

MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISISON
April 7, 2021

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

Present: Angela DesMarais
 Tim Felton
 Geoff Fournier
 Jason Frankot
 Ruth Krueger
 John Ross
 Matthew Thompson
 Michael Healy, City Planner
 Monika Mann, Community Development Support Specialist

Absent: None

- 1) APPROVAL OF AGENDA – Motion to approve as amended- Thompson/DesMarais (7-0).
- 2) APPROVAL OF MINUTES – March 3, 2021 – Motion to approve the minutes as presented – Krueger/Thompson (7-0).
- 3) NEW BUSINESS

None.

- 4) PUBLIC HEARINGS

- A) Public Hearing for an Ordinance Amendment to Clarify Eligibility Standards for PUD’s and Clarify and Update Open Space and Lot Coverage Requirements in Residential Districts.

Mr. Healy shared the staff report. The ordinance amendments were mostly focused on cleaning up the existing ordinance. The City has longstanding policies on Planned Unit Developments (PUDs), open space requirements, and surface parking restrictions. The code’s current PUD language does not match the City’s longstanding policies on PUD usage. Additionally, the rules for open space and surface parking are inconsistent with how the ordinance is interpreted. Finally, the City has inconsistent rules with lot coverage requirements for single-family properties.

The first proposed update is to the PUD ordinance. Many projects in South St. Paul have been heavily dependent on the PUD ordinance to provide flexibility from the zoning code. The existing PUD ordinance lists out types of projects that can apply for PUD approval; however, the list is ambiguous and difficult to interpret. The proposed amendments would update the list of uses that can be approved with a PUD and clearly state which types of uses require a Planned Unit Development approval.

The second update would clarify which properties the open space requirement applies to. City Code requires that 25% of each lot in the community must be landscaped open space. Historically, this ordinance has been interpreted to only apply to residential lots, given the General Business, Industrial, and Light Industrial districts have their own open space requirements. The City’s Retail Business district and mixed-use districts have a landscaping requirement but not a fixed open space requirement. If the open space requirement were applied to

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these districts, it would be detrimental to any future development. The ordinance amendment would clarify that the open space requirement is only intended for residential districts.

The third update would clarify the parking standards for residential properties. The current code states that no more than 25% of a residential property in a residential district can be used for surface parking. The standard is labeled as the “maximum driveway area”, even though that does not accurately depict what the ordinance is regulating. The ordinance amendment would rename the section “Minimum lot coverage by surface parking” and would state that in residential districts, no more than 25% of the property shall be surface or used for driveway space or surface parking. The new language would reflect how the ordinance is interpreted.

The fourth update would eliminate a code provision that prohibits single-family homes from having space to park more than 4 vehicles off-street. This off-street parking limit has never been enforced and it is bad practice to have unenforced language in the code.

Finally, the last update would look to standardize the lot coverage maximum for all residential properties at 35% lot coverage. Currently, duplexes, triplexes, quadplexes, and apartment buildings in residential zoning districts can have up to 35% lot coverage. Single-family homes on lots that are 5,000 square feet or less in residential zoning districts can have up to 35% lot coverage. Single family homes on lots that are 5,001 square feet or greater can only have up to 30% lot coverage. At one point, all residential lots had a 30% lot coverage limit. This lot coverage maximum was difficult for homeowners with smaller lots (5,000 square feet or less), so the lot coverage maximum was increased for these smaller lots. The proposed ordinance would increase the lot coverage for all residential properties to 35% to make it easier for all homeowners to invest in improving their properties.

Chair Ross asked what the parking surfacing standards were under the current code. Mr. Healy explained that the code requires concrete, asphalt or pavers for new parking surfaces.

Chair Ross opened the public hearing.

No one was present to speak on the item nor had correspondence been received.

Chair Ross closed the public hearing.

Commissioner Felton asked Staff if an owner with a lot over 5,001 square feet could get approval for 35% lot coverage if they applied for a variance. Mr. Healy explained that while they could apply for a variance to be over the 30% lot coverage maximum, the owner would need to prove their property has a unique practical difficulty to justify exceeding the 30% lot coverage rule. Historically variances of this type were approved to benefit the homeowners. Chair Ross added that requiring variances for homeowners to exceed the lot coverage limit provides the City with an element of control over what is added to the property.

Commissioner Krueger voiced her support, stating that the proposed updates would simplify the lot coverage rules and create a more straightforward ordinance.

Mr. Healy shared that while he was in the process of writing the proposed ordinance, he attended the City Council goal setting session. During the goal setting session, the City Council asked him to review the standards for lot coverage to make it easier for residents to invest in their properties and build additions.

Mr. Healy explained that Staff take the practical difficulties test seriously and would recommend denial if a homeowner submitted a variance application so they could have a larger house without a true practical

difficulty. This sets up a “pay to play” scenario where residents that can afford to pay to submit a variance application and know how to present a practical difficulty case have an advantage over other residents that do not have the capital for a variance and do not have a strong case for a practical difficulty. Staff do not find that to be a fair process.

Commissioner Felton shared that he liked the 30% lot coverage standard and felt that a variance was appropriate as many projects require City approval. Commissioner Felton shared he would be more comfortable with the proposed 35% lot coverage standard if the surrounding communities had a similar standard.

Mr. Healy shared that his last City required a Conditional Use Permit to exceed lot coverage requirements. This meant that a fair and consistent standard was applied to such requests. Mr. Healy pointed out that wanting a larger house does not constitute a practical difficulty. If the true goal is to attach conditions and regulate expansions, a conditional use permit is the better tool than a variance.

Chair Ross stated he was in favor of the 35% lot coverage rule. Chair Ross recollected previous lot coverage variance that had been granted without following the practical difficulty standard.

Commissioner DesMarais asked how the surrounding communities regulated lot coverage. Mr. Healy explained that Inver Grove Heights and Woodbury focus on regulating total impervious surfaces as opposed to lot coverage by buildings. These cities also have significantly larger lots than South St. Paul

Motion to recommend approval of the proposed ordinance as presented – Ross /Krueger (6-1) (Felton).

B) Public Hearing for an Ordinance Amendment Clarifying Setback Rules for Detached Accessory Structures and Permitting Rules for Sheds.

Ms. Mann shared the staff report. Staff is proposing updates to the code to clean up inconsistencies related to accessory structures.

The first update is related to building permits. City policy requires a building permit for accessory structures greater than 200 square feet and a zoning permit for accessory structures that are 200 square feet or less; however, the code still states that 120 square feet (not 200 square feet) is the cutoff for a building/zoning permit. The proposed amendment would clarify that 200 square feet is the cut off for a building/ zoning permit.

The second update would remove an extra rear yard setback that is in place for corner lots with a garage that faces an alley or the street. The way the code is currently written, an 8-foot setback is required from the rear property line, anytime a detached garage faces an alley or a street. This means that a corner lot with a detached garage that faces a side street is required to have an 8-foot rear yard setback, even though the garage does not face the rear yard. Only a 3-foot setback is required if a garage does not face the street or alley. This extra setback was created when the code was consolidated. The proposed changes would clarify that an 8-foot rear setback is only required when the garage faces an alley and that an 8-foot side yard setback should be in place when a garage is accessed from an alley that is parallel to the lot’s side yard.

The third update would substitute the word “residential zoning district” in place of “single-family zoning district” as appropriate in Section 118-208. Additionally, the update would add “mixed-use districts” to the list of “Other” districts.

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Commissioner Thompson asked staff to clarify how far from the rear property line a garage would need to be if it faced a side street, not the alley under the proposed ordinance. Staff stated the garage would need to be three feet from the rear property line. This standard is already in place for non-corner lot.

Chair Ross opened the public hearing.

No one was present to speak on item and no correspondence had been received.

Chair Ross closed the public hearing.

Motion to recommend approval of the proposed ordinance as presented- Frankot/ Thompson (7-0).

5) OTHER BUSINESS

A) Discussion on Proposed Revisions to the City's Rules for Home Occupations

Mr. Healy stated that this item is a discussion, not a public hearing, intended to allow the Planning Commission to discuss an ordinance before it is brought forward. The City Council discussed home occupations in 2020 and formally reviewed a proposed home occupation ordinance at the February 8th, 2021 work session meeting. Staff received direction at that meeting to fine tune the performance standards with the Planning Commission.

The City currently requires a Conditional Use Permit (CUP) for any home occupation, including anyone working from home in a home office. Up until 2017, home offices were exempt from the CUP requirement as long as they had no customers. This exemption was eliminated in 2017 during a code clean up. Compliance with this CUP requirement is incredibly low. The last CUP for a home occupation was issued in 2015. The most common requests for a Home Occupation CUP are for barber shops and massage therapists. The reason that staff receive a CUP request from these businesses is because a City license is required for the use and the City Clerk will not issue one until the applicant has received a CUP. CUPs are not the best zoning tool for regulating home occupations because the CUP runs with the property, even if the property is sold to a different owner.

Based on the feedback from the City Council, staff has crafted an ordinance that includes a list of fifteen (15) performance standards that a home occupation must follow and a list of 9 uses that are never allowed. A home occupation that meets all 15 standards and is not a prohibited use would be allowed if the owner signed an affidavit and submitted it to the City. If a proposed business is not on the prohibited list but it cannot follow all 15 performance standards, it must obtain an IUP from the City Council. People that are working from home would be exempt from needing a permit or registration with the city as long as they have no customers or clients. Signage at a home occupation would still be limited in size and would require an IUP.

Chair Ross asked staff to clarify the benefit of an IUP for a home occupation. Mr. Healy explained that a CUP runs with the property and if the use of the property is continued, it can run with the property forever. An IUP has an end date that is tied to a certain date or event. This allows the use to be "sunsetting" when the business no longer is active or when the property changes hands.

Chair Ross asked how day care is regulated. Mr. Healy explained that the state treats daycare as separate from a home business. The City is required to treat small daycares as a permitted use in single-family zoning districts and cannot regulate them as long as the daycare is registered with the state. These small daycares are capped at a certain number of students. If that number is exceeded, the day care may be required to get a conditional use permit.

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Commissioner DesMarais asked for conformation that the current code does not allow signage for home occupations. Mr. Healy explained that the way the code is currently written, signage for a home occupation could be added as part of the CUP approval for a home occupation. Mr. Healy explained further that under the proposed ordinance, a homeowner could receive approval to have a sign through an IUP. Mr. Healy explained that the Planning Commission can choose to regulate signage less intensely if they feel that is appropriate.

Commissioner Thompson inquired how a home office differs from a home occupation. Mr. Healy explained that a home office is an individual working from home without anyone coming to visit the business. A home occupation is anything that is not a home office, such as a mail order retail business or a salon.

Commissioner Thompson asked if the code would allow an individual to buy a duplex and live in one unit while working in the other. Mr. Healy explained that a duplex is two dwelling units and under the definition of home office, the user must work within the dwelling they live in.

Chair Ross stated that he felt freestanding signs were not appropriate for home occupation signage. Mr. Healy stated that the Planning Commission could limit the location of signage as part of the ordinance. Commissioner Frankot suggested shrinking the allowable sign size for home occupations and not allowing freestanding signs.

Commissioner DesMarais asked how a business decal on an automobile would be regulated. Mr. Healy stated that a licensed and operable automobile with a business decal is ok; however, someone cannot use an inoperable permanently parked vehicle as signage for their business.

Commissioner DesMarais asked if a home office could have a sign with an IUP. Mr. Healy explained that a true home office with no customers would not need signage.

The commissioners discussed the city's role in determining when a home business is too large for a residential site.

Commissioner Thompson asked how mid-level marketing (such as Mary Kay) was handled in the ordinance. Mr. Healy explained that door-to-door peddling is not a home occupation but small retail businesses operating out of homes would be expected to follow whatever rules are established for retail.

Commissioner Felton shared his support for the ordinance. Commissioner Felton asked Mr. Healy if an IUP was the most effective method for regulating signs at home occupations. Mr. Healy stated that it was.

The commissioners discussed the list of prohibited businesses and whether other businesses should be added to the list. The commissioners discussed non-conforming signage for existing home occupations.

Commissioner Frankot brought up the sharing economy in relation to home occupations.

B) Project Updates

Mr. Healy announced that an email went out with the dates for the joint work session meetings for the North Concord Mixed Use District Zoning project.

Chair Ross asked Mr. Healy about upcoming projects. Mr. Healy shared that there were 4 applications for the May Planning Commission meeting. Other potential projects included a truck repair business near Stockman's and an industrial development on one of the empty EDA parcels. Mr. Healy also shared that the groundbreaking for "the Yards" would be on April 19th before the City Council meeting.

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6) ADJOURNMENT

Motion to adjourn-DesMarais/Thompson (7-0).