

**PLANNING COMMISSION MEETING
AGENDA
CITY OF WHITE BEAR LAKE, MINNESOTA**

The City of White Bear Lake Planning Commission will hold its regular monthly meeting on Monday, August 30, 2021 beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61.

1. Call to order and roll call.
2. Approval of the August 30, 2021 agenda.
3. Approval of the July 26, 2021 Planning Commission meeting minutes.
4. **CASE ITEMS:**
Unless continued, these cases will go to the City Council meeting on Tuesday, September 14, 2021. Cases A & F will also be heard on Tuesday, October 12, 2021
 - A. **Case No. 21-2-Z & 21-5-CUP:** A request by **Division 25, LLC** for a text amendment to the Sign Code Section 1202.040, Subd.2, to allow billboards; and a Conditional Use Permit, per the amended code, to allow installation of a two-sided V-shaped dynamic billboard at the property located at 4650 Centerville Road.
 - B. **Case No. 21-7-CUP:** A request by **Level Up Academy** for a Conditional Use Permit, per Code Section 1301.050, to allow two building additions totaling 15,450 square feet, at the property at 2600 County Road E.
 - C. **Case No. 21-1-SHOP:** A request by **Barbara McIntyre** for a Special Home Occupation Permit, per Code Section 1302.120, in order to operate a dog grooming business out of the home at the property located at 3696 Glen Oaks Avenue.
 - D. **Case No. 21-17-V:** A request by **Dan Louismet** for a 72 square foot variance from the 120 square foot maximum allowed for a second accessory structure, per Code Section 1302.030, Subd.4.i.2.c, in order to keep a 192 square foot shed at the property located at 1980 3rd Street.
 - E. **Case No. 21-9-CUP:** A request by **Dang Properties** for a conditional use permit per Code Section 1303.140, Subd.4.e, for open and outdoor storage as an accessory use in order to keep a 40 by 45 foot fence enclosure at the property located at 921 Wildwood Road.
 - F. **Case No. 21-4-Z:** A **City-Initiated** text amendment to Zoning Code Section 1302.120, Subd.3.e to allow special home occupation to be renewed through the administrative variance process.
5. **DISCUSSION ITEMS:**
 - A. City Council Meeting Summary from August 10, 2021.

B. Park Advisory Commission Meeting Minutes from June 17, 2021.

6. ADJOURNMENT

Next Regular City Council Meeting September 14, 2021

Next Regular Planning Commission Meeting..... September 27, 2021

**MINUTES
PLANNING COMMISSION MEETING
CITY OF WHITE BEAR LAKE
JULY 26, 2021**

The regular monthly meeting of the White Bear Lake Planning Commission was called to order on Monday, July 26, 2021, beginning at 7:00 p.m. in the White Bear Lake City Hall Council Chambers, 4701 Highway 61, White Bear Lake, Minnesota by Chair Ken Baltzer.

1. CALL TO ORDER/ROLL CALL:

MEMBERS PRESENT: Michael Amundsen, Ken Baltzer, Jim Berry, Pamela Enz, Mark Lynch, and Erich Reinhardt.

MEMBERS EXCUSED: None.

MEMBERS UNEXCUSED: None.

STAFF PRESENT: Anne Kane, Community Development Director, Samantha Crosby, Planning & Zoning Coordinator, and Ashton Miller, Planning Technician.

OTHERS PRESENT: Dean Elwell, Mike Arland, Josh Schlichting, Mary and Scott Kuukari, Roxanne McGurk, Beverly and Kevin Farraher, Tim Sweet, Paula Frost, Justin Fincher, Raphael Lister, and Eric Meyer.

2. APPROVAL OF THE JULY 26, 2021 AGENDA:

Member Lynch proposed to flip the order of items C and D. Member Lynch moved for approval of the agenda as amended. Member Amundsen seconded the motion, and the agenda was approved (6-0).

3. APPROVAL OF THE JUNE 28, 2021 PLANNING COMMISSION MEETING MINUTES:

Member Enz moved for approval of the minutes. Member Berry seconded the motion, and the minutes were approved (6-0).

4. CASE ITEMS:

A. **Case No. 21-2-Z & 21-5-CUP:** A request by **Division 25, LLC** for a text amendment to the Sign Code Section 1202.040, Subd.2, to allow billboards; and a Conditional Use Permit, per the amended code, to allow installation of a two-sided V-shaped dynamic billboard at the property located at 4650 Centerville Road. **(Continued)**.

Member Lynch moved to continue Case No. 21-2-Z & 21-5-CUP. Member Amundsen seconded the motion. The motion passed by a vote of 6-0.

B. **Case No. 20-2-SHOPa:** A request by **Paula Frost** for a three-year extension to an existing Special Home Occupation Permit, per Code Section 1302.120, in order to operate a massage therapy business out of her residence located at 1904 4th Street.

Miller discussed the case. Staff recommended approval.

Member Baltzer opened the public hearing. As no one spoke to the matter, Member Baltzer closed the public hearing.

Member Enz moved to recommend approval of Case No. 20-2-SHOPa. Member Amundsen seconded the motion. The motion passed by a vote of 6-0.

- C. **Case No. 21-8-CUP:** A request by **Tjernlund Products** for a Conditional Use Permit for vehicle rental, per Code Section 1303.180, Subd.4.b, in order to operate a U-Haul Dealership on the property located at 1601 9th Street.

Kane discussed the case. Staff recommended approval of the request with the conditions listed in staff's report.

Member Lynch asked if the U-boxes would be allowed by right if the truck component was not included in the proposal.

Kane confirmed that the City does not regulate what exactly is being warehoused and that it is the outside storage of vehicles that U-Haul is requiring of Tjernlund that needs a conditional use permit.

Member Lynch asked if there is a procedure for when a U-Haul vehicle is dropped off overnight in the wrong spot. He wants to protect the residents across the street, so he suggested adding a condition requiring any misplaced U-Hauls to be moved in a timely matter. Member Lynch also asked how many U-Hauls would be on site at any given time.

Kane deferred to the applicant to respond to Member Lynch's inquiries.

Member Enz asked if signage was being proposed. Kane explained that any additional signage will require a permit. The building is allowed up to 200 square feet of signage on the property. If the applicants choose to use some of that square footage for U-Haul, staff would work with the applicant to ensure that the signage remains ancillary to the principal use of the building.

Member Baltzer opened the public hearing.

Andrew Tjernlund, 12867 Greystone Ct, Hugo, Applicant, explained that the main purpose for the partnership with U-Haul is the U-boxes, which he described as little pods used for storage. Most U-Haul dealers are small locations like hardware stores and gas stations where there is no place to store the boxes, meaning this is a service that is in demand. As part of the U-box storage, the property is required to be able to have trucks dropped off and picked up.

Mr. Tjernlund explained that there will be no business after 4 pm and no business on the weekend. It is not a retail location. He commented that the company's interests are in line with their neighbors. They are trying to keep the number of vehicles to a minimum. At the Hugo location, they generally have one truck or trailer at a time. He does not believe they will be moving multiple vehicles a day. If there were multiple vehicles picked up and dropped off in a single day, Mr. Tjernlund opined that it is a sign that there is a need for U-Hauls in the area. He wants to meet the needs of the neighbors, but also the needs of the community as a whole.

Member Lynch sought more information on how the business will operate, specifically on whether multiple trucks will be on site at all times. Mr. Tjernlund replied that they do not control the in or out flow of vehicles. If they do not have the type of vehicle the person is looking for, they do not book the appointment.

Member Lynch asked what would happen if a thirteenth truck showed up on site and what the procedure will be for vehicles dropped off at night. Mr. Tjernlund stated that if the number of vehicles exceeded the number of dedicated parking stalls for U-Hauls, he could move the truck to the Hugo location or call the regional U-Haul manager to have it transferred elsewhere. He continued that he can inform the workers at the warehouse to move any vehicle that gets dropped off in the wrong spot. He confirmed that he would be okay with the addition of a condition requiring vehicles to be moved in the morning.

Member Berry clarified that the main revenue generator is the warehousing, not the truck and trailer renting. Mr. Tjernlund confirmed that was true. He explained that biggest impact on the property is the dropping-off of vehicles. They could limit the amount of pick-ups, but drop-off will always show up as an option.

Member Enz asked what happens if someone drops off a vehicle after hours on a Friday. Mr. Tjernlund replied that it would sit in that location until Monday. The building is not staffed during the weekend, so there is no option to move it.

Member Reinhardt requested further explanation of the U-boxes. Mr. Tjernlund stated that the warehouse will store both empty and full boxes. The boxes make moving easier and can be delivered to the driveway of the customer. They are small and easy to transport. It allows people to move at their own pace. The boxes will be stored inside the building.

Mary Kuukari, 1596 9th Street. She asked if the the storage containers will be transported by a flatbed truck, if the truck be stored on site, and whether there is a projected busy season. She also asked if the signage will be on the building or free-standing. Member Baltzer explained that any signage will need to be approved by the City before it is installed and that the applicant can respond to Ms. Kuukari's other questions.

Dean Elwell, 1592 9th Street, Homeowner Association president. He stated that the HOA is concerned with a retail business. He wonders how this will affect traffic and home values. He agrees that Tjernlund has been a good neighbor, but is concerned with the proposal. He thinks the process is moving too quickly.

Andrew Tjernlund, applicant, responded to the neighbors' questions. The U-boxes will be dropped off in a normal 53-foot long semi-trailer truck, which can fit ten boxes. The delivery trucks will be indistinguishable from the trucks that deliver other goods to the warehouse. He explained that the sign will be a small one foot by one foot in the window. It is not meant for advertising, just to indicate that a person is in the right place. They are looking for minimum signage.

They are not leaving the White Bear Lake area. They have grown over the years, so they have expanded to Hugo. The White Bear Lake location will be less active in terms of traffic over last year because of some movement to Hugo. He stated they are trying to limit the effect on home values, but they are an I-2 zoned business across the street from residential. They are trying to

mitigate the impact on surrounding properties by having the drop-off location in a discrete place. Mr. Tjernlund explained that the peak season is the weekend and they are closed over the weekend. He did not know whether there was a specific time of year that is busier than any other.

Member Amundsen asked what percentage of the warehouse will be used for storing the U-boxes. Mr. Tjernlund stated it has not been fully determined and it is hard to give a precise number because of upward space, but thought it will be roughly 10%.

Member Baltzer closed the public hearing.

Member Enz asked if the applicant would need to come before the Planning Commission if the business was ever expanded. Kane explained that if it was within the CUP as it is presented this evening, it would be okay, but something like extended weekend hours would need a CUP amendment, which requires Planning Commission approval.

Kane noted that staff shares the concerns of the neighbors of losing the manufacturing business and that this allows the company to maximize the use of their facility to continue to be a profitable business. This is a way to keep the business in the City.

Member Lynch moved to recommend approval of Case No. 21-8-CUP with the addition of a condition that the trucks be moved by 9 a.m. the next business day. Member Amundsen seconded the motion. The motion passed by a vote of 6-0.

- D. **Case No. 21-7-CUP & 21-3-Z:** A request by **Level Up Academy** for a Conditional Use Permit, per Code Section 1301.050, to allow two building additions totaling 15,450 square feet, and a rezoning of two parcels, per Code Section 1301.040, to facilitate the combination of these parcels with the “parent parcel” of 2600 County Road E: 35XX Rolling View Drive (PID # 363022110026) from B-2 – Limited Business, to R-3 – Single Family Residential, and 35XX Rolling View Drive (PID # 363022110025) from RB – Residential Business Transition, to R-3 Single Family Residential at the property at 2600 County Road E.

Crosby discussed the case. Staff recommended approval of the rezoning and continuation of the conditional use permit to allow the applicant and staff time to arrive at a mutually agreed upon design for the exterior of the gymnasium.

Member Lynch asked if there will be a stacking issue along Rolling View Drive with parents going north and turning left onto County Road E. He speculated whether it would be helpful to limit the intersection to a right turn only during pick-up and drop-off times.

Crosby stated that the current issue is parents stacking along County Road E while trying to turn into the school. She noted that a condition could be included to address traffic related issues if something becomes problematic.

Member Lynch recommended that the City look at the bike rack regulations in the Zoning Code to increase the number of racks required for new projects.

Member Berry commented that it is currently difficult to turn left onto County Road E because the stack up of vehicles is impossible to see over. As a substitute bus driver, he has experienced the back up. To avoid the traffic, busses have been turning right, and traveling towards Bellaire

Avenue. He thinks the separation between the buses and the parent lot is a good idea to alleviate traffic and it keeps children safer.

Kane pointed out that the parent pick-up and drop-off will be further south, which will provide more stacking space along Rolling View Drive. She stated that a right turn only regulation would need to be worked out with the City Engineer and Ramsey County.

Member Baltzer opened the public hearing.

Beverly Farraher, 3470 Rolling View Drive, supports the proposal over all and asked why one of the parcels (PID # 363022110025) will not be used to build a single-family residence.

Justin Fincher, JB Vang Partners, applicant, stated that they have talked with Level Up Academy about the possibility of the lot remaining single family. With the extra month, they may be able to work with the school and the City to develop a new plan. He believes that the school may be open to it, but at the time, it made sense to combine all the parcels and rezone as one.

In response to Member Lynch's inquiry, Crosby confirmed that rezoning the parcels to R-3 leaves single family as an option. If the parking lot is reconfigured, a single family home could be built on the property. She explained that City approval is not required for lot combinations; rather Ramsey County is in charge of the process.

Kane agreed that the City does not want to lose vital housing opportunities. The parking currently exceeds what the code requires, so there is potential to re-design the parking lot to preserve the parcel.

Member Enz suggested that the school could afford to lose a few parking stalls.

Member Baltzer closed the public hearing.

Member Reinhardt moved to recommend approval of Case No. 21-3-Z and continuation of the 21-7-CUP. Member Lynch seconded the motion. The motion passed by a vote of 6-0.

5. DISCUSSION ITEMS:

- A.** Renewal of Special Home Occupations by Administrative Variance (neighbor consent) process.

Crosby explained that renewals would require neighbors to sign off on the request. If approvals were not obtained, it would be brought to the Planning Commission and City Council.

Member Baltzer asked how the fee of an administrative variance compares to a special home occupation permit. Crosby replied \$25 as opposed to \$160 to come before the Planning Commission.

Member Amundsen asked which neighbors would need to sign off. Crosby replied that it would be abutting properties. The Commissioners discussed at length how many neighbor signatures should be required. Crosby offered a suggestion that neighbors within 350 feet are notified by mail and there is a set amount of time to respond with any concerns.

Kane added that we do not want to make it too complicated when we are streamlining the process. With the cost of postage, the fee should be higher than current administrative variances if notifications are to be sent out.

- B.** 10% Deviation by Administrative Variance – not for height limitations and not on top of other A/V's already provided for.

Member Lynch sought clarification on what it means that other administrative variances would not be stackable. Crosby provided an example, stating that through an A/V, residents can deviate from the front setback by up to ten feet, but would not then be able to further deviate by ten percent with another A/V.

Member Amundsen asked if the prohibition on height limitations applied to fences. Crosby answered that yes, the A/V could not be used for fence height deviations.

Member Reinhardt asked whether 10% is the greatest deviation staff is willing to consider or if it is possible to increase to 15%. Kane noted that 10% feels de minimis.

Member Lynch expressed concern that this may be a slippery slope for those looking to expand just because they can. It puts neighbors in a sometimes awkward position approving or denying deviations from code. He wondered how we format the regulation in a way that is incidental and reflects unique circumstances.

Crosby explained that the default would always be coming to the Planning Commission for a full variance.

Member Lynch recommended that maybe the A/V apply only to existing structures and not new construction.

- C.** City Council Meeting Summary of July 13 2021.

Member Lynch asked about the City Council motions for denial on the non-consent agenda. He was confused on the wording. Kane replied that they will work with the City Clerk on clarifying the language. She provided an explanation on how items are determined to be consent or non-consent.

Member Enz commented that it is great that no restaurants closed because of the Covid-19 pandemic. Kane stated it was due to the great efforts of the City's Economic Development and Housing Coordinator in working with entities such as ReGrow White Bear and the Chamber of Commerce to bring this information to the restaurants.

Member Amundsen noted the signs for a reduced speed limit went up today along the proposed route for the automated vehicle pilot project.

Member Enz observed that the speed along Lake Avenue in front of Boatworks is problematic. Kane replied that they will work with the City Engineer to work on a speed study of the area.

- D.** Park Advisory Commission Meeting Minutes of May 20, 2021.

Member Enz asked about the Boatworks green space and its use as a place to smoke. It is a City Park, so the building staff cannot prohibit it. Kane stated there has not been interest by the City Council to prohibit smoking in City parks and it would be a hard rule to enforce. When Boatworks was constructed, there was a great effort to bring in a public component. The City will work with Boatworks staff to come up with a solution.

6. ADJOURNMENT:

Member Enz moved to adjourn, seconded by Member Berry. The motion passed unanimously (6-0), and the June 28, 2021 Planning Commission meeting was adjourned at 8:49 p.m.

DRAFT



City of White Bear Lake
COMMUNITY DEVELOPMENT
DEPARTMENT

MEMORANDUM

TO: The Planning Commission

FROM: Anne Kane, Community Development Director

DATE: August 26th for the August 30th Planning Commission Meeting

SUBJECT: **DIVISION 25, LLC/Proposed Sign Code Text Amendment to allow Dynamic Billboards (Case No. 21-2-Z)**

At the June 28th Planning Commission meeting Staff introduced the proposed text amendment prepared by the applicant to once again allow billboards, including dynamic display billboards, in certain commercial and industrial districts within the City of White Bear Lake. While the Planning Commission seemed receptive to the text amendment, additional clarification was requested regarding the duration of the message – the applicant has proposed an eight (8) second hold time and the City's previous regulations for billboards required a minimum 20 minute message duration.

Attached please find a copy of full report completed by SRF Consulting Group on behalf of the City of Minnetonka in 2007, when dynamic billboards were first introduced into the market.

Staff and applicant met with residents and representatives of The Pillars of White Bear Lake on August 3rd to walk through the process of the text amendment followed by a specific proposal and Conditional Use Permit for the proposed billboard location adjacent to their residential facility. Staff awaits submittal of refined plans and details on the specific billboard proposed for this particular location.

Staff again requests the Planning Commission continue the Public Hearing to allow additional time for staff to research comparable regulations; as well as time for the applicant to submit and staff to review the details and specifications for the billboard proposed at Tower Crossings.

ATTACHMENT

- "Dynamic" Signage: Research Related to Driver Distraction and Ordinance Recommendations, prepared by SRF Consulting Group, Inc. for the City of Minnetonka, June 7, 2007.

**“DYNAMIC” SIGNAGE:
RESEARCH RELATED TO DRIVER DISTRACTION
AND
ORDINANCE RECOMMENDATIONS**

Submitted by
SRF Consulting Group, Inc.

Prepared for
City of Minnetonka
June 7, 2007

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1.0 INTRODUCTION

This study was precipitated by concerns raised by the City of Minnetonka, Minnesota in regard to the installation of two LED (“light emitting diode”) billboards along Interstate 394 and Interstate 494. The LED function was applied to two existing “static” image billboards located adjacent to the interstate. Following installation of the LED function, the City turned off the power to the signs though a stop work order based on current city ordinance prohibiting flashing signs, which is broadly defined, as well as permitting requirements for the retrofitting of the signs to the upgraded technology. The billboard owner sued the City, and the court response to this legal action as of the writing of this study has been to allow limited use of the LED billboards. A moratorium on further signage of this type was established by the City to facilitate the study of issues related to driver distraction and safety and appropriate regulatory measures for LED and other types of changeable signage.

This study was undertaken on behalf of the City of Minnetonka to examine these issues. While the concerns were precipitated by LED billboards in particular, this report examines more broadly “dynamic” display signage which is defined as any characteristics of a sign 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. These capabilities may be provided by a variety of technologies which are discussed later in this report.

As the study progressed, additional communities within the Twin Cities Metropolitan Area, as well as the League of Minnesota Cities, expressed interest in these issues. However, it is not the intention of this report to provide a comprehensive study of all issues raised by dynamic signage, or other types of billboards, but rather to focus narrowly on the issues of concern to the City of Minnetonka.

2.0 PURPOSE OF STUDY AND METHODOLOGY

Driving a motor vehicle is a complex task that requires the ability to divide one’s attention. Simultaneously maintaining a steady and legal speed, changing lanes, navigating traffic and intersections, reading and interpreting street signs, drivers are often challenged by conditions that can change in the blink of an eye. Internal and external physical conditions can affect how safely the driving task is accomplished. Drug or alcohol intoxication, fatigue and/or distractions in the driving environment all can play a role in motor vehicle crashes. However, these conditions are rarely the sole reason for a crash. Rather, these conditions serve to exacerbate an already-complex driving environment and subsequent mistakes in judgment can lead to crashes.

Increasingly complex traffic and roadway environments require greater attention to and focus on the driving task.

The purpose of this study is to understand what existing transportation research tells us about the effects of dynamic signs on motorists. This study also explores regulatory measures enacted in other jurisdictions to address concerns related to driver distraction. Due to time and scope constraints, this report is not comprehensive, but rather addresses the most frequently cited and easily accessible information available. The report concludes with a discussion of regulatory options for the City of Minnetonka to consider in their formulation of policies to address dynamic signage.

Information collected for this report draws from a variety of sources including interviews with subject matter experts, government and academic research, and policies developed to regulate various types of signage.

Several city and county sign ordinances were used as references for policy and regulatory research. In some cases, ordinances were brought to our attention by planners and others following the sign ordinance issue. In others, Internet searches were conducted using words and references that apply specifically to dynamic signs.

Several sign manufacturers and sign companies provided an industry perspective through a workshop with the SRF Consulting Group and the City of Minnetonka staff on February 27, 2007. This meeting yielded information about sign characteristics that can be addressed through policy and regulatory measures. Daktronics, a company that manufactures and markets LED signs, was also helpful in this regard, providing informational materials about characteristics of signs that can be regulated and examples of city sign ordinances with which they are familiar.

3.0 SELECTED RESEARCH FINDINGS

This following section presents a summary of expert opinions and selected driver distraction research conducted by government and academic researchers examining roadside signage and its effects on the driving task. Studies are organized around critical questions with serious research ramifications.

- *Is there reason to believe that billboards are a source of distraction?*
- *Is there reason to believe that “dynamic” billboards are an additional source of distraction?*
- *How much distraction is a problem?*
- *How does “brightness” affect driver safety concerns?*
- *How should billboards and other signage be regulated from a driver safety perspective?*

3.1 Expert Opinions

A combination of researchers and public policy experts were interviewed for this study. Individuals were identified while conducting background research into driver distraction and were interviewed because of their credibility in the field.

Kathleen Harder, a researcher at the University of Minnesota, has conducted driver distraction research for a variety of applications, including research for Mn/DOT. She is an expert in the field of human factors and psychology. She indicated that electronic billboards pose a driver distraction threat because of their ability to display high resolution color images, their ability to change images, and their placement in relationship to the roadway, particularly in areas where the road curves, exits and entrances are present, merges, lane drops, weaving areas, key locations of official signs, and/or areas where roadways divide.

Greg Davis, a researcher with the FHWA Office of Safety Research and Development, in Washington, DC was involved in the 2001 FHWA study on electronic billboards. He was interviewed to gain a deeper understanding of this critical study and to learn of recent research in this area. Davis stated that while no research has established a direct cause and effect relationship between electronic outdoor advertising signs and crash rates, the lack of such a research finding does not preclude a causal relationship between electronic billboards and crashes. He advocated for a new study that can control all variables and determine if a cause and effect relationship exists.

Scott Robinson, an outdoor advertising regulator for Mn/DOT, wrote the 2003 technical memorandum that addresses allowable changes for outdoor advertising devices. Mr. Robinson indicated that the memo was originally written in 1998 to establish a permitted rate of change for tri-vision signs and that the application to electronic billboards was not considered. The minimum change rate of 4.9 seconds for 70 mph roadways and 6.2 seconds for 55 mph roadways was based on the travel time between static signs spaced at the minimum allowed distance apart. Mr. Robinson also indicated that the memo is not a Mn/DOT policy, statute or rule, but rather it was written to provide internal guidance.

Jerry Wachtel, an Engineering Psychologist and highway safety expert in private practice, was the lead author for the FHWA's original (1980) study on electronic billboards. He has continued his active involvement in this field, and advises Government agencies as well as the outdoor advertising industry on sign ordinances, sign operations, and the implications of the latest research on road safety. Mr. Wachtel believes that it is neither feasible from the perspective of research design and methodology, nor necessary from a regulatory perspective, to demonstrate a causal relationship between digital billboards and road safety. Rather, he believes that we have a strong understanding, based on many years of research, of driver information processing capabilities and limitations, and of the contributions to, and consequences of, driver distraction, on crash risk; and that this understanding is sufficient to support development of guidelines and ordinances for the design, placement, and operation of digital billboards so as to lessen their potentially adverse impact on road safety and traffic operations.

Wachtel also offered comments on drafts of this report. In later conversations related to his review, Wachtel stated his belief that even though visual fixations on roadway signs decrease as route familiarity increases, a strength of the new digital billboards is that they can present messages *that are always new*. Thus, the conclusion from the 1980 FHWA study is another argument against these billboards; namely, drivers spend more time looking at the unfamiliar signs than at familiar ones, suggesting digital billboards are more dangerous than traditional fixed billboards. Wachtel also suggested his preference for a goal to have any given driver experience only one, or a maximum of two, messages from an individual roadside sign.

3.2 Billboards: a Source of Driver Distraction? ¹

The purpose of a sign is to attract the attention of passersby so that a message is conveyed. To the degree signs attract the attention of vehicle drivers, they may distract them from the activity of driving. While this report primarily examines the impact of *dynamic* roadside advertising, the role traditional *static* advertising plays in driver distraction is discussed below.

The relationship between roadside advertising and crash rates has been the subject of several studies. The majority of this research was conducted in the 1950s, 60s and 70s. While some of the earliest studies have been subsequently criticized for flawed methodologies and improper statistical techniques, some findings emerge when the totality of the studies are examined. One of these findings is that the correlation between crash rates and roadside advertising is strongest in complex driving environments. For example, higher crash rates were found at intersections (generally considered a complex environment) that have advertising than those intersections that do not have advertising. A few of the studies that are important in this field are summarized below.

Minnesota Department of Transportation Field Study (1951) and Michigan State Highway Department Field Study (1952) ²

These two studies from the early 1950s used similar methods but came to significantly different conclusions. Recognized as the more scientifically rigorous study, the Minnesota study found that increases in the number of advertising signs per mile are correlated with increases in motor vehicle crash rates. It also found that intersections with at least four advertising signs experienced three times more crashes than intersections with no advertising signs. Conversely, the less rigorous Michigan study found the presence of advertising signs had no effect on the number of crashes.

Iowa State College, Do Road Signs Affect Accidents? (Lauer & McMonagle, 1955) ³

A laboratory test was created to determine the effect of advertising signs on driver behavior. The results of this study found removing all advertising signs from the driver's field of vision did not improve driver performance. When signs were included, driver performance was slightly better. Note that laboratory methods used in this study are considered to be dated by today's standards.

Faustman (California Route 40) Field Study (1961)⁴ and Federal Highway Administration, Reanalysis of Faustman Field Study (1973)⁵

Two studies that appear to have stood the test of time are Faustman’s original analysis of California Route 40 and its re-examination by FHWA more than a decade later. The original analysis tried to improve upon previous research by limiting variables, such as roadway geometric design and roadway access controls. The FHWA reanalysis focused on disaggregating the data and converting actual crashes to expected crash rates on specific roadway sections. Each of the sections was given a value based on the number of billboards on the section. A linear regression was performed to determine the expected crash rates. An analysis of variance of the regression coefficients found that the number of billboards on a section was statistically significant. The reanalysis found a strong correlation between the number of billboards and crash rates as shown in Table 1.

Table 1. FHWA Reanalysis of Faustman’s Findings.

No. of Billboards	Expected No. of Accidents in a 5-year Period	Cumulative Increase in Accident Rate
0	5.92	
1	6.65	12.3
2	7.38	24.2
3	8.11	37.0
4	8.84	49.3
5	9.57	61.7

Federal Highway Administration

Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage (Wachtel & Netherton, 1980)⁶

This extensive review provides a comprehensive discussion of roadside advertising research as of 1980. The study authors noted “attempts to quantify the impact of roadside advertising on traffic safety have not yielded conclusive results.” The authors found that courts typically rule on the side of disallowing billboards because of the “readily understood logic that a driver cannot be expected to give full attention to his driving tasks when he is reading a billboard.” Because the distraction evidence is not conclusive, these decisions were generally not based on empirical evidence.

The research review noted that accident reports often cite “driver distraction” as a default category used by uncertain law enforcement officers who must identify the cause of a crash. As a result, the authors believe crashes due to driver distraction are not always properly identified. In addition, law enforcement officers often fail to indicate the precise crash locations on crash reports, making it difficult to establish relationships between crashes and roadside features.

Accident Research Unit, School of Psychology, University of Nottingham
Attraction and distraction of attention with roadside advertisements (Crundall et al., 2005)⁷

This research used eye movement tracking to measure the difference between street-level advertisements and raised advertisements in terms of how they held drivers' attention at times when attention should have been devoted to driving tasks. The study found that street-level advertising signs are more distracting than raised signs.

3.3 “Dynamic” Billboards: an Additional Source of Distraction?

Signage owners or leasers want to incorporate dynamic features into their signage for a number of reasons: to enhance the sign's ability to attract attention, to facilitate display of larger amounts of information within the same sign area, to conveniently change message content, and to enhance profitability. As mentioned earlier, this report uses the term “dynamic” signs to refer to non-static signs capable of displaying multiple messages. Several studies documented the ability of a sign to accomplish the first of these goals.

University of Toronto

Observed Driver Glance Behavior at Roadside Advertising Signs (Beijer & Smiley, 2004)⁸

Research done at the University of Toronto compared driver behavior subject to passive (static) and active (dynamic) signs. The study found that about twice as many glances were made toward the active signs than passive signs. A disproportionately larger number of long glances (greater than 0.75 seconds) taken were toward the active signs. The duration of 0.75 seconds is important because it is close to the minimum perception-reaction time required for a driver to react to a slowing vehicle. For vehicles with close following distances, or under unusually complex driving conditions, a perception delay of this length could increase the chance of a crash. The following findings were reported in this study:

- 88% of the subjects made long glances (greater than 0.75 seconds).
- 22% of all glances made at all signs were long glances (greater than 0.75 seconds).
- 20% of all the subjects made long glances of over two seconds.
- As compared to static and scrolling text signs, video and tri-vision signs attracted more long glances.
- Video and scrolling text signs received the longest average maximum glance duration.
- All three of the moving sign types (video, scrolling text and tri-vision) attracted more than twice as many glances as static signs.

University of Toronto

Impact of Video Advertising on Driver Fixation Patterns (Smiley et al., 2001)⁹

Another study completed at the University of Toronto used similar eye fixation information in urban locations to show that drivers made roughly the same number of glances at traffic signals and street signs with and without full-motion video billboards present. This may be interpreted to mean that while electronic billboards may be distracting, they do not appear to distract drivers from noticing traffic signs. This study also found that video signs entering the driver's line of sight directly in front of the vehicle (e.g., when the sign is situated at a curve) are very distracting.

City of Seattle Report (Wachtel, 2001)¹⁰

The City of Seattle commissioned a report in 2001 to examine the relationship between electronic signs with moving/flashing images and driver distraction. The report found that electronic signs with moving images contribute to driver distraction for longer intervals than electronic signs with no movement. Following are major points made in the report:

- New video display technologies produce images of higher quality than previously available technologies. These signs have improved color, image quality and brightness.
- New video display technologies use LEDs with higher viewing angles. Drivers can read the sign from very close distances when they are at a large angle from the face of the sign.
- Signs with a visual story or message that carries for two or more frames are particularly distracting because drivers tend to focus on the message until it is completed rather than the driving task at hand.
- Research has shown that drivers expend about 80 percent of their attention on driving related tasks, leaving 20% of their attention for non-essential tasks.
- The Seattle consultant suggests a “10 second rule” as the maximum display time for a video message.

The expanded content of a dynamic sign also contributes to extended distraction from the driving task. The Seattle Report examined how this may be due in part to the *Zeigarnik effect* which describes the psychological need to follow a task to its conclusion. People's attention is limited by the ability to only focus on a small number of tasks at a time, and by the tendency to choose to complete one task before beginning another. In a driving environment, drivers' attention might be drawn to the sign rather than the task of driving because they are waiting to see a change in the message. This loss of attention could lead to unsafe driving behaviors, such as prolonged glances away from the roadway, slowing, or even lane departure.

While the Zeigarnik effect may be present in a wide variety of driving situations, possible scenarios that could affect drivers include:

- A scrolling message requires the viewer to concentrate as the message is revealed. Based on the size and resolution of the sign, and the length of the message, this could range from less than one second to many seconds.
- A sequence of images or messages that tell a story, during which the driver's attention may be captured for the entire duration that the sign is visible. Instead of merely glancing at the sign and then returning concentration to the driving task, more attention may be given to the message.
- Anticipation of a new image appearing, even if the expected new image is not related to the first image. In this case, the driver may be distracted while waiting for the change.

Federal Highway Administration

Safety and Environmental Design Considerations in the Use of Commercial Electronic Variable-Message Signage (Wachtel & Netherton, 1980)¹¹

This research provides information on the use of on-premise Commercial Electronic Variable-Message Signs (CEVMS) that display public service information (i.e., time and temperature) and advertising messages along the Interstate highway system. The research found the following major considerations:

- Highway Safety Considerations

The link between changing messages that attract drivers' attention and crashes has been an issue of concern since the earliest forms of electronic signage became available. This study thoroughly reviewed the literature seeking information regarding a potential link between CEVMS and crashes:

“Although a trend in recent findings has begun to point to a demonstrable relationship between CEVMS and accidents, the available evidence remains statistically insufficient to scientifically support this relationship.”

The study also noted that studies have not documented information about “such occurrences as ‘near misses’ or traffic impedances that are widely recognized as relevant to safety, and which may or may not be attributable to the presence of roadside advertising.”

- Human Factors Considerations

Human factors relate to all the elements that explain driver behavior, such as eye glances and driver responses to a variety of driving-related stimuli. The study makes the point that simple driving-related tasks consume relatively little information processing capacity. However, when other conditions, such as congestion, complicated roadway geometries, or weather are also considered, the marginal extra

amount of attention required to read roadside advertisements could lead to driving errors that could cause crashes.

“The enormous flexibility of display possessed by CEVMS makes it possible to use them in ways that can attract drivers' attention at greater distances, hold their attention longer, and deliver a wider variety of information and image stimuli than is possible by the use of conventional advertising signs.”

Texas Transportation Institute for FHWA, Impacts of Using Dynamic Features to Display Messages on Changeable Message Signs (Dudek et al., 2005) ¹²

This study examined the comprehension times for three different scenarios for DOT-operated changeable message signs. The scenarios evaluated were:

- Flashing an entire one-phase message
- Flashing one line of a one-phase message while two other lines of the message remain constant
- Alternating text on one line of a three-line CMS while keeping the other two lines of text constant on the second phase of the message

The findings of this study were:

- Flashing messages did not produce faster reading times.
- Flashing messages may have an adverse effect on message comprehension for unfamiliar drivers.
- Average reading times for flashing line messages and two-phase messages were significantly longer than for alternating messages.
- Message comprehension was negatively affected by flashing line messages.

While this research did not evaluate advertising-related signs, it does demonstrate that flashing signs require more of the driver's time and attention to comprehend the message. In the case of electronic billboards, this suggests that billboards that flash may require more time and attention to read than static ones.

3.3.1 OTHER INFORMATION

NHTSA Driver Distraction Internet Forum (2000) ¹³

The National Highway Traffic Safety Administration held an internet forum to gather research and public comment related to driver distraction with an emphasis on the use of cell phones, navigation systems, wireless Internet and other in-vehicle devices. During this forum, participants were invited to take a poll to determine the most prominent driver

distraction issues. Electronic billboards were identified as one of six noted sources of distraction.

Parliament of Victoria, Australia, Report of the Road Safety Committee on the Inquiry into Driver Distraction (2006)¹⁴

This report identified road signs and advertising as one of the largest sources of driver distraction. At least three billboards near Melbourne, Australia display moving images.

“The Committee considers these screens to be at the high end of potential visual distraction and accordingly, present a risk to drivers.”

The study also included a quote from the Manager of the Road User Behaviour group at VicRoads (the State's road and traffic authority) from a December 2005 hearing:

What we do know is when there is movement involved, such as flicker or movement in the visual periphery, that this is more likely to capture a driver's attention. We actually are hard-wired as human beings to movement, so particularly moving screens and information that scrolls at intersections and in highly complex driving situations – these are risky, and in particular researchers have been most concerned about those sort of advertising materials.

This opinion would suggest that electronic signs can present a distraction to drivers.

3.4 How Much Distraction Is a Problem?

A number of studies were identified that discussed concerns with driver distraction generally. It should be noted that some of the studies cited use specific crash data that is ten or more years old. Direct comparison of distraction sources to influences of today may not be completely valid due to increased technological sophistication of distracting influences. These could include in-vehicle technology (e.g., navigation systems, MP3 players, DVD players, CD players, computer systems, etc.) as well as other potentially distracting influences (e.g., cell phones, text messaging, dynamic signage, other roadway elements, etc.) that were not commonplace when the data for these studies was collected:

Australian Road Research Board
Investigations of Distraction by Irrelevant Information (Johnston & Cole, 1976)¹⁵

This research used five experiments to test whether drivers could maintain efficient performance in their driving tasks while being subjected to content that was information rich, but irrelevant to driving. The findings were that a small, but statistically significant amount of performance degradation was observed when the participant was under a critical load of stimuli.

National Highway Traffic Safety Administration/ Virginia Tech Transportation Institute

Impact of Driver Inattention on Near-Crash/Crash Risk: An Analysis Using the 100-Car Naturalistic Driving Study Data (Klauer et al., 2006)¹⁶

This study analyzed the data from a driving database developed by the National Highway Traffic Safety Administration. This database contained exhaustive data recorded by instrumented vehicles that measured glance position, impairment, drowsiness, risk taking and many other parameters potentially involved in crash causation. Vehicles were instrumented so that an observer did not need to be in the vehicle to collect data. Automated data collection reduced the problem of an observer influencing driver behavior. The study found that glances of two seconds or greater doubled the risk of crashes or near-crashes. The study also found that 22 percent of crashes are accompanied by “secondary-task” distraction whether inside or outside the vehicle.

National Highway Traffic Safety Administration/ Virginia Tech Transportation Institute

Driver Inattention is a Major Factor in Serious Traffic Crashes (2001)¹⁷

The National Highway Traffic Safety Administration commissioned a study to examine the causes of crashes. The study gathered information from four areas throughout the country and used data from the National Automotive Sampling System (NASS) from April 1996-April 1997 for analysis. The geographic areas were selected because they had good crash investigation practices and high interview completion rates. The results of this study are summarized in Table 2.

Table 2. Crash Causation Summary

Causal Category	Percentage of Drivers Contributing to Causation
Driver Inattention	22.7
Vehicle Speed	18.7
Alcohol Impairment	18.2
Perceptual Errors	15.1
Decision Errors	10.1
Incapacitation	6.4
Other	8.8

Association for the Advancement of Automotive Medicine

The Role of Driver Inattention in Crashes; New Statistics from the 1995 Crashworthiness Data System (Wang, 1996)¹⁸

This report analyzed the NHTSA 1995 Crash Worthiness Data System (CDS). It found that the greatest source of driver distraction (3.2 percent) was due to a specified person, object or event outside the vehicle. The full results of the study are presented in Table 3.

Table 3. Percentage of CDS Crashes Involving Inattention-Distraction Related Crash Causes

Data Element	% of Drivers	% of Crashes
Attentive or not distracted	46.6%	28.4%
Looked but did not see	5.6%	9.7%
Distracted by other occupant [specified]	0.9%	1.6%
Distracted by moving object in vehicle [specified]	0.3%	0.5%
Distracted while dialing, talking, or listening to cellular phone [location and type of phone specified]	0.1% [@]	0.1% [@]
Distracted while adjusting climate controls	0.2% [@]	0.3% [@]
Distracted while adjusting radio, cassette, CD [specified]	1.2%	2.1%
Distracted while using other device/object in vehicle [specified]	0.1%	0.2%
Sleepy or fell asleep	1.5%	2.6%
Distracted by outside person, object, or event [specified]	2.0%	3.2%
Eating or drinking	0.1%	0.2%
Smoking-related	0.1%	0.2%
Distracted/inattentive, details unknown	1.5%	2.6%
Other distraction [specified]	1.3%	2.2%
Unknown/No Driver	38.5%	46.0%

Weighted driver N = 4,627,000 (7,943, unweighted); weighted crash N = 2,619,000 (4,536); In order for a crash to be classified "attentive," all involved drivers had to be classified "attentive."
[@] - estimate based on 5-9 cases.

University of North Carolina Highway Safety Research Center
The Role of Driver Distraction in Traffic Crashes (Stutts et al., 2001)¹⁹

A study prepared by the University of North Carolina Highway Safety Research Center for the AAA Foundation for Traffic Safety examined the sources of driver distraction in traffic crashes. The data came from the CDS from 1995-1999. Of the thirteen specific sources of distraction tracked by the study, the greatest source of distraction was an outside person, object or event. While the study does not break down the sources of outside distraction, it does show that distractions outside the vehicle are the largest factor in distraction-related crashes. The results of this study are presented in Table 4.

Table 4. Specific Sources of Distraction Among Drivers in Distraction-Related Crashes

Specific Distraction	Percentage of Drivers
Outside person, object or event	29.4
Adjusting radio, cassette, CD	11.4
Other occupant in vehicle	10.9
Moving object in vehicle	4.3
Other device/object brought into vehicle	2.9
Adjusting vehicle/climate controls	2.8
Eating or drinking	1.7
Using/dialing cell phone	1.5
Smoking related	0.9
Other distraction	25.6
Unknown distraction	8.6
Total	100.0

Three studies were found which attempted to measure driver behavior specifically in response to dynamic signage. Two of these studies demonstrated a potential relationship between dynamic signage and crash rates:

Minnesota Department of Transportation, The Effectiveness and Safety of Traffic and Non-Traffic Related Messages Presented on Changeable Message Signs (CMS) (Harder, 2004) ²⁰

This study used a driving simulator to measure the effect of Department of Transportation changeable message signs on traffic flow. The two messages evaluated were a “crash ahead” warning and an AMBER Alert (child abduction information). The research found that just over half of the participants used the “crash ahead” message and 60 percent could recall the AMBER Alert with scores of Good or Better. Over one fifth of the participants slowed down by at least 2 mph upon seeing the AMBER Alert, demonstrating that messages relevant to drivers are associated with changes in at least some drivers’ travel speed .

Decision of the Outdoor Advertising Board in the Matter of John Donnelly & Sons, Permittee, Telespot of New England, Inc., Intervenor, and Department of Public Works, Intervenor, with Respect to Permit Numbered 19260 as Amended (1976) ²¹

This proceeding documents the Commonwealth of Massachusetts Outdoor Advertising Board’s ruling regarding one of the first changeable signs. This sign was located near an arterial road in Boston and used magnetic discs to portray a message that changed every 30 seconds. The original sign permit was rejected based on four criteria, one of which was safety. Upon appeal, the Massachusetts Department of Public Works allowed the permit based on the fact that the sign would give the public a benefit. However, they ultimately determined that the sign was a safety hazard based on crash rates before and after the sign was installed. Tables 5 and 6 show the change in crash rates.

Table 5. Telespot Sign Crash Rates - Expressway Southbound

	Average per year (1/1/1970-12/31/1972)	Average per year (1/1/1973-3/31/1975)	Average Percent Change
Crashes where the sign was viewable (north of sign)	29.0	20.0	-31.0
Crashes where the sign was not viewable (south of sign)	39.0	15.6	-60.0

Table 6. Telespot Sign Crash Rates - Expressway Northbound

	Average per year (1/1/1970- 12/31/1972)	Average per year (1/1/1973- 3/31/1975)	Average Percent Change
Crashes where the sign was viewable (south of sign)	46.3	42.7	-7.8
Crashes where the sign was not viewable (north of sign)	8.0	1.8	-77.5

This analysis shows that while crash rates decreased on comparable sections in the years after the sign was installed, the sections where the sign was visible experienced smaller crash rate decreases. Due to these arguments, the Board ruled that the operation of the sign must be terminated.

**Wisconsin Department of Transportation
Milwaukee County Stadium Variable Message Sign Study – Impacts of an
Advertising Variable Message Sign on Freeway Traffic (1994)**²²

A study prepared by the Wisconsin Department of Transportation (WisDOT) examined crash rates before and after an advertising variable message sign was installed in 1984 on the Milwaukee County Stadium, home of the Milwaukee Brewers professional baseball team. Crash statistics were analyzed for the three years before and the one and three years after the sign was installed. As they are often associated with driver distraction, side-swipe and rear-end crashes, as well as total crashes, were examined for both the eastbound and westbound directions. The sign was much more visible to eastbound traffic due to the stadium’s proximity to the roadway and the amount of visual obstructions for westbound traffic.

The analysis found an increase in crash rates for all crash types in the eastbound direction after the sign was installed. Most pronounced was an 80 percent increase in side-swipe crashes after the first year of installation. Results in the westbound direction were mixed, with a 29 percent decrease in crashes the first year the sign was in place and a 35 percent increase in the three years the sign was in place. Although no control roadway sections were studied, an interview with the study author revealed that the introduction of a sign on a high volume curving roadway may have introduced enough distraction to an already demanding driving environment to explain the higher crash rate in the eastbound direction. The study author also stated that the study was not able to establish a causal relationship between the sign and the crash rates.²³

**Federal Highway Administration
Research Review of Potential Safety Effects of Electronic Billboards on Driver
Attention and Distraction (2001)**²⁴

The Federal Highway Administration published a comprehensive report in 2001 that consisted of a literature search, literature review and a description of research needs for

the topic of electronic billboards (EBBs). While the study did not conduct any new research, it does provide an excellent summary of the role electronic billboards play in traffic safety and includes good descriptions of the terminology related to electronic billboards. Selected findings from that synthesis are provided below:

“In most instances, researchers were not able to verify that an EBB was a major factor in causing a crash. Only one study since the 1980 review and one lawsuit were identified.”

“Studies were identified that verified that: an increase in distraction, a decrease in conspicuity, or a decrease in legibility may cause an increase in the crash rate.”

“Commercial EBBs are designed to ‘catch the eye’ of drivers. Their presence may distract drivers from concentrating on the driving task and visual surrounds.”

“There is indication that individual differences in age and driving experience may be important considerations in driver distraction, and are relevant to understanding driver responses to the external environment. Furthermore, research regarding driver familiarity of their route demonstrated that visual fixations on roadway signs decreases as route familiarity increases. This research may show that there is a difference between commuter and visiting drivers.”

Based on these findings, the FHWA recommended additional research to further demonstrate how roadway characteristics, sign characteristics and legibility, driver characteristics and other potential driver distractions affect traffic safety. FHWA was contacted to see if any new information was available. Greg Davis, a Research Psychologist with the FHWA Office of Safety R&D, indicated that the FHWA has not performed additional studies on the topic since the report was published. He stated that there is “no direct correlation between electronic outdoor advertising signs and crash rates”. He referred to a before/after study of electronic signs installed along a freeway in Las Vegas that found no change in crash rates. He went on to say that the lack of a research finding that links signs with crash rates does not mean that a causal relationship does not exist. He indicated that he has been contacted by several law enforcement agencies regarding the link between driver distraction and dynamic message signs/electronic billboards. He indicated that this is a timely and pertinent topic for many states due to the increasing popularity and capabilities of electronic outdoor advertising devices, and he expects further research to be forthcoming. He advocates for a new study that can control for all variables and determine if a cause and effect relationship exists.²⁵

3.5 How Does “Brightness” Affect Driver Safety Concerns?

The brightness of any sign, static or dynamic, raises concerns with discomfort or disability glare to the driver that may arise when viewing any lighted object. *Disability Glare* occurs when a

driver is exposed to a light source so bright that it temporarily blinds the driver, impairing their ability to perform driving tasks. This temporary blindness is brief, but can be dangerous. *Discomfort Glare* occurs when a light source is bright enough to distract or encourage the driver to look away from the light, but is not blinding. Discomfort glare is of particular concern in cases where a bright sign is located in the same line of sight as a traffic sign, signal or another vehicle.

While concerns about glare are not unique to dynamic signs, newer sign technologies, which often include dynamic components, have the technical capability to emit more light and/or respond to ambient light conditions, raising additional concerns about sign brightness in areas where signs compete with regulatory traffic signs or signals.

3.6 Billboards and Other Signage Regulation: a Minnesota Perspective

Roadside signage is governed by policies and laws at the federal, state and local levels. Minnesota Statute, Chapter 173 seeks to “reasonably and effectively regulate and control the erection or maintenance of advertising devices on land adjacent to such highways.” The statute requires adherence to federal statutes with respect to interstate and primary systems of highways.

Minnesota Statute Ch. 173.16 Subd. 3. regulates lighting of signs. Signs which are “illuminated by any flashing light or lights, except those giving public service information” (time, date, temperature, weather or news) are prohibited. This section also states:

(b) Advertising devices shall not be erected or maintained which are not effectively shielded so as to prevent beams or rays of light from being directed at any portion of the traveled way of an interstate or primary highway, of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle; or which otherwise interfere with any driver’s operation of a motor vehicle are prohibited.

and

(c) Outdoor advertising devices shall not be erected or maintained which shall be so illuminated that they interfere with the effectiveness of or obscure any official traffic sign, device or signal.

3.7 Billboard and Other Signage Regulation: Other Perspectives

During the course of this study, several articles were found which summarize regulation of dynamic signage in other states:

Wisconsin Department of Transportation
Electronic Billboards and Highway Safety (2003) ²⁶

The Wisconsin Department of Transportation also published a literature review report to further explain the current state of EBB research. Although much of the information is

mentioned in other sections of this report, the Wisconsin review did summarize Wisconsin's regulations for electronic billboards.

- No message may be displayed for less than one-half second;
- No message may be repeated at intervals of less than two seconds;
- No segmented message may last longer than 10 seconds;
- No traveling message may travel at a rate slower than 16 light columns per second or faster than 32 columns per second (light column defined as pixel column);
- No variable message sign lamp may be illuminated to a degree of brightness that is greater than necessary for adequate visibility.

National Alliance of Highway Beautification Agencies (1999) ²⁷

Although this survey is eight years old, it generated the following information related to electronic billboards:

- Nine states had specific regulations governing signs,
- Nine states had regulations on tri-vision signs that were either being drafted or in pending legislation,
- Fifteen states had regulations regarding moving parts and/or lights,
- Nine state had no regulations on tri-vision signs, and
- Six states and Washington, DC, prohibited tri-vision signs.

An investigation into state outdoor advertising regulations was also conducted.

- Thirty-six states had prohibitions on signs with red, flashing, intermittent, or moving lights,
- Twenty-nine states prohibited signs that were so illuminated as to obscure or interfere with traffic control devices, and
- Twenty-nine states prohibited signs located on interstate or primary highway outside of the zoning authority of incorporated cities within 500 ft of an interchange or intersection at grade or safety roadside area.

Parliament of Victoria, Australia, Report of the Road Safety Committee on the Inquiry into Driver Distraction (2006) ²⁸

This report, cited earlier for its driver distraction opinions, identifies road signs and advertising as one of the largest sources of driver distraction. VicRoads, the state's road and traffic authority, has implemented the following regulations.

Figure 1. VicRoads' Ten Point Road Safety Checklist

An advertisement, or any structure, device or hoarding for the exhibition of an advertisement, is considered to be a road safety hazard if it:

1. obstructs a driver's line of sight at an intersection, curve or point of egress from an adjacent property; or
2. obstructs a driver's view of a traffic control device, or is likely to create a confusing or dominating background which might reduce the clarity or effectiveness of a traffic control device; or
3. could dazzle or distract drivers due to its size, design or colouring, or it being illuminated, reflective, animated or flashing; or
4. is at a location where particular concentration is required (eg. high pedestrian volume intersection); or
5. is likely to be mistaken for a traffic control device, for example, because it contains red, green or yellow lighting, or has red circles, octagons, crosses or triangles, or arrows; or
6. requires close study from a moving or stationary vehicle in a location where the vehicle would be unprotected from passing traffic; or
7. invites drivers to turn where there is fast moving traffic or the sign is so close to the turning point that there is no time to signal and turn safely; or
8. is within 100 metres of a rural railway crossing; or
9. has insufficient clearance from vehicles on the carriageway;
or
10. could mislead drivers or be mistaken as an instruction to drivers.

VicRoads also gives operational requirements for electronic advertising message signs. Signage must:

- not display animated or moving images, or flashing or intermittent lights;
- remain unchanged for a minimum of 30 seconds;
- not be visible from a freeway; and
- satisfy the ten-point checklist.

4.0 SUGGESTED REGULATORY APPROACH

Local governments regulate electronic outdoor advertising devices in widely varying degrees. Some cities completely prohibit the use of all electronic signs (sometimes specifying LED signs), while others have no regulations specific to electronic signs. Between those two extremes, there are many levels and types of control that can be applied.

The primary concerns to keep in mind when considering sign regulations are 1) First Amendment rights, which can be affected by regulations that affect the content of a sign's message, and therefore should be avoided, and 2) changing technology, which can quickly make a sign ordinance no longer applicable if the ordinance has been specifically written to address a certain type of sign technology. Performance based measures may therefore be preferable as they remain viable even as sign technology advances.

4.1 Definitions

Signage discussions often include a number of different words or phrases used to describe the technical characteristics of signage devices or their components (such as LEDs). For the purpose of zoning, some additional terms are also used to describe sign characteristics. Any regulatory efforts should take care to precisely define terminology. One possible resource in this effort is "Street Graphics and the Law," published by the American Planning Association (APA) Planning Advisory Service²⁹.

4.2 Types of Regulatory Measures

4.2.1 Complete or Partial Prohibition of Electronic Signs

Some cities have completely prohibited the use of electronic outdoor advertising devices. For example, the City of Maple Valley, WA prohibits all types of electronic outdoor advertising devices including animated signs, electronic changeable message signs, flashing signs or displays, moving signs, scrolling displays, and traveling displays. This applies to both on-premise and off-premise signs.

Other cities are very selective about where electronic signs are allowed, allowing them only in certain zoning districts. There are very few "standard" approaches. For the most part, each local

government tailors their regulations to their own situation. One approach adopted by cities is to prohibit electronic outdoor advertising devices in residential zoning districts, and for a certain distance away from residential zoning districts, similar to the zoning limitations placed on illuminated signs. Some ordinances require that electronic signs be situated such that the sign face is not visible from nearby residences.

4.2.2 Size Limitations on Electronic Signs

Another way of regulating electronic signs is to limit their size. Again, there is no set standard for this. One ordinance reviewed for the purpose of this study limits the electronic portion of a sign to no more than 50 percent of the sign face with the overall size determined by whatever the sign ordinance allows for a particular zoning district. Other examples of electronic sign size limitations include five square feet, 1,000 square inches, 20 square feet, and so forth. In other ordinances, there is no differentiation made between the size of electronic signs and other signs.

According to input from representatives of the sign industry, the smaller the size of the electronic sign, the more desirable it is for businesses to use frequent message changes, or sequenced messages, where more than one screen of text is used to convey an entire message.

4.2.3 Rate-of-Change Limitations on Electronic Signs

Many communities that allow electronic signs also regulate the rate at which the messages on the signs can be changed. Research on sign codes has shown this to range from as little as four seconds to as long as 24 hours.

The Interstate 394 sign between Ridgedale Drive and Plymouth Road is visible for approximately 45 seconds at free flow traffic speeds. Depending on text size, the message may not be readable by drivers during this entire duration, but the message changes can attract attention from long distances. Depending on how often the message changes occur and the speed of traffic, drivers on this segment could see a varying number of discrete messages. Table 7 provides the number of message changes a driver would see at different change durations and traffic speeds.

Table 7. Number of New Messages Seen at Various Driver Speeds and Time Intervals Between Messages

Speed (mph)	Time sign is clearly visible* (seconds)	Number of Messages Seen					
		Message Display Time (seconds)					
		6	8	10	60	1800 (30 minutes)	3600 (1 hour)
30	60	11	9	7	2	1	1
45	40	8	6	5	2	1	1
55	33	7	5	4	2	1	1

*Assuming the sign is clearly visible from one-half mile away.

Prohibiting displays from changing quickly can minimize potential driver distraction, but it would significantly limit the message owner’s ability to convey information that does not fit on one screen of the sign. Using two or more successive screens to convey a message is referred to as sequencing. Based on the studies summarized in part 3 of this Report, including the glance duration studies performed by Klaur for the FHWA in 2006 and by Beijer & Smiley in 2004, and Wachtel’s analysis for Seattle of the Zeigarnik effect, a message delivery system such as sequencing that requires or induces a driver to watch the sign for several seconds increases the likelihood of driver distraction. Based on information from the sign industry, for sequencing to be effective in a marketing sense, a brief rate-of-change (1-2 seconds) is generally used before transitioning into the next screen.

Some codes specify how an image changes, while other codes prohibit the use of transitions. The change from one image to another can be accomplished by various techniques: no transition – simply a change from one screen to another, or fading or dissolving one image into the next. Flashing, spinning, revolving, or other more distracting transition methods can be prohibited, allowing businesses to use sequencing in an effective manner without making the signs overly distracting. Another way of regulating distracting transitions is to require a very short time of a dark or empty screen between images.

4.2.4 Motion, Animation, or Video Limitations on Electronic Signs

Motion on a sign can consist of everything from special text effects (spinning, revolving, shaking, flashing, etc.) to simple graphics, such as balloons or bubbles rising across the screen, to more realistic moving images that have the appearance of a television screen. According to sign industry representatives, video imagery on a sign is referred to as “animation” if the sign is limited to the capability of 10 frames per second. Fewer frames per second make the moving image look more like animation. Imagery produced by signs that have the capability of processing up to 30 frames per second is accurately referred to as “video” imaging.

Many communities that allow dynamic signs do not allow the application of any type of motion, animation, or video on the signs. However, Seattle was obliged to allow video imagery on their signs after earlier signage code regulating certain types of signs was not strictly enforced. In addition to requiring a dark period between successive messages to overcome the Zeigarnik effect, Seattle also limits the duration of the video message to a minimum of two seconds and a

maximum of 10 seconds. This time frame was established based upon careful calculations of the streets from which these signs could be seen, speed limits and traffic volumes in addition to the community's concern over the extent to which moving images could distract drivers. However, Seattle also limits the size of their electronic signs to a maximum of 1,000 square inches, with no single dimension greater than three feet, thus minimizing the effect of video images.

4.2.5 Sign Placement and Spacing

Regulating the number of dynamic sign potentially visible to a driver at any one time as well as the position of the sign in relationship to the roadway may reduce distraction to drivers. Spacing requirements should consider the speed, width and horizontal and vertical alignment of the roadway.

Some communities have established minimum distances between electronic signs. Establishing an adequate distance between these types of devices seems particularly important if a fairly fast rate of change is allowed for the purpose of facilitating sequenced messages or if animation and video imaging is allowed. Closely spaced signs attempting to convey sequenced messages may simply create visual overload and an over-stimulated driving environment. Research conducted to date has not yielded information about optimal electronic sign spacing. Seattle adopted a 35-foot spacing requirement for their electronic signs based upon multiple levels of analysis of the downtown city environment in which these signs are present.

Due to the varying characteristics of individual roadways in this regard, overlay districts allowing dynamic signage with conditions specific to that area could be considered. Overlay districts could also take into account other locational factors such as offset from the roadway and conspicuity. Determining appropriate offsets from the roadway must consider roadway clear zone requirements as well as spacing of frontage roads and access points, while also considering the signage too far outside the driver's line of sight may be a further distraction. Conspicuity, a sign's ability to stand out from its surroundings, should also be considered.

4.2.6 Text Size

Legibility is another important property of signage. The preferred approach used within highway signing is that drivers can read text that is 1 inch high from 30 feet away. Larger text is needed for signs to be legible at greater distances. Large, legible text allows the driver to read the billboard from varying distances and focus on the driving task. Conversely, with small text, the driver is more likely to focus on the sign for a longer period of time and possibly be more adversely distracted. However, the size or type of text or the amount of text due is rarely regulated.

4.2.7 Brightness Limitations on Electronic Signs

One of the main concerns about the use of electronic signs, regardless of whether they consist of changeable text, animation, or video, is the brightness of the image. The brightness of an object can be characterized in two ways. *Illuminance* is the total brightness of all the light at a point of measurement. Illuminance often describes ambient light and can be measured with a standard light meter such as is used in photography. *Luminance* is the measure of the light emanating from an object with respect to its size and is the term is used to quantify electronic sign brightness. The unit of measurement for luminance is nits, which is the total amount of light emitted from a sign divided by the surface area of the sign (candelas per square meter).

Many, but not all, LED-type signage can be time-programmed to respond to day and nighttime light levels. Higher-end signage types are equipped with photo cells to respond to ambient light conditions. Despite these controls, LED signs have been observed that are considered to be excessively bright. Sign industry representatives indicate that excessive brightness can be the result of 1) sign malfunction or improper wiring, 2) lack of photo cell and/or dimming mechanism, or 3) operator error or lack of understanding that brightness is not necessarily an advantage, especially if it makes a sign unreadable or unpleasant to look at. They also maintain that the intent of the electronic sign industry is to establish a brightness level that is similar to a traditional internally or externally lit sign. Recent observations of sign technicians calibrating the Interstate 394 LED billboard noted that the brightness controls are not calibrated to specific nit levels, but rather vary in proportion to a set maximum level, like a volume control dial on a typical car radio.

To control the extent to which electronic signs are a distraction or the extent to which they are readable, many local governments have adopted regulations that limit nit levels. At this time, ordinances that use nit level limitations typically differentiate between day time and night time nit levels. A common daytime nit limitation ranges from 5,000 to 7,000 nits. A common nighttime limitation is 500 nits, although in areas that are extremely dark at night, with very little in the way of ambient light levels, less than 500 nits may be appropriate. Other communities have taken this farther, such as Lincoln, Nebraska, whose sign code incorporates a graph of varying ambient light levels ranging from night time to a bright sunny day and all conditions between those two extremes, and has correlating nit limitations for the various ambient light levels.

Enforcement of these types of regulations is challenging as luminance of electronic signs is very difficult to measure in the field. Typically, sign luminance is measured and calibrated in a controlled factory setting using a spectral photometer to measure the light output. This calibration setting is then used in conjunction with a photo cell to control the brightness of the sign. The higher the ambient light levels, the brighter the sign. There are different nit thresholds for various colors. White is most often used to set dimming levels because at a constant nit level, white has the most intensity as perceived by the human eye.

Lincoln uses a light meter to conduct testing on electronic signs and found a wide range of luminance levels. One small electronic sign had luminance levels of 13,000 nits. The process that Lincoln uses to check luminance levels is to hold a luminance meter close to the face of the sign so that it captures only the light emitted from the sign. They have not had any requests to

measure the brightness of LED billboards, so the viability of using this approach on billboards has not been explored.

In Seattle, sign luminance was found too difficult to measure, so signs are visually inspected when complaints from the public are received. Sign owners are then contacted and asked to adjust sign luminance accordingly.

Both Mesa, Arizona and Lincoln, Nebraska have included a requirement for written certification from the sign manufacturer that the light intensity has been preset not to exceed the illumination levels established by their code, and the preset intensity level is protected from end user manipulation by password protected software or other method approved by the appropriate city official. This language appears to offer the advantage of ensuring that electronic signs, at a minimum, cannot exceed a certain established level of brightness.

At a minimum, it is important for communities to require all electronic signs to be equipped with a dimmer control. A requirement for both a dimmer control and a photo cell, which constantly keeps track of ambient light conditions and adjusts sign brightness accordingly, is optimal.

Over time, the LEDs used in electronic signs have a tendency to lose some of their intensity, and an owner may choose to have the sign adjusted and calibrated, which involves adjusting the level of electrical current in a manner that affects the brightness of the sign. This occurs over the course of two or three years. Having maximum nit levels established would ensure that the sign company has upper limits to work with as far as adjusting the sign is concerned.

4.3 Public Review

Most communities establish rules within their sign code and do not create opportunities for electronic signs to be approved through conditional use permits or special use permits. Some communities with special overlay districts, or areas that are oriented toward entertainment and night life, have established a review process for electronic signs, or for various functions of electronic signs such as animation and video.

Other communities take the opposite approach, where they allow electronic signs with no controls whatsoever, except in certain special areas, such as a historic overlay district, or a historic downtown district, where the signs are prohibited. Each community needs to tailor their application of electronic signs to meet their needs.

As of the writing of this report, no ordinances have been discovered that have a special review committee just for the purpose of electronic signs. Typically, sign regulations established in the zoning ordinance would be reviewed in accordance with existing review and approval processes. As with other development features, dynamic signage should be either prohibited, permitted, or conditional depending upon the zoning district and/or the specific features of the sign as established within the city's regulations (i.e. size, specific location with respect to the adjacent roadway, zoning district, proximity of sensitive uses). The recommended review process for permitted dynamic signs should be the same as procedures already in place for administrative

review. For dynamic signs requiring a Conditional Use Permit (CUP), the standard process for public notification and a public hearing before the planning commission should apply.

5.0 CONCLUSIONS AND RECOMMENDATIONS

Driver distraction plays a significant role in traffic safety. Driver distraction is a factor in one in four crashes, and of those crashes involving driver distraction, one in four involves distractions outside the vehicle. The extent to which dynamic signage contributes to traffic safety has been examined in this study. Following are some of the major findings from a review of available research.

- Drivers that are subjected to information-rich content that is irrelevant to the driving task (such as digital advertising) may be temporarily distracted enough to cause a degradation in their driving performance. This degradation could lead to a crash.
- The unlimited variety of changing content allows dynamic signage to attract drivers' attention at greater distances and hold their attention longer than traditional static billboards.
- Several studies have found a correlation between crashes and the complexity of the driving environment. For example, crash rates are higher at intersections because the difficulty of the driving task is increased by the roadway's complexity. Complex driving environments place a high demand on drivers' attention. Introducing a source of distraction in an already demanding driving environment is more likely to result in crashes. This is illustrated by the 1994 Wisconsin DOT study that examined crash rates before and after installation of an electronic sign on a high-volume curving roadway. Introduction of this sign was identified as a likely factor of the 80 percent increase in side-swipe crashes that was experienced.
- Many studies have noted a correlation between outdoor advertising signs and crash rates, but have not established a *causal* relationship between the signs and crash rates. Driving is a complex task influenced by multiple factors. It is not necessary to establish a direct causal relationship between outdoor advertising signs and crash rates to show that they can make the driving task less safe. While the research shows that driver distraction is a key factor in many motor vehicle crashes, this often includes many interacting factors that distract drivers. The specific driver distraction danger that advertising signs contribute is difficult to quantify. A study that could control for multiple variables (human factors, vehicle, enforcement and the roadway environment) would be needed to provide a definitive statement on the level of driver distraction that signs produce. Such a study would likely find that not all advertising signs cause distraction that would lead to crashes, but some signs in some situations are more likely to contribute to crashes than others.

Overall, the literature review conducted for the purpose of this study identifies a relationship between driver distraction and electronic outdoor advertising devices. As indicated, driver distraction is a significant factor in crashes. The purpose of dynamic signage is to attract the attention of people in vehicles, so a natural conclusion from that knowledge is that drivers may be distracted by them. Professional traffic engineering judgment concludes that driver distraction generally contributes to a reduction in safe driving characteristics.

For this reason, state departments of transportation have carefully studied the design and location of dynamic signs within the highway right-of-way. Their goal is to convey a message to the traveling public in a manner that is as straight-forward and readable as possible without being a visual “attraction”. The goal of the outdoor advertising sign is to be a visual attraction outside the right-of-way, possibly making it a source of driver distraction. Nevertheless, the actual change in crash rates influenced by the presence of any specific device has not been quantified in a manner that fully isolates the impacts of an electronic sign. Recent studies conducted by FHWA and others have cited the need for further research.

In the interest of promoting public safety, this report recommends that electronic signs be viewed as a form of driver distraction and a public safety issue. Therefore, the ordinance recommendations identified here should be considered. These recommendations should be reviewed in the future as additional research becomes available.

With respect to regulatory measures for electronic outdoor advertising signs, it is important that local governments take a thorough approach to updating their ordinances to address this issue. For example, an ordinance that addresses sign motion, but does not address brightness and intensity levels may leave the door open for further controversy. This report seeks to identify all of the aspects of electronic outdoor advertising devices that are subject to regulation. It does not specifically state what those regulations should be (e.g. the size of electronic signs), since these are all things that policy makers and staff must take into careful consideration. Further, as driver distraction and resulting influences on safety do not, in a practical sense, distinguish between on-premise and off-premise signage, this distinction is not highlighted in the recommendations below.

Regulatory Measures recommended for consideration

To properly address the issue of dynamic signage, it is recommended that the sign code address the following:

1. Identify specific areas where dynamic signs are prohibited. This would typically be done by specifying certain zoning districts where they are not allowed under any circumstances. If dynamic signs are to be allowed in specific areas, this could be done by zoning district (only higher level commercial districts are recommended for consideration) or by zoning overlay related to specific purposes (e.g. entertainment or sports facility district) or to specific roadway types.
2. Determine the acceptable level of operational modes in conjunction with such zoning districts or overlays. The various levels include:
 - a. Static display only, with no transitions between messages,
 - b. Static display with fade or dissolve transitions, or transitions that do not have the effect of moving text or images,
 - c. Static display with scrolling, traveling, spinning, zooming in, or similar special effects that have the appearance of movement, animation, or changing in size, or get revealed sequentially rather than all at once (e.g. letters dropping into place, etc.), and

d. Full animation and video.

3. If one of the forms of static display is identified as the preferred operational mode, a minimum display time should be established. This display time should correspond to the operation roadway speed (rather than posted speed limit), allowing at most one image transition during the time that the sign is visible to a driver traveling at the operational speed.

If a shorter minimum display time is considered, the effects of message sequencing should be considered. Wait intervals of more than 1-2 seconds between sequenced messages have the potential to become more of a distraction as viewers wait impatiently for the next screen, in an effort to view the complete message.

4. If the community wishes to accommodate animation or video in some or all locations where dynamic are permitted, a minimum and maximum duration of a video image should be established. The purpose for establishing a time limit is to ensure that the message is conveyed in a short, concise time frame that does not cause slowing of traffic to allow drivers to see the entire message. Given the creativity of advertising, these video images may be seen as a form of entertainment, and people typically like to see an entertaining message through to the end.

Differentiate between zoning districts where dynamic signs are permitted by right, and zoning districts, overlay districts, or special districts where they should only be allowed through the approval of a Conditional Use Permit. A CUP would involve public notification and review and approval by the Planning Commission. Other options would include a design review board or other dispute resolution process.

5. Consider the establishment of minimum distance requirements between electronic outdoor advertising devices in relation to the zoning district or roadway context in which the signs are allowed.
6. Consider size limitations on dynamic signs for zoning districts where they are allowed. This may vary from one district to another.
7. Consider if dynamic signs are allowed independently, or if they must be incorporated into the body of another sign, and therefore become a limited percentage of the overall sign face.
8. Establish a requirement for that all dynamic signs that emit light be equipped with mechanisms that allow brightness to be set at specific nit levels and respond accurately to changing light conditions. The City must establish the authority to disable or turn the device off if it malfunctions in a manner that creates excessive glare or intensity that causes visual interference or blind spots, and require that the device remain inoperable until such time that the owner demonstrates to the appropriate city official that the device is in satisfactory working condition. If such technology is not available, consideration should be given to banning dynamic signs that emit light until such time as the technology allows brightness levels to be precisely controlled.

9. Consider maximum brightness levels that correlate to ambient (day or night condition, lighting of surrounding context) light levels. A maximum daytime and separate nighttime nit/footcandle level should be established. Consider wording that requires the sign to automatically adjust its nit level based on ambient light conditions.
10. Consider a requirement for a written certification from the sign manufacturer that the individual sign's maximum light intensity has been preset not to exceed the maximum daytime illumination levels established by the code, and that the maximum intensity level is protected from end user manipulation by password protected software or other method approved by the appropriate city official.
11. Require sign owners to provide an accurate field method of ensuring that maximum light levels are not exceeded. If such a method cannot technically be provided, consider banning dynamic signs that emit light until such time as the technology is available.

PRELIMINARY DRAFT FOR REVIEW BY CITY OF MINNETONKA
Further changes are anticipated following Signage Workshop

*****Preliminary Report is specific to City of Minnetonka issues and may not be sufficient to address concerns in other communities*****

APPENDICES

PRELIMINARY DRAFT FOR REVIEW BY CITY OF MINNETONKA

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Appendix A

Current Sign Technologies

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Appendix A – Current Sign Technologies

Roadside signage has long been used to alert and direct travelers to retail businesses, lodging, attractions and other destinations. Until the 20th century much of this image was “static” in nature, presenting a single image that could only be altered by repainting or otherwise removing an image and replacing it with another. With the advent of motorized travel, signage became more “dynamic” or active in its efforts to attract the traveler’s attention as they moved at ever increasing speeds. Initially, motion was created by flashing bulbs or alternating sets of neon tubes.

Today’s technologies allow for an increasingly sophisticated display of images that can be manipulated by a few strokes of a keyboard. Simpler forms of signs capable of displaying multiple images include “tri-vision” signs which present a series of images through mechanical rotation of multi-sided vertical strips. The rotation occurs at regular intervals presenting a series of static images. Other forms are electronically produced, allowing for a wide range of colors, messages and images depending on the level of technology, and typically produced by light emitted by the sign face. Basic levels of technology present letters or numbers in a single color of light, such as “time and temperature” signs or gas pricing signs. Many of these signs can present longer images in a scrolling fashion, or can provide simple animations.

Recent advances have introduced a variety of technologies to the outdoor advertising arena. The largest impact has been made with LED signs which offer an inexpensive yet powerful approach that combines full motion, brilliant colors and a readable display. Other technologies are in development, including “digital ink” signs that offer a changeable medium on a surface that looks like a normal vinyl billboard. These signs manipulate ink on the surface, allowing for a dynamic presentation of images without being internally illuminated.

The various sign technologies are referenced by a wide array of terms: “changeable message signs,” “electronic billboards,” “animated signs.” In general, this report focuses on the broad range of signage types which are capable of displaying multiple images through electronic manipulation, which we will refer to as “dynamic” signing. Reference to specific signage types is made when necessary to discussion of specific issues (e.g. the brightness of LED signage).

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Appendix B

Outdoor Advertising Sign Brightness Definitions

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Appendix B – Outdoor Advertising Sign Brightness Definitions

This appendix defines various technical terms that are used to describe the operational aspects of electronic billboards.

Billboard Illuminance

Billboard illumination is typically discussed using two terms: illuminance and luminance. Because this section includes some technical jargon, a glossary that further defines terms used in outdoor advertising is provided in Appendix C.

Illuminance: The amount of light that is incident to the surface of an object. This is the method for describing ambient light levels or the amount of light that is projected onto a front-lit sign. This parameter is typically measured in lux (footcandles x meters). For the purposes of dimming, illuminance is discussed to describe the ambient light that hits the photocell.

Luminance: The amount of light that emanates from an internally illuminated sign. This parameter is measured in nits. The nit levels necessary for the sign to be legible vary with the ambient light conditions. On a sunny day, the nit levels must be very high, while at night, the levels must be very low to prevent the image from distorting and to prevent glare.

Billboard Luminance (Brightness)

Luminance is measured in nits (candelas/square meter) and describes how bright the image is. In essence, it is the amount of light that is radiated from the sign divided by the amount of surface area of the sign. No matter how big the sign is, the luminance of the sign is consistent. For example, the brightness of computer monitors is also measured in nits.

The European standard “EN 12966” specifies that at certain ambient light levels, the sign should output a given number of nits. There are different tables for each color due to the properties of how the human eye interprets each color. The color that is most often used to set dimming levels is white.

The FHWA has developed recommended practices for dynamic message signs installed within the roadway right-of-way. The standard is NEMA’s TS-4 “Hardware Standards for Dynamic Message Signs (DMS) With NTCIP Requirements.” Note that these standards were prepared for message signs deployed within the roadway right-of-way and should not be taken as recommended luminance levels for advertising signs. Table A-1 provides a simplified version of the NEMA TS-4 standard for the color white.

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Table A-1 - Luminance Standards

Ambient Light (lux)	Approximate Light	Minimum Luminance (nits)	Maximum Luminance (nits)
40,000	Sunlight	12,400	62,000
10,000	Cloudy	12,400	-
4,000	Overcast	2,200	11,000
400	Sunrise/Sunset	600	3,000
40	Candlelight	250	1,250
less than 4	Moonlight	75	375

Source: NEMA TS-4 (2005)

Billboard Resolution

Billboards require far less resolution than print advertisements. For example, Clear Channel’s LED “Digital Outdoor Network” LED bulletin-size (14’ x 48’) billboards require dimensions of only 208 pixels high by 720 pixels wide. If this image were to be printed at 300 dots per inch (dpi), a typical print resolution, the entire image would be less than 1.7 square inches. Therefore, it is ideal to keep the message on these signs simple and clear because they do not currently allow resolutions similar to printed images.

Dimming

To maintain readability, the brightness of a sign must be adjusted to match ambient light conditions. If this is not done, the image will appear too bright and can even degrade the image quality through a phenomenon called “blooming.” If the image blooms, the brightest areas of the image bleed over into darker parts and the image clarity is degraded.

Dimming is typically controlled by a photocell, which measures the ambient light conditions and varies the light output of the sign based on preconfigured settings. As ambient light conditions darken, the photocell senses the decrease and lowers the light output of the sign. Some sign manufacturers do not incorporate photocells in their electronic signs.

Electronic billboard dimming can also be controlled by scheduled dimming according to time of day or manual dimming. On-premise signs may use any of these methods, but most, if not all, off-premise standard size electronic billboards are auto dimmed by photocell. Some signs include user-defined dimming curve capability allowing total control over sign brightness and adjustability to accommodate local brightness ordinances.

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Appendix C

Electronic Outdoor Advertising Device Visual Performance Definitions

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Appendix C – Electronic Outdoor Advertising Device Visual Performance Definitions

Conspicuity

Conspicuity is the property that related to the contrast between a sign and its background and its ability to stand out from its surroundings. This is a subjective property that depends on many factors of both the environment and the viewer.

Contrast

Contrast is the property that defines the relationship between the brightness of the brightest color possible to the darkest color possible on a sign. In times when ambient conditions are very bright, such as a sunny day, the darkest color may still be very bright due to the sun's reflection off the sign. In these cases, the lighter colored areas of the billboard's image must be much brighter than the contrasting dark areas.

Legibility

The ability of the driver to read a sign is related to its legibility. Large, legible text allows the driver to read the billboard from varying distances and focus on the driving task. Conversely, with small text the driver is more likely to focus on the sign for a longer period of time and possibly wait until the sign is very close.

State departments of transportation use NEMA's TS-4 document for this criterion. This document specifies many characteristics related to legibility including character height, resolution and color.

Glare

Disability Glare

The first form of glare is disability glare. This occurs when a driver is exposed to a light source so bright that it temporarily blinds the driver, impairing their ability to perform driving tasks. This temporary blindness is brief, but can be dangerous.

Discomfort Glare

Discomfort glare is when a light source is bright enough to distract or encourage the driver to look away from the light, but is not blinding. Discomfort glare is of particular concern in cases where a bright sign is located in the same line of sight as a traffic sign, signal or another vehicle.

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Frequency of Change

The frequency of change is determined by the interval of time between sign image changes. The rate of change can usually be adjusted by the owner and operator of the sign. Frequency of change is highly variable, with some on-premise signs changing faster than once per second. While no standard is generally accepted, local government agencies have used ordinances to limit the frequency to anywhere from 5 seconds to 24 hours.

Interactive signs

Interactive signs change their message based on the person viewing it. For example, the carmaker MINI has installed variable message signs that display a customized message to car owners who have special key dongles containing a radio frequency identification (RFID) chips when the dongle is in close proximity to the sign.

Another example is a microphone system that identifies the radio stations passing drivers are listening to and displays a specific message for that station.

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²⁷ Federal Highway Administration, “Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction,” 2001.

²⁸ “Report of the Road Safety Committee on the Inquiry into Driver Distraction,” Parliament of Victoria, Australia, Victoria, Australia, 2006.

²⁹ D. Mandelker, A. Bertucci and W. Ewald. “Street Graphics and the Law,” APA Planning Advisory Service, 2004, pp. 51-55.



City of White Bear Lake
COMMUNITY DEVELOPMENT
DEPARTMENT

MEMORANDUM

TO: The Planning Commission

FROM: Samantha Crosby, Planning & Zoning Coordinator

DATE: August 25, 2021 for the August 30, 2021 Planning Commission Meeting

SUBJECT: Level Up Academy, 2600 County Road E Case No. 21-7-CUP

REQUEST / BACKGROUND

Last month, the Planning Commission reviewed the proposal by Level Up Academy to remodel and expand the Charter school located at the Rockpoint Church property. The school has a contract to purchase the property contingent upon approval of the proposed Rezoning and Conditional Use Permit for building expansion. The proposal was well-received but two points were left unresolved. The first was the exterior design of the gymnasium addition, which was revised at the last minute without sufficient time for staff review. The second was retaining the potential for one of the parcels (PID #363022110025) to be developed as a single-family residence.

ANALYSIS

Gymnasium Elevations

The applicant had proposed smooth painted precast concrete panels as an alternative to the metal panels (which were originally proposed as an alternative to windows). Staff has now reviewed this and, while painted concrete is typically reserved for non-street facing sides of a building, staff finds that the proposed material as an accent element is acceptable given the objective of mimicking windows. See attached graphic.

Future Development

Staff and the commission agreed that it is prudent to preserve the potential for future development whenever possible. In order to do so, there were three options available to the applicant:

1. Redesign the parking lot to meet the setback and buffer requirements.
2. Apply for a variance from the setback and buffer requirements.
3. Redesign the parking lot so that the parcel could be re-platted to a smaller size (moving the north lot line southward) to meet the setback requirements.

According to the applicant, the new parking lot design could not be configured to accommodate a 20 foot setback from where the current property boundary is located and the extra time required to process a variance does not fit with the project schedule. The applicant has revised the parking lot so that if/when the lot is replatted, the parking lot will meet the 20 foot setback – see attached revised parking lot design.

The applicant has agreed that, before they put the parcel on the market, they will re-plat the parcel to 80 feet wide. The lot may not be sold prior to completing this Recombination Subdivision. Further, the resolution of approval must be recorded against the parcel to insure future buyers are aware of this requirement.

Finally, the required landscape buffer should be installed at this time, so that the plantings have a chance to mature. The plans already included a row of arborvitae along the first existing neighbor to the south. Those plantings could be relocated to the proper location, to be approved by staff.

RECOMMENDATION

Staff recommends revising the conditions of approval as follows:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1301.050, Subd.4, if within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been completed or utilized, the CUP shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. This Conditional Use Permit shall become effective upon the applicant tendering proof (ie: a receipt) to the City of having filed a certified copy of the signed resolution of approval with the County Recorder pursuant to Minnesota State Statute 462.3595 to ensure the compliance of the herein-stated conditions.
4. Separate sign permit required, no signage approved herein.
5. The applicant shall combine all 4 parcels into one.
6. The openings in the perimeter fence shall be preserved in roughly the same locations.
7. The applicant understands that the proposed parking lot encroaches into the southern 111.88 feet of Lot 1, Block 1 Bruggeman Addition. Should the applicant ever wish to sell this lot for development of a single-family residence, a replat (to shift the northern lot line southward) would be required to bring the parking setback into conformance with code. The lot may not be separated and sold as is. This resolution of approval must be filed against this parcel as notice to future buyers of this requirement.
8. The applicant shall obtain a building permit prior to beginning any work.

Prior to the issuance of a building permit:

9. Tree protection fencing shall pass inspection – to be installed around the dripline of all existing trees to remain.
10. Any rooftop mechanical equipment must be positioned far enough away from the edge of the building so that it is not visible from the public right-of-ways or adjacent residential, or it shall be screened from view.
11. ~~Metal must be ACM architectural panels.~~ Building material samples to be approved by staff.

12. Submit lighting details and a photometric plan for staff review and approval. All new or relocated lights shall be shielded from the back and sides so that the light source is not visible from surrounding residences or public right-of-way. Lighting shall comply with the "Business Abutting Residential" requirements of Section 1303.130, Subd.4.e and the "Glare" limitations of Section 1302.030, Subd.9. Kelvins shall not exceed 3,500 and foot candles shall not exceed 10. Plan and details subject to staff approval.
13. Provide a bike rack detail (or photo of existing to be reused) as required by code.
14. Submit a final landscaping plan, including:
 - a. a tree survey listing the size, type and location of existing trees to remain and existing trees to be removed with totals for each column and the tree replacement calculation;
 - b. foundation plantings to enhance the base of the building;
 - c. internal parking lot landscaping as required by code, with a data chart;
 - d. perimeter parking lot landscaping as required by code, with a data chart;
 - e. a few additional evergreen trees west of the gymnasium addition;
 - f. some additional trees along the south side of the property – overstory or evergreen trees where possible;
 - g. a planting screen to comply with 1303.130, Subd.4.e.3 (business abutting residential), along the south side of the parking lot in the area of Lot 1, Block 1 Bruggeman Addition;Final landscaping plan subject to review and approval.
15. Provide a SAC (Sewer Availability Charge) determination letter from the Metropolitan Council.
16. Obtain permits as necessary from relevant agencies (such as Ramsey County and Ramsey-Washington Metro Watershed District) and provide a copy of each to the City.
17. Enter into a Stormwater Operation and Maintenance Agreement for the new on-site stormwater features.

Prior to the issuance of a certificate of occupancy, the applicant shall:

18. Provide an as-built plan that complies with the City's Record Drawing Requirements.
19. All exterior improvements must be installed.
20. All landscaping must have survived at least one full growing season.
21. The applicant shall provide proof of having recorded the Resolution of Approval and the Stormwater Operation and Maintenance Agreement with the County Recorder's Office.

ATTACHMENTS

1. Revised Draft Resolution of Approval
2. Revised Gymnasium Elevations
3. Revised Parking Lot Design

RESOLUTION NO. _____

**RESOLUTION GRANTING A
CONDITIONAL USE PERMIT
FOR 2600 COUNTY ROAD E
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, a proposal (21-7-CUP) has been submitted by Level Up Academy, on behalf of Rockpoint Church, to the City Council requesting approval of a conditional use permit from the Zoning Code of the City of White Bear Lake for the following location:

LOCATION: 2600 County Road E

LEGAL DESCRIPTION: Attached as Exhibit A (PID # 363022120001, 363022110026, 363022110025, and 363022120012);

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: A Conditional Use Permit, per Code Section 1301.050, to allow two building additions totaling 15,470 square feet – a classroom addition and a gymnasium addition; and

Reso # 11594 – May 12, 2015 (15-3-S): A conditional use permit amendment to allow the operation of a public charter school (grades K-8) per Code Section 1303.030, Subd.4.a.

Reso. # 8298 – July 14, 1998 (98-9-S): An amendment to the conditional use permit to allow construction of a building addition per Code Section 1303.050.

SUP #72-22-S – August, 1972: A special use permit for the construction of a church.

WHEREAS, the Planning Commission has held a public hearing as required by the city Zoning Code on July 26, 2021; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of White Bear Lake that the City Council accepts and adopts the following findings of the Planning Commission:

1. The proposal is consistent with the city's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.
4. The proposal will not depreciate values in the area.

5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.
6. Traffic generation will be within the capabilities of the streets serving the site.

FURTHER, BE IT RESOLVED, that the City Council of the City of White Bear Lake hereby approves the requested conditional use permit, subject to following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1301.050, Subd.4, if within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been completed or utilized, the CUP shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. This Conditional Use Permit shall become effective upon the applicant tendering proof (ie: a receipt) to the City of having filed a certified copy of the signed resolution of approval with the County Recorder pursuant to Minnesota State Statute 462.3595 to ensure the compliance of the herein-stated conditions.
4. Separate sign permit required, no signage approved herein.
5. The applicant shall combine all 4 parcels into one.
6. The openings in the perimeter fence shall be preserved in roughly the same locations.
7. The applicant understands that the proposed parking lot encroaches into the southern 111.88 feet of Lot 1, Block 1 Bruggeman Addition. Should the applicant ever wish to sell this lot for development of a single-family residence, a replat (to shift the northern lot line southward) would be required to bring the parking setback into conformance with code. The lot may not be separated and sold as is. This resolution of approval must be filed against this parcel as notice to future buyers of this requirement.
8. The applicant shall obtain a building permit prior to beginning any work.

Prior to the issuance of a building permit:

9. Tree protection fencing shall pass inspection – to be installed around the dripline of all existing trees to remain.
10. Any rooftop mechanical equipment must be positioned far enough away from the edge of the building so that it is not visible from the public right-of-ways or adjacent residential, or it shall be screened from view.
11. ~~Metal must be ACM architectural panels.~~ Building material samples to be approved by staff.
12. Submit lighting details and a photometric plan for staff review and approval. All new or

relocated lights shall be shielded from the back and sides so that the light source is not visible from surrounding residences or public right-of-way. Lighting shall comply with the “Business Abutting Residential” requirements of Section 1303.130, Subd.4.e and the “Glare” limitations of Section 1302.030, Subd.9. Kelvins shall not exceed 3,500 and foot candles shall not exceed 10. Plan and details subject to staff approval.

13. Provide a bike rack detail (or photo of existing to be reused) as required by code.
14. Submit a final landscaping plan, including:
 - a. a tree survey listing the size, type and location of existing trees to remain and existing trees to be removed with totals for each column and the tree replacement calculation;
 - b. foundation plantings to enhance the base of the building;
 - c. internal parking lot landscaping as required by code, with a data chart;
 - d. perimeter parking lot landscaping as required by code, with a data chart;
 - e. a few additional evergreen trees west of the gymnasium addition;
 - f. some additional trees along the south side of the property – overstory or evergreen trees where possible;
 - g. a planting screen to comply with 1303.130, Subd.4.e.3 (business abutting residential), along the south side of the parking lot in the area of Lot 1, Block 1 Bruggeman Addition;
Final landscaping plan subject to review and approval.
15. Provide a SAC (Sewer Availability Charge) determination letter from the Metropolitan Council.
16. Obtain permits as necessary from relevant agencies (such as Ramsey County and Ramsey-Washington Metro Watershed District) and provide a copy of each to the City.
17. Enter into a Stormwater Operation and Maintenance Agreement for the new on-site stormwater features.

Prior to the issuance of a certificate of occupancy, the applicant shall:

18. Provide an as-built plan that complies with the City’s Record Drawing Requirements.
19. All exterior improvements must be installed.
20. All landscaping must have survived at least one full growing season.
21. The applicant shall provide proof of having recorded the Resolution of Approval and the Stormwater Operation and Maintenance Agreement with the County Recorder’s Office.

The foregoing resolution, offered by Councilmember and supported by Councilmember, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk

Approval is contingent upon execution and return of this document to the City Planning Office.
I have read and agree to the conditions of this resolution as outlined above.

Property Owner / Applicant

Date

**EXHIBIT A
LEGAL DESCRIPTION**

Parcel 1:
The Northwest Quarter of the Northeast Quarter of Section 36, Township 30, Range 22, Ramsey County, Minnesota, beginning at the Northeast corner of said property thence West along the Northerly line to a point at the middle line of a Southerly extension of Glen Oaks Avenue, (approximately 310 feet), thence South on a line parallel to the East line of said section 702 feet, thence East on a line parallel to the North line of said section to the East line of said section (approximately 310 feet), thence North 702 feet to the point of beginning.

Except that part thereof shown as Parcel 80 on Minnesota Department of Transportation Right of Way Plat Numbered 62-9 as the same is on file and of record in the office of the County Recorder in and for Ramsey County, Minnesota.

(Abstract Property)

Parcel 2:

Lot 1, Block 1, Bruggeman Addition, according to the recorded plat thereof, Ramsey County, Minnesota.

(Abstract Property)

Parcel 3

Outlot B, Lakewood North Third Addition, according to the recorded plat thereof, Ramsey County, Minnesota.

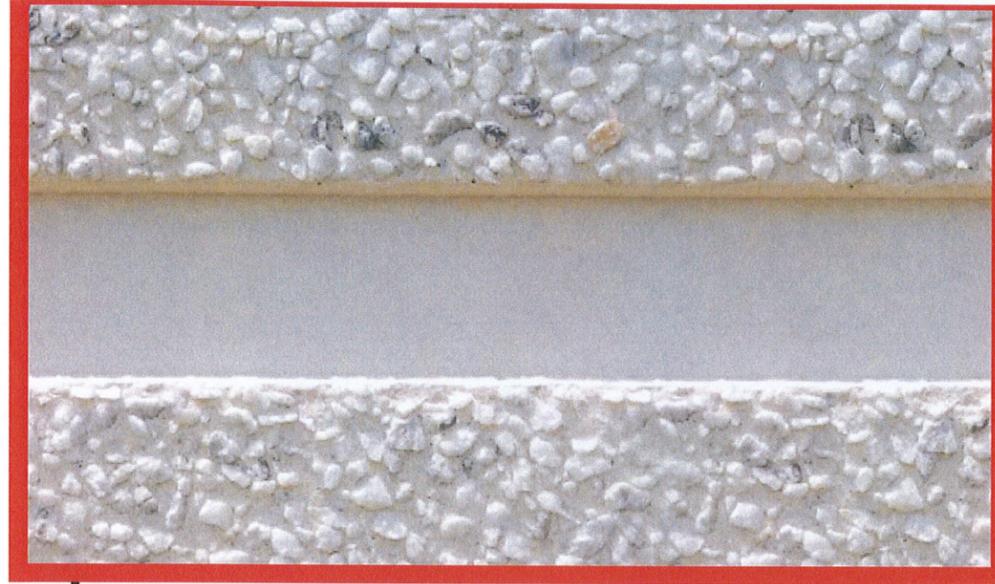
(Abstract Property)



SPERO ACADEMY

"PAINTED" PRECAST PANELS FIELD COLOR

"PAINTED" PRECAST PANELS ACCENT COLOR



1/2" WIDE X 1/2" DEEP HORIZONTAL REVEALS TO COMPLIMENT BRICK DETAIL ABOVE EXISTING WINDOWS

1/2" DEEP RECESS IN PRECAST PANELS WITH SURFACE APPLIED PENETRATING STAIN FINISH. DARK GREY TO MATCH WINDOW GLAZING.

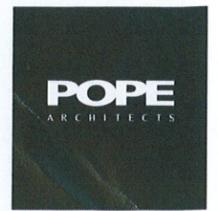
FORMSIDE EXPOSED AGGREGATE CONCRETE WALL PANELS WITH INTEGRAL COLOR.

CONTINUOUS 1/2" DEEP BY 1'-6" TALL REVEAL WITH PENETRATING STAIN FINISH

3" TALL BY 1/2" DEEP HORIZONTAL REVEALS CAST INTO FORMSIDE EXPOSED AGGREGATE PRECAST CONCRETE WALL PANELS

12" INSULATED PRECAST CONCRETE WALL PANELS WITH FORM LINER BRICK PATTERN. COLOR DARK GREY TO MATCH BRICK-2.

NOT FOR CONSTRUCTION



POPE ARCHITECTS, INC.
1295 BANDANA BLVD N, SUITE 200
ST. PAUL, MN 55108-2735
(651) 642-9200 | FAX (651) 642-1101
www.popearch.com



LEVEL UP ACADEMY -
RENOVATION AND
ADDITION
2600 CO ROAD EAST,
WHITE BEAR LAKE,
MN 55110

NOTE: THESE DRAWINGS ARE PRELIMINARY ONLY AND ARE NOT 100% NOT FOR CONSTRUCTION AND PRELIMINARY PRICING SHOULD BE PROVIDED WITH THIS IN MIND. ADDITIONAL FIELD VERIFICATION INFORMATION, DETAILS AND PROJECT SPECIFICATIONS WILL BE PROVIDED AS THE PROJECT PROGRESSES THROUGH THE DESIGN PHASES.

EXTERIOR PERSPECTIVES

CITY SUBMITTAL	06/14/21
CITY SUBMITTAL UPDATE	08/20/21

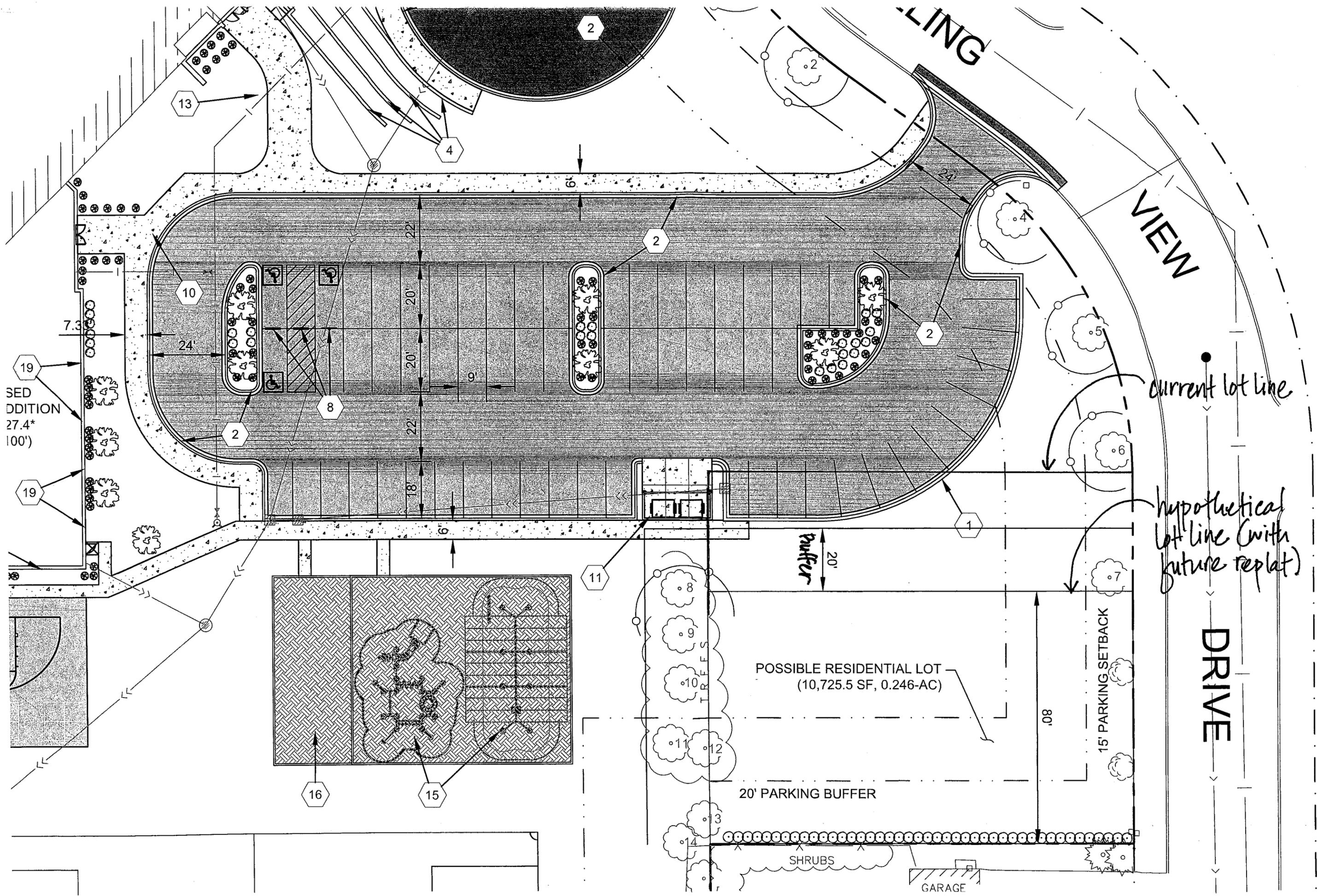
41815-21052	Author
	Checker

SHEET

A3.5

1
A3.5

3D VIEW OF GYM SE CORNER STAINED RECESSED PRECAST PANELS



SED
DDITION
27.4*
(100')

LING

VIEW

current lot line

hypothetical
lot line (with
future replat)

DRIVE

POSSIBLE RESIDENTIAL LOT
(10,725.5 SF, 0.246-AC)

20' PARKING BUFFER

15' PARKING SETBACK

SHRUBS

GARAGE

buffer
20'

.08

2

2

2

2

13

4

7.3

10

24'

9

22

20'

20'

20'

22'

18'

19

19

2

8

1

11

16

15

8

9

10

11

12

3

4

7

4

5

6

5



City of White Bear Lake
COMMUNITY DEVELOPMENT
DEPARTMENT

MEMORANDUM

TO: The Planning Commission

FROM: Ashton Miller, Planning Technician

DATE: August 23, 2021 for the August 30, 2021 Planning Commission Meeting

SUBJECT: Barbara McIntyre, 3696 Glen Oaks Avenue- Case No. 21-1-SHOP

REQUEST

The applicant, Barb McIntyre, is requesting approval of a Special Home Occupation Permit (SHOP) to conduct a dog grooming business in her single-family residence.

SITE CHARACTERISTICS

The property is located on the east side of Glen Oaks Avenue and south of Riviera Drive South. The property contains a single family home, two car attached garage and 40 foot long driveway.

ZONING / BACKGROUND

The property is zoned R-3 – Single Family Residential and S – Shoreland Overlay. The surrounding properties are also zoned R-3 and S.

Section 1302.120 of the Zoning Code states that certain types of home occupations are considered Special Home Occupations and require Conditional Use Permit approval. Barber and beauty services are listed in the code as requiring this type of approval, and as the canine equivalent, dog grooming also requires CUP approval.

ANALYSIS

Ms. McIntyre will be the only employee. Services that she will provide include baths, haircuts and nail trimming. There will also be a small inventory of supplies and accessories for sale in the home. The proposed hours of operation will initially be Tuesday through Thursday and every other Saturday, by appointment only, between 9 am and 5 pm. As the business becomes more established, appointments will be scheduled Monday through Friday, and every other Saturday. Appointments will be scheduled roughly thirty minutes apart to avoid overlap with no more than four appointments a day.

The dog grooming area will be located in the lower level of the single family home. The clients will be dropped off for their appointment in the garage entryway and their humans will be notified when ready for pick up. The driveway is large enough to accommodate the parking generated by the business, so impact on the neighborhood will be minimal. Practices such as monitoring the

dogs when outside will be implemented to ensure barking is kept to a minimum. Dogs will not be boarded overnight.

Any proposed signage will require a sign permit. The Code allows a four-foot-tall sign up to eight square feet in size.

The first issuance of a home occupation permit is a trial period. The applicant must seek a renewal of the permit after one calendar year. If any issues arise from the proposed home occupation during the trial year, they can be addressed prior to renewal.

SUMMARY/ RECOMMENDATION

The business is proposed to be incidental and secondary to the residential use of the home and does not appear that it will have a negative effect on the surrounding neighborhood. For these reasons, staff recommends approval of the Special Home Occupation, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1302.120, Subd.3, if within one (1) year after granting the Home Occupation Permit, the use as allowed by the permit is not established, the permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. This permit is issued for a one-year period with the expiration date being **September 14, 2022**, before which the permit may be renewed, in accordance with the procedural requirement of the initial home occupation.
4. The applicant shall not have the vested right to a permit by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that her monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be considered *de novo* without taking into consideration that a previous permit has been granted. The previous granting of renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.
5. Permits shall not run with the land and shall not be transferable.
6. The business shall comply with all provisions of the Home Occupation Section of the Zoning Code (Section 1302.125).
7. The applicant shall comply with applicable building, fire and health department codes and regulations.
8. A sign permit is required prior to the installation of any signs.
9. Boarding of dogs is not permitted.

Attachments:

1. Draft Resolution of Approval
2. Location/Zoning Map
3. Applicant's Narrative – 2 pages
4. Site Plan & Floor Plan – 3 pages
5. Neighbor Letter of Support - Kaufman

RESOLUTION NO. _____

**RESOLUTION APPROVING
A SPECIAL HOME OCCUPATION PERMIT FOR BARBARA MCINTYRE
AT 3696 GLEN OAKS AVENUE
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, a proposal (21-1-SHOP) has been submitted by Barbara McIntyre to the City Council requesting a Special Home Occupation Permit of the City of White Bear Lake for the following location:

LOCATION: 3696 Glen Oaks Avenue

LEGAL DESCRIPTION: Lot 29 Block 10, Bacchus White Bear Hills, Ramsey County, Minnesota. (PID # 253022440052)

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING RELIEF: A Special Home Occupation Permit to allow a dog grooming business out of a single-family home, per Code Section 1302.120, Subd.4; and

WHEREAS, the Planning Commission has held a public hearing as required by the city Zoning Code on August 30, 2021; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake that the City Council accepts and adopts the following findings of the Planning Commission:

1. The proposal is consistent with the city's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.
4. The proposal will not depreciate values in the area.
5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.
6. Traffic generation will be within the capabilities of the streets serving the site.
7. That the special conditions attached in the form of a conditional use permit are hereby approved.

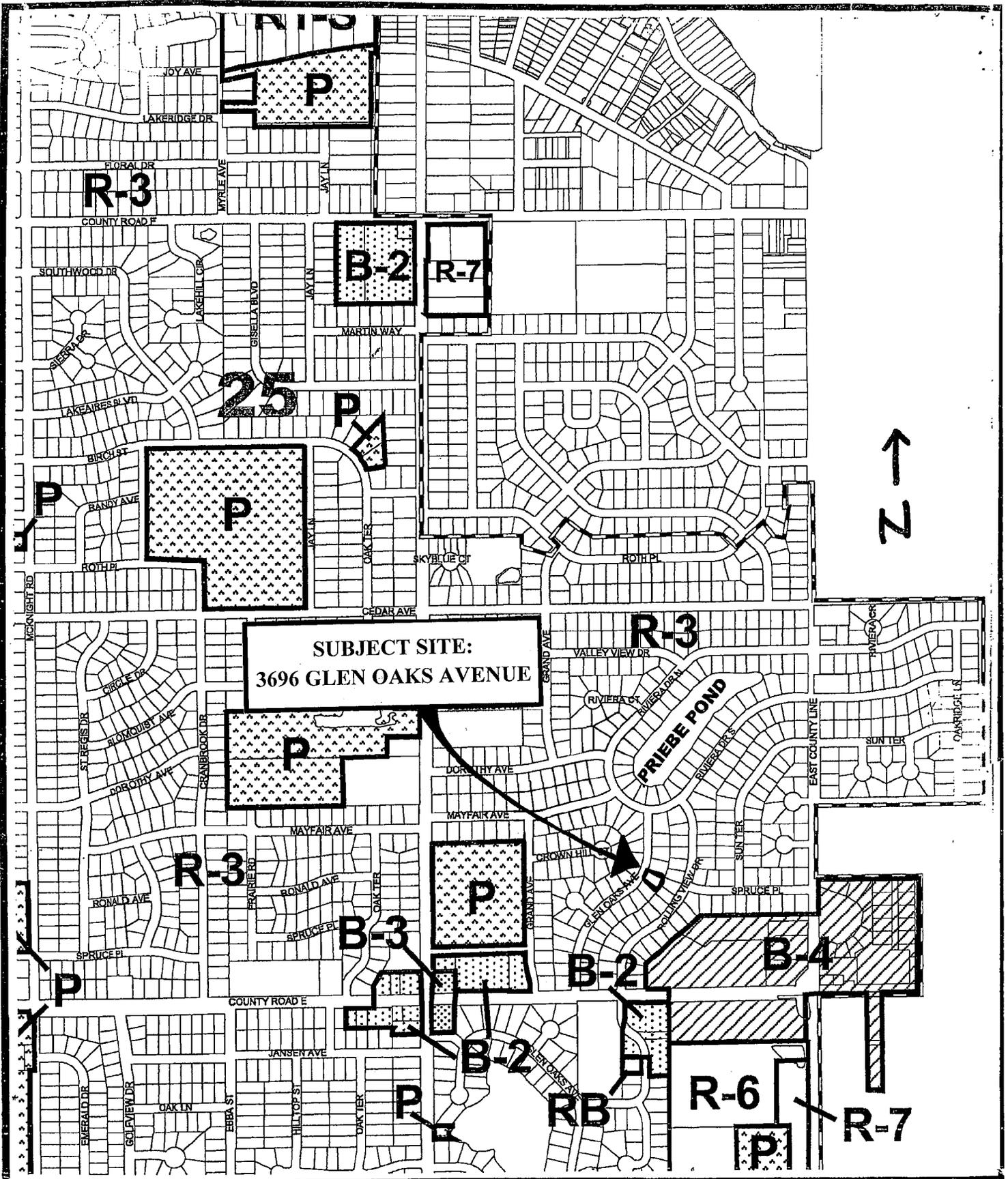
FUTHER, BE IT RESOLVED, that the City Council of the City of White Bear Lake hereby approved the request, subject to the following conditions.

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1302.120, Subd.3, if within one (1) year after granting the Home Occupation Permit, the use as allowed by the permit is not established, the permit shall become null and void unless a petition for an extension for time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. This permit is issued for a one-year period with the expiration date being **September 14, 2022**, before which the permit may be renewed, in accordance with the procedural requirement of the initial home occupation.
4. The applicant shall not have the vested right to a permit by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that her monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be considered *de novo* without taking into consideration that a previous permit has been granted. The previous granting of renewal of a permit shall not constitute a precedent or basis for the renewal of a permit.
5. Permits shall not run with the land and shall not be transferable.
6. The business shall comply with all provisions of the Home Occupation Section of the Zoning Code (Section 1302.125).
7. The applicant shall comply with applicable building, fire and health department codes and regulations.
8. A sign permit is required prior to the installation of any signs.
9. Boarding of dogs is not permitted.

The foregoing resolution, offered by Councilmember _____ and supported by Councilmember _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Jo Emerson, Mayor



SUBJECT SITE:
3696 GLEN OAKS AVENUE

City of
 White Bear Lake
 Planning and Zoning Office
 (612)-429-8561

CASE NO. : **21-1-SHOP**
 CASE NAME : **McIntyre**
 DATE : **Aug. 30, 2021**

July 19, 2021

Barbara McIntyre

Home Occupation Business Narrative

3696 Glen Oaks Ave, White Bear Lake

DOG GROOMING BUSINESS OVERVIEW

The Sparkling Whisker will be a one-person business providing the community with a pet grooming option that has a quiet, relaxed and safe environment. It will be a home occupation run out of a single family house. The house is owned by the proprietor.

Grooming Services Offered

- Baths
- Hair cuts
- Nail trims
- Extra add on services such as nail filing, facials, teeth brushing
- Canine massage will be a future service (pending training)

Product Sales

On site sales of handmade items related to pets such as pet attire, handbags with matching pet accessories, leashes, etc. These items may be sold online as well.

A small selection of shampoos, at home pet grooming items, and treats will also be available on site.

The number of items will be limited to a small to medium size display in the garage or the entry way just inside the house depending on the weather.

Use of the Property

- Parking will be available in the double car driveway and on the street in front of the house as needed. It is not expected to have more than two customer cars in front of the house at a time.
- Customers will enter using the garage service door adjacent to the driveway.
- The dog intake/checkout area will be in the garage and just inside the doorway leading into the house.

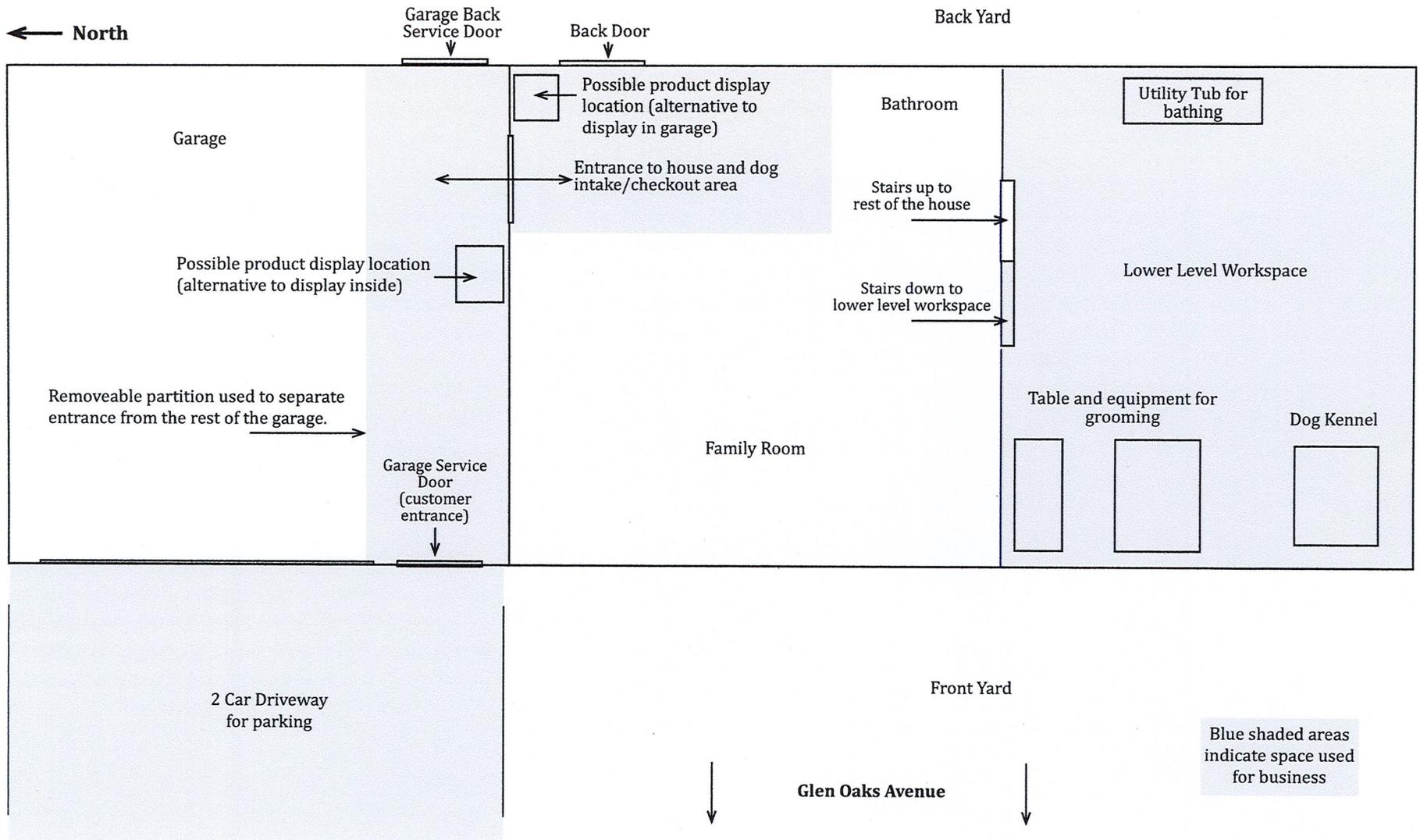
- Grooming will take place in the lower level of the house.
- A sign with the business name will be on the garage service door or in the garden area next to the service door. The sign will comply with city ordinance and will not be used for gaining attention from the street for marketing purposes, but instead to guide customers where to go when they arrive.
- Customer dogs will not be kept on the property overnight.

Flow of Operation

- Customers will leave dogs and come back to get them at an appointed time given at check in. The appointed time will be an estimate and customers will receive a text when the dog is ready to be picked up.
- Pick up and drop off service may be offered in the future in some instances. This will reduce the parking requirements.
- Dogs will be allowed to relieve themselves in the back yard before and after the groom. Dogs will not be left outside unattended and will be immediately brought inside in the case of excessive barking.
- Appointments will be made with an intended half hour between each dog to avoid overlap of customers arriving and departing. This will help reduce dogs meeting and the possibility of extra barking or dog to dog aggression.

Hours of Operation

- Initial hours will be open as appointments are taken 9am-5pm Tuesdays, Wednesdays, Thursdays (days could vary with the timing of appointments) and every other Saturday as needed. Appointments for no more than 3 dogs a day will be taken.
- As business increases, hours will be 5 days per week, Monday through Friday and every other Saturday (days could vary with the timing of appointments). Appointments for no more than 4 dogs a day will be taken.
- Appointments will be required by phone, text or online. Walk in service will not be available.



3696 Glen Oaks Avenue

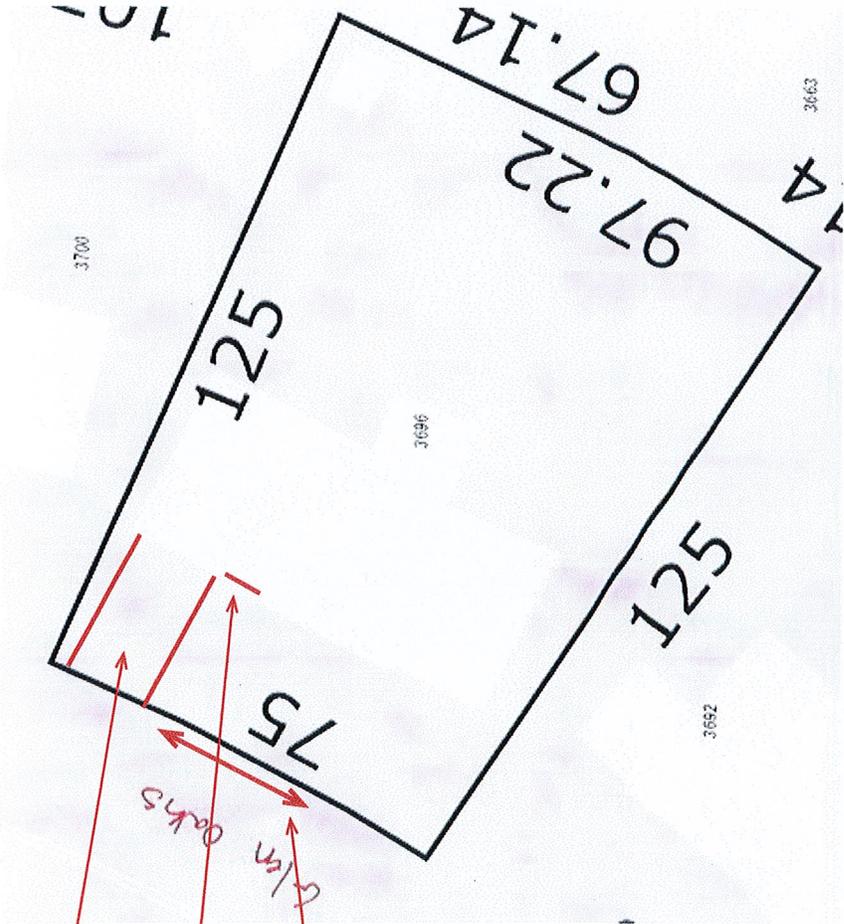
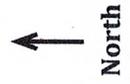


Two car driveway for parking.

Garage service door will be used for customer entrance.

Possible street parking if needed.

3696 Glen Oaks Avenue



Two car driveway for parking.

Garage service door will be used for customer entrance.

Possible street parking if needed.

Glen Oaks

Ashton Miller

From: Michael Kaufman <mkaufman@thetailwindgroup.com>
Sent: Monday, August 23, 2021 3:27 PM
To: Ashton Miller
Subject: Comments on Case No. 21-1-SHOP

I received a letter announcing a public hearing on whether to allow a dog grooming business in a residential home at 3696 Glen Oaks Ave. I am the neighbor immediately north of Ms. McIntyre at 3700 Glen Oaks Ave. Barb has spoken to both myself and my wife about her plans. Everything she told us agrees with the business overview she submitted to the city. We have no problems with what she has planned and give our full support to Ms. McIntyre.

Thank you,

Michael Kaufman
3700 Glen Oaks Ave.
White Bear Lake, MN 55110
651-343-8552



City of White Bear Lake
COMMUNITY DEVELOPMENT
DEPARTMENT

4.D

MEMORANDUM

TO: The Planning Commission

FROM: Ashton Miller, Planning Technician

DATE: August 23 for the August 30, 2021 Planning Commission Meeting

SUBJECT: Louismet Variance, 1980 3rd Street – Case No. 21-17-V

REQUEST

The applicant, Dan Louismet, is requesting a 72 square foot variance from the 120 square foot maximum allowed for a second accessory structure in order to keep a 192 square foot shed on the property.

SITE CHARACTERISTICS

The subject site is located on the south side of Third Street, west of Bald Eagle Avenue. The property contains a single family home and a one car detached garage.

ZONING/BACKGROUND

The subject site is zoned R-3, Single Family Residential, as are all the surrounding properties. According to Ramsey County, the home was constructed in 1954. The existing garage was built in 1962.

APPLICANT'S PRACTICAL DIFFICULTY

Second accessory structures over 120 square feet are permitted through an administrative variance, but as stated in the applicant's narrative, one neighbor's signature was unobtainable. Consequently, a full variance request has been submitted.

ANALYSIS

The City has issued 36 permits in the last five years for second accessory structures over 120 square feet, including five so far in 2021. Staff has not been made aware of any issues arising from the installation of these larger sheds and does not have evidence that they have been a detriment to the surrounding neighborhood.

The shed meets other aspects of the code. The existing garage is 352 square feet in size. The shed provides an additional 192 square feet of accessory structure square footage, for a total of 544 square feet. The code states that the total accessory square footage cannot exceed the first floor area of the home, which in this case is 936 square feet, so even with the second accessory structure, the property is well below what is permitted.

4.D

An addition to the existing garage comparable to the size of the shed would be permitted by right, so staff finds the additional accessory structure space to be a reasonable request.

Staff estimates the rear yard cover to be roughly 13 percent, well below the 25 percent permitted by code. The shed covers three percent of the rear yard, also below the ten percent allowed for second accessory structures.

During the review process, staff noticed an existing shed in the aerial images of the property. If this shed is still on the property, it must be removed or another variance requested, as the code only permits two accessory structures on a lot.

SUMMARY

The City has a high level of discretion when approving or denying a variance because the burden of proof is on the applicant to show that they meet the standards of the ordinance. If the proposal is deemed reasonable (meaning that it does not have an adverse effect on neighboring properties, it is consistent with the Comp Plan, and it is in harmony with the intent of the Zoning Code) then the criteria have been met.

RECOMMENDATION

Staff recommends approval of the variance, subject to the standard conditions:

1. All application materials, maps, drawings, and descriptive information submitted in this application shall become part of the permit.
2. The variance shall become null and void if the project has not been completed within one (1) calendar year after the approval date, subject to petition for renewal. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. A zoning permit shall be obtained for the shed.
4. The existing shed shall be removed prior to final inspection.

Attachments:

1. Draft Resolution of Approval
2. Zoning/Location Map
3. Applicant's Narrative (1 page) & Plans (2 pages)

RESOLUTION NO. _____

**RESOLUTION GRANTING A VARIANCE
FOR 1980 3rd STREET
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, a proposal (21-17-V) has been submitted by Dan Louismet to the City Council requesting approval of a variance from the Zoning Code of the City of White Bear Lake for the following location:

LOCATION: 1980 3rd Street

LEGAL DESCRIPTION: Lot 7, Block 2 of Campbell Place, Ramsey County, MN
(PID: 143022310075)

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: A 72 square foot variance from the 120 square foot maximum allowed for a second accessory structure, per Code Section 1302.030, Subd.4.i.2.c; and

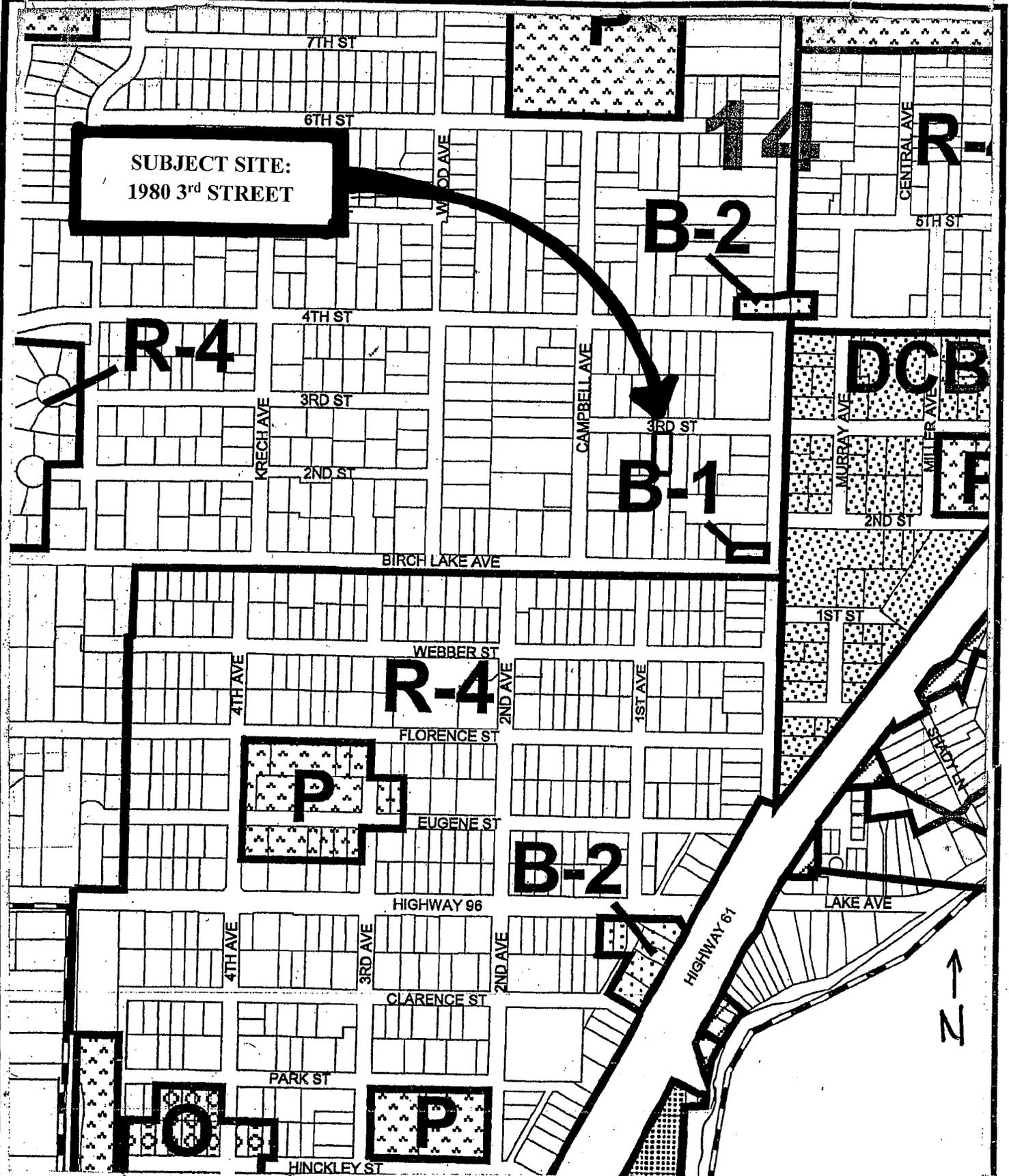
WHEREAS, the Planning Commission held a public hearing as required by the Zoning Code on August 30, 2021; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake that the City Council accepts and adopts the following findings of the Planning Commission:

1. The requested variance will not:
 - a. Impair an adequate supply of light and air to adjacent property.
 - b. Unreasonably increase the congestion in the public street.
 - c. Increase the danger of fire or endanger the public safety.
 - d. Unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this Code.
2. The variance is a reasonable use of the land or building and the variance is the minimum required to accomplish this purpose.
3. The variance will be in harmony with the general purpose and intent of the City Code.
4. The variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

**SUBJECT SITE:
1980 3rd STREET**



City of
White Bear Lake
Planning and Zoning Office
(612)-429-8561

CASE NO. : 21-17-V
CASE NAME : Louismet
DATE : August 30, 2021

Narrative: Land Use and Variance Application dated 7.19.2021

Sometime in March 2021, I reviewed the City's website to research the applicable code regarding building a "secondary accessory structure" (shed). I followed-up with a phone call to the building department to confirm the various options regarding size and what level of permission would be required. I ultimately determined that a shed larger than 120 square feet, but smaller than 200 square feet, would meet my family's needs. Accordingly, both a zoning permit and administrative variance would be required.

Before applying for a permit and administrative variance, I called several shed builders to determine approximate timeline for construction. These inquiries occurred during the month of April. Much to my surprise, the earliest available dates were late September to early October. One shed builder offered to "put me on his list" in case of a last-minute cancelation. I agreed, but never thought anything would come of this. Based on the unacceptable timeline for shed construction, I temporarily abandoned plans to build a shed and began exploring other options including renting a ministorage.

On or about May 11, I received a call from the shed builder who offered to "put me on his list." Surprisingly, he had a cancellation for his May 13 timeslot and had the necessary materials to build the shed to my specifications. I did not have the time to put together the permit and administrative variance application within 48 hours but had every intention of applying for both shortly thereafter. In anticipation of an eventual permit application and inspection, I made sure the shed was built to conform with the size, height, and setback requirement for a secondary accessory structure greater than 120 square feet but less than 200 square feet. The shed ultimately constructed is 16' x 12' (192 square feet), 13' in height, and set back at least 5' from the property lines. The shed is in the rear corner of the yard and nowhere near the garage or primary structure. See attached site plan and pictures.

On May 28, I received a "Correction Notice" to apply for a permit. On or about June 4, I submitted an application for a zoning permit. At that time, I also had a completed administrative variance application but had yet to obtain one remaining neighbor's signature. When I asked the remaining neighbor for a signature, she refused to sign and indicated that she "did not want to get involved." I politely explained the process of an administrative variance, but she continued to refuse. To say I was shocked by this response is an understatement because, until this encounter, my wife and I, along with our two daughters, have enjoyed a great relationship with this neighbor for over eight years. This one neighbor's refusal to sign the neighbor agreement is the sole reason for applying for a full variance instead of an administrative variance.

It is worth noting that I have had other outdoor projects over the past several years at the same property: a 6' privacy fence and chicken coop. In both instances, the proper permits were pulled and both projects were approved by the building department. I mention this because I want the Planning Commission, and City Council, to be aware that my intent was never to flout the zoning code. Rather, building the shed prior to obtaining the necessary permits resulted from the truncated timeline of events and peculiar dynamics occurring in the construction marketplace today.

In closing, the shed in question was constructed by professionals using industry standard materials and is necessary to meet the growing storage needs of my family.



Dan Louismet

1980 3rd St.

White Bear Lake, MN 55110



63 ft

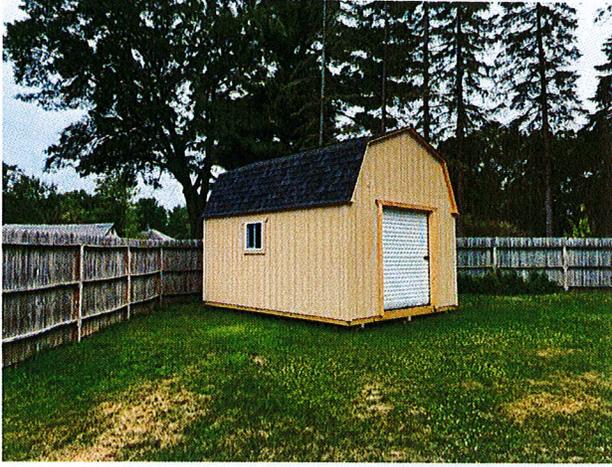
162 ft

SHED
12' x 16'

162 ft

NORTH

63 ft





City of White Bear Lake
COMMUNITY DEVELOPMENT
DEPARTMENT

MEMORANDUM

TO: The Planning Commission

FROM: Samantha Crosby, Planning & Zoning Coordinator

DATE: August 25, 2021 for the August 30, 2021 Planning Commission Meeting

SUBJECT: Wildwood Shopping Center – Outdoor Storage, 921 Wildwood Road
Case No. 21-9-CUP

REQUEST

The applicant, Chung Dang of Dang Properties LLC, is requesting a conditional use permit in order to retain a chain link fence that is enclosing an approximately 1,800 square foot area behind the building. The fence was installed without a permit and is intended to secure two bobcats that will be used for plowing snow.

SITE CHARACTERISTICS

The 3.9 acre property is located in the northeast quadrant of County Road E and Century Avenue. It contains a roughly 30,000 square foot building and approximately 190 parking stalls.

ZONING

The property is currently zoned B-4 – General Commercial. The properties to the east, north, and across Century Avenue to the west are also zoned B-4. The properties across County Road E to the south, located in Mahtomedi, are coincidentally zoned B-4, General Business.

BACKGROUND

The Wildwood Shopping Center was expanded from a grocery store into a “strip mall” in 1958. In 2008 the east end of the strip mall was sold off to Walgreen’s, reducing the size of the property and building.

ANALYSIS

Conditional Use Permit: A Conditional Use Permit for outdoor storage is first listed in the B-3 zoning district and then “cascades” to the B-4 district. The code lists a few requirements:

1. *The area is fenced and screened from view of neighboring residential uses or if abutting a residential district in compliance with 1302.030, Subd.7.a.*

Although it is zoned B-4, the property to the north is a senior housing facility – The Lodge at White Bear. Zoning Code Section 1302.030, Subd.7a, requires either a green belt planting strip with sufficient density of evergreens to create a visual screen to a height of 6 feet or a fence of masonry, brick, wood or metal to the same height; fence materials to be approved by the City Council. The fence that was installed is chain link and the applicant is proposing corrugated metal panels for the screening element. The code requires that the finished side of the fence face out. Therefore, if the metal panels are used, they should be installed on the outside of the fence. However, staff recommends that the neighbor-facing portion of the fence (ie: the north side) be removed entirely and the fence be constructed of a wood composite material or a neutral colored PVC material. This will provide a cleaner look and will weather better than metal materials that dent and rust. The other sides of fence (the west, east and south sides) may be chain link with metal panels.

The bobcats to be stored inside the fence are 6.2 feet tall. With a 6 foot tall fence the roughly top three inches of the machines will extend above the fence line. Also, the adjacent residences are two story, so the Commission may want to consider requiring a 7 foot tall fence to insure the equipment is fully screened.

2. *Storage is screened from view from the public right-of-way in compliance with Section 1302.030, Subd.9.a.*

The area will be screened from the public right-of-way by the building.

3. *Storage area is grassed or surfaced to control dust.*

The area is asphalt.

4. *All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences and shall be in compliance with Section 1302.030, Subd.g.*

No change to lighting is proposed or approved.

5. *Does not take up parking spaces as required for conformity to this code.*

The shopping center is approximately 30, 000 square feet in size. The tenants are either service or retail with only one restaurant. At the rate of one stall for every 200 square feet, 135 stalls are required and 187 stall are available, not counting the spaces located behind the building. Therefore, if some stalls behind the building are lost to the proposed enclosure, the center is still complies with code for parking.

In addition, the Fire Department has pointed out that there is a horn/strobe and key box located on the exterior wall of the building directly behind the fence. These items need to be visible and accessible to the Fire Department. Therefore, staff is requiring that the length of the enclosure be reduced by 16 feet from the west end. In other words, for life/safety reasons the size of the enclosure should be no more than 29 feet east/west by 40 feet north/south. This has been included as a condition of approval.

DISCRETION

The City's discretion in approving or denying a conditional use permit is limited to whether or not the changes meet the standards outlined in the Zoning Ordinance. If it meets these standards, the City must approve the Conditional Use Permit. The City may impose reasonable conditions if the City deems it necessary to promote the general health, safety and welfare of the community and surrounding area.

RECOMMENDATION

Staff has reviewed the proposal and finds the standards have been met, subject to a few minor modifications. Staff recommends approval of the conditional use permit, subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1301.050, Subd.4, if within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been completed or utilized, the CUP shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
3. This Conditional Use Permit shall become effective upon the applicant tendering proof (ie: a receipt) to the City of having filed a certified copy of the signed resolution of approval with the County Recorder pursuant to Minnesota State Statute 462.3595 to ensure the compliance of the herein-stated conditions.
4. The size of the enclosure area shall not exceed 29 feet east/west by 40 feet north/south. The fence shall extend off the corner of the building and shall not extend any farther north than the adjacent building wall.
5. The neighbor-facing portion of the fence (ie: the north side) shall be constructed of a wood composite material or a neutral colored PVC material.
6. The applicant shall obtain a permit prior to making any corrections to the enclosure.
7. All required inspections must be passed prior to using the area for storage.
8. No storage outside of the fenced area. Any storage inside the fenced area other than the bob cats and buckets to be stacked in a neat and orderly fashion, not to exceed 5 and a half feet in height. The storage area shall not generate any odors.

ATTACHMENTS

1. Draft Resolution of Approval
2. Location/Zoning Map
3. Applicant's Narrative
4. Overall Site Plan, Close Up Site Plan & 3 Photos
5. Staff Photos

RESOLUTION NO. _____

**RESOLUTION APPROVING
A CONDITIONAL USE PERMIT FOR OUTSIDE STORAGE
FOR 921 WILDWOOD ROAD
WITHIN THE CITY OF WHITE BEAR LAKE, MINNESOTA**

WHEREAS, a proposal (21-9-CUP) has been submitted by Chung Dang, requesting approval of a Conditional Use Permit from the City of White Bear Lake at the following site:

ADDRESS: 921 Wildwood Road

LEGAL DESCRIPTION: Attached as Exhibit A (PID #3003021330073)

WHEREAS, THE APPLICANT SEEKS THE FOLLOWING: A Conditional Use Permit for outdoor storage, per Code Section 1303.140, Subd.4, in order to allow an enclosed storage area;

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on August 30, 2021; and

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed conditional use permit upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of White Bear Lake, that the City Council accepts and adopts the following findings of the Planning Commission in relation to the conditional use permit:

1. The proposal is consistent with the City's Comprehensive Plan.
2. The proposal is consistent with existing and future land uses in the area.
3. The proposal conforms to the Zoning Code requirements.
4. The proposal will not depreciate values in the area.
5. The proposal will not overburden the existing public services nor the capacity of the City to service the area.

FURTHER, BE IT RESOLVED, that the City Council of the City of White Bear Lake hereby approves the request subject to the following conditions:

1. All application materials, maps, drawings, and descriptive information submitted with this application shall become part of the permit.
2. Per Section 1301.050, Subd.4, if within one (1) year after approving the Conditional Use

Permit, the use as allowed by the permit shall not have been completed or utilized, the CUP shall become null and void unless a petition for an extension of time in which to complete or utilize the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.

3. This Conditional Use Permit shall become effective upon the applicant tendering proof (ie: a receipt) to the City of having filed a certified copy of the signed resolution of approval with the County Recorder pursuant to Minnesota State Statute 462.3595 to ensure the compliance of the herein-stated conditions.
4. The size of the enclosure area shall not exceed 29 feet east/west by 40 feet north/south. The fence shall extend off the corner of the building and shall not extend any farther north than the adjacent building wall.
5. The exterior portions of the fence (ie: the north and west sides) shall be constructed of a wood composite material or a neutral colored PVC material.
6. The applicant shall obtain a permit prior to making any corrections to the enclosure.
7. All required inspections must be passed prior to using the area for storage.
8. Prior to the issuance of a permit, the applicant shall provide a copy of the signed resolution of approval and proof of filing, per condition #3 to the Planning Department.
9. No storage outside of the fenced area. Any storage inside the fenced area other than the bob cats and buckets to be stacked in a neat and orderly fashion, not to exceed five and a half (5.5) feet in height. The storage area shall not generate any odors.

The foregoing resolution, offered by Council member _____ and supported by Council member _____, was declared carried on the following vote:

Ayes:
Nays:
Passed:

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk

Approval is contingent upon execution and return of this document to the City Planning Office. I have read and agree to the conditions of this resolution as outlined above.

Chung Dang

Date

**EXHIBIT A
LEGAL DESCRIPTION**

Parcel A:

Parcel I: (Abstract)

Lot 5, Block 1, Alla-Bar City Second Addition, Washington County, Minnesota.

Parcel II: (Torrens)

Lot 4, Block 1, Alla-Bar City Second Addition, according to the recorded plat thereof on file and of record in the office of the Registrar of Titles, Washington County, Minnesota, except that part described as follows:

Beginning at the Southeast corner of said Lot 4, thence South 90 degrees 00 minutes 00 seconds West, assumed bearing, along the South line of said Lot 4, a distance of 254.50 feet; thence North 00 degrees 04 minutes 40 seconds East, a distance of 37.57 feet; thence South 89 degrees 55 minutes 20 seconds East, a distance of 22.50 feet; thence North 00 degrees 04 minutes 40 seconds East, a distance of 47.50 feet; thence South 89 degrees 55 minutes 20 seconds East, a distance of 30.50 feet; thence North 00 degrees 04 minutes 40 seconds East, a distance of 219.00 feet to the North line of said Lot 4; thence South 90 degrees 00 minutes 00 seconds East along the North line of said Lot 4, a distance of 201.50 feet to the East line of said Lot 4; thence South 00 degrees 04 minutes 40 seconds West, along the East line of said Lot 4; a distance of 304.00 feet to the point of beginning.

Parcel B: (Abstract)

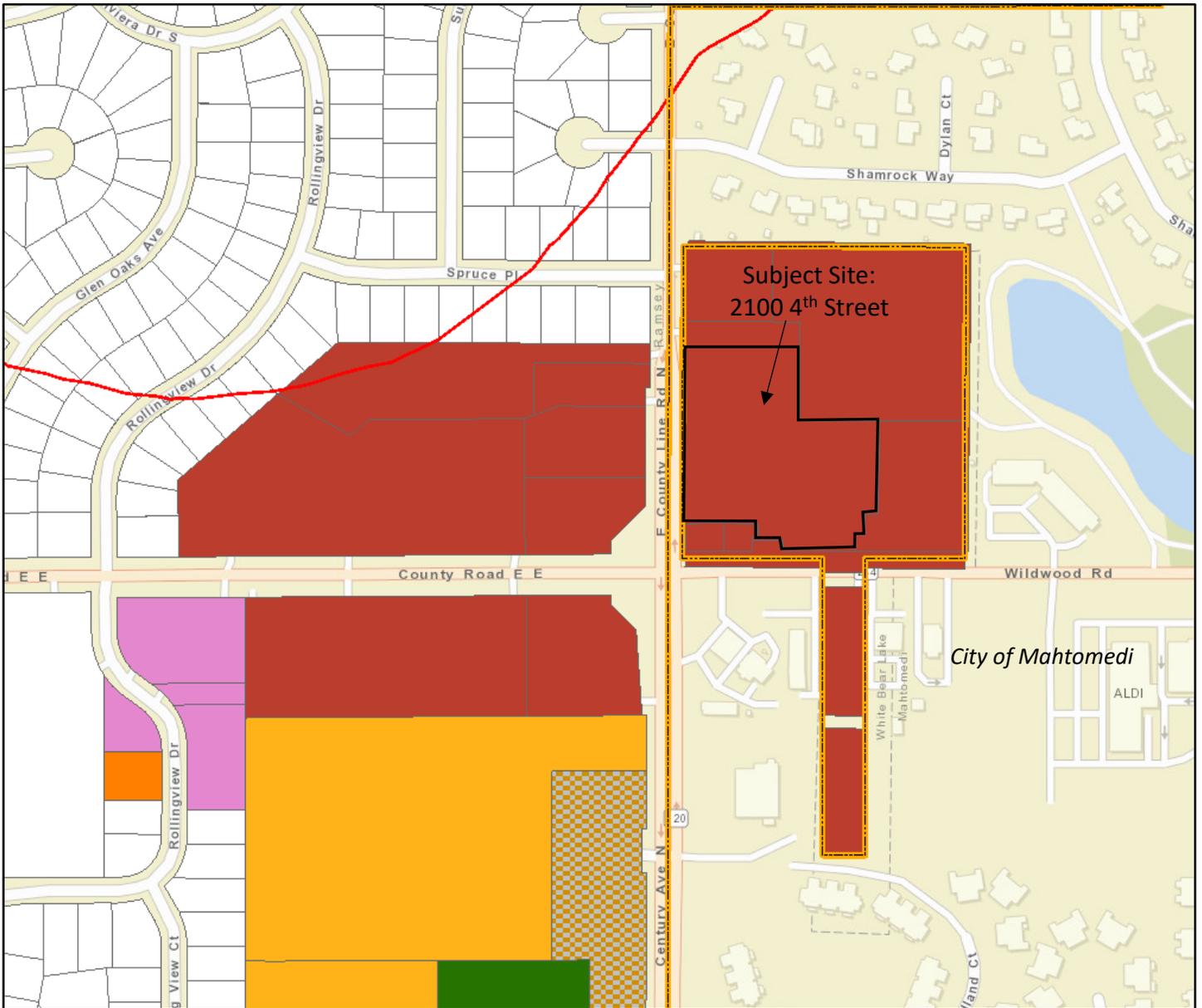
Outlot B, Alla-Bar City Second Addition, Washington County, Minnesota.

EXCEPT that part of Outlot B, Alla-Bar City Second Addition, Washington County, Minnesota described as follows: Commencing at the northwest corner of said Outlot B; thence on an assumed bearing of South 00 degrees 16 minutes 21 seconds West along the west line of said Outlot B a distance of 0.74 feet to the Point of Beginning; thence South 89 degrees 43 minutes 39 seconds East a distance of 3.85 feet; thence South 00 degrees 16 minutes 21 seconds West a distance of 12.20 feet; thence South 89 degrees 43 minutes 39 seconds East a distance of 1.51 feet; thence South 00 degrees 16 minutes 21 seconds West a distance of 1.52 feet; thence South 89 degrees 43 minutes 39 seconds East a distance of 3.99 feet; thence South 00 degrees 16 minutes 21 seconds West a distance of 15.11 feet; thence North 89 degrees 43 minutes 39 seconds West a distance of 9.35 feet to the said west line of Outlot B; thence North 00 degrees 16 minutes 21 seconds East a distance of 28.83 feet to the point of beginning.

Parcel C: (Abstract)

Outlot A, Alla-Bar City Second Addition, Washington County, Minnesota.

ZONING / LOCATION MAP



- | | | |
|---|--------------------------------------|-------------------------------------|
| R1-I Low Density Single Family-Island | B-4 General Business | White Bear Lake City Border |
| R1-S Low Density Single Family-Shoreland | LVMU Lake Village Mixed Use | Adjacent Municipality Borders |
| R-2 Single Family Residential | B-5 Central Business | Shoreland Overlay District |
| R-3 Single Family Residential | B-6 Commercial Recreational | Wetlands |
| R-4 Single Family, Two Family Residential | BW Business Warehousing | Religious Building |
| R-5 Single Family, Two Family, Medium Density Residential | I-1 Limited Industry | Private School |
| R-6 Medium Density Residential | I-2 General Industry | Cemetery |
| R-7 High Density Residential | DBD Diversified Business Development | Number of Housing Units on Property |
| RB Residential Business Transition | DCB Diversified Central Business | |
| B-1 Neighborhood Business | PZ Performance Zone | |
| B-2 Limited Business | PZ-R Performance Zone Residential | |
| B-3 Auto Oriented Business | O Open Space | |
| | P Public | |
- *Public roads are shown in ALL CAPS, while private roads are shown in Standard Type.

CASE NO: 21-9-CUP

CASE NAME: Wildwood Shopping Center Exterior Storage

DATE: August 30, 2021

Fencing Storage Porposal

931 White Wood Road
White Bear Lake MN 55110

Dear to who it may concern,

My name is Chung Dang. I am planning to build a fencing storage for my 2 Bobcats. in the back of the building.

The dimensions of my Bobcats are 5ft 6in tall, 13ft 8in long with a 14ft wide snow bucket. They will be for my snow removal parking lot. The reason I want to build this fencing storage is to protect my equipment from being stolen, vandalized, and to prevent children from messing around with my equipment. (See picture for info)

The dimensions for my fencing storage will be 45 ft deep, 40 ft wide, 6 ft high, with a 20 ft gate. The outside enclosure will have a steel panel inside the chain link fence. It will look beautiful. (See picture for info)

The materials for the fencing will be all standerd galvanized chain link and galvanized posts. The reason I want to use this materia is because it will last longer compared to using wood. I wouldn't need to replace it. Thank you!



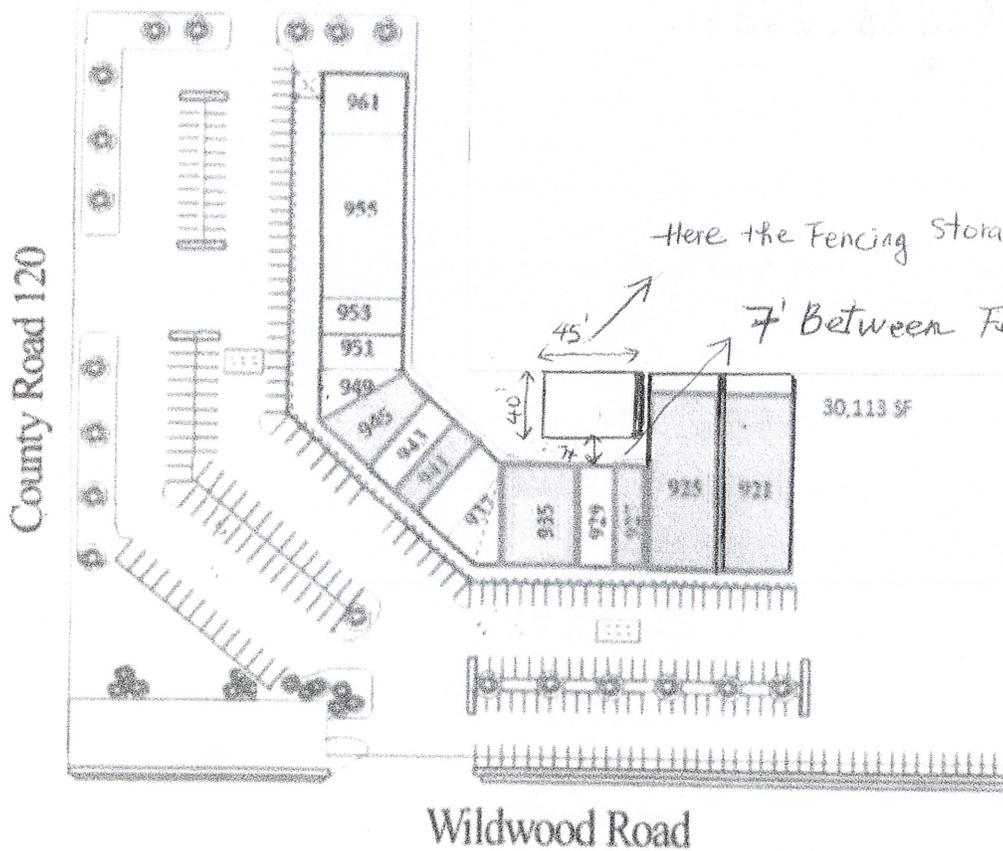
Chung Dang
7/2/21

8/14/19

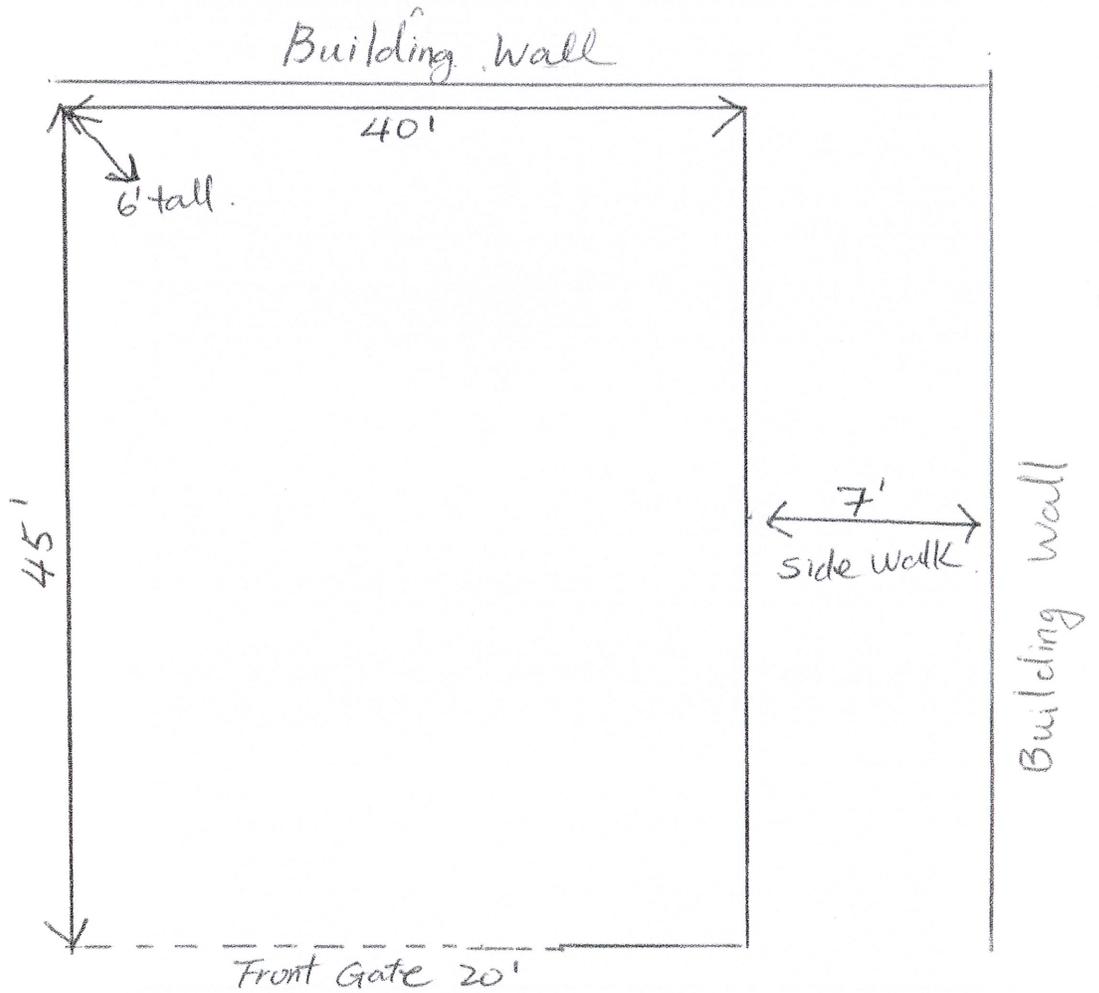
Site Plan

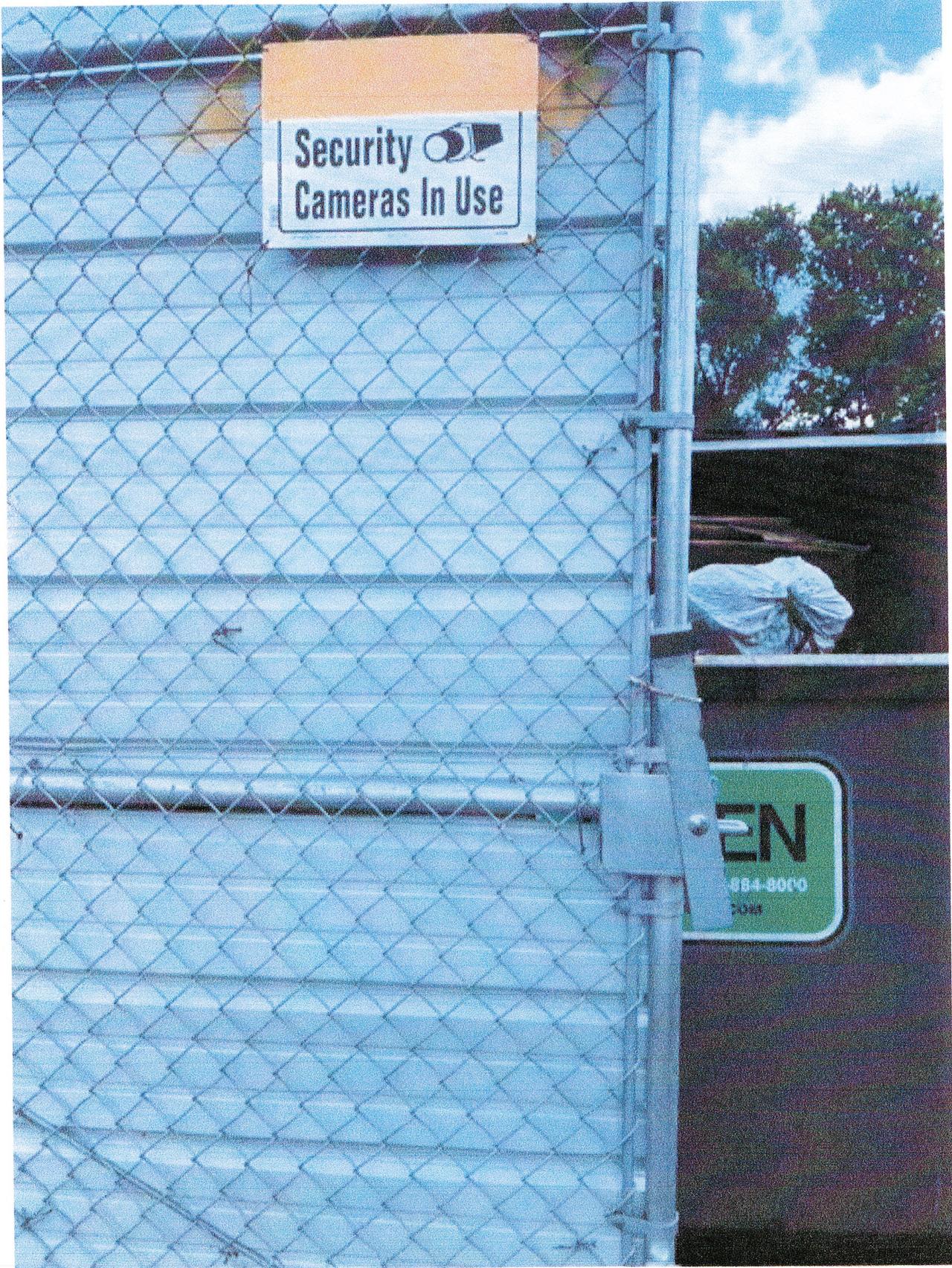
Wildwood Shopping Center
 931 Wildwood Rd White Bear Lake, MN 55110
 Availability 1,250 - 10,796 SF

194 Parking Stalls



Fencing storage.





Fencing.



Bobcat &



SNOW Bucket.

Non-wood screening material used nearby on site



Fire Department items



Recommended extent of fenced area – approximately in line with down-spout.
(Photo taken from north facing south)



City of White Bear Lake
COMMUNITY DEVELOPMENT
DEPARTMENT

4.F

MEMORANDUM

TO: The Planning Commission

FROM: Samantha Crosby, Planning & Zoning Coordinator

DATE: August 25, 2021 for the August 30, 2021 Planning Commission Meeting

SUBJECT: Case No. 21-4-Z -Text Amendment, SHOP Renewals

REQUEST

Planning staff is initiating a text amendment to the home occupations section of the code to simplify, shorten, and reduce the cost of, the renewal process for a Special Home Occupation Permit (SHOP). See proposed draft ordinance.

BACKGROUND

The home occupation section of the code was first adopted in 1983. Other than some minor clarifications, it appears that no significant changes have been made since then. The code classifies home occupations into three categories: Registered, Permitted and Special. Only the Special category requires a public hearing before the Planning Commission and final approval by the City Council.

ANALYSIS

In order to streamline the process, the applicant would need written consent from all abutting property owners (see attached draft neighbor agreement form) and staff approval, which would be contingent upon the result of a mail notice to all owners within 350 feet of the subject property.

There are two main reasons staff is recommending the proposed modification. The first is that we hope the improved process will encourage more residents to renew their permits. The second is that over the past 15 years, only one SHOP has generated any issues. The vast majority of public hearings for SHOP renewals do not result in any public input.

The current cost for an administrative variance is \$25. The current cost for a mailing list is \$60. Therefore, staff recommends that the fee for the administrative SHOP renewal be \$85 – a combination of those two fees. This is \$75 less than the current fee of \$160.

The current renewal process for a SHOP is two months. The estimated timeframe for approval with the revised process is one month. To clarify, the abbreviated process would be not be available for the first year renewal, that would still need to be a full public hearing. The modified

4.F

process would begin with the first 3 year renewal.

Finally, staff is also proposing that after a decade of continuous operation, the permit may be reissued for a period of six years, rather than three.

DISCRETION

The City has a relatively high level of discretion in approving or denying a zoning ordinance text amendment because the zoning ordinance is one of the enforcement tools used to implement the goals and standards set forth in the Comprehensive Plan. Any changes to the text of the zoning ordinance should be consistent with both the intent of the zoning district and the intent of the Comprehensive Plan's policies and objectives.

The Comprehensive Plan is a guiding document that does not get into details as specific as this, but the proposed amendment is not inconsistent with the plan. The proposed amendment provides the opportunity for an easier approval process and if the requirements of that process cannot be met then the full review process with a public hearing before the Planning Commission and decision by the City Council is still available.

RECOMMENDATION

Staff recommends approval of the text amendment as proposed in the attached draft ordinance.

Attachments:

1. Draft Ordinance
2. Draft Neighbor Agreement Form

**CITY OF WHITE BEAR LAKE
ORDINANCE NO. _____**

**AN ORDINANCE AMENDING THE ZONING CODE
OF THE CITY OF WHITE BEAR LAKE TO ALLOW SPECIAL HOME
OCCUPATION PERMITS TO BE RENEWED THROUGH ADMINISTRATIVE
PROCEDURES (CASE NO. 21-4-Z)**

The Council of the City of White Bear Lake does ordain as follows:

ARTICLE I. Home Occupations. Section 1302.120 of the Municipal Code of the City of White Bear Lake is hereby amended at Subdivision 3.e as follows:

- e) Effect of Permit. A "special home occupation permit" may be issued for a period of one (1) year after which the permit may be reissued for periods of up to three (3) years each. **After a decade of continuous operation, the permit may be reissued for periods of up to six (6) years each. The first renewal shall be processed in accordance with the procedural requirement of the initial "special home occupation permit". After the one year renewal, E**each application for permit renewal shall ~~however~~ be **subject to the procedures of Section 1301.060, Subd.7, (Administrative Variances)** and shall be contingent upon the results of a mail notice to all owners within 350 feet of the subject property calling for any concerns or objections to be voiced within 10 business days. **If concerns or objections are received, the renewal may be** processed in accordance with the procedural requirements of the initial "special home occupation permit".

ARTICLE II. Effective Date. This ordinance shall become effective on the first day of publication after adoption.

Adopted by the City Council of the City of White Bear Lake, Minnesota on the ___ day of _____ 2021.

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk

(~~Strikeout~~ indicates text to be deleted, **bold** indicates new text.)

First Reading: September 14, 2021

Initial Publication: September 29, 2021

Second Reading: October 12, 2021

Final Publication: _____



White Bear Community Development Department
4701 Highway 61, White Bear Lake, MN 55110
Phone: 651-429-8561 / Fax: 651-429-8503
www.whitebearlake.org

**SHOP
Renewal
Neighbor
Agreement**

I am the owner of the property located at: _____
(Neighbor's Address)

I understand my neighbor, located at: _____
(Site Address of Proposed Project)

Has conducted a business out of their residence for at least a year or more, and the approval for such business is up for renewal.

Being as I have no objections to the continued operation of their business as outlined in the original approval; I hereby give my consent for this time extension.

Property Owner Signature (Neighbor) Date:

Property Owner Printed Name (Neighbor)

Phone Number

Email Address

CITY COUNCIL MEETING SUMMARY

August 10, 2021

APPROVAL OF MINUTES – Approved

- A. Minutes of the Regular City Council Meeting on July 27, 2021

APPROVAL OF THE AGENDA – Approved**VISITORS AND PRESENTATIONS**

- A. Tara Jebens-Singh, Northeast Youth and Family Services

Executive Director Tara Jebens-Singh provided a presentation on the work performed by Northeast Youth and Family Services (NYFS). NYFS is a community-based, trauma-informed, nonprofit mental health and human services agency. Through partnerships with 15 municipalities and three (3) school districts, the agency supports low-income, under and uninsured youth, family and adults.

PUBLIC HEARINGS – Nothing scheduled**LAND USE** – Approved

- A. Consent

- 1. Consideration of a Planning Commission recommendation for approval of a request by Paula Frost for a Special Home Occupation Permit extension at 1904 4th Street (Case No. 20-2-SHOPa). **Resolution No. 12822**

- B. Non-Consent

- 1. Consideration of a Planning Commission recommendation for approval of a request by Tjernlund Products for a conditional use permit at 1601 9th Street. (Case No. 21-8-CUP) **Resolution No. 12823**

UNFINISHED BUSINESS – Nothing scheduled**ORDINANCES**

- A. Second Reading – A City-Initiated text amendment to Zoning Code Section 1303.160 to allow interim use permits in the B-5 zoning district. **Resolution No. 12824**
- B. First Reading - Rezoning of two parcels: 35XX Rolling View Drive (PID #363022110026) from B-2 to R-3, and 35XX Rolling View Drive (PID # 363022110025) from R-B to R-3. (Case No. 21-3-Z)

NEW BUSINESS – Approved

- A. Resolution authorizing advertisement for the City Manager position. **Resolution No. 12825**

- B. Resolution authorizing execution of a Memorandum of Understanding with IAFF. **Resolution No. 12826**
- C. Resolution authorizing the Mayor and City Manager to execute a lease agreement with the Hockey Association. **Resolution No. 12827**
- D. Resolution approving acceptance of the American Rescue Plan Act funds. **Resolution No. 12831**

CONSENT – Approved

- A. Acceptance of Minutes: June Environmental Advisory Commission; June Parks Advisory Commission; June White Bear Lake Conservation District; July Planning Commission
- B. Resolution approving a single event extension to an on-sale liquor license for Carbone’s Pizzeria & Pub. **Resolution No. 12828**
- C. Resolution accepting a donation from the Lions Club for an All Abilities Park. **Resolution No. 12829**
- D. Resolution approving a lease extension agreement with Comcast Cable. **Resolution No. 12830**
- E. Resolution accepting quotes and awarding a contract for the 2021 miscellaneous concrete (City Project 21-05). **Resolution No. 12832**
- F. Resolution approving a grant award to Frassati Academy for purchase of playground equipment. **Resolution No. 12833**

DISCUSSION

- A. Ramsey Washington Suburban Cable Commission organizational update

Assistant City Manager Juba stated that as a result of recent franchise negotiations with Comcast, there has been a reduction in revenue at the Suburban Cable Commission (SCC), which has led to cuts in staffing and programming. He explained that SCC was to have adopted its 2022 budget by August 1, 2021, but have not yet come to an agreement on that document. SCC will be considering another budget proposal this Thursday evening. Mr. Juba explained that the SCC board and a couple of staff are hosting a brainstorming session with member cities tomorrow and he hopes to be in attendance with Councilmember Walsh.

COMMUNICATIONS FROM THE CITY MANAGER

- Erd-Giest Gazebo Ribbon Cutting, Saturday, August 14 at 10:00 a.m.
- Budget Work Session, August 17, 2021 at 6:00 p.m. in the Expansion Room.
- Caboose Committee hopes to have a budget for renovations next week so that fundraising with the Chamber for that project can begin. It is hoped the dilapidated roof will be repaired prior to another winter.

ADJOURNMENT – 8:11 p.m.

Park Advisory Commission Meeting Minutes

JUNE 17, 2021

6:30 P.M.

JACK YOST PARK

MEMBERS PRESENT	Bill Ganzlin, Bryan Belisle, Victoria Biehn, Mark Cermak, Ginny Davis, Mike Shepard
MEMBERS ABSENT	
STAFF PRESENT	Andy Wietecki
VISITORS	
NOTE TAKER	Andy Wietecki

1. CALL TO ORDER

The meeting was called to order at 6:28 pm.

2. APPROVAL OF MINUTES

Approval of the minutes from May 20, 2021 was moved by Mark Cermak and seconded by Mike Shepard.

3. APPROVAL OF AGENDA

Approval of the June 17, 2021 agenda was moved by Bryan Belisle and seconded by Victoria Biehn with the addition of Boatworks Green Space.

4. UNFINISHED BUSINESS

None.

5. NEW BUSINESS

a) Review of Parks Capital Improvement Budget/Project

The reason to review the Parks Capital Improvement Budget is to revisit future plans for our parks to ensure that the Commission is focusing on the projects that need to be improved upon. Andy Wietecki reviewed the entire Parks Capital Improvement Budget with the Commission and highlighted all of the projects coming up over the next 8-10 years. Andy explained the projects in depth and the reasoning behind the projects. After reviewing the entire budget, the Commission moved a few projects forward and removed a few that are scheduled to be done. Andy requested the members review the budget over the next month and make notes on their thoughts on proposed projects and list any projects they feel are important but weren't included in the budget.

b) Review of Park Advisory Commission Bi-Laws

Andy briefly reviewed the Bi-Laws with the Park Advisory Commission and requested help to make changes that are appropriate for today. Andy has a Parks Department intern this summer that is revising the Park's Advisory Commission manual and would like to update the Bi-Laws as well. Bill Ganzlin requested that the members send the revisions to Andy and copy the group so that everyone can see and discuss the proposed revisions. The hope is to have a new draft by July's

meeting where the Park Advisory Commission will vote to adopt the new Bi-Laws. Andy hopes to have the Intern present the new parks manual to the Commission at our August meeting.

c) Memorial Beach Retaining Wall Project Costs

Andy Wieteki updated the Commission with the final pricing of \$127,000 for the retaining wall project at Memorial Beach. The project cost is under what they initially budgeted which allows the City to move money around for other projects in the parks. The project will start after Labor Day to allow for maximum use of the beach all summer. Bryan Belisle asked about the benches that the City is installing and if they will interfere in beach dance activities. The benches are being incorporated into the beach wall on the back side of the current curb. The benches won't interfere with the street sweeper, vehicles, or trail users in any way. All are excited for the project and excited that the project came in under budget.

d) BoatWorks Green Space

Bryan Belisle would like to continue the discussion on the BoatWorks Green Space. Bryan was talking with a resident that lives at the BoatWorks Apartment. They were discussing the green space and the need for an area that is defined for the dogs to use to relieve themselves. The Commission discussed a mulched area that doesn't have to be very big. The complex, however, would have to enforce that the dog owners use this area instead of the grassy area. Bryan also talked about the turf and how bad it looks (turning brown) but out that the irrigation system broke. The complex also doesn't start caring for the turf until later in the season and by that time it is already too far gone. The last item Bryan wanted to discuss again was what can be added to the area for park users. Bryan suggested badminton or picnic tables. Andy updated the Commission on his meeting with the Fire Chief and Fire Marshall about that area. The Fire Department informed Andy that they will never go in this area to fight a fire. They would attack a fire from different angles and putting a truck in that area is not safe as it would be the collapse zone. Andy also spoke with the manager of the apartments since our last Commission meeting to go over some of the Commission's ideas to improve the common space for the public to use. Derrick from At Home Apartments was looking into some ideas used in the industry that would benefit both the tenants and park users. Bryan Belisle and Mike Shepard both expressed interest in a park sign for this location that identifies it as a public park.

e) Park Tour at Jack Yost Park

Andy Wieteki took the Park Advisory Commission members on a tour showing some of the recent improvements that have been done over the past 5 to 6 years. One of the most noticeable improvements was the removal of about 90 trees this winter on the east side of the park. The absence of the trees enhances that area of the park. Prior to the removal of the trees, some of the Commission members stated that they didn't even realize it was a part of the park. The dying trees were at the end of their life and it was time to start revitalizing that area and make it more appealing to use.

6. OTHER STAFF REPORTS

a) ERD-Geist Gazebo Update

Andy reported to the Commission that the posts and stairs have all been treated with Zinc paint to stop the rust that was forming, the stairs have been fixed, the railings and all the components except for the columns are in the Contractor's possession. The columns are expected on Friday, July 18th. Once the columns are set in place, the contractor will set the second floor and roof and then install the panels and paint. Pelco Construction is hoping to have this project complete by the middle of July.

7. COMMISSION REPORTS

None.

8. OTHER BUSINESS

None.

9. ADJOURNMENT

The next meeting will be held on July 15, 2021 at 6:30 p.m.

There being no further business to come before the Park Commission, the meeting was adjourned. Moved by Mark Cermak and seconded by Ginny Davis.