events similar to the one held on March 1<sup>st</sup> since the March 1<sup>st</sup> incident. Mr. Castro shared that there was one similar event before March 1<sup>st</sup>.

Motion to recommend approval of the conditional use permit amendment as presented- Fehrman/ Miller (3-2) (Krueger, Hoffman)

Commissioner Fehrman strongly encouraged Mr. Castro to take into mind the residents that live in that neighborhood and to have productive conversations with them as issues arise.

5) OTHER BUSINESS

A. Discussion on Sign Code Overhaul

Ms. Miller provided background on the item. In the past several years, staff have taken on several sign code cleanup projects which have been aimed at improving the readability of the sign code and reducing the number of unnecessary sign variances that the Planning Commission and the City Council need to review. Two updates have been adopted thus far and staff is proposing one final ordinance which would address the remaining issues that staff have identified, including the lack of distinction between painted wall signs and murals, the inconsistent regulations surrounding temporary signs, and the general organization of the sign code. Ms. Miller presented the updates that staff drafted and asked the Planning Commissioners for feedback on the proposed regulations.

Commissioner Fehrman asked if a permit was required for community event signs, such as the signs that advertise Kaposia Days. Ms. Miller explained that community event signs are an exempt type of signage that does not require a permit. Commissioner Fehrman shared that he was in favor of the proposed updates and was very supportive of the new regulations for painted signs and murals.

Commissioner Hoffman shared that he was in favor of allowing temporary freestanding blade or flag sign as they are a nice option as this type of sign is easy to install, especially if a business does not have a freestanding sign. Ms. Miller explained that the city has historically prohibited these types of signs, even on a temporary basis. Commissioner Hoffman shared that he owned businesses in several cities and many cities allow this type of signage.

Commissioner Krueger asked for clarification about the types of temporary signs that require a permit and if certain types of temporary signs such as garage sale signs or lost pet signs could be exempted from needing a permit. Ms. Miller explained that a temporary sign permit is usually required if the temporary signage is related to the action of a commercial business (grand opening, hiring event, etc.). Signs that are not commercial in nature but are displayed for a short period of time typically do not require a temporary sign permit. Commissioner Krueger asked about garage sale signs and church event signs. Mr. Healy explained that many of these types of signs are already exempted and that enforcement of these regulations is done on a complaint-based basis.

6) STAFF UPDATES

Mr. Healy shared that the zoning preemption bills that the Planning Commission had received several updates on would not be moving forward during this legislative session.

Commissioner Miller asked if there would be any future work sessions with the Parks and Recreation Advisory Commission about the Parks Master Plan. Mr. Healy explained that the public engagement period for the draft Parks Master Plan was wrapping up. After the feedback is implemented, the Parks Master Plan would be brought to the commissioners for further review. Mr. Healy shared that he was unsure if the updated Parks Master Plan would be reviewed at a joint session or individually but that the plan would likely come before the group to receive a final recommendation.

Commissioner Krueger asked about the status of chicken licensing in South St. Paul. Ms. Miller explained the process for applying for a chicken license. Mr. Healy added that the City Council had removed the cap on the number of chicken licenses allowed within the city as there was originally a 25-license cap. Acting Chair Fournier asked how a homeowner should handle a situation where they live next to an apartment or other multitenant building and if this property would count towards the 75% of the abutting neighbors that need to consent to the chicken license. Ms. Miller explained that the way the rule is written, you need to get signatures from 75% of your surrounding neighbors, including those that live across the street or across an alley from you. Most people are able to get to 75% by getting signatures from the people across the street or alley from them, even if they live next to an apartment building.

7) ADJOURNMENT

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



# AGENDA ITEM 4.A

## South St. Paul Planning Commission

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| <b>Prepared By:</b><br>Michael Healy, Planning Manager  | <b>Meeting Date:</b><br>6/5/2024 |
| <b>Item Description:</b><br>Public Hearing for a Front Yard Setback Variance for an Enclosed Porch Addition at 120 2 <sup>nd</sup> Avenue South |                                  |

### **ACTION REQUESTED**

A motion recommending approval or denial of a front yard setback variance for a porch addition at 120 2<sup>nd</sup> Avenue South.

### **BACKGROUND/ DISCUSSION**

#### **Application**

The Applicants, Sarah and Nick Ridgeway, are requesting a front yard setback variance to build a new enclosed porch onto the front of their home at 120 2<sup>nd</sup> Avenue South. They are proposing to demolish their existing enclosed porch which is set back 21 feet from the front property line. They would like to replace it with a new larger enclosed porch that extends out an additional 5' 2" and will only be set back 15' 10" from the front property line:

- The property is zoned R-2 Single- and Two-Family Residence. The R-2 district does not have a "fixed" front yard setback requirement. The setback requirement is that no addition can be built onto the front of a house that brings the house closer to the front property line than the average setback of all houses that are on the same block and that face the same street. On streets with no existing houses, the front setback requirement is 25 feet.
- There are 13 other houses on the Applicant's block which face 2<sup>nd</sup> Avenue South. The Applicant has not hired a surveyor to determine the block average setback, but their proposed addition clearly will not meet the setback requirement. There are some existing houses on the block with a 10-foot front yard setback while other houses appear to have as much as a 24-foot front yard setback. The block average front yard setback appears to be somewhere in the 18–20-foot range.
- Because the Applicant's proposed porch addition will bring the front of the house closer to the street than the block average, the porch addition can only be built if the City Council approves a front yard setback variance.

#### **Review Timeline**

**Application Submittal:** April 23, 2024

**Planning Commission:** June 5, 2024

**Tentative City Council Meeting:** June 17, 2024

**60-Day Review Deadline:** June 21, 2024

## Background

The Applicants own and reside in the single-family home at the subject property located at 120 2<sup>nd</sup> Avenue South. They have owned the home for roughly 22 years and are planning to renovate it with a project that would include a new roof, new siding, and a new enclosed porch. They have indicated that they would like a larger enclosed porch to give their family additional living space. They have explored the idea of a basement finish, but they feel that their basement is poorly configured to be turned into living space.

## Zoning

The subject property is located in the R-2 Single- and Two-Family Residence district and guided as “Low-Medium Density Residential” in the comprehensive plan’s future land use map. The subject property is subject to the following setback requirements:

- The front yard setback requirement is:

*“No building shall be erected, reconstructed, altered or moved nearer to the front lot line than the average setback observed by residential buildings on the same side of the street and fronting thereon within the same block. Further, no part of the structure shall be closer than 25 feet to the street line on which it faces, except when the average setback is less than 25 feet.”*

Existing houses are allowed to have building additions that match the front setback of the existing house. The front setback requirement only comes into play if an addition is bringing the house closer to the front property line than it already is.

- There is a 25-foot rear yard setback requirement.
- There is a 5-foot side yard setback requirement.
- Some improvements are allowed to be built in required setback areas as “permitted encroachments.”
  - Stairs, stoops, and landings are allowed to encroach any setback area and can be built with a 0-foot setback from any property line.
  - Covered but open porches (no walls) are allowed to encroach up to 8 feet into a front yard setback area if they are at least 10 feet from the front property line.

## Relevant City Code

The following code sections are relevant to this review:

- Section 118-39 of the City Code governs variances.
- Section 118-122 of the City Code governs the R-2 Single- and Two-Family Residence District.
- Section 118-273 of the City Code governs “Exceptions to the Minimum Requirements for All Districts” and lays out a set of permitted encroachments that are allowed to be built in setback areas.

## Relevant Comprehensive Plan Policies

Policy 4.8.2 of the 2040 Comprehensive Plan (Page 4-100 of the Land Use Chapter) is:

“Use regulations and incentives to produce new infill neighborhoods that are attractive, diverse and have lasting value. Require infill and redevelopment buildings to be designed with sensitivity to their context, including features such as land use type, building height, bulk and placement, architectural details, parking, landscaping and lighting.”

## Property Characteristics

The subject property is “Lot 25, Block 13” of the HEPBURN PARK plat which was recorded in 1886. The lot has the same dimensions as the majority of SSP’s platted single family home lots and is 40 feet wide, 125 feet deep, and has 5,000 square feet of total lot area. The Applicant’s house was built in 1910, which is before the City adopted its first zoning code. The property is relatively flat and does not have any unique topographical features.

## Characteristics of Proposed Porch Addition

The proposed enclosed porch would be styled as a home addition and would have the same shingled roof and vinyl siding as the house. There would be windows on the front and south side of the new porch. The Applicants are planning to use it as a 3-season porch and will not be extending their radiator heating system to heat it year-round but may install some other type of heating system in the future. The Applicants would like to build a covered stoop on the front of the porch which would extend an additional 4 feet towards the front property line. Here are the overall proposed setbacks and their relationship with the City Code:

- The proposed enclosed porch will be set back 15’ 10” from the front property line. *This requires a variance because it will bring the house closer to the front property line than the block average setback which appears to be somewhere in the 18–20-foot range.*
- The proposed covered stoop will be set back 11’ 10” from the front property line. *Covered stoops are considered a “permitted encroachment” and can encroach up to 8 feet into a front yard as long as they are set back at least 10 feet from the front property line. If the Applicant’s variance is granted to build the enclosed porch as they are proposing, the covered stoop will also be acceptable.*
- There will be steps coming off the covered stoop that will extend an extra 2’ 6” towards the front property line and will have a roughly 9-foot setback. *Uncovered steps have no setback requirement.*

## Lot Coverage

Properties in the R-2 zoning district are allowed to have up to 35% lot coverage by buildings. The subject property is 5,000 square feet in size and is allowed to have up to 1,750 square feet of lot coverage by buildings. Per the Dakota County Tax Assessor, the house currently has a 1,064 square foot footprint, the garage has a 400 square foot footprint, and the property also has a 120 square foot gazebo and a 24 square foot shed which totals 1,608 square feet. The proposed porch addition will add roughly another 116 square feet of building coverage which will bring the property up to 1,724 square feet of coverage by buildings. The property will be almost “maxed out” for lot coverage if the project moves forward. The Applicant will need to verify that the Tax Assessor’s records are accurate and demonstrate compliance with lot coverage requirements as part of getting their building permit.

## Findings of Fact

Staff believes the following facts are relevant to the variance request:

1. All 14 houses on the Applicant's block which face 2<sup>nd</sup> Avenue South were constructed prior to the City adopting its first zoning code in 1948. The houses were all built at a time that the City did not have a front setback requirement and there is an eclectic mix of front yard sizes. The houses on the south end of the block have small front yards and two of these properties have front yards that are only about 10 feet deep. The houses on the north end of the block, including the Applicant's property, have larger front yards that are at least 20 feet deep.
2. The Applicant's house currently has a 21-foot setback from the front property line. The houses on either side of the subject property at 118 2<sup>nd</sup> Avenue South and 122 2<sup>nd</sup> Avenue South appear to also be set back roughly 21 feet from the front property line. If the variance is approved, the front of the Applicant's house will be about 5 feet closer to the street than the houses on either side of it (not including the covered stoop which will extend 4 feet further).
3. The Applicant's property is zoned R-2 Single- and Two-Family Residence. The R-2 district does not have a "fixed" front yard setback requirement. The setback requirement is that no addition can be built onto the front of a house that brings the house closer to the front property line than the average setback of all houses that are on the same block and that face the same street. The Applicant has not hired a surveyor to calculate the block average setback, but it appears that the average front yard setback for the block is somewhere in the 18–20-foot range.
4. The Applicant is proposing a building addition with a 15' 10" setback from the front property line. A variance is required because the proposed addition will bring the house closer to the street than the block average setback.
5. The proposed addition complies with all relevant zoning standards other than the front yard setback requirement.
6. The City Code provides the owners of residential buildings options for making improvements to the front of their building, even if they cannot construct a full building addition due to front yard setback requirements. Porches, decks, and porticos can be built onto the front of an existing house without a variance if they do not have walls and if a 10-foot setback is maintained from the front property line.

## Discussion

In some American suburbs, many residential front yards are almost purely ornamental and serve as landscaping that enhances the curb appeal of the house. In traditional walkable neighborhoods, however, many front yards have a functional/social aspect and include design elements such as porches, stoops, and patios that provide a space for residents to watch the street and interact with their neighbors. These spontaneous interactions lead to a stronger and more connected community and having extra eyes on the street results in improved public safety. The City of South St. Paul has historically tried to strike a balance and has written its ordinances with the goal of ensuring that front yards support good curb appeal while also serving a social role. The rules for "permitted encroachments" were developed in 2010 and updated in 2024 to make it possible for residents to build porches, stoops, and patios in their front yards if they follow specific design requirements that ensure good curb appeal.

Staff has some observations that may help frame the Planning Commission’s discussion around front yard regulations:

- It is common for older cities that have many neighborhoods which pre-date zoning regulation to adopt a front yard setback requirement for residential development that is based on existing houses that are already built on the block. The goal is to encourage context-sensitive infill development where new homes and home additions do not stick out and disrupt the urban fabric of an established neighborhood in a jarring and unpleasant way.
  - Until 2023, Saint Paul regulated front yard setbacks roughly the same way SSP regulates front yard setbacks by using the “block average.”
  - Minneapolis takes a stricter approach. In addition to meeting the block average, a new building or addition cannot bring the house closer to the front property line than the existing houses on either side of it.
- South St. Paul was primarily laid out with small urban lots that are 40 feet wide and 125 feet deep with 5,000 square feet of total area. When small lots are subjected to large front yard setback requirements, it does reduce the amount of living space that can be built on each property and makes certain floor plans and home designs unfeasible.
- Some communities have begun to reexamine their front yard setback requirements with the understanding that small lots become more “buildable” if front yard setback requirements can be relaxed. Saint Paul changed its regulations in 2023 and now only requires a 10-foot-deep front yard for new residential neighborhoods. For infill development in existing neighborhoods, Saint Paul now requires that the builder take the average of the 10-foot setback requirement and the setback of the house next door which has the smallest front yard. For instance, if a new house is being built on a vacant lot next door to an existing house with a 20-foot-deep front yard, the new house needs to have at least a 15-foot deep front yard.

For the purposes of reviewing the variance request, the Planning Commission will need to decide whether the project meets the variance criteria outlined in the City Code. However, the Planning Commission may also want to reflect upon what SSP’s goals are when it comes to its front yard regulations. The Planning Commission may want to discuss whether the proposed project is consistent with those goals.

### **Variance Criteria**

The Planning Commission is asked to review the proposed variance using the criteria laid out in City Code Section 118-39. The variance should only be recommended for approval if the Applicant applying for a variance establishes that there are “practical difficulties” in complying with the ordinance. The following criteria must be met:

- a. That the variance is in harmony with the general purpose and intent of the ordinance
- b. That the terms of the variance are consistent with the Comprehensive Plan.
- c. That economic considerations are not the reasoning for the variance.
- d. That the Property Owner proposes to utilize the property in a reasonable manner.
- e. That the plight of the property is due to a unique circumstance not created by the property owner.
- f. That the variance will not alter the essential character of the neighborhood.

## Staff Recommendation

The Applicant's proposed addition is aesthetically pleasing. Additionally, the block does have existing houses on it with front yard setbacks as small as 10 feet, so the proposed addition will not alter the essential character of the neighborhood. Still, Staff is unable to recommend approval of this variance because there does not appear to be a unique practical difficulty in complying with the ordinance. The Applicant owns a standard 40' x 125' platted lot with no topographical challenges and the block average front yard setback is roughly 18-20 feet which is very common in South St. Paul. The houses on either side of the Applicant's house have roughly the same setback as the Applicant's existing house so the Applicant's house will stick out somewhat if it is brought closer to the front property line with the proposed addition. It is possible that most people will not notice since the overall block has an eclectic mix of front yard sizes.

If the Planning Commission finds that the application meets the variance criteria and does want to recommend approval of the variance, Staff would recommend that it be with the following conditions:

1. **Compliance with Plans/Submittals.** The site shall be utilized in substantial conformance with the following plans on file with the Community Development Department.
  - a. **Application (Sarah and Nick Ridgeway)** **dated 4/20/2024**
  - b. **Site Plan (Sarah Ridgeway)** **Undated**
  - c. **Building Plans (Nick and Sarah Ridgeway)** **Undated**
2. **Building Permit Required.** The Applicant shall obtain a building permit prior to constructing the porch addition. The Applicant shall provide sufficient documentation about the footprint of existing buildings on the property to ensure that the property will not exceed 35% lot coverage by buildings.
3. **Compliance with Design Standards for a Permitted Encroachment.** If the Applicant moves forward with constructing a covered but open porch or portico off the front of the new enclosed porch, the improvement shall be subject to the design standards for permitted encroachments that are articulated in Section 118-273.
4. **Variance Termination.** The variance will expire and automatically terminate if the improvement is not substantially begun within one year of the date of approval. The violation of any condition in the grant of the variance may terminate the variance, following a hearing by the City Council.

## Required Action

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

- A. Approval. If the Planning Commission wishes to recommend approval of the proposed variance, the following action should be taken:
- Motion to recommend approval of the setback variance to allow the enclosed porch addition at 120 2<sup>nd</sup> Avenue South with a finding that the Variance Criteria have been satisfied, subject to the conditions outlined in the staff report.
- B. Denial. If the Planning Commission wishes to recommend denial of the proposed variance, the following action should be taken:
- Motion to recommend denial of the setback variance to allow the enclosed porch addition at 120 2<sup>nd</sup> Avenue with a finding that the Variance Criteria have not been satisfied.

The Planning Commission should adopt a finding that the project either meets or fails to meet the variance criteria.

## ATTACHMENTS

- A. Site Location Map
- B. Aerial Photograph of Subject Property with Porch Addition Outlined
- C. Oblique Angle Photograph Showing Front Yards on Subject Property's Block
- D. Photographs of Subject Property and Neighboring Properties
- E. Applicant's Narrative
- F. Site Plan
- G. Building Plan and Floor Plan
- H. Public Hearing Notice

ATTACHMENT A  
SITE LOCATION MAP



**ATTACHMENT B**  
**AERIAL PHOTOGRAPH OF SUBJECT PROPERTY WITH PORCH ADDITION OUTLINED**



ATTACHMENT C  
OBLIQUE ANGLE PHOTOGRAPH SHOWING FRONT YARDS ON SUBJECT PROPERTY'S BLOCK



NOTE: Block Average Setback Appears to be in the 18-20 Foot Range

**ATTACHMENT D  
PHOTOGRAPHS OF SUBJECT PROPERTY AND NEIGHBORING PROPERTIES**



**Subject Property at 120 2<sup>nd</sup> Avenue South**



**Subject Property and the House Next Door at 122 2<sup>nd</sup> Avenue South**



**Subject Property and the House Next Door at 118 2<sup>nd</sup> Avenue South**



**View of Front Yards Looking South Towards Subject Property  
*Subject Property is Marked With a Red Arrow***



**Existing House at 144 2<sup>nd</sup> Avenue South Which Has a 10-Foot Deep Front Yard**



**Existing House at 158 2<sup>nd</sup> Avenue South Which Has a 10-Foot Deep Front Yard**

ATTACHMENT E  
APPLICANT'S NARRATIVE

We are the Ridgeways. We have lived in South St. Paul for almost 22 years. As our family has grown, we have become more involved in our community. My husband is a Lions member and I am a teacher here. We love SSP and are here to stay! We have had ideas of revamping our front porch for years but have waited until the right time to combo the job with a new roof and siding. After a year and a half of planning, we are ready and so excited to fix up our "okie but goodie". Our home is 116 years old. We do not have a basement that lends itself to finishing into a livable space. Enlarging our porch will give more space for our family to spread out.

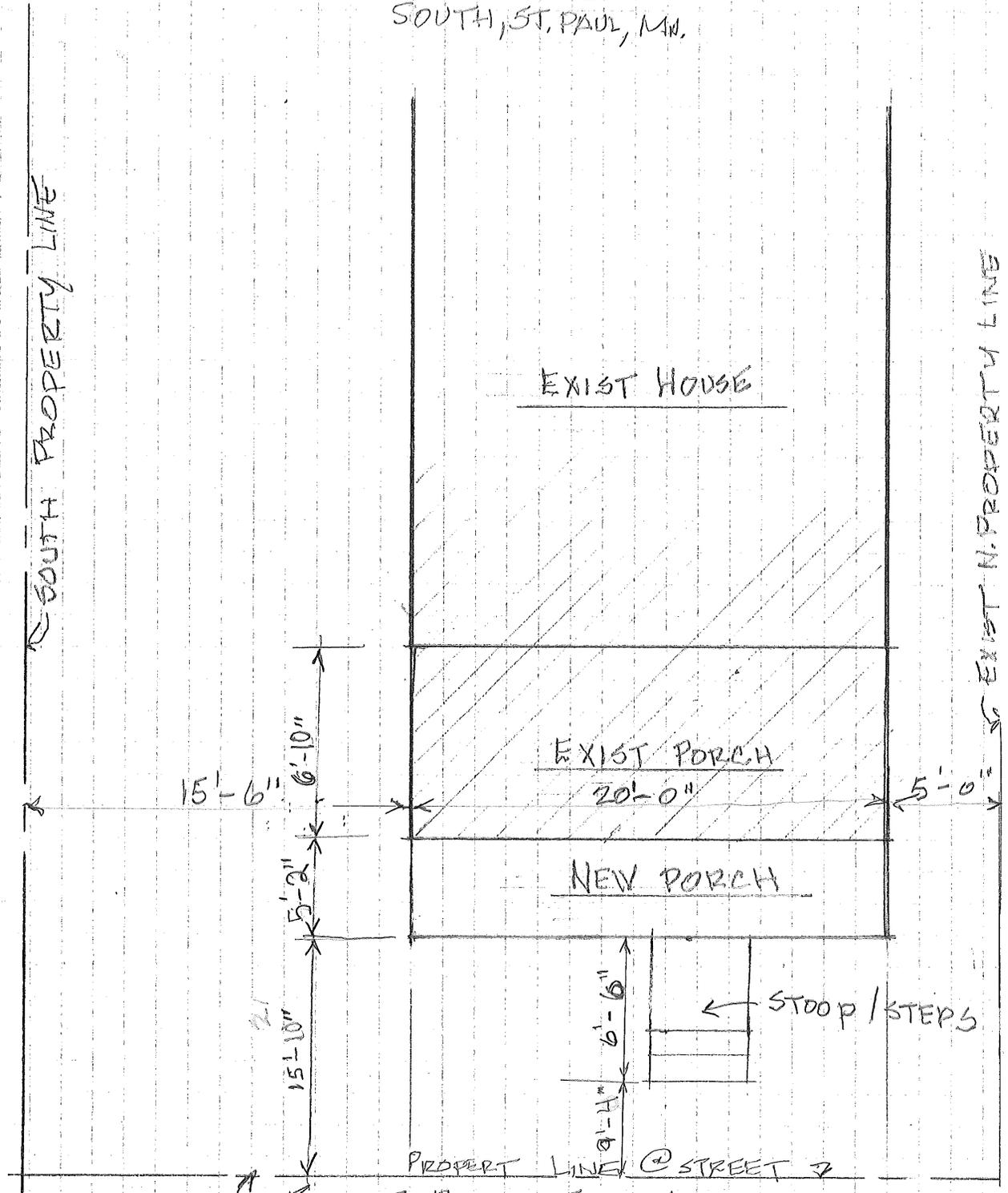
There are houses on our block that are closer to the front sidewalk than what we are proposing, so ours should blend in nicely. The new look will add appeal but not outshine or take away from the character of our block. We are excited for this project!

Thank you for your time,  
Sarah Ridgeway

ATTACHMENT F  
SITE PLAN

Nick and Sarah Ridgeway

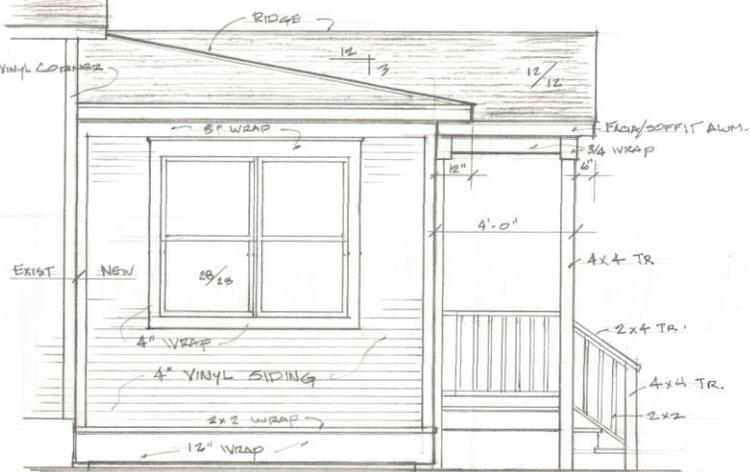
PROPERTY ADDRESS  
130 2ND AVE S  
SOUTH, ST. PAUL, MN.



**ATTACHMENT G  
BUILDING PLAN AND FLOOR PLAN**



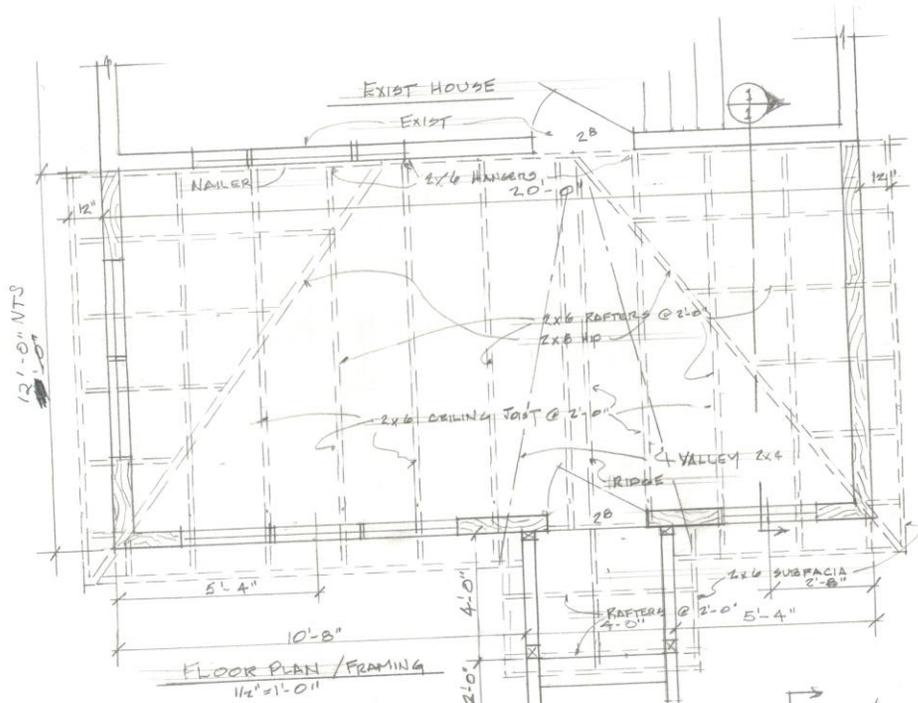
FRONT ELEV. 1/2" = 1'-0"



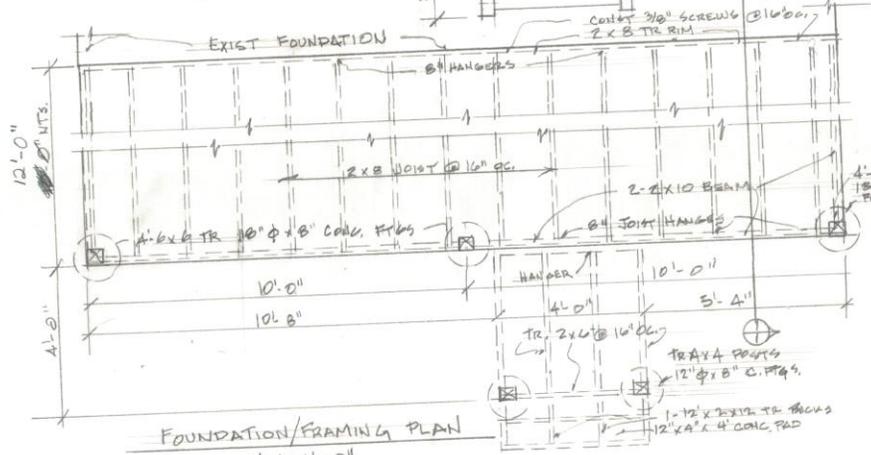
SOUTH ELEV. 1/2" = 1'-0"

NICK & SARAH RIDGWAY  
120 2ND AVE. S.O. ST. PAUL

SH-2

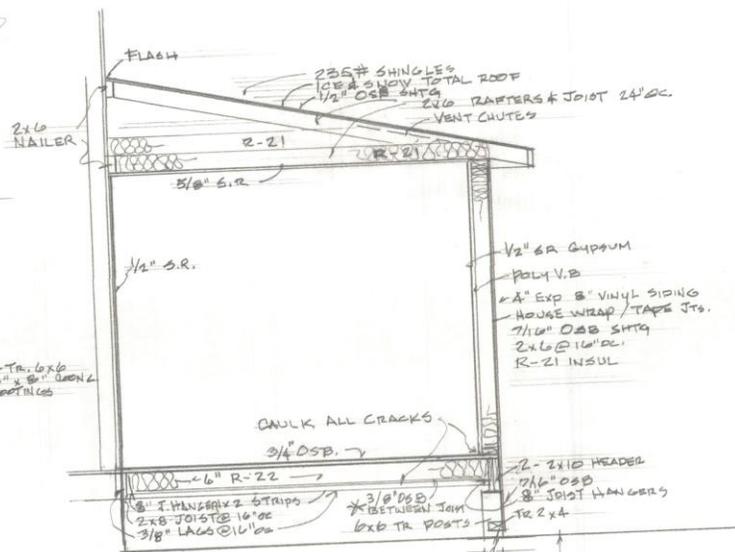
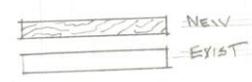


FLOOR PLAN / FRAMING  
1/2" = 1'-0"



FOUNDATION / FRAMING PLAN  
1/2" = 1'-0"

ESTIMATE: \*  
 ROOFING SEPERATE  
 SIDING " "  
 WINDOWS DOORS " "  
 \* IN CLUDE / KEEP SEPERAB



SECTION 1/2" = 1'-0"  
 (SAURETS)  
 1/2" x 8" C.F.

NICK & SARAH RIDGEWAY  
 120 2ND AVE SOUTH, ST. PAUL

SHEET #1

ATTACHMENT H  
PUBLIC HEARING NOTICE



**City of South  
St. Paul**

125 Third Avenue North  
South St. Paul, MN 55075

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

**Notice of Public  
Hearing**

|   |   |
|---|---|
| <b>Applicant(s):</b>                          | Sarah and Nick Ridgeway   |
| <b>Request:</b>                               | <p>The Applicants own the single-family home at 120 2<sup>nd</sup> Avenue South. They are proposing to demolish their existing enclosed porch which is set back 21 feet from the front property line and replace it with a new larger enclosed porch that extends out another 5 feet and is only set back roughly 15 feet and 10 inches from the front property line. They are requesting a front yard setback variance to complete this project:</p> <ul style="list-style-type: none"><li>• In the R-2 zoning district, no addition can be constructed that brings a house closer to the front property line than the average setback of all the other existing houses on the block that face the same street.</li><li>• The average front yard setback for the houses on the subject property's block appears to be in the 18–20-foot range. The proposed addition will bring the Applicants' house closer to the front property line than the block average so it can only be constructed if a variance is granted.</li></ul> |
| <b>Subject Property</b>                       | 120 2 <sup>nd</sup> Avenue South  |
| <b>Public Hearing Time and Location:</b>      | <p>City Hall, Council Chambers, 125 Third Avenue North, South St. Paul<br/><b>Wednesday, June 5<sup>th</sup>, 2024 at 7:00 P.M.</b><br/>Or as soon thereafter as the matter can be heard.</p> <p>All those interested are encouraged to attend and will be given an opportunity to be heard.</p>  |
| <b>Questions or Comments, Please Contact:</b> | <p>The Planning Commission will also consider oral and written comments that are received prior to the meeting. You can submit your comments:</p> <p>By mail: City of South St. Paul, Attn: City Planner<br/>125 Third Avenue North<br/>South St. Paul, MN 55075</p> <p>By phone: (651) 554-3217<br/>By fax: (651) 554-3271<br/>By e-mail: <a href="mailto:mhealy@southstpaul.org">mhealy@southstpaul.org</a></p> <p><u>All written, faxed, or e-mailed comments must be received by the City Planner no later than Noon on Wednesday, June 5<sup>th</sup> to be considered by the Planning Commission as part of the public hearing*.</u></p> <p><i>*Please include your name and address as well as the project address</i></p>   |

*A staff memo analyzing the variance request will be posted to the City's website by Friday, May 31<sup>st</sup> as part of the Planning Commission packet. It can be accessed using the following link:*

<https://www.southstpaul.org/agendacenter>



Map Showing Location of 120 2<sup>nd</sup> Avenue South



## AGENDA ITEM 4.B

### South St. Paul Planning Commission

|  |                                  |
|--|----------------------------------|
| <b>Prepared By:</b><br>Michael Healy, Planning Manager   | <b>Meeting Date:</b><br>6/5/2024 |
| <b>Item Description:</b><br>Public Hearing for a Conditional Use Permit for On-Sale Liquor at Black Sheep Coffee |                                  |

#### **ACTION REQUESTED**

A motion recommending approval or denial of a conditional use permit for on-sale liquor at Black Sheep Coffee.

#### **BACKGROUND/ DISCUSSION**

##### **OVERVIEW**

##### **Application**

The Applicant, Black Sheep Coffee, is a café located at 705 Southview Boulevard. They are seeking a conditional use permit (CUP) for on-sale liquor which would allow them to qualify for a liquor license and sell alcohol to their customers.

##### **Review Timeline**

**Application Submittal:** May 8, 2024

**Planning Commission:** June 5, 2024

**Tentative City Council Meeting:** June 17, 2024

**60-Day Review Deadline:** July 7, 2024

##### **Background**

Black Sheep Coffee, the Applicant, has been located at 705 Southview Boulevard since 2006. The café was closed for much of 2023 and reopened recently under new ownership. The new owner, Jason Frankot, is seeking the ability to sell alcohol at Black Sheep Coffee to create a new revenue stream for the business and provide a wider variety of customer experiences. He wants to be able to sell alcohol to customers during normal business hours and he wants to rent out the space for private events outside of normal business hours. He believes the space will be more attractive for private event rentals if the events are able to include alcoholic beverage service.

## Details of Proposed Business Model

Per the Applicant, the current plans for the business are as follows:

- Black Sheep Coffee is not looking to obtain a full liquor license. They only want to sell beer and wine.
- They want to be open for business from 7 AM to 3:00 PM seven days a week. They would probably only sell beer and wine to the public between noon and 3 PM.
- Private events will take place when the café is closed. Private events may start as early as 3 PM and most will conclude by 9 PM.
- Per the Applicant, the maximum occupancy for the building under the State Fire Code is only 46 people so the building cannot accommodate large events.
- Black Sheep Coffee currently has an approved patio area that is set up each summer by arranging tables and planters to block off a small portion of the parking lot. This patio area can seat about 20 people. The Applicant is exploring options to significantly upgrade the patio and make it a more permanent feature with a nicer surface and some type of permanent shade structure like a gazebo or pergola.

## Zoning and Comprehensive Plan Guidance

The subject property is zoned C-1 Retail Business and guided “mixed-use” in the 2040 Comprehensive Plan. In the C-1 zoning district:

- “Cafés, cafeterias, and restaurants” are a permitted use. They do not need any special City zoning approvals.
- On-sale liquor requires a conditional use permit. *Any business that wants to sell wine, beer, or liquor for consumption on-site must get a conditional use permit before they are eligible for a liquor license. The City can attach “case by case” conditions to the conditional use permit.*

## Relevant City Code

The following code sections are relevant to this review:

- Section 118-126 of the City Code governs the C-1 Retail Business zoning district
- Section 118-40 of the City Code governs Conditional Use Permits.
- Section 118-277 of the City Code governs outdoor dining. *This code section was enacted on March 20<sup>th</sup> via Ordinance 1422 and has not yet been fully codified on the City’s website.*
- Sections 118-351 through 118-355 govern off-street parking and loading.

## Licensing For This Type of Business

The conditional use permit is just one tool that the City uses to regulate this type of business. Black Sheep Coffee will also need to obtain a liquor license and keep it in good standing to sell alcohol. The liquor license is issued by the City Council and can be revoked for license violations.

State Statute lays out base requirements for liquor licenses. State Statute allows bars to sell alcohol until 1 AM with a standard liquor license. The City Code is allowed to be stricter than State Statute but cannot be less strict. Most businesses that are located “up the hill” in South St. Paul are subject to a local ordinance that was adopted in 2014 which requires alcohol sales to be cut off at 11 PM:

### ***Sec. 6-76. Conditions and restrictions on issuance of license.***

(g) Closing; hours. Except as provided in this section, sale of intoxicating liquor is permitted only within the hours and only on the days fixed by Minn. Stat. § 340A.504. Not only must the sale of intoxicating liquor cease at the closing hour appointed each day, but also persons, other than employees of the licensee, must vacate the licensed premises within 30 minutes of the closing hour. Notwithstanding anything contained in this subsection, a licensee may keep the premises open for normal business purposes except the sale of liquor, provided the licensee has closed off all access to the bar in a manner approved by the council.

(1) If located more than 750 feet from Concord Street and within 500 feet from a residential district or a residence within a mixed-use district, then the licensed premises must close by 11:00 p.m., unless approved as part of a special event license or the establishment is a club under section 6-57(a)(1)d.

(2) Sunday on-sale; hours. A licensee may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food as permitted by Minn. Stat. § 340A.504, as it may be amended from time to time.

Businesses can remain open past 11 PM only if they stop serving alcohol and close off access to their bar. The Planning Commission recently reviewed an on-sale liquor conditional use permit amendment for Honduras Kitchen, another SSP restaurant that sells alcohol and is located “up the hill.” The City Council did approve their request to hold events that run until 1 AM on Fridays and Saturdays but it was noted in the approval that they must abide by any timing restrictions on alcohol sales that are in their liquor license. Unless the liquor licensing ordinance is amended in the future, both Honduras Kitchen and Black Sheep Coffee will need to cut off alcohol sales at 11 PM even if they sometimes hold events that go later than 11 PM.

If Black Sheep Coffee wants to serve alcohol and have live music, they will also need to secure an entertainment license. This type of license is issued by the City Council and can be revoked for license violations.

## Site and Building Plan Review

The Applicant is not proposing to make any changes to the exterior of the building or the overall site aside from swapping out what type of planters they use for demarcating the patio area that is set up in the parking lot during the summer. The Applicant may upgrade the patio area in the future with which will require a site plan review.

## **Parking**

In the C-1 Retail Business district, non-residential buildings with 7,500 square feet of floor area or less are not subject to a fixed off-street parking requirement. Each small business owner is allowed to make their own decisions about right-sizing their parking lot to meet their customers' needs. Black Sheep Coffee operates out of a 2,450 square foot space and currently has twelve striped parking stalls in their parking lot. There is also striped on-street parking on Southview Boulevard.

The Applicant may want to consider adding some amount of on-site bicycle parking to supplement the small public bike racks on Southview Boulevard. A local independent coffee shop is likely to attract the type of clientele that may want to reach the business by bicycle (i.e. teenagers and young professionals).

## **Cleaning Up Previous Zoning Approvals at Subject Property**

Black Sheep Coffee has been granted conditional use permits in the past, but those conditional use permits are no longer completely applicable because of changes to the business's operation and changes to the City Code. It would be beneficial to "clean up" the property's approvals with this current application so that the property owner knows exactly what the City expects of him:

- In 2006, Black Sheep Coffee obtained a conditional use permit and site plan approval to operate a makeshift drive-thru lane. Their setup was unusual and involved placing cones in their parking lot each morning and directing traffic so that cars could utilize the walk-up window as a drive-thru window. The business discontinued the drive-thru lane many years ago and this CUP was formally terminated in 2021 as part of the City's approval of a different conditional use permit which converted the old drive-thru lane into a seasonal patio.
- In 2021, Black Sheep Coffee obtained a site plan approval and a conditional use permit for outdoor dining to operate a seasonal patio. They create the patio area each summer by moving planters to block off a small part of their parking lot.

In March of 2024, the City Council approved Ordinance 1422 which eliminated the conditional use permit requirement for outdoor dining. Outdoor dining areas are now able to be approved via a site plan review. Most patios can be approved administratively by City Staff and do not require Planning Commission or City Council review. For restaurants with alcohol that already have a conditional use permit for on-sale liquor, City Staff has been given the authority to approve outdoor dining areas that stay open until 10 PM. A restaurant with alcohol that wants to keep their outdoor dining area open past 10 PM must get a conditional use permit amendment and their request is reviewed by the Planning Commission and City Council.

The status of Black Sheep Coffee's 2021 conditional use permit & site plan approval is somewhat fuzzy since the outdoor dining use no longer requires a conditional use permit but does still require a site plan approval. Staff would recommend that the 2021 conditional use permit be formally terminated and that the new on-sale liquor conditional use permit be the document that governs the property and establishes any site plan requirements. Some site plan approval conditions from the 2021 conditional use permit relating to screening and barriers to protect the patio from vehicular traffic should be moved to the new conditional use permit. Additionally, it does not appear that Black Sheep Coffee ever provided the City with a Sewer Access Charge (SAC) determination letter from the Metropolitan Council for the outdoor dining area which was a condition of approval in 2021. That letter still needs to be provided. The Metropolitan Council owns the region's sewer system, and they periodically audit their SAC records to make sure that all required sewer fees have been paid. They penalize businesses and municipalities that do not follow SAC determination procedures.

**Surrounding Land Uses**

| <b>Direction</b>                                 | <b>Existing Use</b>                                       | <b>Existing Zoning</b> | <b>Comp Plan Guidance</b> |
|--|---|------------------------|---------------------------|
| <b>West</b>                                      | Southview 66 Service Station                              | C-1 Retail Business    | Mixed-Use                 |
| <b>North (across Southview Blvd.)</b>            | Ground floor retail with 2 <sup>nd</sup> floor apartments | C-1 Retail Business    | Mixed-Use                 |
| <b>East (across 7<sup>th</sup> Avenue South)</b> | Professional offices                                      | C-1 Retail Business    | Mixed-Use                 |
| <b>South</b>                                     | Duplex  | C-1 Retail Business    | Mixed-Use                 |

**CONDITIONAL USE PERMIT CRITERIA**

Conditional Use Permits should be reviewed through the lens of the criteria outlined in the City Code:

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

**COMMENTS FROM OTHER DEPARTMENTS**

**Fire Department**

“No comment.”

**Police Department**

“No comment.”

**Building Department**

Future changes to the patio area that involve the construction of shade structures may require a building permit.

## DISCUSSION

Conditional Use Permit review is “case by case” and Black Sheep Coffee is next to a residential neighborhood, so it may be appropriate to place some conditions of approval on the business to ensure that it peacefully coexists with nearby residences. In addition to adhering to any conditions that are placed on their conditional use permit, the Applicant will need to abide by the terms of their liquor license which will require them to stop selling alcohol at 11 PM because they are “up the hill” and closer than 500 feet to a residential property.

Black Sheep Coffee has indicated that they plan to close at 9 PM every night and end all private events by that time but it is possible that their plans will change and they will want to offer expanded hours in the future. The Planning Commission should consider how “open-ended” the City wants to make this conditional use permit to allow Black Sheep Coffee to adjust hours without additional City review. A couple of things that the Planning Commission may want to discuss:

1. Should the conditional use permit be written to require private events with alcohol to end by a certain time?

*Honduras Kitchen, another restaurant with alcohol that is “up the hill” near a residential area, has a condition on their CUP that requires them to end large private events with more than 100 attendees by midnight on weekdays and 1 AM on Fridays and Saturdays. Black Sheep Coffee is in a small building that can only accommodate about 46 people so this may not be something that needs to be regulated.*

2. Should the outdoor dining area be allowed to operate past 10 PM?

*Staff would recommend requiring a 10 PM close since that is the “default” in the City Code. If Black Sheep Coffee wants a later patio closing time in the future, they can make the request. The City may want to impose additional conditions if there is going to be a later closing time for the patio since this could be disruptive for nearby residential properties.*

## STAFF RECOMMENDATION

Staff recommends approval of the conditional use permit with the following conditions:

1. **Approved Plans.** The conditions of this approval are based on the following plans:
  - a. **Application (Black Sheep Coffee)** **dated 5/8/2024**
  - b. **Narrative (Jason Frankot)** **Undated**
  - c. **Site Plan Showing Outdoor Dining Area (P. Middlecamp)** **part of 2021 CUP approval**
2. **Status of Previous Conditional Use Permits.** All previous conditional use permits applying to the subject property are hereby terminated as part of this approval and any conditions that are still relevant will be incorporated into this approval document. The Applicant and property owner acknowledge and agree that the previous conditional use permits are terminated, and they hereby waive any rights related to the previous conditional use permits.
3. **Liquor License Required.** The Applicant must obtain a liquor license prior to beginning alcohol sales. The Applicant must keep their liquor license in good standing and comply with any requirements attached to the license.

4. **Hours that Alcohol Can Be Served.** The Applicant shall adhere to any restrictions that are placed on their liquor license regarding the hours that alcohol can be served, pursuant to City Code and State Statute.
5. **Compliance with Entertainment Licensing Requirements.** The Applicant shall obtain an entertainment license prior to providing any entertainment that requires a license.
6. **Required Screening.** The Applicant shall continue to honor the condition that was placed in their original 2006 approval which governs required screening. The Applicant shall be required to maintain a minimum 4-foot tall privacy fence along the south property line from the east edge of the parking lot to a point even with the front of the house at 206 7<sup>th</sup> Avenue South (approximately 25 feet) and said privacy fence shall continue to the west of this point at 6-feet in height and then may terminate at the east wall of the building at 705 Southview Boulevard.
7. **Outdoor Dining Area.** The 400 square foot outdoor dining area was initially approved in 2021 and shall be subject to the following requirements:
  - a. The existing Site Plan Approval requires the Applicant to use moveable planters or other barriers that offer an equivalent amount of protection to separate the outdoor dining area from motor vehicle traffic in the parking lot. Any future changes to the site plan for the outdoor dining area will be reviewed in accordance with the process outlined in the City Code.
  - b. The outdoor dining area must be closed by 10 PM.
  - c. The Applicant shall provide the City with a Sewer Access Charge (SAC) determination letter from the Metropolitan Council for the outdoor dining area. If the Applicant does not already have a SAC determination letter, they must submit a request for a SAC determination letter to the Metropolitan Council by no later than August 1<sup>st</sup>, 2024. The Applicant shall pay any required SAC fees.
8. **Compliance with Noise Ordinance.** Excessive violations of the noise ordinance may result in the revocation of the conditional use permit. The City Council, at their sole discretion, shall determine what constitutes excessive violations.
9. **Termination of the Conditional Use Permit.** The Conditional Use Permit will terminate if improvements have not substantially begun within one year from the date of approval. The violation of any condition of approval in the conditional use permit may terminate the conditional use permit(s), following a hearing by the City Council.

## **Action Requested**

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

1. Approval. If the Planning Commission wishes to recommend approval of the conditional use permit amendment, the following action should be taken:

A. Motion to recommend approval of a conditional use permit for on-sale liquor at Black Sheep Coffee.

2. Denial. If the Planning Commission wishes to recommend denial of the conditional use permit, the following action should be taken:

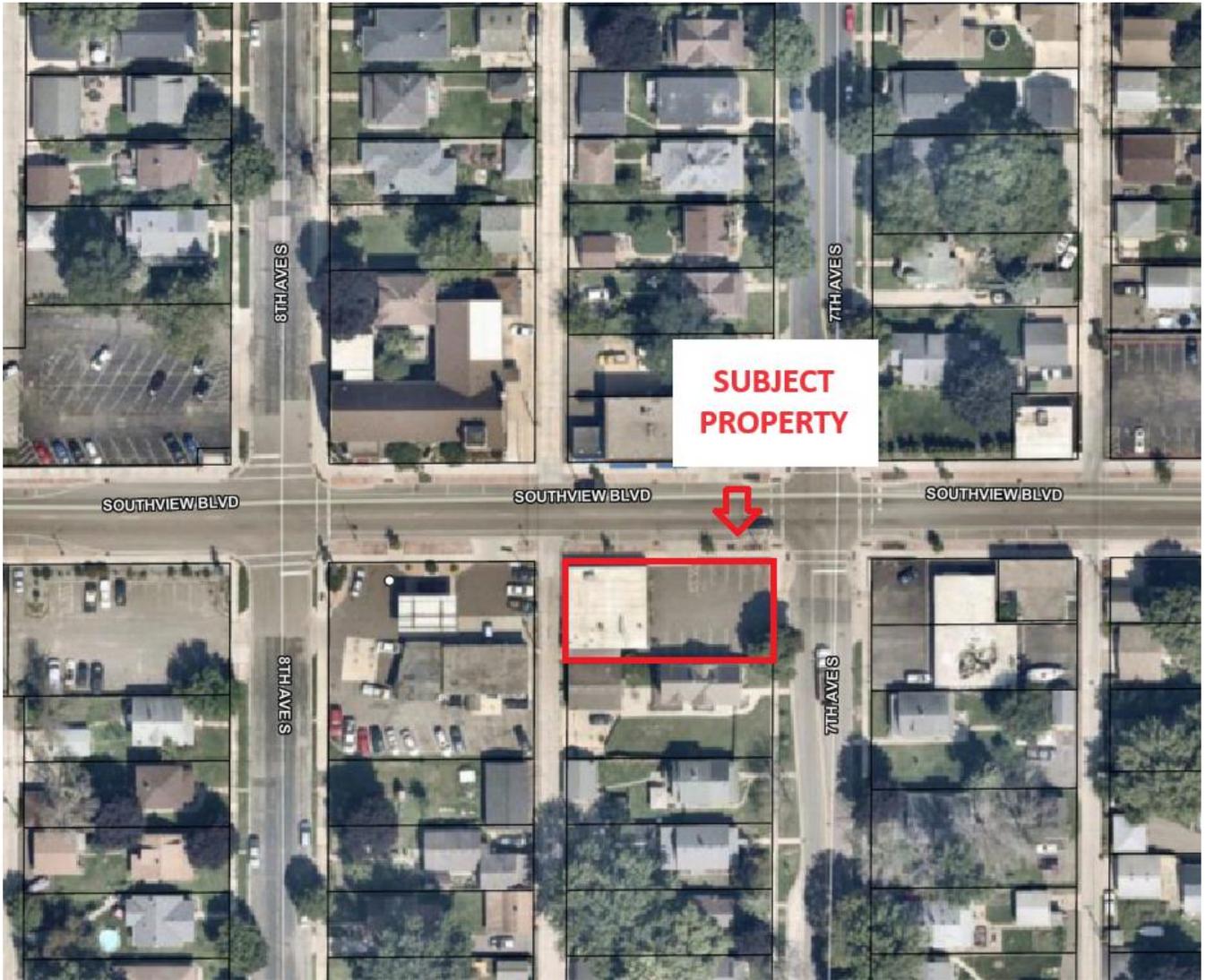
B. Motion to recommend denial of a conditional use permit amendment for on-sale liquor at Black Sheep Coffee.

*If the Planning Commission wants to recommend denial, it will require a finding that the CUP amendment request is not consistent with one of more parts of the CUP criteria.*

## **ATTACHMENTS**

- A. Site Location Map
- B. Applicant's Narrative
- C. Tax Assessor Sketch
- D. Approved Site Plan for Outdoor Dining Area (2021)
- E. Public Hearing Notice
- F. Public Comments Received Prior to Planning Commission Meeting

ATTACHMENT A  
SITE LOCATION MAP

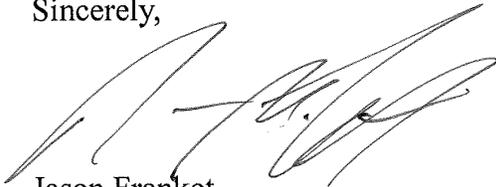


**ATTACHMENT B**  
**APPLICANT'S NARRATIVE**

To whom it may concern,

As a growing business, we're eager to expand revenue and enhance customer experiences. Securing a liquor license is projected to boost monthly revenue by \$900, while also enabling us to host exclusive private events tailored to our clients' needs. This entails hiring additional staff such as event coordinators for exceptional service and a memorable experience. We'll adjust our operating hours to accommodate these events and offer customized experiences that exceed expectations, prioritizing guest safety and satisfaction. Ultimately, our goal is to solidify our position as a premier destination for bespoke gatherings, driving revenue growth through innovative offerings and exceptional service.

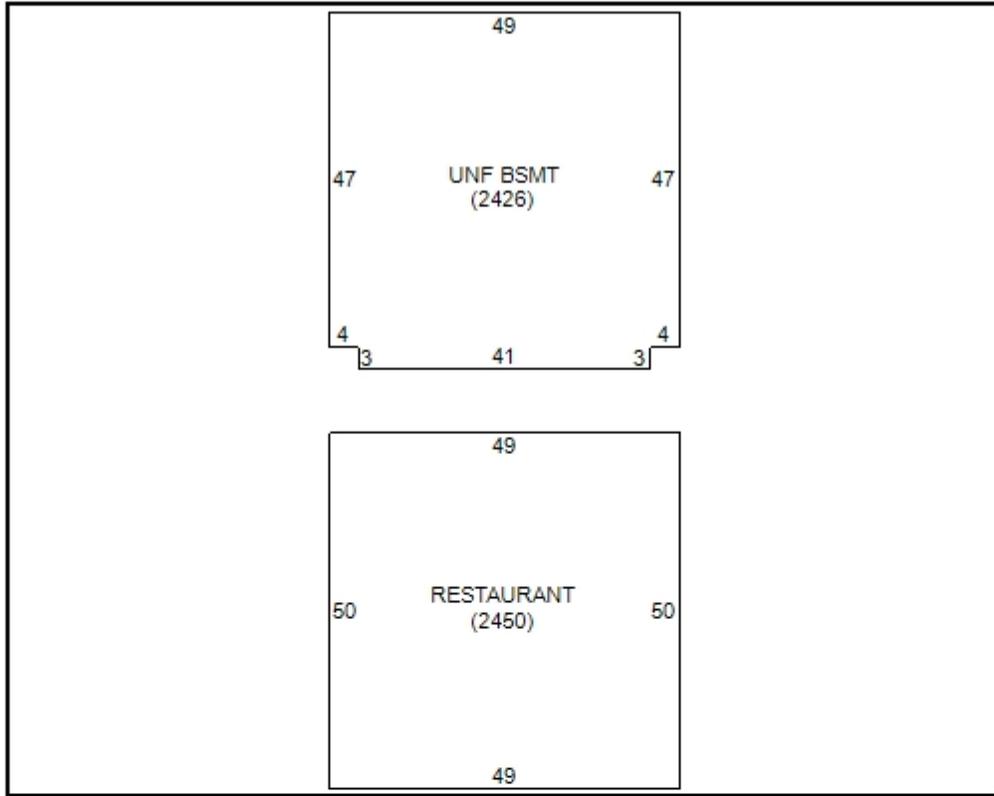
Sincerely,

A handwritten signature in black ink, appearing to read 'Jason Frankot', written over a light blue horizontal line.

Jason Frankot

**ATTACHMENT C  
TAX ASSESSOR SKETCH**

Parcel ID: 36-32550-03-300

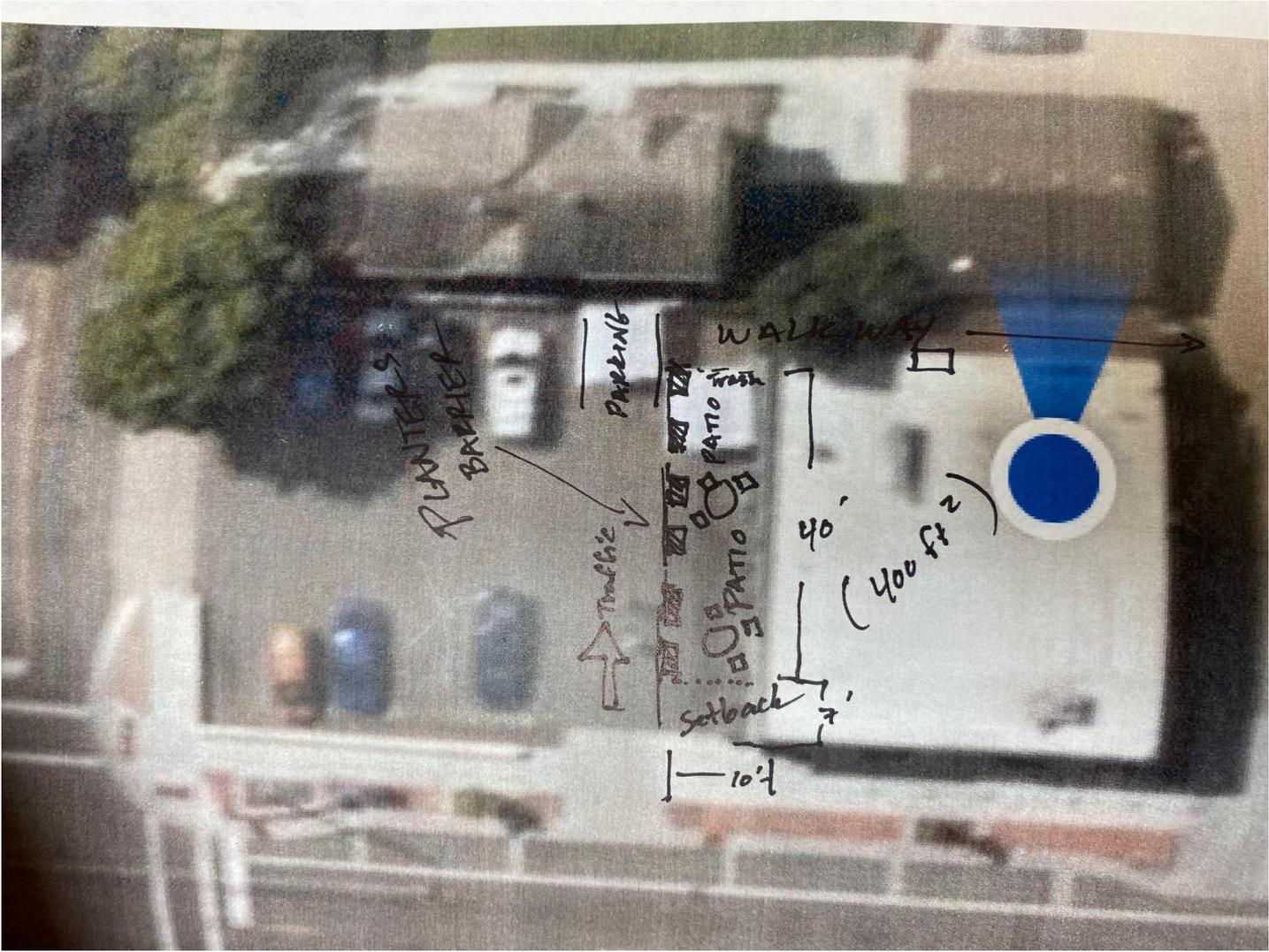


Card 1 of 1 Cards

| Code | Description | Area    | Living Area |
|------|-------------|---------|-------------|
| 442  | RESTAURANT  | 2450.00 | 0.00        |
| UBM  | UNF BASMT   | 2426.00 | 0.00        |

**Disclaimer:** This information is believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or for zoning verification.

ATTACHMENT D  
APPROVED SITE PLAN FOR OUTDOOR DINING (2021)



**ATTACHMENT E  
PUBLIC HEARING NOTICE**

|   |  |   |
|---|--|---|
|  <p><b>City of South<br/>St. Paul</b><br/>125 Third Avenue North<br/>South St. Paul, MN 55075<br/><a href="http://www.southstpaul.org">www.southstpaul.org</a></p> |  | <p><b><u>Notice of Public<br/>Hearing</u></b></p> |
| <b>Applicant(s):</b>  | Black Sheep Coffee   |   |
| <b>Request:</b>   | Black Sheep Coffee is seeking a conditional use permit for on-sale liquor. A conditional use permit is required before a business in the C-1 Retail Business zoning district can qualify for a liquor license.   |   |
| <b>Subject Property</b>   | 705 Southview Boulevard  |   |
| <b>Public Hearing Time and Location:</b>  | City Hall, Council Chambers, 125 Third Avenue North, South St. Paul<br><b>Wednesday, June 5<sup>th</sup>, 2024 at 7:00 P.M.</b><br>Or as soon thereafter as the matter can be heard.<br><br>All those interested are encouraged to attend and will be given an opportunity to be heard.  |   |
| <b>Questions or Comments, Please Contact:</b>   | The Planning Commission will also consider oral and written comments that are received prior to the meeting. You can submit your comments:<br><br>By mail: City of South St. Paul, Attn: City Planner<br>125 Third Avenue North<br>South St. Paul, MN 55075<br><br>By phone: (651) 554-3217<br>By fax: (651) 554-3271<br>By e-mail: <a href="mailto:mhealy@southstpaul.org">mhealy@southstpaul.org</a><br><br><u>All written, faxed, or e-mailed comments must be received by the City Planner no later than Noon on Wednesday, June 5<sup>th</sup> to be considered by the Planning Commission as part of the public hearing*.</u><br><br><i>*Please include your name and address as well as the project address</i> |   |

*A staff memo analyzing the conditional use permit request will be posted to the City's website by Friday, May 31<sup>st</sup> as part of the Planning Commission packet. It can be accessed using the following link:*

<https://www.southstpaul.org/agendacenter>



**Map Showing Location of Black Sheep Coffee at 705 Southview Boulevard**

**ATTACHMENT F**  
**PUBLIC COMMENTS RECEIVED PRIOR TO PLANNING COMMISSION MEETING**

Black sheep coffee



rhiphi [redacted]  
To Michael Healy

Reply Reply All Forward

Sat 5/25/2024 1:01 PM

705 southview  
Philip Rhinehart  
my address 229 7th ave south

i'm in favor of giving it to them if it brings more tax money into our city the better services we can provide  
Tax base is always a better thing  
so if it increases their business well done  
better for us all



## AGENDA ITEM 4.C

### South St. Paul Planning Commission

|  |  |
|--|--|
| <b>Prepared By:</b><br><i>Monika Miller, Associate Planner</i>                                       | <b>Meeting Date:</b><br><i>6/5/2024</i>                    |
| <b>Item Description:</b><br>Public Hearing for An Ordinance Amendment Overhauling the Sign Standards | <b>Reviewed By:</b> <i>Michael Healy, Planning Manager</i> |

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

A motion recommending approval or denial of an ordinance amendment overhauling the regulations for signage. The ordinance would improve the sign code readability, legalize painted wall signs while differentiating them from murals, and create official standards for temporary signs.

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

##### **Background**

In the last few years, the City has undertaken several sign code “clean-up” projects aimed at improving the code and reducing the number of sign variances the City must review each year. These ordinances have been successful, both in reducing the amount of staff time spent reviewing variances and creating a sign code that is consistent with the signage needs of businesses. Staff is proposing one final sign ordinance update to address the remaining issues:

- The City Code does not line up with the community’s longstanding approach to painted wall signs and murals.
  1. The City Code prohibits all painted wall signs but many of the businesses on Southview Boulevard and Marie Avenue have unlawfully painted signs on their buildings without permits. City Staff has never received any complaints about these signs and many other communities in the metro (i.e. Saint Paul and Edina) allow painted wall signs.
  2. In 2006, the Planning Commission and the City Council directed City Staff to allow a “mural” to be painted on the side of Black Sheep Coffee and instructed Staff not to treat murals like painted wall signs. However, the City Code was never updated to define what a “mural” is or distinguish between murals and painted signs. The businesses on Southview and Marie would likely try to claim that their unlawful painted wall signs are “murals” if challenged.

- There are inconsistencies in the rules for temporary signs. *The City has developed standards for temporary signs which have been enforced for many years but these standards have never actually been added to the City Code. This makes it difficult for staff to explain and enforce the regulations for temporary signs.*
- There are inefficiencies in the organization of certain sections. *Many of the sign regulations are arranged in a hodge-podge manner rather than alphabetically which can make it difficult for staff and the public to find the appropriate standards for the desired type of signage.*

## **Sign Code Refresher and Recent Code Changes**

The City's sign code regulations live in Article VI of the City Code (starting in Section 118-326). This article contains subsections which cover a purpose statement, definitions, exceptions from the sign code requirements, general provisions applicable to all zoning districts, the types of signage permitted by district, message substitution, and noncommercial speech.

Over the last several years, the City has worked to update the sign code standards to help align the sign ordinance with the types of signage businesses are installing. These updates have included:

- Allowing institutional uses (i.e. churches and schools) to have an appropriate amount of signage even when they are in residential neighborhoods.
- Updating the standards for projecting signs and awnings to allow them in mixed-use areas.
- Creating a master sign plan review process to address unique signage needs at shopping centers or industrial properties over 5 acres in size.
- Increasing the allowable sign heights in the commercial and industrial districts to match what was routinely being approved via variances.
- Increasing the amount of allowable signage for large buildings in the commercial and industrial districts.
- Adding a provision to allow each building at the Fleming Field Municipal Airport to have up to 200 square feet of signage.

The changes listed above have substantially reduced the number of sign variances.

## **What Signage Standards Are Currently in Place?**

### *Painted Signs/Murals*

The only regulation South St. Paul has regarding painted signs is in Section 118-337 which lists the types of signs that are prohibited in South St. Paul. The code prohibits:

*“Signs painted onto buildings or walls, or signs painted, attached, or in any other manner affixed to fences, trees, rocks or other similar natural surfaces or attached to public utility poles, bridges, towers, or similar public structures.”*

The City Code does not define what a “mural” is or differentiate between a painted sign and a mural, so City Staff has been relying upon Planning Commission and City Council direction given in 2006 regarding murals. Some cities prohibit painted signs due to their greater need for maintenance and the uncertainty of how to handle the sign when the business is no longer at the site.

## *Temporary Signs*

Temporary sign regulations can be found in Section 118-336. Temporary signs are allowed in all districts and are an exception to the general sign rules “when used in conjunction with a promotional item, special occasion, holiday or sale” and “discontinued within 30 days of installation and be not displayed more than a total of 120 day per calendar year.” The code also states all temporary signs require a permit, except for construction signs, real estate signs, sandwich board signs, and community event signs. The exempted signs have performance standards associated with them that regulate the size and location of these special temporary signs.

South St. Paul’s temporary sign permit application lists performance standards that have been enforced for many years including that temporary signs cannot exceed 100 square feet in size, a property can have up to 3 temporary signs as long as the total amount of signage does not exceed 100 square feet, and that temporary signs cannot be freestanding and must be attached to a building or an existing monument sign. These standards have never been officially added to the City Code.

## *General Sign Code Reorganization*

This ordinance amendment is structured as a repeal and replace update because a large portion of the ordinance includes the rearrangement and restructuring of the existing sign regulations. The sign code was completely overhauled in 2009. Since then, staff have found the structure of the existing sign ordinance to be cumbersome. Additionally, the sign code is not alphabetized which reduces the readability of the code. Staff would like to restructure each of the code sections as well as move around relevant performance regulations to locations that are more intuitive and alphabetize each section of the code to improve readability.

## **Proposed Updates**

### *Painted Signs and Murals*

In the last several years, South St. Paul’s passionate artists have been painting the sides of South St. Paul buildings with art that often promotes the business in the same way that a sign would. The locations in South St. Paul with painted wall art include Farmers Insurance Building (620 Southview Boulevard), Maple Tree Day School (1002 Marie Avenue), the School District Office Building (104 5<sup>th</sup> Avenue South), Black Sheep Coffee (820 Southview Boulevard), the Coop (157 3<sup>rd</sup> Avenue South), Southview 66 (725 Southview Boulevard), Pounce and Fetch (512 Southview Boulevard), and Complete Events (525 Southview Boulevard). South St. Paul’s sign code currently prohibits painted signs. While these paintings may appear to be harmless, there could be issues if the City gets a complaint and attempts to enforce the sign ordinance against one business’s painted wall sign while ignoring some of the others and calling them “murals.” As previously stated, the City Code does not clearly distinguish between a painted wall sign and a mural.

Regulating creative painted expressions is tricky because regulations can unintentionally violate the first amendment. Cities can regulate the physical characteristics of a property’s signage such as size, height, shape, number and location, but a City cannot regulate the content of a sign except for prohibiting obscene content (i.e. graphic sexual content). Whether painted art is considered a sign usually comes down to whether the painted art constitutes commercial speech. This process is rarely straightforward and there have been numerous U.S. Supreme Court rulings that have restricted Cities’ ability to regulate signs and murals.

The draft ordinance would codify the approach to murals that the City of South St. Paul has taken since 2006 while also officially legalizing painted wall signs and subjecting them to the same regulations that govern other wall signs. The new language would clarify that painted wall signs are different than murals and would be defined as such. Murals would be defined and listed as an exempt type of sign that the city does not regulate as long as they are going on a building with commercial or industrial zoning or onto an institutional building like a church or school. Painted signs would be regulated the same way as other wall signs and would require a permit.

### *Temporary Sign Regulations*

Staff drafted language to codify the standards for temporary signs found on the temporary sign permit application as well as to update and reorganize some of the existing types of temporary signs. The standards for commercial temporary signs that are listed on the back of the city's sign permit application would be codified as the official performance standards for temporary signs that require a permit. These standards include a maximum number of temporary signs that can be at one property (3 signs), a limit to the amount of temporary signage that can be at one property (100 square feet), language that clarifies that temporary signs need to be located on private property, and that temporary signs cannot be illuminated. Historically, the city has required temporary signs that need a permit to be either attached to a wall or an existing monument sign. Based on feedback received during the discussion at the Planning Commission meeting on May 1<sup>st</sup>, temporary signs that require a permit will also be allowed to be freestanding.

Temporary signs that do not require a permit, such as construction signs, community event signs, real estate signs and yard signs, would have their own section that lists individual performance standards for each type of sign. Certain types of signs that are not really signs and that the City has no interest in regulating, such as house numbers, directional signs within a parking lot, noncommercial flags, murals, and walk up window menu signs, would continue to live in the "exceptions" section of the City Code. By separating these types of temporary signs into two sections, the code becomes easier to read and clearly differentiates what types of temporary signage the City does regulate.

### **Proposed Updates**

Staff is proposing the following amendments to the existing code:

- Create a definition for "mural".
- Add painted signs as an allowable type of wall sign.
- Update the list of exempted signs to include murals, internal wayfinding signs, and window signs.
- Update the rules for temporary signs to codify the rules that the City has been utilizing for the past decade.
- Allow temporary signs that require a permit to be freestanding.
- Allow small temporary yard signs (up to 6 sq. ft of signage) on residential and institutional properties.
- Clarify how sign area is calculated depending on whether a proposed sign is in a frame or not.
- Eliminate the definition for "cabinet and box signs" which are simply types of wall signs and do not need their own unique code requirements.
- Reorganize the sign code provisions for improved order and readability.
- Increase the number of monument signs allowed for institutional uses that are on a site that is greater than 1 acre in size to one monument sign per street frontage. Each monument sign would only be allowed to be 32 square feet. Only one monument sign would be allowed to have a dynamic, electronic changeable copy, or electronic graphic display.

- Increase the maximum amount of signage allowed in the CGMU-1 district for properties that have frontage on Concord Street and Concord Exchange by 0.5 per lineal feet of building frontage along the secondary public street.
- Simplify the regulations for drive-through signs to allow up to two drive-through signs that are the same size on a property with a drive-through facility.
- Add additional content to the “Purpose” section of the sign ordinance to further refine the purpose and intent of the regulations.

## **Discussion**

### *General Discussion on Regulating Signage*

There is no one “right answer” when it comes to regulating signage and different communities have different standards based on the aesthetic goals of each community. In drafting the proposed ordinance, Staff has tried to create design standards that are consistent with signage that has been approved in South St. Paul in the past, often via variances and Planned Unit Development approvals. Some of the proposed changes are the result of recent US Supreme Court rulings on free speech that have impacted the City’s ability to regulate signs. Some of the proposed changes reflect the South St. Paul business community desiring to use some types of signage that are currently prohibited, such as painted wall signs.

### *Discussion from May 1<sup>st</sup> Planning Commission Meeting*

The Planning Commission reviewed and discussed a draft version of the proposed ordinance at their May 1, 2024 meeting. During the meeting, the Planning Commissioners voiced their support for the proposed standards for temporary painted signs and murals. Additionally, the Planning Commission shared that they would like to see small yard signs be exempted. Staff incorporated the feedback the Planning Commission provided into the current version of the ordinance.

Commissioner Hoffman provided feedback at the May 1<sup>st</sup> meeting that he would like to see temporary feather flag signs legalized for use in conjunction with a sale or event and asked if Staff could explore this possibility prior to the public hearing. Commercial flags have historically been prohibited in South St. Paul. Pictures of temporary feather flag signs can be found in Attachment B. Commissioner Hoffman cited several other communities, including Eden Prairie, Maple Grove, and Roseville, that allow this type of signage on a temporary basis. Staff confirmed that these communities do allow feather flag signs but there are also many communities that ban these signs, including Minneapolis, West St. Paul, and Saint Paul. Feather flag signs often have poor aesthetics and contribute to visual clutter along a commercial corridor. In Staff’s experience, many businesses like to use feather flags for “guerilla marketing” and these flags are usually installed without a permit and taken down quickly if the City gets a complaint and comes out to do code enforcement. It is unclear how many businesses would be willing to pay for a permit to have feather flag signs and it is unclear how many businesses would be willing to adhere to the 30-day time limit or ensure that their feather flags are tied to specific sale or event. Most feather flags are not tied to a specific event and instead just state things that are available at a business (i.e. “Tacos!,” or “Used Cars!,” or “Low Prices Everyday!”). Feather flag signs generally do not have a shape or size that supports their use for more complicated messages.

If temporary feather flag signs were to be an allowed type of temporary sign, these signs would need to follow the same performance standards as any temporary sign that requires a permit, including that the sign can be one of three temporary signs that can be displayed at one time, the sign cannot exceed 8 feet in height, the sign would count towards the 100 sq. ft. of temporary signage that is allowed at one time, and the sign must be discontinued 30 days after installation. The Planning Commission should discuss whether

to allow this type of sign and if the Planning Commission wishes to allow temporary freestanding feather flag signs, the Planning Commission should include in their motion a recommendation that staff include language to allow temporary feather flag signs.

### **Action Needed**

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

1. Approval. If the Planning Commission wishes to recommend approval of the Ordinance Amendment, the following action should be taken:
  - A. Motion to recommend approval of an ordinance amendment overhauling the regulations for signage.
  
2. Denial. If the Planning Commission wishes to recommend denial of the Ordinance Amendment, the following action should be taken:
  - B. Motion to recommend denial of an ordinance amendment overhauling the regulations for signage.

### **ATTACHMENTS**

- A. Proposed Sign Ordinance
- B. Photographs of Temporary Feather Flag Signs

**ATTACHMENT A  
PROPOSED SIGN ORDINANCE**

**CITY OF SOUTH ST. PAUL  
DAKOTA COUNTY, MINNESOTA**

**ORDINANCE NO. 14XX**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 118, ARTICLE VI OF  
THE SOUTH ST. PAUL CITY CODE RELATING TO SIGNS**

**SECTION 1. REPEAL AND REPLACE.** South St. Paul City Code Chapter 118, Article VI is hereby repealed and replaced as follows.

**ARTICLE VI. SIGNS**

**Sec. 118-326. Findings, Purpose and Effect**

(a) *Findings.* The City Council hereby finds as follows:

1. Exterior signs have a substantial impact on the character and quality of the environment.
2. Signs provide an important medium through which individuals may convey a variety of messages.
3. Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.
4. The City's zoning regulations have included the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulations of the physical characteristics of signs within the City have had a positive impact on traffic safety and the appearance of the community.

(b) *Purpose And Intent.* It is not the purpose or intent of this Article to regulate the message displayed on any sign; nor is it the purpose or intent of this Article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this Article is to:

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.
2. Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.

3. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
  4. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.
- (c) *Effect.* A sign may be erected, mounted, displayed or maintained in the City if it is in conformance with the provisions of these regulations. The effect of this Article, as more specifically set forth herein, is to:
1. Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in this section.
  2. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this section or when required by federal, state or local law.
  3. Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.
  4. Provide for the enforcement of the provisions of this Article.
- (d) *Severability.* If any subsection, sentence, clause, or phrase of this Article is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this section. The City Council hereby declares that it would have adopted this section in each subsection, sentence, or phrase thereof, irrespective of the fact that any one or more subsections, sentences, clauses, or phrases be declared invalid.

### **Sec. 118-327. Definitions.**

For the purposes of this Article, words and terms shall have the following meanings and follow the rules set forth in Code Section 118-7.

*A-frame sign* means a movable freestanding sign hinged at the top or attached in a way that forms a similar shape to the letter "A" when viewed from the side. A-frame signs are only allowed on a temporary basis and may not be used as permanent signage.

*Abandoned sign* means any sign and/or its supporting sign structure that remains without a message or whose display surface remains blank for more than one year or that pertains to a time, event, or purpose that no longer applies. Abandoned signs are not legally established nonconforming signs.

*Address sign* means a sign on a building used for proper identification of the location of the property.

*Area identification sign* means a sign on private property, which identifies the name of a neighborhood, a residential subdivision, a multiple residential complex, a shopping center or area, an industrial park, an office park, or any combination of the above, but does not specifically

identify the individual businesses therein. An area identification sign must be a freestanding sign unless a different type of sign is explicitly authorized by this ordinance for a specific use.

*Awning* means a roof-like cover, often of fabric, plastic, metal, or glass, designed and intended for protection from the weather or as a decorative embellishment, that projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning that also projects over a door shall be considered an awning.

*Awning sign* means a sign or graphic printed on or in some fashion attached directly to the awning material. An awning sign is a form of a projecting sign.

*Balloon sign* means a sign consisting of a bag made of lightweight material supported by helium or hot or pressured air that is greater than 24 inches in diameter.

*Banner* means any sign of lightweight fabric or similar material mounted to a pole or a building at one or more edges. Flags, as defined herein, shall not be considered banners.

*Building frontage* means the exterior building wall of a principal building that face a public street. When no exterior building walls are parallel to a street, the building frontage shall be the exterior wall that is most oriented towards the street. If a building façade has multiple wall segments that all face the same public street, these walls shall all be considered part of the building frontage.

*Building marker* means memorial signs or tablets, names of buildings, and date of erection when cut into any masonry surface or inlaid so as to be part of the building or when constructed of bronze or other noncombustible material.

*Canopy* means a roof-like cover, often of fabric, plastic, metal, or glass on a support that provides shelter over a doorway.

*Canopy sign* means any sign that is part of or attached to a canopy made of fabric, plastic, or any other structural protective cover over a door or entrance. A canopy sign is a form of a projecting sign.

*Commercial speech* means speech that is advertising a business, profession, commodity, service, or entertainment.

*Directional sign* means a sign erected for the purpose of directing vehicular or pedestrian traffic within a commercial or multi-family property.

*Drive-through sign* means a sign located on the site of an allowed drive-through use. Directional signs are not considered drive-through signs.

*Dynamic display sign* means a sign with any characteristics that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

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

*Electronic changeable copy sign* means a sign or portion thereof that displays electronic, nonpictorial, text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes ("LEDs"), fiber optics, light bulbs, or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays.

*Electronic graphic display sign* means a sign or portion thereof that displays electronic, static images, static graphics, or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of LEDs, fiber optics, light bulbs, or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, re-pixelization, or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include images or messages with these characteristics projected onto buildings or other objects.

*Erect* means the activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing, or any other way of bringing into being or establishing.

*Flag* means any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and that contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

*Freestanding sign* means a sign that is placed in the ground and not affixed to any part of a structure or building.

*Freeway* is a principal arterial highway, as defined in the comprehensive plan.

*Freeway sign* means an on-premises pylon sign that is located on the property of the business for which it is identifying and is immediately adjacent to a freeway.

*Grade* means the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

*Gross sign area* means the method of calculating the allowable square footage of signs. The stipulated maximum gross area for a sign refers to a single facing. Freestanding signs which are V-shaped be considered as two signs. Gross area shall be calculated as follows:

- (a) *Signs with a frame*: The area within the frame, including all lettering, wording, and accompanying designs and symbols, together with all the background, whether open or

enclosed, on which they are displayed, including a message board. The area shall not include the main support structure but shall include any other ornamental attachments that are not a part of the main support of the sign.

- (b) *Signs without a frame*: The gross area shall be the smallest rectangle that encompasses all of the letters or symbols.

*Height* means the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

*Illegal sign* means a sign that is erected without first complying with all City ordinances and regulations in effect at the time of its construction and erection or use. Abandoned signs, unsafe signs, and signs attached to vacant buildings are also illegal signs.

*Illuminated sign* means any sign that contains an element designed to emanate artificial light internally or externally.

*Interior sign* means a sign which is located within the interior of any building, or within an enclosed courtyard, that is not visible from the property line or public right-of-way.

*Legally established nonconforming sign* means any sign and its support structure lawfully erected prior to the effective date of this article that fails to conform to the requirements of this article. A sign that was erected in accordance with a variance granted prior to the adoption of this article and does not comply with this article shall be deemed to be a legally established nonconforming sign.

*Master Sign Plan* means a written document describing all proposed signage for a specific site, development or complex, submitted by the owner/manager. It shall, at a minimum, include sign type, location, and size information for all signage that will be installed.

*Monument sign* means any freestanding sign independent from any building or other structure that is mounted on the ground or mounted on a base at least as wide as the sign. A monument sign is typically solid from grade to the top of the structure; however, a monument sign may include open area below the face of the sign if the sign complies with the monument sign supporting sign structure design criteria.

*Mural* means a work of art intended as artistic expression and not as a commercial message and is hand-painted or hand-tiled directly on to the exterior wall of a commercial property used for a commercial, industrial or institutional use. A mural does not include displays with electrical or mechanical components or a changing image art display.

*Noncommercial speech* means the dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

*Nonelectronic changeable copy sign* means a sign or portion thereof that has a readerboard for the display of text information in which each alphanumeric character, graphic, or symbol is defined by objects, not consisting of an illumination device, that may be changed or re-arranged manually or mechanically with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign.

*Off-premises sign* means a sign bearing a commercial message that is located on property that is not the premises, property, or site of the use identified or advertised on the sign.

*On-premises sign* means a sign bearing a commercial message that is located on the premises, property, or site of the use identified or advertised on the sign.

*Pennant* means a relatively long, tapering flag.

*Projecting sign* means a sign that projects from a wall or other surface. Examples may include, but are not limited to awning, canopy, and wall signs.

*Pylon sign* means any freestanding sign that has its supportive structure(s) anchored in the ground and a sign face elevated above ground by pole(s) or beam(s) with an open area below the face of the sign. A pylon sign shall have a minimum height of ten feet and a maximum height as established by the zoning district.

*Roof sign* means any sign erected wholly upon the roof or parapet of a building that is wholly or partially supported by the building upon which it is erected.

*Rotating sign* means a sign that revolves or rotates on an axis.

*Sign* means any structure, fixture, placard, announcement, declaration, device, demonstration, or insignia used for direction, information, identification, or to advertise or promote any business, product, goods, activity, services, ideas, or interests. A sign shall not be deemed to include any transparent window cling(s); architectural embellishment(s) of a building not intended to communicate information; any sign or structure that is not visible from an adjacent street, property line or building on an adjacent property.

*Static off-premises sign* means an off-premises sign or portion thereof that displays static text or images which can only be modified by physically or mechanically removing and replacing the sign face or its components. A static off-premises sign is an entirely different type of sign than a dynamic display off-premises sign and it is not permissible for the owner of a lawful nonconforming static off-premises sign to intensify their nonconformity by converting any part the static off-premises sign to a dynamic display off-premises sign. An off-premises sign is a sign that bears a message promoting a use that is not located on the subject property or premises.

*Temporary sign* means a sign that can be easily installed and removed and is intended to be displayed for a short period of time as further defined in this Article.

*Unsafe sign* means any sign that is out of order, in disrepair, rotten, hazardous, or in any other manner unsafe.

*Video display sign* means a sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text, and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes. Video display signs do not include electronic changeable copy signs. Video display signs include images or messages with these characteristics projected onto buildings or other objects.

*Walk-up Window Sign* means a sign located next to a walk-up window which is oriented towards customers engaging in transactions at the window and features text that is not easily readable by passing vehicular traffic.

*Wall* means any structure that defines the exterior boundaries or courts of a building or structure and that has a slope of 60 degrees or greater with the horizontal plane.

*Wall sign* means a sign painted or fastened to the exterior front, rear, or side wall of a building or structure that does not extend vertically above the highest portion of the roof.

*Window sign* means a sign designed to communicate information about an activity, business, commodity, event, sale or service that is placed inside a window or upon the window glass so as to be primarily visible from the exterior of the building or structure.

*Yard sign* means a temporary, noncommercial freestanding sign that is placed in the yard of a private property.

### **Sec. 118-328. Permits Required.**

- (a) It shall be unlawful for any person to erect, alter, replace, or relocate any sign without first obtaining a permit and paying the required fees, except as herein otherwise provided, including those approved through the Master Sign Plan process. All signs must be constructed in accordance with all applicable City Code provisions, including permits and fees.
- (b) If the sign requires electricity, it must be installed in accordance with the current electrical code and a separate permit from the building official may be necessary prior to placement.
- (c) Freestanding signs may require a building permit in addition to a sign permit at the discretion of the Building Official. If a building permit that is based on the project value is required, the fee for the sign permit shall be waived.

### **Sec. 118-329. Exceptions.**

The following signs do not require a sign permit and do not count towards the total amount of signage allowed at a property, provided they meet the performance standards as described in this Article and conform to any other provisions of the City Code.

- (a) Address signs.
- (b) Building markers.
- (c) Directional signs, which shall not exceed 6 square feet in gross area and 5 feet in height.
- (d) Murals in the following situations:
  - (1) Murals on a property with commercial or industrial zoning that is being used for a commercial or industrial use.
  - (2) Murals on a property that is being used for public or institutional use.
  - (3) Murals on residential buildings containing at least 4 dwelling units that have CGMU or MMM zoning.
- (e) Noncommercial flags.

- (f) Signs of the City, county, state or federal government and subdivisions and agencies thereof.
- (g) Walk-up window signs that are oriented towards customers engaging in a transaction at a walk-up window and which feature text that is not readily readable by passing traffic. Electronic changeable copy walk-up window signs require a conditional use permit and are not considered an exempt sign.
- (h) Window signs when located in the C-1, CGMU, GB, and MMM districts may be placed within a building, however the window coverage shall not exceed 30 percent of each window. There shall be no more than a maximum area of 80 square feet per street frontage for window signs. Electronic changeable copy window signs require a conditional use permit and are not considered an exempt sign.

**Sec. 118-330. Prohibited Signs.**

- (a) Abandoned signs.
- (b) Balloon signs.
- (c) Commercial flags.
- (d) Graffiti.
- (e) Illegal signs.
- (f) Off-premises signs, except A-frame signs as permitted in Code Section 118-331 and dynamic display off-premises signs as allowed in Section 118-334.
- (g) Permanent banners or pennants, except those permitted by Minn. Stats. § 412.221, Subd. 34.
- (h) Permanent sale signs.
- (i) Portable (trailer) signs.
- (j) Pylon signs.
- (k) Roof signs.
- (l) Revolving or rotating signs.
- (m) Search lights or strobe lights.
- (n) Signs containing content classified as "obscene" as defined by Minnesota statutes, section 617.241.
- (o) Signs containing audio speakers or any form of pyrotechnics, except drive-through signs which may have audio speaker systems.
- (p) Signs that physically obstruct windows, doors, fire escapes or an opening intended to provide ingress or egress to any structure or building.
- (q) Signs painted, attached, or in any other manner affixed to fences, trees, rocks, or other similar natural surfaces, or attached to public utility poles, bridges, towers, or similar public structures.

- (r) Signs that appear in color or design to resemble a traffic sign or signal or that make use of words, symbols, or characters in such a manner as to interfere with, mislead, or confuse pedestrian or vehicular traffic.
- (s) Signs that are affixed to vehicles or trailers that are not in use or are parked in such a fashion as to serve as additional freestanding signs. Permanent signs on operable commercial vehicles or trailers (that are used as part of the everyday operation of the business) are not prohibited by this section and are allowed.
- (t) Unsafe signs.
- (u) Video display signs.

**Sec. 118-331. Temporary Signs.**

Temporary signs located in a commercial or industrial district or for an institutional use, except those listed in Code Section 118-329 or exempted below, are subject to the following requirements:

- (a) Temporary Sign Performance Standards
  - (1) Temporary signs require a permit unless otherwise listed below.
  - (2) Temporary signs shall be located on private property and outside of the public right-of-way.
  - (3) Temporary signs may be freestanding or mounted onto an existing structure (such as a wall or an existing monument sign).
  - (4) Temporary signs do not count towards the total amount of signage allowed at a property.
  - (5) No individual sign shall exceed 8 feet in height.
  - (6) A property may have up to 3 temporary signs on the premises at one time.
  - (7) The total amount of temporary signage allowed at one time shall not exceed 100 square feet in area.
  - (8) All temporary signs must be discontinued 30 days after installation.
  - (9) A property cannot have temporary signage displayed at the site for more than 120 days per calendar year.
  - (10) Temporary signs may not be illuminated.
  - (11) Temporary signs may not be installed in a manner that obstructs sight lines at a street intersection and their placement is subject to the provisions of Section 118-246(c).
- (b) Temporary Signs That Do Not Require a Permit
  - (1) A-frame signs when located in the C-1, CGMU-1, CGMU-2, and MMM districts and for institutional uses in residential zoning districts provided they comply with the following:
    - a. There shall be no more than one A-frame sign per property.

- b. The A-frame sign is made of durable, exterior-grade materials that are weather-resistant.
  - c. The A-frame sign is located on the street frontage directly in front of the building which the A-frame sign is for.
  - d. The A-frame sign must be located behind the curb and in such a manner as to prevent obstructing access to vehicles using on street parking.
  - e. The A-frame sign must not obstruct a driveway or public sidewalk, trail, road, or other public right-of-way.
  - f. The A-frame sign is no larger than 8 square feet and no greater than 4 feet in height.
  - g. The A-frame sign must be removed at the close of business and stored inside a building when the business is closed. The A-frame sign must not be permanently attached to the ground, building, or any other surface.
- (2) Community event signs provided are displayed for no more than 30 days prior to the event and are removed no more than 2 days after the event.
- (3) Signs on ballfield fences no larger than 32 square feet and occupying no more than 70 percent of the fence.
- (4) Signs for an active construction site. Signs at an active construction site may be up to 96 square feet in size and are allowed on any property with an active building permit provided that the sign is removed upon completion of the project. Only one (1) such construction sign is permitted per lot. In addition to this allowance, in the MMM, CGMU, C-1, I, and I-1 districts, unlit construction banner signs may be affixed to temporary security fencing surrounding the construction site provided that the banners are kept in good repair, do not extend beyond the top of the fence, and all temporary fencing and banners are removed at the completion of the project.
- (5) Signs on a residential property provided the sign is not affixed to any structure, the total number of signs does not exceed two (2), and the total size of the two signs does not exceed six (6) square feet. These provisions do not apply to election signs as regulated in Code Section 118-342.
- (6) Signs for the purpose of selling or leasing real property. Such signs must be removed within 7 days following the lease or sale of the property or premises and they comply with the following size restrictions:
- a. In the R-1 and R-2 districts, an individual sign shall not exceed 9 square feet in gross area.
  - b. In the R-3 and R-4 districts, an individual sign shall not exceed 18 square feet in gross area.
  - c. In the CGMU-1 and CGMU-2 districts, an individual sign shall not exceed 24 square feet in gross area.

- d. In the C-1, GB, MMM, and I districts, an individual sign shall not exceed 32 square feet in gross area.
- (7) Yard signs when the signs are located on a private property with residential zoning or that is being used for an institutional use. The total number of signs shall not exceed two and the total square footage of the yard signs shall not exceed 6 square feet.

### **Sec. 118-332. General Provisions**

The following provisions shall apply in all zoning districts.

- (a) *Illumination.* In general, all lighted signs shall comply with the standards for exterior lighting found in Section 118-245, unless otherwise listed in this section. Illuminated signs may be internally or externally lit. External illumination for signs shall be constructed and maintained so that the source of light is not visible from an adjacent property or the right-of-way.
- (b) *Legally established nonconforming signs.* Legally established nonconforming signs are subject to the provisions found in Minnesota Statute § 462.357.
- (c) *Location and setback.* Except for projecting signs, attached wall signs, awning and canopy signs, dynamic display off-premises signs, and signs that are listed as exceptions in Code Section 118-329, signs in all zoning districts shall be located at least 5 feet from all property lines. No freestanding signs shall be located within the traffic visibility triangle.
- (d) *Repairs and removal.*
  - (1) Abandoned signs. Any abandoned sign shall be removed or otherwise properly brought into compliance by the property owner upon receipt of notice to do so given by the City. In the case of a painted sign, removal shall mean the complete repainting of the background on which the sign is painted.
  - (2) Illegal signs. Any fixed sign constructed, placed, or maintained in violation of this Article shall be removed by the property owner upon receipt of notice to do so given by the City.
  - (3) Unsafe signs. Any unsafe sign shall be removed or otherwise properly secured by the property owner upon receipt of notice to do so given by the City.
- (e) *Signs constituting a public nuisance.* Any abandoned, illegal, or unsafe sign is hereby declared to be a danger to the health, safety, and welfare of the citizens of South St. Paul and is declared to be a public nuisance subject to abatement and assessment, except that legally established nonconforming signs shall not be abated until they have been abandoned for more than one year.

### **Sec. 118-333. On-Premises Signs**

- (a) *Awning and canopy signs.* Awning and canopy signs shall comply with the following requirements:

- (1) They shall be limited to single-story buildings or to the first level only of multi-story buildings.
  - (2) They shall have a minimum clearance of 8 feet above grade.
  - (3) The maximum height of an awning or canopy shall be 5 feet.
  - (4) No awning shall project over a public sidewalk or into a public right-of-way without the approval of the City Engineer.
  - (5) Illuminated canopy and awning signs shall comply with the following lighting requirements:
    - a. On nonresidential buildings in residential districts, the direct source of light shall not be visible from the public right-of-way or adjacent residential use or district.
    - b. For signs or illuminated areas less than 3 feet in height, the degree of illumination or candlepower of illuminated canopies and awnings shall be limited to a single lamp exterior fluorescent fixture, running the entire length of the illuminated area.
    - c. For signs or illuminated areas 3 to 5 feet in height, the degree of illumination or candlepower shall be limited to double lamp fixtures.
    - d. In no event shall the power of the fixture exceed 10 watts per foot for single lamp fixtures and 20 watts per foot for double lamp fixtures.
- (b) *Drive-through sign.* Drive-through signs are allowed in addition to other permitted signs on site and shall not be used to calculate the maximum signage for the property. Drive-through signs are subject to the following performance standards:
- (1) Number. Each business with a drive-through facility is allowed to have two drive-through signs.
  - (2) Area. The maximum size of a drive-through sign is 50 square feet.
  - (3) Height. The height of a drive-through sign shall not exceed 6 feet.
  - (4) Location. Drive-through signs must be located adjacent to the drive-through aisle and all portions of the signs must be located at least 10 feet from the property line. When a site directly abuts a residential use, a drive-through sign must be set back at least 75 feet from the residential property line.
  - (5) Illumination. Illumination is permitted.
  - (6) Electronic changeable copy drive-through signs. A drive-through sign may be an electronic changeable copy sign if expressly allowed through its conditional use permit. Such signs shall be oriented so that their content is not readily visible to individuals who are not using the drive-through facility and the City may require screening to avoid negative impacts to neighboring properties.

(c) *Dynamic display, electronic changeable copy, and electronic graphic display signs.* The following standards apply to dynamic display signs, electronic changeable copy, and electronic graphic display signs:

- (1) A Conditional Use Permit is required for all dynamic, electronic changeable copy, or electronic graphic display signs.
- (2) Maximum size of the sign. An electronic dynamic display or electronic graphic display sign shall not exceed 75 percent of the maximum size permitted for a freestanding sign in that district.
- (3) Number of signs and distance to other electronic signs. There shall be no more than 1 electronic sign per property and each sign must be located at least 60 feet from any other electronic sign on any other property as measured in a straight line from the base of the sign to the base of any other electronic sign.
- (4) Distance to residential uses: Each sign shall be located at least 60 feet from a residential use, as measured in a straight line from the base of the sign to the nearest lot line of the residential use. In the case of a mixed-use development that includes residential uses a sign may be located less than 60 feet from a residential use within that same development provided that the residential use(s) are located at a significantly higher elevation or similar means of reducing the impact of the brightness and impact of the sign to equate to the straight-line distance of 60 feet.
- (5) Display hold time. In all non-residential districts, no part of a display shall change more than once every 8 seconds.
- (6) Transitions: Display transitions shall be limited to 1 second. Transitions such as slideshow and fade/dissolve may be used.
- (7) Illumination limits. The difference between the off and solid-message measurements using the electronic sign measurement criteria shall not exceed 0.3 footcandles above ambient levels when measured using the chart below. Measurement should be taken according to the procedures outlined by the International Sign Association.

*Sign Area Versus Measurement Distance*

| <b>Area of Sign<br/>(sq. ft.)</b> | <b>Measurement<br/>Distance (ft.)</b> |
|-----------------------------------|---------------------------------------|
| 10                                | 32                                    |
| 15                                | 39                                    |
| 20                                | 45                                    |
| 25                                | 50                                    |
| 30                                | 55                                    |

|     |     |
|-----|-----|
| 35  | 59  |
| 40  | 63  |
| 45  | 67  |
| 50  | 71  |
| 55  | 74  |
| 60  | 77  |
| 65  | 81  |
| 70  | 84  |
| 75  | 87  |
| 80  | 89  |
| 85  | 92  |
| 90  | 95  |
| 95  | 97  |
| 100 | 100 |

\*For signs with an area in square feet other than those specifically listed in the table (i.e. 12 square feet, 112 square feet, etc.) the measurement distance may be calculated with the following formula: Measurement Distance = the square root of (Area of the sign square feet times 100).

- (8) Dimming capabilities. All permitted electronic signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and shall be programmed to automatically dim adjusting to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandle measurements. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or sign lighting when notified by the City that the sign is not complying with the standards in this section.
  
- (d) *Freestanding signs.* Except for area identification signs, no more than 1 permanent freestanding sign shall be located on any single property unless otherwise is stated 118-335. Freestanding signs shall be at least 100 feet from any other freestanding sign on a different street frontage on the same property. The total gross area of all the signs on the property cannot exceed the maximum aggregate signage for the property.

(e) *Freeway Signs.* Freeway signs are only allowed by a conditional use permit in the general business (GB), light industrial (I-1) and industrial (I) zoning districts and are subject to following conditions:

- (1) One freeway sign is allowed per property.
- (2) The maximum gross area of a freeway sign shall not exceed 200 square feet in area and 15 feet above the height of the interstate roadway surface at the point thereof nearest the sign.
- (3) The sign must be located on the portion of the property closest to the freeway and may not be closer than 350 feet from any other freeway sign on the same side of the freeway, as measured in a straight line from the base of the sign to the base of any other freeway sign.
- (4) A property with a freeway sign shall be allowed to have a maximum aggregate property signage of at least 300 square feet in gross area.
- (5) The supporting structure of a freeway sign shall be comprised of brick, stone, stucco, synthetic stucco, concrete masonry units (CMU) that are textured, burnished or decorative or factory finished metal panels. Exterior construction materials must be maintenance-free and colored only by means of a pigment integral to the material, not applied to the surface and must be compatible with the building(s) on the lot. The maximum number of supports per sign shall be two. All supports shall be vertical. No cable shall be used to support the sign.

(f) *Monument Signs.*

- (1) *Monument Sign Base.* The supporting base of a monument sign shall be comprised of brick, stone, stucco, synthetic stucco, concrete masonry units (CMU) that are textured, burnished or decorative, or factory finished metal panels. Exterior construction materials must be maintenance-free and colored only by means of a pigment integral to the material, not applied to the surface and must be compatible with the building(s) on the lot. The term "compatible" shall include but is not limited to materials that are consistent with the principal architectural features and colors of the building identified by the sign.
- (2) *Landscaping Design.* A monument sign shall be incorporated into a landscaping scheme or planter box. Monument signs may incorporate additional berming into its landscape design on a slope of 3 to 1 where the berming is incorporated into an overall landscaping design plan. The maximum height of the berm shall be three feet above the adjacent street grade. Landscaping shall be provided on the slopes of the berm in an interesting and varied appearance. Where a planter box is

incorporated, the landscaping shall occur in and around the planter with a similar attractive design.

- (3) Number of sign supports. The maximum number of supports per sign shall be 2. All supports shall be vertical. No cable shall be used to support the sign.
  - (4) Height and Size. The total height of a monument sign, including the planter box, berm, and sign graphic, shall not exceed the maximum height for a sign permitted in the underlying zoning district. The gross area of a monument sign shall not exceed 100 square feet.
- (g) *Pylon Signs*. Pylon signs are prohibited in all zoning districts except for the following:
- (1) Freeway signs may be allowed by conditional use permit in the General Business (GB), Industrial (I), and Light Industrial (I-1) zoning districts. Unless a more restrictive size is stated in a particular zoning district, a freeway sign shall not exceed 15 feet above the height of the interstate roadway at the point thereof nearest the proposed sign. The gross area of the individual sign shall not exceed 200 square feet. When in conflict, the more restrictive size shall apply.
- (h) *Wall Signs*.
- (1) *Attached wall signs (including painted wall signs)*. Attached wall signs must be flat and parallel to the surface of the building and project no more than 12 inches. Attached wall signs may project into a public right-of-way or beyond a legal setback line up to 12 inches, provided such signs do not violate Minnesota Statutes § 160.27.
  - (2) *Projecting wall signs*. Projecting wall signs must be perpendicular to the surface of the building and no more than 12 inches in thickness and comply with the following standards:
    - a. Projecting signs may project no more than 4 feet from the front of the edge of the building and be more than 15 square feet in gross area per side.
    - b. Projecting signs may not extend over a public right-of-way or public property except with the written permission of the City Engineer. When a projecting sign extends over a right-of-way, there shall be at least 8 feet of clearance between the ground level and the lowest point of the projecting sign. In no case may a projecting sign come closer than 2 feet from the curb line.
    - c. Projecting signs may not extend over a designated parking space or loading area.
    - d. One projecting sign per entrance on a street frontage is permitted. Projecting signs shall be at least 20 feet from other projecting signs.
  - (3) *Wall signs on a multi-tenant building*. Each tenant in a multi-tenant building is allowed 1 wall sign, however, the total cumulative square footage for all signs may not exceed the maximum gross area of signage allowed for the property, unless additional signage is approved through a master sign plan.

## Sec. 118-334. Dynamic Display Off-Premises Signage

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

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

- (b) *Location and Eligibility*
- (1) Dynamic display off-premises signs shall only be allowed on properties that are zoned GB-General Business.
  - (2) A dynamic display off-premises sign may only be erected on a property abutting Interstate Highway 494. The dynamic display off-premises sign must be oriented towards and designed to be viewed from Interstate Highway 494.
  - (3) Dynamic display off-premises signs are prohibited on properties located within the Mississippi River Corridor Critical Area (MRCCA) overlay district.
  - (4) The minimum distance in any direction between any two off-premises dynamic display signs shall be two thousand (2,000) feet.
- (c) *Conditional Use Permit Required.* A conditional use permit shall be required for any dynamic display off-premises sign.
- (d) *Performance Standards.* Dynamic display off-premises signs are subject to the following requirements:

- (1) All dynamic display off-premises signs shall comply with federal and state rules and regulations for signs along interstates and highways and shall obtain any required federal and state permits.
- (2) The maximum allowable size shall be seven hundred (700) square feet per sign surface and no sign shall contain more than two (2) sign surfaces. Each sign surface must be designed to be read from an opposite direction.
- (3) The maximum allowable height is fifty (50) feet from the grade of the travel lane of Interstate 494.
- (4) The design of the sign and its support structure shall be approved by the City. The base or support structure shall incorporate EIFS, veneer, brick, stone, decorative block, or a similar cladding material that has been approved by the City.
- (5) Dynamic display off-premises signs shall have a minimum display duration of eight (8) seconds. Such displays shall contain static messages only. The change from one static message to another shall either be instantaneous without any special effects or shall employ a dissolve or fade transition or another subtle transition technique that does not have the appearance of moving text or images. No transition may take longer than one second.
- (6) The sign shall be rectangular in shape and all messages must be contained within the sign. The portion of any dynamic or illuminated sign that is used for the conveyance of any message will be included within the overall size of the sign.
- (7) The sign must be freestanding and shall not be affixed to any building.
- (8) The sign may not emit any sound.
- (9) The sign shall have ambient light monitors installed and shall be configured to allow such monitors to automatically adjust the brightness level of the electronic sign based on light conditions at all times.
- (10) The sign shall comply with the following brightness standards: the sign shall not exceed seven thousand five hundred (7,500) Nits (candelas per square meter) between the hours of civil sunrise and civil sunset measured from the face of the sign. During nighttime hours, the sign shall not exceed five hundred (500) Nits. The light level shall not exceed 0.3 footcandles above ambient light as measured from a pre-set distance depending on sign size. Measuring distance shall be determined using the following equation: the square root of the message center sign area multiplied by 100. Example: 12 square foot sign  $\sqrt{(12 \times 100)} = 34.6$  feet measuring distance.
- (11) Dynamic display billboards shall be constructed with the use of light-blocking technology. As measured from a point on the sign face furthest from the right-of-way, the area on the ground more than 22.5 degrees from the roadway must be light protected by light-blocking technology. "Light protected" is defined as having a reduction of brightness/luminance (and visibility) of over 90 percent, or equivalently, a remaining brightness of less than ten percent as compared to the nominal forward brightness of the sign.

- (12) The sign shall have a fully-functional monitoring off switch system that shuts the dynamic display sign off when the display deteriorates, in any fashion, five (5) percent or greater until the dynamic display sign has been repaired to its fully-functional factory specification.
- (13) The lamp wattage and luminance level in Nits of the sign shall be provided at the time of permit application from the owner or operator of the sign. The sign must at all times be operated in accordance with City Code and the owner or operator shall provide proof of such conformance upon request of the City.
- (14) Public service messages, in addition to emergency messages such as Amber Alerts, shall be provided on the dynamic display billboard sign at no cost to the public. Any Applicant for a conditional use permit for an off-premises dynamic display sign shall enter into an agreement with the City to provide up to 30 hours of no-cost display time per month on each face of the sign, with each display lasting 8 seconds. The messages shall be reasonably distributed throughout a 24-hour period and shall not be relegated to the midnight to 6:00 AM time frame.
- (15) Portable dynamic display off-premises signs are not allowed in any district.
- (16) Nonconforming static off-premises signs may not be converted to dynamic display off-premises signs.

**Sec. 118-335. Permitted Signs by District.**

Any sign that is not listed as a permitted (P) or allowed by Conditional Use Permit (C) is prohibited. An asterisk (\*) indicates special conditions within the zoning district.

**Figure A-1. Permissible Signs By District**

|   | R-1<br>R-2<br>R-3 | R-4 | CGMU-1 | CGMU-2 | MMM  | C-1  | GB   | I<br>I-1 |
|---|-------------------|-----|--------|--------|------|------|------|----------|
| <b>Signage Area and Size</b>                                    |                   |     |        |        |      |      |      |          |
| Maximum Gross Area of all Signage on the Property (Square Feet) | 6*                | 24* | 150*   | 150*   | 150* | 150* | 200* | 200*     |
| Individual Sign Maximum Gross Area (Square Feet)                | 6*                | 24  | 100    | 100    | 100  | 100  | 100* | 100*     |
| Height (Feet)   | 6                 | 6   | 8      | 8      | 8    | 8    | 12*  | 12*      |
| <b>Type of Signage</b>  |                   |     |        |        |      |      |      |          |
| Area Identification Signs                                       | P                 | P   | P      | P      | P    | P    | P    | P        |
| Drive-Through Signs   | —                 | —   | C*     | C      | C    | C    | C    | C        |

|  |      |    |    |    |    |   |    |   |
|--|------|----|----|----|----|---|----|---|
| Dynamic Display Signs                  | C*   | C* | C* | C  | C  | C | C  | — |
| Dynamic Display Off-Premises Signs     | —    | —  | —  | —  | —  | — | C* | — |
| Electronic Changeable Copy Signs       | C*   | C* | C* | C  | C  | C | C  | C |
| Electronic Graphic Display Signs       | C*   | C* | C* | C  | C  | C | C  | — |
| Freeway Signs                          | —    | —  | —  | —  | —  | — | C* | C |
| Illuminated Canopy and Awning Signs    | C    | P  | C  | C  | C  | C | C  | C |
| Monument Signs                         | P*   | P  | C* | P* | P* | P | P  | P |
| Nonelectronic Changeable Copy Signs    | P*   | P  | C* | P* | P* | P | P  | P |
| Nonilluminated Awning and Canopy Signs | P    | P  | P  | P  | P  | P | P  | P |
| Projecting Signs                       | C    | P  | P  | P  | P  | P | P  | — |
| Static Off-Premises Signs              | —    | —  | —  | —  | —  | — | —  | — |
| Wall Signs                             | P/C* | P  | P* | P* | P* | P | P  | P |

(a) Within residential zoning districts (R-1 through R-3) signs must comply with the following regulations:

(1) Aggregate property signage: The maximum gross signage for a property shall not exceed 6 square feet in gross area unless otherwise excepted below.

(2) Individual signs: The maximum gross area per sign shall not exceed six square feet in gross area and six feet in height, or as otherwise excepted below.

(3) The following types of signs are permissible:

a. Area identification signs.

1. Neighborhoods of single-family and two-family homes are allowed 1 area identification sign per subdivision or development which must be a monument sign and may not exceed 24 square feet in area.

2. Multifamily dwellings with at least four units are allowed one non-illuminated area identification sign which shall not exceed 6 square feet in area except as noted below. The sign must be an attached wall sign except as noted below.

3. In the R-3 district, multifamily dwellings on parcels larger than 25,000 square feet are allowed one non-illuminated area identification sign not

exceeding 24 square feet in area. The sign may be either an attached wall sign or a monument sign.

- b. Nonilluminated awning signs and nonilluminated canopy signs.
- c. Wall signs and monument signs for an institutional use.
  - 1. Institutional uses shall be permitted one monument sign per property. An institutional use located on a parcel that is 1 acre in size or larger may have one monument sign per street frontage. No such sign shall exceed a gross area of 32 square feet.
  - 2. Institutional uses may have up to 24 square feet of wall signage per street frontage. No more than 24 feet of wall signage may be directed towards each individual frontage. Illuminated wall signs shall require a conditional use permit.
  - 3. Group family day cares, as defined in Section 118-8, are not considered an institutional use for the purposes of this section.
- d. Nonelectronic changeable copy signs, which are allowed only for institutional uses.

(4) The following types of signs require a conditional use permit:

- a. Illuminated wall signs, which are allowed only for institutional uses.
- b. Illuminated canopy and awning signs on nonresidential buildings.
- c. Projecting signs.
- d. Wall signs if they are for a property that does not qualify for wall signage as a permitted use under the provisions listed in subdivision (3) above.
- e. Dynamic display signs, electronic changeable copy, and electronic graphic display signs are allowed only when located upon the monument sign of an institutional use and are subject to the following requirements:
  - 1. The signage shall adhere to all requirements of Section 118-333(c) unless otherwise stated below.
  - 2. The electronic sign shall be turned off between 10:00 p.m. and 7:00 a.m.
  - 3. No part of the display shall change more than once every 15 seconds.
  - 4. When an institutional use has more than one monument sign, only one of their monument signs may be a dynamic display sign, electronic changeable copy sign, or electronic graphic display sign.

(5) The following types of signs require an interim use permit:

- a. A home occupation may be allowed one nonilluminated business sign in an approved location, not to exceed six square feet in area. The sign must be

removed if the home occupation is discontinued. In the R-1 single family zoning district, no home occupation signage is allowed.

- (6) The following types of signs are prohibited:
  - a. Freeway signs.
  - b. Drive-through signs.
- (b) Within multifamily residential zoning districts (R-4) signs must comply with the following regulations:
  - (1) Aggregate property signage: The maximum gross signage for a property shall not exceed 24 square feet in gross area unless otherwise allowed below.
  - (2) Individual signs: The maximum gross area per sign shall not exceed 24 square feet in gross area and six feet in height.
  - (3) The following types of signs are permissible:
    - a. Area identification signs.
    - b. Illuminated canopy and awning signs.
    - c. Monument signs.
    - d. Nonelectronic changeable copy signs.
    - e. Nonilluminated awning signs and nonilluminated canopy signs.
    - f. Projecting signs.
    - g. Wall signs.
    - h. Wall signs and monument signs for an institutional use.
      - 1. Institutional uses shall be permitted one monument sign per property. An institutional use located on a parcel that is 1 acre in size or larger may have one monument sign on each street frontage. No such sign shall exceed a gross area of 32 square feet.
      - 2. Institutional uses may have up to 24 square feet of wall signage per street frontage. No more than 24 feet of wall signage may be directed towards each individual frontage.
      - 3. Group family day cares, as defined in Section 118-8, are not considered an institutional use for the purposes of this section.
  - (4) The following types of signs require a conditional use permit:
    - a. Dynamic display signs, electronic changeable copy, and electronic graphic display signs when located upon the monument sign of an institutional use. These signs are subject to the following requirements:

1. The signage shall adhere to all requirements of Section 118-333(c) unless otherwise stated below.
  2. The electronic sign shall be turned off between 10:00 p.m. and 7:00 a.m.
  3. No part of the display shall change more than once every 15 seconds.
  4. When an institutional use has more than one monument sign, only one of their monument signs may be a dynamic display sign, electronic changeable copy sign, or electronic graphic display sign.
- (5) The following types of signs are prohibited:
- a. Freeway signs.
  - b. Drive-through signs.
- (c) Within the CGMU-1: Concord Gateway Mixed Use Zoning Sub-district 1. Signs must comply with the following regulations:
- (1) Aggregate property signage: The maximum gross signage for a property shall not exceed one and one-half (1 ½) times the lineal feet of the longest building frontage facing a public street or 150 square feet in gross area, whichever is greater. If a property has a second street frontage, the property is eligible for additional signage equal to one-half (½) times the lineal feet of the building frontage facing the second public street.
  - (2) Individual signs: The maximum gross area per sign shall not exceed 100 square feet in gross area and eight feet in height.
  - (3) The following types of signs are permissible:
    - a. Area identification signs.
    - b. Nonilluminated awning and canopy signs.
    - c. Projecting signs.
    - d. Wall signs.
  - (4) The following types of signs require a conditional use permit:
    - a. Illuminated canopy and awning signs.
    - b. Monument signs on an eligible property. Monument signs shall not be allowed on Concord Exchange or within 75 feet of the Concord Exchange right-of-way. As part of a monument sign the following types of signs may also be incorporated:
      1. Dynamic display, electronic changeable copy, and electronic graphic display signs.
      2. Non-electronic changeable copy signs.
    - c. Drive-through signs.
  - (5) The following types of signs are prohibited:

- a. Freeway signs.
- (d) Within the CGMU-2: Concord Gateway Mixed Use Zoning Sub-district 2. Signs must comply with the following regulations:
- (1) Aggregate property signage: The maximum gross signage for a property shall not exceed one and one-half (1 ½) times the lineal feet of the longest building frontage facing a public street or 150 square feet in gross area, whichever is greater.
  - (2) Individual signs: the maximum gross area per sign shall not exceed 100 square feet in gross area and eight feet in height.
  - (3) The following types of signs are permissible:
    - a. Area identification signs.
    - b. Monument signs.
    - c. Nonelectronic changeable copy signs.
    - d. Nonilluminated awning and canopy signs.
    - e. Projecting signs.
    - f. Wall signs.
  - (4) The following types of signs require a conditional use permit:
    - a. Dynamic display signs, electronic changeable copy, and electronic graphic display signs that are part of a monument sign.
    - b. Drive-through signs.
    - c. Illuminated awning and canopy signs.
  - (5) The following types of signs are prohibited:
    - a. Freeway signs.
- (e) Within the MMM- Mixed Markets and Makers District. Signs must comply with the following regulations:
- (1) Aggregate property signage: the maximum gross signage for a property shall not exceed one and one-half (1 ½) times the lineal feet of the building frontage along Concord Street or 150 square feet in gross area, whichever is greater. Properties that do not have frontage on Concord Street shall not exceed 150 square feet of gross signage.
  - (2) Individual signs: the maximum gross area per sign shall not exceed on 100 square feet in gross area and eight feet in height.
  - (3) The following types of signs are permissible:
    - a. Area identification signs.
    - b. Monument signs
    - c. Nonelectronic changeable copy signs

- d. Nonilluminated awning and canopy signs.
  - e. Projecting signs
  - f. Wall signs
- (4) The following types of signs require a conditional use permit:
- a. Dynamic display signs, electronic changeable copy, and electronic graphic display signs that are part of a monument sign.
  - b. Drive-through signs.
  - c. Illuminated awning and canopy signs
- (5) The following types of signs are prohibited:
- a. Freeway signs.
- (f) Within the C-1: Retail business zoning districts signs must comply with the following regulations:
- (1) Aggregate property signage: The maximum gross signage for a property shall not exceed one and one-half (1 ½) times the lineal feet of the longest building frontage facing a public street or 150 square feet in gross area, whichever is greater.
- (2) Individual signs: The maximum gross area per sign shall not exceed 100 square feet in gross area and eight feet in height.
- (3) The following types of signs are permissible:
- a. Area identification signs.
  - b. Monument signs.
  - c. Nonelectronic changeable copy signs.
  - d. Nonilluminated awning signs and canopy signs.
  - e. Projecting signs.
  - f. Wall signs.
- (4) The following types of signs require a conditional use permit:
- a. Dynamic display signs, electronic changeable copy, and electronic graphic display signs that are part of a monument sign.
  - b. Drive-through signs.
  - c. Illuminated awning and canopy signs.
- (5) The following types of signs are prohibited:
- a. Freeway signs.
- (g) Within the GB: General business zoning district signs must comply with the following regulations:

- (1) Aggregate property signage: The maximum gross signage for a property shall not exceed one and one-half (1 ½) times the lineal feet of the longest building frontage facing a public street or 200 square feet in gross area, whichever is greater, unless otherwise excepted in Section 118-333(e).
  - (2) Individual signs: the maximum gross area per sign shall not exceed 100 square feet in gross area and 12 feet in height, or as otherwise excepted in Section 118-333(e).
  - (3) Freeway signs are not permitted in that part of the GB district north of I-494, east of Trunk Highway 56 (Concord Street), south of Wentworth Avenue extended easterly and west of the Mississippi River.
  - (4) The following types of signs are permissible:
    - a. Area identification signs.
    - b. Monument signs
    - c. Nonelectronic changeable copy signs.
    - d. Nonilluminated awning and canopy signs.
    - f. Projecting signs.
    - f. Wall signs.
  - (5) The following types of signs require a conditional use permit:
    - a. Drive-through signs subject to the requirements of Section 118-333(b).
    - b. Dynamic display signs that are part of a monument sign. These signs are subject to the requirements of Section 118-333(c).
    - c. Dynamic display off-premises signs on properties that are outside of the Mississippi River Critical Corridor Area (MRCCA), subject to the requirements of Section 118-334. A property or business that has a dynamic display off-premises sign shall be permitted to have up to 200 square feet of total site signage in addition to the dynamic display off-premises sign. A property or business that currently exceeds 200 square feet of site signage must reduce their total site signage to 200 square feet or less in order to qualify for a conditional use permit to have a dynamic display off-premises sign.
    - d. Electronic changeable copy or electronic graphic display signs that are part of a monument sign.
    - e. Freeway signs, subject to the requirements of subsection 118-333(e).
    - f. Illuminated awning and canopy signs
- (h) Within the industrial zoning districts (I and I-1) signs must comply with the following regulations:

- (1) Aggregate property signage: The maximum gross signage for a property shall not exceed one and one-half (1 ½) the lineal feet of the longest building frontage facing a public street or 200 square feet in gross area, whichever is greater, unless otherwise excepted in Section 118-333(e). Each principal building at the Fleming Field Municipal Airport shall be allowed to have at least 200 square feet of total signage, regardless of the length of the building frontage.
- (2) Individual signs: the maximum gross area per sign shall not exceed 100 square feet in gross area and 12 feet in height, or as otherwise excepted in Section 118-333(e).
- (3) The following types of signs are permissible:
  - a. Area identification signs.
  - b. Monument signs.
  - c. Nonelectronic changeable copy signs.
  - d. Nonilluminated awning and canopy signs.
  - e. Wall signs.
- (4) The following types of signs require a conditional use permit:
  - a. Drive-through signs.
  - b. Electronic changeable copy signs.
  - c. Freeway signs, subject to the requirements of subsection 118-333(e).
  - d. Illuminated canopy and awning signs.
- (5) The following types of signs are prohibited:
  - a. Dynamic display signs.
  - b. Electronic graphic display signs.
  - c. Projecting signs.

### **Sec. 118-336. Master Sign Plans**

- (a) *Purpose.* The purpose of a master sign plan is to establish a fair and equitable process for complex signage situations that accommodate the need for a well-maintained, safe, and attractive community, and the need for effective communications including business identification. Flexibility from the sign standards in the total amount, number, size, or location of signs may be approved at the reasonable discretion of the City Council through the master sign plan process.
- (b) *Effect.* Upon approval of a master sign plan, all future signs shall conform to the master sign plan. Modifications to the provisions of the master sign plan may be granted only with the approval of an amended master sign plan.
- (c) *Eligibility.* No property shall be required to submit a master sign plan and may alternatively pursue a planned unit development approval or variance. The following

standards shall dictate which properties are eligible to submit a master sign plan for review:

- (1) Only the following uses shall be eligible to submit an application for a master sign plan: multi-tenant commercial-retail structures such as shopping centers and strip malls, commercial and industrial developments that are over five acres in size, gasoline service stations, and properties that have multiple principal buildings.
  - (2) Only properties in commercial, industrial, and mixed-use zoning districts shall be eligible to submit master sign plans.
  - (3) Planned unit developments that require flexibility from the sign ordinance shall have their signage regulated via their conditional use permit for a planned unit development rather than a master sign plan.
- (d) *Process.* The applicant shall submit their master sign plan for review by the Planning Commission and City Council. A completed application shall be submitted to the zoning administrator along with an application fee and escrow deposit as established by the City Council for site plan reviews. The master sign plan shall be reviewed following the process outlined for site plan review in section 118-47 and approved by resolution. Amendment requests shall follow this same process.
- (e) *Review criteria.* To assist property owners and their tenants with signage needs, the City has established the following criteria that shall be used in developing, reviewing, and approving each master sign plan:
- (1) *Base guidelines:* The master sign plan shall use the signage standards of the underlying zoning district as its basis. Any sign that requires a conditional use permit or interim use permit shall continue to require said permit.
  - (2) *Total allowance:* The total signage allowance granted shall not exceed two times the maximum that would be allowed at the property without a master sign plan.
  - (3) *Height:* All signage must follow the height regulations of the underlying zoning district except that monument signs for multi-tenant commercial-retail structures may be allowed to be up to 12 feet in height.
  - (4) *Quality:* The master sign plan review may not be used to waive design standards that are mandatory in the underlying zoning district related to landscaping or building materials.
  - (5) *Type:* A master sign plan may not be used to approve a type of sign that is prohibited in the underlying zoning district.
  - (6) *Location:* All signage shall follow the location regulations of the underlying zoning district.
  - (7) *Number:* No more than one freestanding sign may be allowed for each street frontage through a master sign plan.
  - (8) The City Council may require an applicant to adhere to the signage standards found in sections 118-332 and 118-333 or the City Council may at their discretion, approve a master sign plan. In approving a deviation from the signage standards found in sections 118-332 and 118-333, the City Council will consider

the gross floor area of the principal building(s), the size of the site, the existing signage, and the visibility of the site from all street frontages.

- (f) *Required materials.* The following materials must be submitted as part of a master sign plan review application.
  - (1) Dimensional site plan and elevations of the building or buildings to be included in the master sign plan review.
  - (2) Locations of existing and proposed signage, including signage dimensions, lighting, exposed structures, colors, and functions of each sign.
  - (3) Computations of the total maximum sign area for each individual sign and all the signage at the site included the height of the signs and area of the signs.
- (g) *Findings.* The following findings must be made prior to the approval of any new master sign plan or revisions to previously approved master sign plans:
  - (1) The master sign plan is not in conflict with the comprehensive plan.
  - (2) The master sign plan is not in conflict with the purpose, standards or design principles found in section 118-332.
  - (3) The master sign plan will not be injurious or a nuisance to the surrounding neighborhood or otherwise harm the public health, safety, and welfare.
- (h) *Sign permits required.* No sign approved as part of a master sign plan may be installed without first receiving the proper sign permit.
- (i) *Administration and amendments.* Staff may issue a sign permit to allow a sign approved by the master sign plan to be replaced with a new sign of the same type that is in the same general location as the original sign and is the same size or smaller than the original sign. All attached wall signs shall be considered the same type for the purposes of administering this ordinance. Any more substantial changes including a change in the sign type, an increase in the size of the signage, or the addition of new signage will require an amendment to the master sign plan.
- (j) *Expiration.* Master sign plans expire one year after approval if no sign permits implementing the master sign plan have been issued within that time period. The applicant may apply to the zoning administrator for no more than one extension of up to one year.
- (k) *Termination.* A property owner may request the termination of their master sign plan which shall be processed as an amendment and approved by resolution. If the termination is approved, the property shall revert to the standards of the underlying zoning district.

**Sec. 118-337. Message substitution.**

The owner of any sign that is otherwise allowed by this article may substitute noncommercial copy or message in lieu of any other commercial or noncommercial sign copy or message without additional approval or permitting subject to the operational standards set forth in this article. The purpose of this provision is to prevent any inadvertent favoring of commercial speech or message over noncommercial speech or message.

**Sec. 118-338. Election Season Exception**

Notwithstanding any other provisions of this article, all signs of any size containing noncommercial speech may be posted from 46 days before the state primary in any general election year until ten days following the general election and 13 weeks prior to any special election until ten days following the special election.

**SECTION 2. 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:

The ordinance repeals and replaces the existing sign ordinance to improve its readability and to address several previously unaddressed types of signage.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall become effective upon publication.

Approved:

Published:

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Deanna Werner, City Clerk

**ATTACHMENT B**  
**PHOTOGRAPHS OF TEMPORARY FEATHER FLAG SIGNS**

