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Date: November 9, 2016

To: Planning Commission

From: Neighborhood Planning Committee

Subject: Outdoor Commercial Uses Text Amendments

Background

On February 27, 2015, in response to, recent issues and requests, the Planning Commission initiated a zoning study regarding how and where outdoor commercial uses are permitted.

In spring 2014 the Planning Commission approved a conditional use permit for the Little Mekong Night Market at 394 University, under the provisions of Zoning Code § 65.515, *Farmers market,* allowing outdoor sale of manufactured goods and prepared foods as well as products of farms and gardens. It raised questions as to whether the provisions for farmers markets are the best fit for the Night Market, and whether other desirable outdoor commercial uses are adequately addressed in the zoning code.

In fall 2014, Union Depot facility management made a request to allow outdoor commercial sales on the premises in a B5 zoning district, and there was also interest in providing for outdoor sales at the Schmidt Brewery site in a T3 district.

Public Hearing

On October 28, 2016, the Planning Commission held a public hearing on the proposed amendments to Sec.65.525, 66.321, 66.421, and 66.521, regarding outdoor uses, commercial. Tina Volpe spoke on behalf of the Ramsey County Regional Authority for the Union Depot property in support of the proposed text amendment. She believes that this change to the text for outdoor commercial uses will allow them to attract new and different types of events and offerings that will benefit everyone from the local businesses and their employees to downtown residents and visitors. No other testimony was received. The public record was left open for written testimony until 4:30 pm on Monday, October, 2016. No letters or emails were received.

Current Regulation of Outdoor Commercial Uses

<u>Outdoor Uses, Commercial.</u> *Outdoor commercial uses* include display and sale of merchandise outside of indoor businesses such as grocery and hardware stores; mobile retail vehicles, mobile food vehicles and food carts; and sale of goods in a temporary structure such as a tent or stand. While the Zoning Code currently only allows them as a conditional use in B3 and I1 districts and as a permitted use in the I2 district, they are commonly allowed to take

place in other districts without strict enforcement of zoning regulations. Zoning Code § 61.501, *Conditional use permit, general standards*, applies in B3 and I1 districts. § 65.525, *Outdoor uses, commercial*, which does not specifically define the use, provides the following standards and conditions for outdoor commercial uses not otherwise allowed in the district:

> *The use shall not conflict with off-street parking, off-street loading and the system of pedestrian flow. The planning commission, in determining that the use is harmonious with adjacent uses, shall require the submission of a site plan including a floor plan and all uses within 300 feet of the boundary of said site superimposed on said site plan.*

Farmers Market. *Farmers markets* are allowed as a permitted or conditional use in all residential districts, all traditional neighborhood districts, all business districts and IT-I2 industrial districts. Zoning Code § 65.515 defines *farmers market* as "an outdoor market at a fixed location consisting principally of farmers and gardeners for the purpose of selling the products of their farm, garden, greenhouse, apiary, or forest directly to the public," and provides standards and conditions for *farmers markets*, including the following:

> *Approval of a site plan showing the number and location of vendors at the site, with contact information for a designated market director responsible for coordinating the market vendors and activities, and for providing the zoning administrator with updated contact information if it changes.*

Outdoor Garden Center. *Outdoor garden center* is a permitted use in the T2, T3, T4, B3, IT, I1, and I2 districts, and a conditional use in the BC and B2 districts. Zoning Code § 65.518 defines *outdoor garden centers* as "outdoor retail sales of plants not grown on the site, lawn furniture, playground equipment, and garden supplies," and provides conditions for this use.

Outdoor Restaurant. *Outdoor restaurant* is a permitted use in T2-T4, B2-B5, and IT-I2 districts. § 65.617 requires them to be accessory to an indoor restaurant or farmers market.

Outdoor Accessory Sales for Auto Convenience Markets, Auto Service Stations, and Auto Specialty Stores. *Auto convenience markets and auto service stations* are allowed in T2, T3, B2, B3, B5, and IT-I2 districts. *Auto specialty stores* are similarly allowed in these districts, except for T2-T3. § 65.703(d) states that outdoor accessory sales of goods or equipment for these uses shall not be located in a required setback, parking or maneuvering space. Additional standards and conditions in traditional neighborhood and IT industrial districts include § 65.703(g), which states that there shall be no exterior storage and that space for accessory outdoor sales of goods or equipment shall be limited to 200 sq. feet.

Outdoor Auto Sales and Rental. *Outdoor auto sales and rental* is a conditional use in B3 and in the IT district (just within ¼ mile of University Ave.), and is a permitted use in I1-I2 districts. § 65.706 requires a site plan showing the layout of the use.

Use of Public Right-of-Way. Sidewalk sales and outdoor restaurants that use a public sidewalk must obtain a right-of-way obstruction permit through the Department of Public Works. Restaurants that use a public sidewalk also need a Sidewalk Cafe license from the Department of Safety and Inspections. Food trucks and food carts that operate while parked on a public street or sidewalk in Saint Paul are regulated by the Department Public Works. Mobile food

units that are not part of a temporary event (e.g., Winter Carnival, Art Crawl) must adhere to all parking restrictions (e.g., meters, loading areas) as would any other vehicle. Mobile food units and food carts are not allowed to set up tables, chairs, LP tanks or portable generators on the street or sidewalk that would cause any obstruction to pedestrian or traffic flow.

State Regulation of Mobile Food Units. Mobile food units and food carts are regulated under Minnesota State Statutes Chapter 157 and licensed by the Minnesota Department of Health and Minnesota Department of Agriculture.

> *157.15 Subd. 9. Mobile food unit. "Mobile food unit" means a food and beverage service establishment that is a vehicle mounted unit, either:*
>
> > *(1) motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or*
> >
> > *(2) operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.*

Under chapter 157, mobile food units are prohibited from staying in one place more 21 days unless they submit a request to exceed that 21 day limit to the regulatory licensing authority, or unless they are operating in conjunction with a licensed food establishment at the same location. Mobile food vendors must submit proof of zoning approval to operate at their requested location if they intend to exceed the 21 day limit at a location not already licensed by the appropriate regulatory authority. All food and beverage preparation for mobile food units must be conducted at a licensed food establishment, such as a restaurant or commissary. There is no limit to the amount of mobile food units that can be associated with a licensed food establishment.

Block Parties and Community Festivals. Saint Paul Legislative Code Chapter 366 regulates block parties and community festivals. Under the provisions of this chapter, outdoor sales and displays are permitted during specific events and for a specified period of time. Reoccurring outdoor markets, such as the ones occurring at Union Depot, are required to obtain special event permits for each event.

Tents and Canopies. Tents and canopies are regulated under Saint Paul Legislative Code Chapter 55. Any tent having a total foot print area in excess of two hundred (200) square feet or any individual canopy having a total foot print area in excess of four hundred (400) sq. feet requires a permit from the Department of Safety and Inspections. For special events, a single permit can be obtained by the tent contractor or event sponsor to cover all tents and canopies associated with an event. A temporary structure can be up for 180 days before it's considered a permanent structure.

Zoning District Analysis

Traditional neighborhood districts are intended to encourage a compatible mix of uses, particularly pedestrian- and transit-oriented uses. In T2-T4 districts, these currently include farmers markets, outdoor garden centers, and outdoor restaurants. Outdoor commercial uses may be consistent with this. Outdoor uses are currently are more limited in the T1 district by § 66.341(c), which states that "in the T1 district, all activities except for off-street parking and loading shall take place within completely enclosed buildings, with the exception of outdoor seating areas for coffee shops or similar uses."

B2-B5 business districts are intended to provide for diverse types of businesses serving a consumer population larger than the B1 local business district. These currently include farmers markets and outdoor restaurants in B2-B5, and outdoor garden centers in B2-B3. Outdoor commercial uses may be consistent with this, and are currently a conditional use in the B3 district. Outdoor uses are limited in the OS-B2 business districts by § 66.441(b), which states that in the OS-B2 districts "all business, storage, servicing or processing shall be conducted within completely enclosed buildings, except for off-street parking, off-street loading, and outdoor uses specifically allowed as permitted or conditional uses."

IT-I2 industrial districts currently permit farmers markets, outdoor garden centers, outdoor restaurants, and auto service station outdoor accessory sales. Other outdoor commercial uses are a conditional use in I1 and a permitted use in I2. The IT district is intended to provide sites for a mix of commercial activity that is compatible with nearby residential and traditional neighborhood districts. Outdoor commercial uses may be consistent with this. § 66.541(b) states that in the IT and I1 districts "all business, storage, servicing or processing shall be conducted within completely enclosed buildings, except for off-street parking, off-street loading, and outdoor uses specifically allowed as permitted or conditional uses."

Conditional Use Permit Requirement Based on Size of the Use

For a number of uses, the Zoning Code requires a conditional use permit based on the size of the use. For example, a conditional use permit is required for farmers markets with more than five vendors.

The proposed text amendment would require a conditional use permit for outdoor sales and display areas that occupy more than 10% of the area of a zoning lot or 1000 square feet, whichever is less. Under this provision, commercial uses would be permitted to conduct most seasonal and accessory outdoor sales by right. Larger scale outdoor commercial sales such as the little Mekong Night Market and the proposed market at Union Depot would require a conditional use permit.

There are 6022 parcels where outdoor display and sales would be permitted under the proposed text amendment. Of the 6022 parcels where outdoor sales would be permitted, 2975 parcels have lot areas less than 10,000 square feet and 3047 have lot areas over 10,000 square feet. The parcels with lot areas less than 10,000 square feet would be permitted to have outdoor sales areas that would be limited to 10% of the lot area without a conditional use permit. The parcels with lot areas that exceed 10,000 square feet would be permitted to

have outdoor sales areas that would be limited to 1000 square feet unless a conditional use permit is obtained to exceed that size limit.

Zoning District	Parcels under 10,000 square feet	Parcels over 10,000 square feet
T2	972	448
T3	160	191
T4	75	104
B2	834	321
B3	179	170
B4	38	399
B5	103	188
IT	51	53
I1	467	784
I2	96	389

Committee Recommendation

The Neighborhood Planning Committee recommends that the Planning Commission recommend the following amendments to Zoning Code Sections 65.525, 66.321, 66.421, and 66.521, and forward the amendments to the Mayor and City Council for their consideration.

NOTE: Existing language to be deleted is shown by ~~strikeout~~. New language to be added is shown by underlining. [Drafting notes are in brackets.]

Sec. 65.525. Outdoor uses, commercial.

Outdoor retail sales and services (primary and accessory), mobile food units, and display of merchandise for sale on the premises, not including outdoor commercial uses otherwise specifically regulated or allowed in the district. Commercial outdoor uses in conjunction with community festivals are regulated under Chapter 366 and are not subject to the requirements of this section.

Standards and conditions for outdoor commercial uses that are not ~~otherwise allowed~~ in the ~~district~~ public right-of-way:

(a) The use shall not conflict with required off-street parking, off-street loading and the system of pedestrian flow, and shall not obstruct building ingress and egress. ~~The planning commission, in determining that the use is harmonious with adjacent uses, shall require the submission of a site plan including a floor plan and all uses within 300 feet of the boundary of said site superimposed on said site plan.~~

(b) For commercial outdoor uses that occupy more than ten (10) percent of the zoning lot or one thousand (1000) square feet, whichever is less, the following apply:

(1) Except in the I2 industrial district, a conditional use permit is required.

(2) Approval of a site plan showing the location and layout of outdoor commercial uses on the site, with contact information for the person responsible for coordinating outdoor sales and activities, and for providing the zoning administrator with updated contact information if it changes. [as for farmers markets]

(c) The area shall be kept free of litter. Donated items or materials shall not be left outside of donation drop-off boxes.

Sec. 65.518. Garden center, outdoor.

. . .

Standards and conditions in ~~B2~~BC-B3 business and ~~IR~~IT-I2 industrial districts: [corrections]

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Table 66.321. Principal Uses in Traditional Neighborhood Districts

Use	**T1**	**T2**	**T3**	**T4**	Definition (d) Standards (s)
. . .					
Retail Sales and Services					
. . .					
Mortuary, funeral home		P	P	P	
Outdoor uses, commercial		P/C	P/C	P/C	(d), (s)
Post office	P	P	P	P	
. . .					

Table 66.421. Principal Uses in Business Districts

Use	**OS**	**B1**	**BC**	**B2**	**B3**	**B4**	**B5**	Definition (d) Standards (s)
. . .								
Retail Sales and Services								
. . .								
Mortuary, funeral home					P	P	P	
Outdoor uses, commercial				P/C	P/C	P/C	P/C	(d), (s)
Outdoor uses, commercial sales of consumer fireworks					C			(d), (s)
. . .								

Table 66.521. Principal Uses in Industrial Districts

Use	**IT**	**I1**	**I2**	**I3**	Definition (d) Standards (s)
. . .					
Retail Sales and Services					
. . .					
Mortuary, funeral home		P	C		
Outdoor uses, commercial	P/C	P/C	P		(d), (s)
Outdoor uses, commercial sales of consumer fireworks		C	C		(d), (s)
. . .					

city of saint paul
planning commission resolution
file number _____
date _____

OUTDOOR COMMERCIAL USES TEXT AMENDMENTS

WHEREAS, the Saint Paul Zoning Code, found in chapters 60 through 69 of the Saint Legislative Code, is established to promote and protect the public health, safety, morals aesthetics, economic viability and general welfare of the community; and

WHEREAS, Zoning Code § 61.801 calls for the periodic review of the code to reflect current city policies, and provides that amendments to the Zoning Code may be initiated by the Planning Commission; and

WHEREAS, in response to recent issues and requests, the Planning Commission passed Resolution 15-09 initiating a study to consider amendments to the Zoning Code regarding how and where outdoor commercial uses are permitted; and

WHEREAS, on October 28, 2016, the Saint Paul Planning Commission held a duly noticed public hearing on proposed zoning text amendments regarding outdoor commercial uses; and

WHEREAS, the Planning Commission referred the draft amendments to the Neighborhood Planning Committee for consideration, review of the public hearing testimony, and recommendation; and

WHEREAS, the Neighborhood Planning Committee, on November 9, 2016, forwarded its recommendations to the Planning Commission;

NOW, THEREFORE, BE IT RESOLVED, under provisions of Minnesota Statutes §462.367 and Legislative Code §61.801, that the Planning Commission hereby recommends to the Mayor and City Council the following amendments to Zoning Code §65.525, §66.321, §66.421, and §66.521, pertaining to outdoor commercial uses, as set forth on pages 2 and 3 of this resolution; and

BE IT ALSO RESOLVED, that the Planning Commission directs the Planning Administrator to forward the following draft outdoor commercial uses zoning text amendments, along with the November 9, 2016, memorandum from the Neighborhood Planning Committee containing their recommendations and rationale for the recommended text amendments, to the Mayor and City Council for their review and adoption.

moved by _____
seconded by _____
in favor _____
against _____

NOTE: Existing language to be deleted is shown by ~~strikeout~~. New language to be added is shown by underlining.

Sec. 65.525. Outdoor uses, commercial.

Outdoor retail sales and services (primary and accessory), mobile food units, and display of merchandise for sale on the premises, not including outdoor commercial uses otherwise specifically regulated or allowed in the district. Commercial outdoor uses in conjunction with community festivals are regulated under Chapter 366 and are not subject to the requirements of this section.

Standards and conditions for outdoor commercial uses that are not ~~otherwise allowed~~ in the ~~district~~ public right-of-way:

(a) The use shall not conflict with required off-street parking, off-street loading and the system of pedestrian flow, and shall not obstruct building ingress and egress. ~~The planning commission, in determining that the use is harmonious with adjacent uses, shall require the submission of a site plan including a floor plan and all uses within 300 feet of the boundary of said site superimposed on said site plan.~~

(b) For commercial outdoor uses that occupy more than ten (10) percent of the zoning lot or one thousand (1000) square feet, whichever is less, the following apply:

(1) Except in the I2 industrial district, a conditional use permit is required.

(2) Approval of a site plan showing the location and layout of outdoor commercial uses on the site, with contact information for the person responsible for coordinating outdoor sales and activities, and for providing the zoning administrator with updated contact information if it changes.

(c) The area shall be kept free of litter. Donated items or materials shall not be left outside of donation drop-off boxes.

Sec. 65.518. Garden center, outdoor.

. . .

Standards and conditions in ~~B2~~BC-B3 business and ~~IR~~IT-I2 industrial districts:

. . .

Table 66.321. Principal Uses in Traditional Neighborhood Districts

Use	**T1**	**T2**	**T3**	**T4**	Definition (d) Standards (s)
. . .					
Retail Sales and Services					
. . .					
Mortuary, funeral home		P	P	P	
Outdoor uses, commercial		P/C	P/C	P/C	(d), (s)
Post office	P	P	P	P	
. . .					

Table 66.421. Principal Uses in Business Districts

Use	**OS**	**B1**	**BC**	**B2**	**B3**	**B4**	**B5**	Definition (d) Standards (s)
. . .								
Retail Sales and Services								
. . .								
Mortuary, funeral home					P	P	P	
Outdoor uses, commercial				P/C	P/C	P/C	P/C	(d), (s)
Outdoor uses, commercial sales of consumer fireworks					C			(d), (s)
. . .								

Table 66.521. Principal Uses in Industrial Districts

Use	**IT**	**I1**	**I2**	**I3**	Definition (d) Standards (s)
. . .					
Retail Sales and Services					
. . .					
Mortuary, funeral home		P	C		
Outdoor uses, commercial	P/C	P/C	P		(d), (s)
Outdoor uses, commercial sales of consumer fireworks		C	C		(d), (s)
. . .					