# City of South St. Paul
## Planning Commission Agenda

**Wednesday, February 5, 2020**  
**7:00 p.m.**

Hearing assistance PA system is available – if you need a hearing assistance unit please notify City staff before the meeting.  
*(If you use the hearing assistance PA system, please remove your hearing aid so it does not cause a feedback problem!)*

## Roll Call

## 1. Agenda

## 2. Minutes
   A. January 8, 2020

## 3. New Business
   None

## 4. Public Hearings
   A. **PC Case #2020-04** — 221-225 13th Avenue South - Southview Shopping Center Variance — Setback variance for parking along Southview Boulevard and 13th Avenue South
   B. **PC Case #2020-05** - 1725 Henry Avenue - South St. Paul Open Foundation IUP- An interim use permit for a concert at the airport
   C. **PC Case #2020-02** -300 South Street – South Street Flats - Preliminary Plat and Conditional Use Permit for a Planned Unit Development  
   D. **PC Case #2020-06**  — 125 3rd Avenue North- City of South St. Paul- Code Amendment to the Concord Gateway Mixed Use District

## 5. Other Business
   None

## 6. Adjournment

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Next Planning Commission Meeting:  **March 4, 2020**

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MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISSION
January 8, 2020

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

Present:
Isaac Contreras
Angela DesMarais
Tim Felton
Justin Humenik
Ruth Krueger
Jason Pachl
Stephanie Yendell
Ryan Garcia, Community and Economic Development Director
Monika Mann, Community Development Support Specialist

Absent:

1) APPROVAL OF AGENDA – Motion to approve the agenda as presented –Pachl/ Humenik (5-0)

2) APPROVAL OF MINUTES – December 11, 2019 – Motion to approve the minutes as presented – Felton/ Krueger (5-0)

3) NEW BUSINESS

There was no new business to discuss at the time of the meeting.

4) PUBLIC HEARINGS

A) PC Case #2019-26: Apostolic Assembly of Faith in Jesus Christ- 201 5th Ave South- A request for a Conditional Use Permit (CUP) for a monument sign and a wall sign in the R-2 District.

Ms. Mann spoke to the applicant’s request for a Conditional Use Permit for a wall sign and a monument sign. Both signs are conditional uses in the R-2 district and require a Conditional Use Permit. The only signage currently on the site is the church’s logo and hours of operation which are located on a small glass pane above the front doors of the church. The applicant’s proposed signage complies with all regulations put forth in City Code.

Chair Yendell clarified if the monument sign would have landscaping surrounding the sign. Ms. Mann confirmed that there would be.

Commissioner Humenik clarified whether the wall sign above the doors would be conflicting with the proposed signage. Ms. Mann stated that there would be no confliction with the signage.

The applicant, Mario Ruiz, came forward to speak to the request. Mr. Ruiz spoke to the church’s need for the signage to improve its visibility in the community.

Chair Yendell opened the public hearing.
The City had not received any correspondence and no one was anyone present to speak on the item.

Commission Krueger spoke in support of the signs.

Motion to approve as presented—Contreras/DesMarais (7-0)

B) PC Case #2020-03: City of South St. Paul – 125 3rd Ave South – Consider a draft ordinance amending the front yard fence maximum for residentially zoned properties.

Ms. Mann explained the proposed amendment to City Code Section 118-199 to increase the maximum height of a fence in the front yard of any residentially zoned property from the 42” to 48” for fence materials that are at least 50% see through. Ms. Mann cited Planning Commission Case 2019-09 (Felton Fence Variance) as well as multiple interactions with residents as the reasoning for the proposed amendment change.

Commissioner Felton clarified the definition of opacity and clarified that staff wanted to ensure that the material was at least 50% see through. Ms. Mann confirmed that this was the intention of the ordinance amendment and that ordinance would be amended to reflect that.

Chair Yendell asked if there were currently material restrictions in Section 118-199. Ms. Mann stated there are currently no material restrictions for front yard fences.

Commission Felton asked if under current code residents could have a privacy fence in their front yard if the height was under 42”. Ms. Mann clarified they could. Commissioner Felton asked if this would still be true under the proposed code amendment. Ms. Mann clarified it would hold true.

Chair Yendell noted the proposed language did not specify Commission Felton’s point. Ms. Mann stated that staff would correct that.

Commission Felton voiced his support for the item,

Commission Pachl voiced his support for the proposal, noting that he was open to a greater requirement for fence material transparency.

Chair Yendell opened the public hearing.

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

Chair Yendell closed the public hearing.

Commission Krueger noted it would be helpful for the Commissioners to hear the ordinance as amended. Ms. Mann provided the commissioner with a general idea of how the resolution would be amended.

Motion to approve as amended—Krueger/Huminek (7-0).

5) OTHER BUSINESS
Mr. Garcia announced that the new city planner, Michael Healy, would be starting on January 21st. Mr. Healy is coming to South St. Paul from the City of Big Lake. Mr. Healy would be introduced to the Planning Commission at the following month's meeting.

6) ADJOURNMENT

Motion to adjourn- Contreras/DesMarais (7-0).
Requested Action: The Applicant is requesting variances for their parking lot for the required setbacks along Southview Boulevard and 13th Avenue South. A part of the parking lot was reconstructed in 2018 as part of a Dakota County road project. The new parking lot section, which was built by Dakota County itself, encroaches into required setbacks.

Summary Recommendation: Staff recommends approval of the requested variances subject to certain conditions of approval as outlined within the report.

Background Information

Applicant / Owner / Operator: Mike Couri on behalf of Felfam Limited Partnership

Tentative City Council Meeting: February 18, 2020

60-day Review Period Deadline: February 24, 2020

Proposal: The Applicant is proposing to keep the existing parking lot at the Southview Shopping Center “as-is.” A portion of the parking lot was reconstructed by Dakota County as part of their 2018 road project and several newly created parking stalls do not comply with the City’s setback requirements. The Applicant is seeking formal confirmation from the City, via a variance, that they will be permitted to continue to use the new parking stalls that were built for them by Dakota County.

Applicable Regulations & Standards: Section 118-353 states design and maintenance of off-street parking area. Section 118-270 states lot area, yard (setback) and building height regulations for commercial and industrial districts.

Attachments:

A. Maps/photos of the site provided by the City
B. Correspondence from public hearing notices (none)
C. Plan submittals from applicant

Background: City records show Felfam Limited Partnership purchased the property at 221-225 13th Avenue South in 2014. The shopping center is believed to have been built in the late 1950s. Current tenants of the shopping center include a grocery store, two restaurants and other retail and service businesses. In 2018, as part of the Southview Boulevard reconstruction
project, the County initiated several changes to the parking lot of the shopping center. The County closed the parking lot's direct access to Southview Boulevard and relocated the original access at 13th Avenue South. The reconfiguration of the parking lot resulted in the loss of 18 longstanding parking spaces. However, the County project also included the creation of 19 new parking spaces for the shopping center that were created by paving over areas that had previously been landscaped. The new parking spaces that the County added are abutting Southview Boulevard and 13th Avenue S. It appears that these parking stalls were added in what is technically a required setback area where parking stalls would not normally be allowed. The City did approve the County Road project's final construction plans which included the reconfigured parking lot with parking stalls in the setback area.

The Applicant wants an assurance from the City that they will be permitted to continue to utilize the 19 parking stalls that were built by Dakota County. They would like this assurance in the form of a setback variance which grants them formal permission to violate the setback requirements for the two streets with their parking lot. The Applicant is not seeking to construct any additional parking areas, they are simply seeking to retain the parking areas that were built during the 2018 road project. They have noted that their site was already "under-parked," per the zoning code, before the County Road project. If they are not able to retain the 19 stalls, they will be even more severely under-parked. They are currently in the process of reaching a settlement with Dakota County regarding the road project. Per the Applicant, the terms of the settlement will likely be contingent on the City giving formal assurance that the parking stalls can remain in place.

*Staff would note that the subject property was previously granted a variance in July of 1994 to allow a parking lot with zero foot setbacks along the property line on 13th Avenue South. At that time, the Code would have required a 5-foot property line setback for the parking lot.*

**Parcel Size / Location:** The property's address is 221-225 13th Avenue South. The property is made up of 10 separate parcels which total approximately 3.5 acres. The property is generally located south of Southview Boulevard and west of 13th Avenue South. The property consists of the following Dakota County tax parcels: 36-48800-05-030, 36-48800-05-300, 36-48800-05-260, 36-48800-05-100, 36-48800-05-210, 36-48800-05-110, 36-48800-05-190, 36-48800-05-180, 36-48800-05-170, and 36-48800-05-150.

**Existing Conditions:** The property is a fully developed 78,510 square foot, multi-tenant retail shopping center made up of two buildings with 55,914 rentable square feet.

**Zoning Summary:** The property is zoned C-1, Retail Business District. The Code does not appear to specify a property line setback for either buildings or parking lots in the C-1 zoning district. The Code states that non-residential buildings shall observe the average setback of similar buildings on the same side of the street fronting the same block. The one caveat to this rule is that within commercial and industrial districts, no building setback line shall be nearer than 40 feet from the center of any adjacent street. It is assumed that parking lots must follow this setback requirement as well since they are not allowed in "required yards" unless explicitly
authorized by a zoning district provision (per Section 118-353, subdivision "p"). The existing shopping center building is closer than 40 feet to the centerline of Southview Boulevard. It has a roughly 0-foot setback from the northern property line along Southview Boulevard.

Following the County road reconstruction project and parking lot reconfiguration, the 19 "new" parking stalls are 33 feet from the centerline of Southview Boulevard and 37 feet from the centerline of 13th Avenue South. Neither would conform to a 40-foot setback requirement.

**Adopted Land Use Plans:** The 2030 and 2040 Comprehensive Plan guides the site for commercial use for the property.

**Environmental Corridor / Overlay Status:** The property is not within an environmental corridor or overlay district.

**Public Utilities and Services:** The property is served by a full range of urban services.

**Surrounding Land Uses/Zoning:**

North: Properties directly to the north of the property are commercial and zoned C-1.

East: Properties directly to the east of the property are residential and zoned R-2.

South: Properties directly to the south of the property are residential and zoned R-1

West: Properties directly to the west of the property are commercial and zoned C-1.

**Evaluation of the Request**

**Land Use:** The property at 221-225 13th Avenue South technically sits as non-conforming for parking setbacks after the Southview Construction project. Because the City approved the street project, it is highly unlikely that the City would ever try to compel the Applicant to discontinue the use of the new parking stalls that were created by the project. The Applicant has stated that this is not a sufficient assurance, however, and they ask that the City eliminate the "nonconforming" status of the parking lot through the granting of a variance. The proposed variance would formally bring the parking lot in its current form into harmony with the zoning code.

- Zoning Considerations:
  - Variance to allow parking within 33 feet from the center line of Southview Boulevard
  - Variance to allow parking within 37 feet from the center line of 13th Avenue South

**Architectural:** No changes are proposed

**Signage:** N/A

**Parking / Impervious Areas:** Prior to 2018, the site had around 202 off-street parking spaces. The site is grandfathered for the number of handicap spaces (7).
Bicycle/Pedestrian Access: Public sidewalk is available along the north (Southview Boulevard) side of the property.

Correspondence from Nearby Property Owners: None

**Required Findings**

**Variance Findings**

The application has requested variances for the following:

- Variance to allow parking within 33 feet from the center line of Southview Boulevard.
- Variance to allow parking within 37 feet from the center line of 13th Avenue South.

In variance cases the City is required to make findings in regard to practical difficulties as used in connection with the granting of a variance as defined by State Statute 462.357, subd. 6 and in City Code Section 118-39. The City must make the following findings in considering approval of a variance:

a. The variance is in harmony with the general purpose and intent of the ordinance
b. The terms of the variance are consistent with the Comprehensive Plan, and
c. The applicant for the variance establishes that there are practical difficulties in complying with the ordinance. *(Economic considerations alone do not constitute practical difficulties)*. Practical difficulties as used in connection with the granting of a variance means that:

   i. The property owner proposes to utilize the property in a reasonable manner.
   ii. The plight of the property owner is due to circumstances unique to the property that were not created by the property owner, and the variance will not alter the essential character of the neighborhood.

**Alternatives / Proposed Conditions**

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

A. **Approval.** If the Planning Commission has reviewed the application and determined that the application is consistent with variance findings (see p.3 of this report), then staff would recommend the following conditions for a recommendation for approval:
• **(Step 1) Findings:** The Planning Commission would need to include findings that the proposed variance would not have an adverse impact on other properties and the general area or that potential impacts would be mitigated through specific conditions.

**Recommended Findings:**

*The Planning Commission has reviewed the proposal and determined that the use conforms to the general purpose of the Zoning Code and should not substantially diminish or impair property values, will not impede the normal and orderly development of property in the neighborhood, has access to adequate utilities, and there is adequate ingress and egress for the property.*

*In addition, there are practical difficulties in complying with the ordinance because the property was changed through a County street project that was approved by the City. The property owner proposes to utilize the property in a reasonable manner, which is consistent with other structures on the block, and the plight of the property owner is due to the unique circumstance brought on by the reconstruction of Southview Boulevard. The proposed use is consistent with other structures and does not alter the essential nature of the neighborhood.*

• **(Step 2) Recommendation for Approval:** Approval of the proposed **variance** to allow parking stalls 33 feet from the center of Southview Boulevard and 37 feet from the center of 13th Avenue South.

1) **Compliance with Plan Submittals.** The site shall be utilized in substantial conformance, in the reasonable opinion of the City Council, with the application, narratives, and with the following plans on file with the Community Development Department except as amended by the conditions noted below:

   a) Application (Mike Couri) dated 12/26/2020
   b) Narrative (Mike Couri) not dated

2) **Compliance with Laws and Approvals.** The property must remain compliant with all federal, state, and local laws and ordinances and all prior City approvals.

3) **Review of the variance.** The variance will be reviewed in approximately 1 year to determine compliance with the conditions of approval.

4) **Termination of the Variance.** The Variance will terminate if there are violations of a condition of approval. The property must be continually operated for use specified in the Variance to remain valid. If the property is not used for the use listed in this Variance for a period of 1-year then the Variance shall terminate.
B. **Denial.** If the Planning Commission does not favor the proposed application or portions thereof, the above requested should be recommended for denial. If the Planning Commission recommends denial, then findings of the basis for denial should be given.

- **(Step 1) Findings:** The Planning Commission would need to include findings that the proposed Variance does not demonstrate practical difficulties in that it does not demonstrate a characteristic unique to the property that was not created by the property owner.

- **(Step 2) Recommendation for Denial:** Denial of the proposed variance on the property at 221-225 13th Avenue South for the following reasons:
  1. 

**Staff Recommendation**

Staff recommends approval of the variance for the property at 221-225 13th Avenue South subject to the conditions stated in this report.
Felfam Limited Partnership Variance Application Narrative

Felfam Limited Partnership ("Applicant") owns fee title to and operates a multi-tenant retail shopping center complex located at 221-225 13th Avenue South, South St. Paul, Minnesota, which it purchased in approximately 2011. The complex consists of two buildings containing approximately 78,510 square feet of gross building area and 55,914 rentable square feet. The buildings are believed to have been constructed between 1956 and 1959, and currently sit on 10 platted lots that are bounded by Southview Boulevard, 12th Street, 3rd Street South and 13th Street. The parking lot had one direct access to 12th Street, two direct accesses to 13th Street, one direct access to Southview Boulevard and approximately 202 off-street parking spaces prior to 2018.

The tenants on the property are primarily retail and service businesses, including a grocery store, two restaurants, and miscellaneous other service and retail businesses. The number of employees employed by all of the tenants is unknown, as are the number of anticipated customers who might be at the site at one time. Hours of operation are set by each tenant, but generally are customary for the type of businesses at issue.

In 2018 Dakota County initiated an eminent domain proceeding as part of its Southview Boulevard improvement project. As part of the County’s project, and without the permission of Felfam, the County closed Felfam’s direct access to Southview Boulevard, relocated one of the 13th Street accesses, and reconfigured the parking arrangement and traffic flow through the parking lot. In doing so, the County eliminated 18 parking spaces from the parking lot. To make up for these lost parking spaces, the County added 19 additional parking spaces abutting Southview Boulevard and abutting 13th Street.

Section 118-353(p) of the South St. Paul City Code states:

Setbacks (yards). Except as specifically authorized and permitted by zoning district provisions, off-street parking shall not be located on required yards.

Section 118-270 of the South St. Paul City Code states:

Sec. 118-270. - Lot area, yard, and building heights.

Within the commercial and industrial zoning districts, all uses shall conform to the following standards, unless otherwise provided for herein:

1. No nonresidential building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by similar buildings on the same side of the street and fronting thereon within the same block. In no case, however, shall such a building setback line be nearer than 40 feet from the center of any adjacent street. [Emphasis added]
Based on Section 118-270, the required yard (setback) is 40 feet from the centerline of the road. The parking stalls created by the County on the north property line along Southview Boulevard are approximately 3 feet from the south right of way line of Southview Boulevard. Because the south right of way line of Southview Boulevard is only 30 feet from the centerline of Southview Boulevard, the parking stalls on the north line of the Felfam Property are 33 feet from the centerline of Southview Boulevard, less than the 40 feet required by Ordinance Section 118-270. The parking stalls on the north side of the Felfam Parking lot are in violation of Section 118-270 of the South St. Paul City Code as they are not setback 40 feet from the centerline of Southview Boulevard, and therefore encroach into the yard space required by the City Code.

The right of way of 13th Avenue is 60 feet in width, putting the easterly right of way line of 13th Avenue 30 feet from the 13th Avenue centerline. The northern-most nine parking stalls created by the County and which abut 13th Avenue are located approximately 7 feet from the easterly right of way line of 13th Avenue, or 37 feet from the centerline of 13th Avenue. The nine northerly-most parking stalls abutting 13th Avenue in the Felfam parking lot are in violation of Section 118-270 of the South St. Paul City Code as they are not setback 40 feet from the centerline of 13th Avenue.

Attached are the construction plans prepared by the County and which we believe were previously approved by the City as part of the Southview reconstruction project, as well as aerial photos showing the parking lot before the County project as well as an overlay showing how the County project impacted the parking lot.

Felfam is requesting a variance to allow parking along Southview Boulevard 33 feet from the centerline of Southview Boulevard and to allow parking along 13th Street 37 feet from the centerline of 13th Street.

The legal description of the Applicant’s property to which the variance would apply is:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 in Block 5 of MINNESOTA AND NORTHWESTERN ADDITION, together with the vacated alley in said Block 5, MINNESOTA AND NORTHWESTERN ADDITION accruing thereo by reason of said vacation, according to the plat thereof on file and of record in the office of the Register of Deeds in and for Dakota County, State of Minnesota.

The Applicant’s property is zoned C-1, Retail Business District.

**Harmony with the general purpose and intent of the zoning ordinance:**

The requested variance is in harmony with the general purpose and intent of the zoning ordinance for the following reasons:
1. Section 118-352 of the Code states:

Reduction limitation. Existing off-street parking and loading spaces on the
effective date of the ordinance adopting this chapter shall not be reduced in
number unless said number exceeds the requirements set forth herein.

Given that Section 118-353(o) of the Code would normally require 291 parking spaces
for a shopping center that has 52,914 leasable square feet, the property was short
approximately 89 parking spaces before the taking by the County (this shortage is
grandfathered in). Granting the variance would keep the parking shortage at 89 spaces
rather than increase its non-compliance to 109 fewer parking spaces than required by
current City Code.

2. Granting the variance will help to provide convenience of access to the property by the
public consistent with the intent and purpose of the City Code as stated in Section 118-1(a).

Consistency with the Comprehensive Plan:

1. Granting the requested variance will make more parking available for multiple tenants
in the heart of the Southview business district without the necessity of public funding,
which is consistent with the Southview and Marie Policy Plan (p. 27 of the
Comprehensive Plan) which states:

POLICY PLAN Commercial: Southview & Marie

Goal: Continue to support Southview and Marie as the historic, social, and
psychological heart of the city. Promote an environment that is walkable, dense,
diverse, and in keeping with its architectural character.

Policies: 1. Support development and redevelopment of the area where parking
is limited by either providing public parking lots that can help accommodate
parking for multiple businesses, or by decreasing requirements for parking in this
area.

2. The variance will help maintain the vitality of the Town Center in the vicinity of
Southview Boulevard and Marie Avenue by offering more convenient parking near the
businesses which are providing goods and services tailored to the local market (see page
3 of the Comprehensive Plan).

3. The variance is consistent with the Comprehensive Plan’s Guiding Principles in that the
additional parking will make the businesses located on the property more viable which
in turn will help protect the small town character of the Southview commercial
neighborhood (see page 4 of the Comprehensive Plan).
Practical Difficulty:

Minnesota Statute § 462.357 defines “practical difficulty” as:

"...that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality."

The Property Owner Proposes to Use the Property in a Reasonable Manner:

1. The Applicant believes that using the property in a manner similar to how other property owners in the neighborhood have used their property would be a strong indicator of reasonable use as this represents a development pattern that many properties have followed and that property owners, motorists and residents have become accustomed to. In that regard, several other properties in the neighborhood have off-street parking that is within 40 feet of the centerline of the road. Examples of these properties are the following:

   a. 1301 Southview Boulevard.
   b. 203 14th Avenue South.
   c. 1003 Southview Boulevard.
   d. 1001 Southview Boulevard.
   e. 925 Southview Boulevard.
   f. 835 Southview Boulevard.
   g. 705 Southview Boulevard.
   h. 602 Southview Boulevard.

2. The proposed use is also reasonable as the alternative would be to eliminate these 19 parking stalls, which would require local business patrons to park on 13th Street when the parking lot becomes too full. Parking on 13th Street is less safe (opening car doors into oncoming traffic; holding up traffic while attempting to parallel park, etc.) than off-street parking that may be closer to the centerline of 13th Street or Southview Boulevard than is allowed by City Code, but still is entirely out of the right of way. Generally, the safer of two alternatives is usually the more reasonable alternative, which is the case here.

The Plight of the Property Owner is Due to Circumstances Unique to the Property that were not Created by the Property Owner:

1. The need for the variance arises as a direct result of the eminent domain action by Dakota County. Dakota County occupied the Applicant’s property for several months, closed the Southview Boulevard access, relocated the north 13th Street access, rerouted the traffic flow within the parking lot itself with the installation of concrete curbing to act as drive aisles, eliminated 18 parking spaces, and replaced these 18 spaces with 19 new parking
spaces that are within setback from the abutting rights of way. All of this was done without the consent of the Applicant. (See attached aerial photos for the before and after configurations of Applicant’s parking lot. See also attached Eminent Domain Petition of Dakota County.)

The Variance Will Not Alter the Essential Character of the Neighborhood:

1. As noted above, there are at least eight properties in the immediate Southview Boulevard neighborhood that utilize off-street parking that is located within the setback from the abutting right of way. In addition, the applicant already utilizes parking spaces in its parking lot that are located within the setback from abutting 13th Street. Granting this variance will not alter the essential character of the neighborhood, but instead will be consistent with many existing properties that utilize similar off-street parking.
Requested Action: The applicant is requesting an Interim Use Permit for a special event at the Fleming Field airport ramp on October 03, 2020.

Summary Recommendation: Planning Division recommends approval of the requested actions subject to certain conditions of approval as outlined within the report.

Background Information

Applicant / Owner / Operator: South Saint Paul Open Foundation (Applicant) / City of SSP (owner)

Tentative City Council Meeting: February 18, 2020

60-day Review Period Deadline: March 7, 2020

Proposal: The applicant is requesting an Interim Use Permit to utilize the bituminous area behind the airport terminal building and bowstring hangars on the airport property at 1725 Henry Avenue (36-11130-00-11) to hold a concert on Saturday, October 03, 2020. The event would run from 6:00 PM to Midnight with music playing from 7:00 PM until Midnight. The event is estimated to attract around 1000-1300 attendees.

Applicable Regulations & Standards: City Code Section 118-41 discusses Interim Use Permits. Section 118-129 provides guidelines and regulations for the I: Industrial zoning district.

Attachments:

A. Maps/photos of the site provided by the City
B. Correspondence from public hearing notices
C. Plan submittals from applicant

Parcel Size / Location: The parcel where the terminal building / ramp is located is approximately 14.23 acres (619,859 s.f.) and is located at the south end of Henry Avenue and south and west of Airport Road.

Existing Conditions: The property is fully developed with the Fleming Field terminal building, four bowstring hangar's, and a triple-bowstring hangar building.
Zoning Summary: The property is zoned Industrial (Airport) and the principal use of the property is airport/aviation uses. The proposed special event use would be governed by the requirements of the Interim Use Permit / Conditional Use Permit standards.

Adopted Land Use Plans: The 2030 and 2040 Comprehensive Plans recommend Airport uses for this property.

Environmental Corridor / Overlay Status: None.

Public Utilities and Services: The property is served by a full range of urban services.

Evaluation of the Request

Land Use: The applicant proposes to hold a concert on the Fleming Field Airport ramp on October 3, 2020. While not specified in code, events on the site have previously been allowed through Interim Use Permit. The applicant would need to have a lease with the South St. Paul Fleming Field Airport and specific dates for the events are subject to the review and approval of the Airport Manager.

Signage: No signage plans have been submitted.

Parking / Impervious Areas: Parking would occur within the Airport Facility in the ramp area.

Bicycle / Pedestrian Access: There is no public sidewalk or bikeway connecting to the site. The terminal building has a sidewalk around the front and west side of the building.

Correspondence from Nearby Property Owners: None

Required Findings

Interim Use Permit Findings

In Interim Use Permit cases, the City is required to make findings as established in City Code Section 118-41:

Interim Use Permit Findings:

✓ The use conforms to the zoning regulations.
✓ The date or event that will terminate the use can be identified with certainty.
✓ Permits for the use will not impose additional costs on the City, if it is deemed necessary for the City to take the property in the future; and.
✓ The user agrees in writing to any conditions that the City Council deems appropriate for permission of the interim use.
Alternatives / Proposed Conditions

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

A. Approval. If the Planning Commission has reviewed the application and determined that the application is consistent with the Interim Use Permit findings (see p.2 of this report), then staff would recommend the following conditions for a recommendation for approval:

- (Step 1) Findings: The Planning Commission would need to include findings that the proposed Interim Use Permit would not have an adverse impact on other properties and the general area or that potential impacts would be mitigated through specific conditions.

Recommended Findings:

The Planning Commission has reviewed the proposed interim use would meet the criteria. First, the proposed use as special event would be allowed in the Industrial District and the airport has hosted several such events. Second, the use will terminate after October 03, 2020. Third, the permit would not imposed any additional costs should it be necessary to acquire the property, as the City already owns the property. Finally, the conditions are listed in staff's recommendation and would be incorporated into the resolution to approve the Interim Use Permit.

- (Step 2) Recommendation for Approval: Approval of the proposed Interim Use Permits for a community event for the property located at 1725 Henry Avenue are subject to the following conditions:

  1) Compliance with Plan Submittals. The site shall be utilized in substantial conformance, in the reasonable opinion of the City Council, with the application, narratives, and with the following plans on file with the Community Development Department except as amended by the conditions noted below:

     a) Application/Proposal (SSP Open Foundation) dated 01/07/2020
     b) Narrative (SSP Open Foundation) dated 01/21/2020

  2) Lease Required. The applicant shall be required to have a lease with the City of South St. Paul for use of the property.

  3) Liquor License Required. In addition to the Interim Use Permit, a liquor license must be obtained from the City of South St. Paul.

  4) License Required for Food Vendors. The food vendors must obtain the necessary licenses from the Minnesota Department of Health (MDH) before the applicant and/or food vendor business can begin conducting business in the city. The food vendors must also keep the MDH license in good standing.

  5) Noise. The applicant and event bands, DJ, vendors, exhibitors, and food vendors
shall comply with all City regulations regarding noise levels and shall make reasonable efforts to minimize loud noises that may impact the nearby residential areas. Speakers and noise emitting equipment shall be directed away from residential properties.

6) **Compliance with Laws and Approvals.** The property must remain compliant with all federal, state, and local laws and ordinances and all prior City approvals.

7) **Applicant Responsible for Clean Up.** The applicant shall be responsible for any necessary clean-up activities related to the Interim Use.

8) **Term of the Interim Use Permit.** The Interim Use Permit shall allow for one event day on October 3, 2020 and shall terminate immediately after that date. Additional time for set-up before the event and clean up after the event is subject to the approval of the Airport Manager.

9) **Termination of the Interim Use Permit.** The violation of a condition of approval may terminate the Interim Use Permit, upon action by the Council.

B. **Denial.** If the Planning Commission does not favor the proposed application or portions thereof, the above requested should be recommended for denial. If the Planning Commission recommends denial, then findings of the basis for denial should be given.

- **(Step 1) Findings:** The Planning Commission would need to include findings that the proposed Interim Use would have an adverse impact on other properties and the general area and that potential impacts could not be adequately mitigated through specific conditions for the IUP.

- **(Step 2) Recommendation for Denial:** Denial of the proposed Interim Use Permit on the property at 1725 Henry Avenue for the following reasons:
  1) ________________________________

**Staff Recommendation**

Staff recommends approval of the Interim Use Permit (IUP) for a special event for the property at 1725 Henry Avenue subject to the conditions stated in this report.
**Interim Use Permit Narrative:**

Event: Concert / Dance

  Listening to music and dancing.

Date: 10/03/2020, Saturday

Time: Doors Open 6 pm, music 7 pm to Midnight

Estimated Attendees: 1000 - 1300 people

Parking: Within the Airport Facility, ramp area.

Will apply for temporary alcohol permit and food permit for food trucks.

Will work with CAFMN regarding

  # of Porta Potties
  # of Security
  # of employees / volunteers

Consulted with Airport Manager Andrew Wahl and Mayor Francis regarding event.
Requested Action: Consider a request to approve the Preliminary Plat and Conditional Use Permit – Planned Unit Development (CUP-PUD) for the property at 300 South Street for the proposed “South Street Flats” residential development.

Applicable Regulations & Standards: Chapter 114 of the South St. Paul Code of Ordinances provides standards for the review and approval of Preliminary Plats. Section 118-124 provides guidelines and regulations for the R-4: Multi-Family Residential zoning district, Section 118-132 provides PUD regulations, Section 118-267 provides standards and regulations for multifamily residential, townhouses, and cluster developments, and Section 118-354 provides parking regulations. The subject property is zoned R-4 Multifamily Residential, and the applicant is applying for a planned unit development (PUD) for the project which is considered a conditional use in any zoning district.

Summary Recommendation: Planning Division recommends approval of the proposed Preliminary Plat and Planned Unit Development with a recommendation to the City Council.

Background Information

Applicant / Owner: South Street Flats LLC (Richard Braun)

Tentative City Council Meeting: February 18, 2020

60-day Review Period Deadline (extended to 120-days): April 2, 2020

Proposal: The applicant is proposing a 13-unit townhome project to be known as “South Street Flats”, located at the northeast corner of South Street and 5th Avenue South. The proposal would result in the replat of a total of five existing 60’ lots into a townhome plat with one common-area lot and thirteen individual townhome lots for each unit.

Parcel Size / Location: The parcel is .92 acres located at the northeast corner of 5th Avenue South and South Street West. The Fifth Avenue Plaza Shopping Center is to the south, an apartment building is to the west, to the east are duplexes and to the north are single-family homes which front onto Ash Street.
Existing Conditions: The property is an unimproved, vacant infill collection of five separate 60' residentially platted lots. Historical imagery indicates that there has not been development on this property since at least the 1930s, if ever.

Zoning Summary: The property is zoned R-4: Multi-Family Residential and guided for High Density Residential. Multifamily residential buildings containing four or more dwelling units but not exceeding 20 dwelling units nor three stories or 38 feet in height are permitted uses (by right) in the R-4 District. Planned unit developments are permitted in any zoning district by conditional use permit in order to provide design flexibility by allowing substantial variances relating to land use, density, subdivision, and similar regulations when such variances are found to be consistent with the general intent and purpose of the ordinance and comprehensive plan.

Adopted Land Use Plans: The 2030 Comprehensive Plan recommends (HDR) High Density Residential uses, at a minimum density of 13 units/acre, for the property which would be consistent with the proposed townhome development at 14 units/acre.

Environmental Corridor / Overlay Status: N/A

Public Utilities and Services: This property is served by a full range of urban services.

Surrounding Land Uses / Zoning:

North: The property directly to the north includes single family homes and is zoned R-2: Single and Two-Family Residential and is guided as Low Density Residential;

East: The property to the east of the site is one of a series of duplexes and is zoned R-4: and guided as High Density Residential.

South: Properties to the south of the site are a part of a commercial shopping center and are zoned C-1: Retail Business and guided as Commercial;

West: Properties to the west of the site is an existing (legal non-conforming) apartment which is zoned R-2 and guided as Low Density Residential.

Zoning Requirements:

<table>
<thead>
<tr>
<th>Bulk Requirements</th>
<th>Required</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot area</td>
<td>N/A</td>
<td>.92 acres (40,085 s.f.)</td>
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<tr>
<td>Lot width</td>
<td>N/A</td>
<td>300 ft.</td>
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<tr>
<td>Lot Coverage (bldg.)</td>
<td>N/A</td>
<td>21 %</td>
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<tr>
<td>Floor Area Ratio</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>Setbacks: Building</td>
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<td></td>
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<tr>
<td>Front yard</td>
<td>25 ft</td>
<td>20 ft (South St.)</td>
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<tr>
<td>Side yard (side street)</td>
<td>15 ft</td>
<td>15 ft (5th Ave. S)</td>
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<tr>
<td>Side yard (interior)</td>
<td>9 ft.</td>
<td>37 ft.</td>
</tr>
<tr>
<td>Rear yard</td>
<td>25 ft.</td>
<td>80 ft.</td>
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<tr>
<td>Setbacks: Parking</td>
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<td></td>
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<tr>
<td>Front yard (street frontage)</td>
<td>5 ft</td>
<td>18 ft (5th Street)</td>
</tr>
<tr>
<td>Side / Rear yard</td>
<td>5 ft</td>
<td>20 ft</td>
</tr>
</tbody>
</table>
Evaluation of the Request

Preliminary Plat Evaluation:

Parcel Configurations/Requirements: The applicant proposes to replat the existing 60’ x 150’ lots (currently five directly adjacent to one another in a row along South Street) into a cluster development with one common area lot and thirteen individual townhome lots. In those circumstances, the common lot is required by code to have a minimum of 30 feet of frontage directly abutting a publicly dedicated street, but there are no required minimum lot sizes dictated by the City’s subdivision code (Chapter 114) or Zoning Code (Chapter 118) for townhomes and PUDs in the R-4 Zoning District.

Dedication/Easements: The proposed preliminary plat indicates drainage and utility easements as typically required along the edges of the lot lines, over all of proposed Common Lot 2. While this is atypical in staff’s experience, the City Engineer accepts this proposal as it maximizes the City’s/utility providers’ rights on the property.

Park Dedication: The platting would create 13 new residential townhome units via the creation of 8 additional platted lots and therefore a fee in lieu of park dedication requirements at $16,953.84 ($2,119.23 per new lot) is estimated. This fee is to be calculated at the time of final plat approval according to the fair market value of land as determined by the Dakota County Assessor at such time, and will be a condition of final plat approval.

Access: The site is proposed to be accessed by a 20’ wide access driveway from the southeastern portion of the site (along South Street, at the east edge of the property) which loops around the back of the residences to terminate at the northwest portion of the site (about 18’ east of the 5th Street right-of-way). Each residence will have its own enclosed, secured, attached garage and a driveway access/parking area.

Utilities: The applicant is proposing a single water connection and single sanitary connection for the development at the street and will separately meter each individual unit within the project. The applicant should note that existing overhead utilities along South Street are in place and should verify that any proposed private improvements, including landscaping, do not interfere with existing overhead utilities. If the utility plan changes such that individual services for each unit will be extended to and impact the street, the City Engineer would require that a continuous area from the westerly most patch to the easterly most patch would be removed and replaced.

Planned Unit Development Evaluation:

Land Use: The proposed land use is a 13-unit townhome development for a site near the City’s southern boundary. The development proposes 13 two-bedroom, 2 ½ bath units, ranging in size from 1,050 to 1,350 square feet per unit. The application indicates that the units would be of higher end finishes and the market would be for single professionals, couples or small families. The site is an undeveloped property which is guided for Multifamily Residential and zoned R-4: Multifamily Residential. There is an existing apartment building to the west, townhouses to the east and a commercial shopping building to the south. Multifamily residential development of 20 units or less are permitted uses within the R-4 District. The PUD allows for
reduced setbacks from 5th Avenue South and South Street (15’ and 20’, respectively, where 25’ would be required as the “front yard”) while still meeting the minimum density requirement of the Comp Plan on this smaller infill site. In addition, the PUD allows for the development to consist of exclusively two-bedroom units, whereas Code would require a mix that included no more than 50% two-bedrooms.

**Architectural / Site Plan / Floor Plan:** The applicant’s narrative indicates that exterior building materials and finishes will be “a combination of natural and maintenance-free materials” and that the design will integrate “creative and high quality architecture”. The applicant should speak to material selection in more detail at the meeting; as presented in a supplemental email the proposal is to not include any natural materials. The preliminary elevations/cut sheets indicate a three-story façade with gabled roof, a generous amount of front and back fenestration/windows, and tuck-under garages off the back (access drive) of the buildings. Neither side elevation appears to integrate any windows, however there is an architectural element (change of material) that breaks up the façade on each side of the building per floor. Generally, however, the architectural plan presents a somewhat monolithic presence at each elevation. Staff offers the following suggested refinements to soften the architectural impact of the development:

- Both street side elevations (the west, facing 5th Avenue, and the south, facing South Street) would benefit from additional architectural treatment to break up their looming façades as depicted. The west elevation is situated within 20 feet of 5th Avenue, and will have a significant presence to people entering South St. Paul from the west. Additional windows would help to break up this façade and present a less imposing visual presence to this elevation. The South St. façade integrates a fair amount of welcome architectural touches (windows, planter boxes) but the addition of a front porch (see next note) will go a long way to break up this frontage and feel more homey/residential. In addition, the applicant should work with their architect to determine ways to better delineate between the homes. This could be accomplished through the introduction of some vertical elements, material/palette changes horizontally rather than vertically, or by varying setbacks through recessing/projecting units. As depicted, elevations appear as three separate long, unbroken layers stacked atop each other rather than thirteen distinct, unique, and individual homes.
- As depicted, none of the units have much (if any) dedicated outdoor space. The addition of an outdoor space per unit would provide additional marketable amenity to each unit while also adding visual interest to the development. This could be accomplished through integration of a balcony (off of either the front or back façade, potentially) or more of a “front porch” presence (along the South Street elevation) for each unit.

The proposed site plan orients the building as far to the southeast corner of the site as is practical, which is helpful in maintaining a buffer from the single-family neighborhood immediately north and the twin-home immediately to the east of the site. The site plan indicates that each unit will have a direct walkway connection to a new public sidewalk that will be constructed along South Street from the 5th Street intersection (where there is an existing bus shelter across South Street) to the eastern terminus of the site. The proposed access driveway
enters the site at the southeast corner of the site. The South Street drive entrance at the east of 
the site should have a reduced radius to minimize impacts to the neighboring residential 
property and to aid in lowering exiting and entering vehicle speeds to this access point. It should 
be noted that the applicant does not plan to have any exterior dumpsters for household refuse, 
and has indicated that each unit will have its own refuse containers.

The applicant indicates that the submitted floor plan could be adjusted to provide additional unit 
depth. Staff suggests that the applicant implement this change. The applicant has indicated in 
conversation that there is the potential to increase unit depth by up to 6 feet. In addition to 
improving the marketability of the units, this additional 6 feet of depth would help to increase 
space in the units that could be integrated into the floorplan to create space for a storage room, 
office, den, laundry room, or potentially a third bedroom. Staff notes, specifically, that as 
depicted the laundry facilities for each unit will be located within the garage. This approach 
seems impractical in our climate, unless the garage is somehow climate controlled, ventilated, 
and finished. We suggest the laundry facilities for each unit should be located within finished 
space such as a dedicated laundry room, or utility/storage room, or the like. The applicant has 
indicated that laundry facilities will be integrated into the upper level of each unit as a stackable 
washer/dryer; a revised floorplan should be submitted to reflect this change.

**Signage:** The plans do not indicate any new signage for the development. If at some point the 
applicant chooses to integrate signage into the development site, they would be required to first 
apply for and receive a sign permit. Although most signage within the R-4 district is permitted, 
Staff would suggest that if the applicant proposes signage at some point in the future, they 
follow the procedures for a PUD amendment at that time.

**Parking / Traffic / Impervious Areas:** The plans show 39 parking spaces. Parking is provided 
through a combination of private, secured, individual garages attached to each unit, as well as a 
driveway parking space and a standalone 13-stall parking area north of the access drive. The 
driveway enters and exits at both South Street, and at 20' wide would accommodate two-way 
vehicular flow. The applicant may want to add a hammer handle at the end of the driveway, 
otherwise turn around movements might be difficult without utilizing the westernmost unit’s 
driveway.

Total impervious area on the site is calculated at approximately 55% of the site. The applicant’s 
stormwater management plan has been reviewed by the City Engineer and is found to provide 
adequate rate control for the site, meeting the requirements for the 10-year and 100-year event 
The City Engineer has resolved that although the stormwater management design will not meet 
the rate control requirements for a 2-year event, the existing public stormwater infrastructure in 
this area has capacity to support the development’s discharge rates in the 2-year event.

**Landscaping:** Landscaping is focused along the South Street frontage (with deciduous trees) 
and the north property line (with a mix of evergreens and shrubs). Code requires that a 
minimum 4’ tall fence or landscape screen between parking areas and adjacent residential 
uses/districts is required. The landscape plan proposes 6’ Spruce trees spaced on average at
12' on center along most of the northern property line. An additional landscape buffer should be installed along the east property line, between the proposed driveway and the adjacent twin-home property. The submitted materials do not include any foundation plantings or driveway plantings. Prior to issuing a building permit, the City will require a revised and supplemental landscape plan to indicate the landscaping approach for the front and back of the units.

**Lighting:** It is unclear whether there will be any site lighting. Page 5 in the plan set notes that there is “no lighting”, while the architectural elevations show individual residential style lights building mounted at the front and back unit entries. It may be advisable to include some low-profile lighting in the area of the guest parking, remaining sensitive to the adjacent residential uses.

**Pedestrian Access:** Neither 5th Avenue nor South Street have sidewalk along the property lines. The proposed site plan includes new sidewalk along South Street, as well as individual walkways connecting each unit to that sidewalk. This location currently has a bus stop and there is a bus shelter across the street so the sidewalk would provide residents with better access to transit.

**Section 118-267 Considerations:** The Planned Unit Development is intended “to provide design flexibility by allowing substantial variances from the provisions” of the Zoning Ordinance if found to be “fully consistent with the general intent and purposes” of the Ordinance. For the South Street Flats PUD, the developer is proposing the following flexibilities from the requirements found in 118-267:

- **Parking:** Section 118-267 (i) (1) g. requires that each dwelling unit be provided two off-street parking spaces (at least one fully enclosed) and an additional 1 ½ parking spaces for guests. This provision would require a total of 46 parking stalls for the development, whereas the proposal is for 39 parking stalls. Staff supports this deviation, considering the walkability and transit accessibility of the proposed development.

- **Unit Mix:** Section 118-267 (i) (1) e. requires that no more than 50 percent of all townhome units shall be two-bedroom units. The proposal calls for all two-bedroom units.

- **Outdoor area:** Sections 118-267 (i) (1) a. – c. require that each unit have an area specifically designed and developed for outdoor living, and also requires that not less than 25 percent of the total development area be usable open space for recreational/common usage purposes. Given its proximity to McMorrow Park and the relatively small size of the site to accommodate that Comprehensive Plan-mandated density standard of 13 du/acre, staff supports the deviation from on-site open space for the development. Conditions of approval are presented in the recommendation which address these issues.

**Additional Plan Review Comments:** (these are comments provided from city staff departments that do not fit into another category).
- A fire sprinkler system will be needed for the proposed development. An NFPA 13D system or an IRC 2904 system will be required.
- The units will require a unit separation wall between them with a minimum 1-hour fire rating (Section R302.2). Said wall must extend from the foundation to the underside of the roof deck. The roof deck on either side of the wall will need to be constructed from flame retardant plywood to a distance of 4 feet on either side.
- Note 13 (Sheet 7 -- Grading Details) should include a statement that the City can require the Contractor to sweep any public street where tracking has occurred from the project. Sweeping will be completed as soon as possible but in no instances later that the end of the day when directed by the City.

Correspondence from Nearby Property Owners: Staff received correspondence from one party as related to this application. These comments came from the property owner to the east and are included in the packet materials.

**Required Findings**

A Planned Unit Development can only be approved as a Conditional Use Permit, according to Section 118-132 (a) of South St. Paul’s municipal code. The Conditional Use Permit (CUP) is for a land use which is generally compatible with all other uses in the district where it is located but should not be permitted as a matter of right in every area within the district because of special circumstances that the use or location may present. As such, the Plan commission is obligated to find the following when considering this application:

**Conditional Use Permit Findings:**
- The proposed conditional use conforms to the general purpose and intent of the zoning code.
- The conditional use will not substantially diminish or impair property values within the neighborhood, and in consideration of this question the comparison of the use shall be with respect to uses that are permitted without a Conditional Use Permit in the district which the use is located.
- The conditional use will not impede the normal and orderly development and improvement of property in the neighborhood for uses permitted in the district affected.
- Adequate utilities, access roads, streets, drainage, and other necessary facilities have been provided.
- Adequate measures have been or will be taken to provide ingress and egress in such a manner as to minimize traffic congestion and hazards in the public streets.

**Alternatives / Proposed Conditions**

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

A. **Approval.** If the Planning Commission has reviewed the application and determined that the application is consistent with the requirements for a preliminary plat as well as the required findings for a Conditional Use Permit and Planned Unit Development, then staff would recommend the following conditions of approval:
Approval of the **Preliminary Plat** and **Conditional Use Permit for a Planned Unit Development** to be known as South Street Flats for the property located at 300 South Street; subject to the following conditions:

1) **Compliance with Plan Submittals.** The site shall be utilized in substantial conformance with the application, narratives, and plans as noted below, on file with the Department of Economic & Community Development, unless otherwise noted herein:

   a) Application (Dick Braun) dated 12/04/2019
   b) Narrative (Dick Braun) dated 12/04/2019
   c) South Street Flats Preliminary Plat Revision 3, Pages 1-12 dated 01/21/2020
   d) Stormwater Management Memorandum (Pioneer) dated 01/22/2020
   e) Architectural Elevations and Details including Supplemental info from 1/3/2020 email (Dick Braun) undated

2) **Final Plat Required.** An application for a final plat shall be submitted within 6 months from the date of preliminary plat approval. The applicant may seek an extension for submitting the final plat but such a request for extension must be submitted in writing and prior to expiration of the 6 months.

3) **Recording of the Final Plat and Association Documents.** No building permits shall be issued until the final plat, with associated By-Laws, Covenants, and Agreements, has been reviewed by the City and recorded at the Dakota County Recorder's office.

4) **Building Permits Required.** Building permits are required for the proposed improvements. All building plans and specifications are subject to the review and approval of the City Building Official, City Engineer, and South Metro Fire Marshall. The applicant accepts the following requirements noted by the City Building Official as conditions of approval:

   a) A fire sprinkler system will be needed for the proposed development. An NFPA 13D system or an IRC 2904 system will be required.

   b) The units will require a unit separation wall between them with a minimum 1-hour fire rating (Section R302.2). Said wall must extend from the foundation to the underside of the roof deck. The roof deck on either side of the wall will need to be constructed from flame retardant plywood to a distance of 4 feet on either side.

5) **Sign Permits Required.** The applicant shall file the necessary sign permit application and supplementary material as necessary and shall be subject to the review and approval of the City Planner. In addition, any application for signage in the future shall be considered and processed as an amendment to the Planned Unit Development.

6) **Revised Plans.** Revised plans shall be submitted prior to approval of a Final Plat to include the following:

   a) A revised landscape plan to include details of foundation/building
landscaping along the south elevation and west elevation, a landscape buffer between the proposed South Street access point and the adjacent twin-home to its immediate east, and any proposed vegetation strips for the north elevation between unit driveways. All maintenance and upkeep of the landscaped areas shall be the responsibility of the applicant, its successors/assigns, and/or the association created for this development. This includes guaranteeing the health and viability of all proposed landscape plantings.

b) A revised site plan should be submitted to reduce the radius of the South Street access point, and to include lighting of the guest parking area.

c) A lighting plan.

d) Revised architectural elevations and floorplans shall be submitted prior to approval of the final plat, to address the following:

i. Unit depths shall be increased by 6 feet.

ii. Revised elevations shall be submitted that integrate better delineation between individual units. The submitted floor plan indicates that units will be 19’ in width. The revised elevation shall integrate architectural elements at no more than 50’ intervals along both the South and North façade, which must include one or more of the following, at minimum:
   1. Change in building materials horizontally
   2. Change in palette/tone horizontally
   3. Variation of setback from South Street

iii. Revised elevations shall include the integration of an outdoor living space per unit for the development. A front porch element along the South Street frontage of the development, or balconies off the northern façade of the building shall meet this requirement.

iv. The revised architectural plan shall denote exterior materials and building heights.

7) **Off-street Parking, Driveways, and Walkways.** All off-street driveway and parking areas shall be hard-surfaced, enclosed in integral concrete curbing, and shall be privately owned and maintained. All pedestrian walkways installed as a part of the project shall be hard-surfaced and privately maintained. There shall be no parking or storage of boats, trailers, recreational equipment, or any other items that interfere with the routine parking and placement of passenger cars and trucks in the proposed townhome development. These restrictions shall be integrated into the Association By-Laws, Covenants, and/or Agreements.

8) **Refuse Containers.** The applicant indicates that all household refuse will be contained within individual containers per unit and that no centralized outdoor refuse containers will be provided for the site. All units and residences must have garbage hauling service, with containers stored inside the individual units when not being removed by said hauling service. Any revision to this approach that results in utilizing a centralized trash collection system (such as a single, large dumpster or more) will require an amendment to the PUD.

9) **Stormwater Plan and Maintenance Agreement.** The applicant is required to maintain their stormwater system to ensure that it functions properly. A stormwater
maintenance agreement will be required and an escrow for any stormwater maintenance improvements is required prior to issuance of building permits. The stormwater maintenance agreement shall be subject to the review and approval of the City Engineer. Items specific to the stormwater memorandum dated 1/22 that were addressed in the City Engineer’s January 29 email are incorporated into the conditions of approval, as follows:

a) The basin outlet pipe should be modified to match the bottom of the pond.
b) An outlet structure should be added to the pond to provide a secondary outlet to eliminate water leaving the pond from the emergency overflow swale except after the 100-yr event.
c) The 3" orifice should be constructed within the outlet structure weir wall for ease of cleaning as necessary. A screen placed in front of the 3" orifice could minimize the potential of clogging.
d) The applicant shall provide a copy of the final drainage calculations after conditions 10a – 10c above are addressed in the plan.
e) The applicant should indicate the emergency overflow from the pond on the grading plan.

10) Necessary Approvals from Other Agencies. The applicant shall obtain all necessary approvals/permits from the Minnesota Department of Natural Resource (DNR), Minnesota Pollution Control Agency (MPCA), Minnesota Department of Transportation (MnDOT), Dakota County and any other applicable regulatory agencies.

11) Compliance with Laws and Approvals. The property must remain compliant with all federal, state, and local laws and ordinances and all prior City approvals.

B. Denial. If the Planning Commission does not favor the proposed application or portions thereof, the above requested should be recommended for denial. If the Planning Commission recommends denial, then findings of the basis for denial should be given.

- Denial of the Preliminary Plat and Conditional Use Permit for a Planned Unit Development to be known as South Street Flats; for the following reasons:
  1. 

Staff Recommendation

Staff recommends approval of the Preliminary Plat and Conditional Use Permit for a Planned Unit Development for the property at 300 South Street, subject to the conditions stated in this report.
To: City of South Saint Paul  
From: Richard Braun  
Re: South Street Flats  
Date: December 4, 2019  

Thank you for taking the time to review the preliminary plat and Planned Unit Development (PUD) application for South Street Flats.

The Property:  
The property is generally flat and consists of .92 acres located in the Northeast corner of 5th Avenue and South Street at the south end of the City. Single Family homes exist to the north, low density residential twin homes directly to the east, commercial property to the south, and a high density apartment building across 5th Avenue to the west. There was previously a plat approved for a high density apartment building for this property. The feasibility for this apartment came into question after the preliminary approval and it was determined that it is not financially viable. The plat has subsequently expired. We are now requesting approval for an attached residential product. We believe this product is far more feasible in this market, in this location, and on a property of this size.

Land Use:  
The property is guided for high density residential under the 2030 comprehensive plan. This requires a density of 13-20 units/acre. We are not requesting a comp plan amendment.

Zoning:  
The current zoning is R-4 multi-family residential. We are requesting review of this application as a Planned Unit Development (PUD).

PUD Flexibility:  
The City requires 13-20 units/acre as per the 2030 comprehensive plan. In order to meet the minimum density and create a feasible development on a property of this size, we have come up with a solution using a high density attached single family product. We meet all required setbacks for Multifamily Development and R-4 Zoning Districts except the setback on the south to South Street. The ordinance requires a 25’ setback, we are proposing a 20’ setback. We are showing living area 20’ from the right of way. Many cities allow reduced setbacks to living space, with increased setback requirements to garage doors. We are only asking the City to allow this 5’ deviation to the living space in order to accommodate what we feel is the most feasible as well as highest and best use for this property.

Landscaping and Open Space:  
An attractive landscape plan for the property has been submitted to provide privacy and buffering for the new residents as well as providing buffering for the existing homes. We are proposing over 2 trees/unit. There is over 15,500 sf of pervious landscaped area on the property. This exceeds the 25% open space requirement.
Housing Product:
We are proposing 13-unit, 3-story row homes with one and two car tandem tuck under garages. These units will have two bedrooms, three bathrooms, main floor offices/family rooms and a sidewalk along south side exterior. It is anticipated that these homes will attract single professionals and young families.

A few stats of our proposed homes:
1. The total finished square footage will be between 1050-1350 sq. ft.
2. If units are to be sold, the anticipated sale prices will be $195,000-$225,000.
3. If units are to be rentals, we anticipate the rents to be $1800-$2300/month.
4. A home-owners association will be formed to assure consistent maintenance and upkeep of the structures as well as landscaping and common areas.
5. Exterior finishes will be a combination of natural and maintenance-free materials. Creative and high quality architecture will be attractive to new homeowners or renters.

We are excited to bring this new life-cycle housing option to South Saint Paul and we look forward to working with the City as we move forward in the approval process.
Ryan,

This is a concept plan that depicts the general look, layout of the buildings that will have exterior and interior product will far exceed the quality and style of the existing homes in the area. The exterior finishes, landscaping and architectural features shown on the rendering is market appealing. I think that the Shakes on the upper and horizontal siding on the bottom two levels with a wide Transition Band Trim and Corner Trim will not be a blank wall as you mention. I’m not opposed to adding a windows to the west and east sides if necessary or more gable detailing. We will create an Exterior elevation on the south side with alternative finishes or offset the building every 3 or 4 units to break-up the elevation.

We have the capability to add a patio door and deck off the living rooms on the north side, or are we allowed to ad a patio on the South Side into the 20’ setback, which is preferred?

The laundry rooms will be on the upper bedroom levels in the form a stacking washer/dryer. Garage level finished Office/Family rooms will have be finished same as the upper levels, ventilated and insulated.

EXTERIOR FINISHES:
- James Hardi Siding Shakes
- James Hardi Horizontal Siding
- James Hardi Trim (horizontal transition boards and vertical corners)
- Aluminum Soffits and Facia
- Architectural Shingles
- Vinyl Windows

We have no natural materials on the exterior, we decided to go with Aluminum soffits and facia instead of cedar...

INTERIOR FINISHES:
- There will be Many options for interior finishes, standards will generally we will have Hi-definition Formica counter tops, Enamed Flat stock base / casing – 2 or 3 Paneled interior doors / Custom Box Kitchen cabinets – engineered wood floors – Carpet in Bedrooms.

There is no one that wants this product to sell than me.

I hope I covered your questions and concerns.

Dick Braun
On Jan 3, 2020, at 7:26 AM, Ryan Garcia <rgarcia@southstpaul.org> wrote:

Oops, also, one question –

Do you have a list of materials for the building, and any samples? In the narrative, you mention it will be a “combination of natural and maintenance free materials”. If you can, please be more specific. Building interior and exterior would be great.

rg

Ryan Garcia
(p) 651.554.3278 | (m) 608.412.5154 | (f) 651.554.3271

From: Dick Braun <dick.braun@results.net>
Sent: Thursday, January 2, 2020 11:17 PM
To: Ryan Garcia <rgarcia@southstpaul.org>
Subject: PDF of South Street Flats

Good Morning Ryan, See Attached elevations of proposed Townhome units.
The floor plan is the small unit, we have flexibility to increase depth by 6’ which will help with laundry, storage and garage depth. The extra depth will allow us to create extra storage area, home office or possible 3rd bedroom.
I hope this information will suffice for the South Street Flats preliminary plat submittal package.
Let me know.
Thank you

Dick Braun

Begin forwarded message:
TOTAL GROSS AREA: 0.52 acres
NUMBER OF LOTS: 1
TOTAL LOT AREA: 0.52 acres
NUMBER OF COMMON LOTS: 1
TOTAL COMMON LOT AREA: 0.09 acres
GROSS DENSITY: 16.13 lots/acre
NET DENSITY: 14.15 lots/acre
Ryan Garcia

From: Len Evanoff <len@thehillcrestapts.com>
Sent: Thursday, January 2, 2020 2:11 PM
To: Ryan Garcia
Subject: Re: South Street Flats Proposal

I'm concerned about water drainage from the ENE corner Area of lot 15.
I'm also concerned about a privacy/ noise shield along the green space approx 8 to 10' from my fence for headlights & engine noise and snow removal from their driveway.
Len Evanoff

Get Outlook for Android

From: Ryan Garcia <rgarcia@southstpaul.org>
Sent: Thursday, January 2, 2020 2:47:46 PM
To: Len Evanoff <len@thehillcrestapts.com>
Subject: South Street Flats Proposal

Len –

Thank you for taking my call today.

If you could, please reply with a quick email with the comments you would like me to pass along to the Plan Commission and City Council as related to the proposed "South Street Flats" development at 5th and South. I'll get that into the public record.

Thank you!
Ryan.

Ryan Garcia | Director of Economic and Community Development
City of South St. Paul, Minnesota
125 Third Avenue North | South St. Paul, MN 55075
(p) 651.554.3278 | (m) 608.412.5154 | (f) 651.554.3271
(w) www.southstpaul.org (e) rgarcia@sspmn.org
Requested Action: The applicant (the City) is proposing an ordinance amendment that would alter the list of permitted and conditional uses in the Concord Gateway Mixed use District (GCMU). The proposed ordinance would add "body art establishments" as a permitted use, allow veterinary services as a permitted use, require Conditional Use Permits for churches and schools, and prohibit drive-through businesses in the GCMU-1 subdistrict while continuing to allow them with a Conditional Use Permit in the GCMU-2 subdistrict.

Summary Recommendation: Planning Division recommends approval of the requested actions subject to certain conditions of approval as outlined within the report.

Background Information

Applicant / Owner / Operator: The City of South Saint Paul

Tentative City Council Meeting: (1st) February 17th, 2020 and (2nd) March 2nd, 2020

60-day Review Period Deadline: NA

Proposal: The proposed ordinance would alter the list of permitted and conditional uses in the Concord Gateway Mixed-Use District.

Applicable Regulations & Standards: The Concord Gateway Mixed-Use District is governed by City Code Section 118-125.

Background:

The City Council had a discussion at their January 13th workshop regarding a proposed tattoo parlor at 103 Concord Exchange North. This property is located in the Concord Gateway Mixed-Use District (GCMU). Staff noted that, under current regulations, tattoo parlors are only allowed in the commercial/industrial “General Business” zoning district and are prohibited from operating in any of the City’s mixed-use zoning districts. This prohibition likely dates back to an earlier era when tattoo parlors (body art establishments, as they are called by the Code) were considered a somewhat unsavory use that should be kept separate from the City’s main commercial activities. Nowadays, it is not at all unusual to see a tattoo parlor in a central business district and they are routinely accepted as a mainstream business. Many cities, including South St. Paul, require a license for tattoo parlors and use the licensing process to ensure that health and
safety requirements are being satisfied. Licenses can be revoked if a business violates the provisions of its license.

The City Council reached an informal consensus following their workshop discussion. The City Council feels that there is no longer any reason to prohibit tattoo parors in this part of the city. Further, they feel that the Conditional Use Permit requirement that is in place in the General Business District is not necessary in the GCMU district. The City Council directed Staff to move forward with an ordinance amendment that would allow “body art establishments” as a permitted use in the GCMU provided that licensing requirements are met. Staff is also moving forward with several other minor zoning revisions to the GCMU rules for issues that have been identified in previous conversations with the City Council as needing attention:

- Requiring a Conditional Use Permit for churches and schools.
- Allowing veterinary services but requiring a Conditional Use Permit for it (currently the Code states that medical and dental services may only be offered to humans in this district)
- Prohibiting drive-through facilities in the GCMU-1 area, which is the GCMU subdistrict that is intended to be especially pedestrian friendly. This is the northern end of the GCMU area.
- Continuing to allow drive-through facilities with a Conditional Use Permit in the GCMU-2 area, which is the GCMU subdistrict that is intended to be more accommodating of auto-oriented uses. This is the southern end of the GCMU area.

Attachments:

A. Map Showing Affected Zoning Districts
B. Planning Commission Resolution 2020-02
C. Correspondence from public hearing notices
D. Draft Section 118-125 Concord Gateway Mixed-Use District

Evaluation of the Request
What would the proposed ordinance do?

The proposed ordinance amendment would result in the following changes to the Concord Gateway Mixed Use District:

- Allow body art establishments as a permitted use if licensing requirements are met.
- Require a Conditional Use Permit for churches and schools.
- Allow veterinary services with a Conditional Use Permit (currently the Code states that medical and dental services may only be offered to humans in this district)
- Prohibit drive-through facilities in the GCMU-1 area, which is the GCMU subdistrict that is intended to be especially pedestrian friendly. This is the northern end of the GCMU area.
- Continue to allow drive-through facilities with a Conditional Use Permit in the GCMU-2 area, which is the GCMU subdistrict that is intended to be more accommodating of auto-oriented uses. This is the southern end of the GCMU area.
How would the proposed ordinance impact existing land uses?

Staff believes that "body art establishments" could complement the eclectic blend of small businesses that are already operating along Concord Exchange. The comprehensive plan promotes the idea of "nurturing a craft economy" of local artisans. The Concord Exchange is ideally suited to be home to this "craft economy" due to the character of the existing buildings. Participants in the craft economy are frequently drawn to small/affordable buildings with historic character. Body art establishments go well with the idea of the "craft economy."

The proposed ordinance would not render any existing land uses "nonconforming." There are no existing drive-through facilities in the GCMU-1 district.

Staff is not aware of any existing schools or churches located in the district. Staff would note that these uses will continue to be allowed, they will just require a Conditional Use Permit so that the City has additional oversight.

What is the process and timeline for the proposed ordinance amendment?

Process- The Planning Commission would review the proposed ordinance amendment, making a recommendation, and the ordinance would be forwarded to the City Council to be considered; two readings are required for a new ordinance amendment.

Timeline – The first reading for this item would be at the February 17th, 2020 City Council meeting and the 2nd reading would be scheduled for the March 2nd, 2020 If approved by the Council, the ordinance would be in effect after its summary publication in the newspaper.

Alternatives / Proposed Conditions

Code Amendment:

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

A. Approval. If the Planning Commission does favor the proposed zoning changes as proposed, or as amended by the Planning Commission, then the Planning Commission should approve of Planning Commission Resolution 2020-02.

B. Denial. If the Planning Commission does not favor the proposed zoning changes as proposed, or as amended by the Planning Commission then the Planning Commission should recommend denial of Planning Commission Resolution 2020-02.

Staff Recommendation
Staff recommends approval of Planning Commission Resolution 2020-02 to modify the permitted and conditional uses in the Concord Gateway Mixed Use District.
City of South St. Paul
Dakota County, Minnesota

PLANNING COMMISSION
RESOLUTION NUMBER 2020-02

RECOMMENDING APPROVAL OF AMENDMENTS TO SECTION 118-125 OF THE CITY CODE CHANGING THE LIST OF PERMITTED AND CONDITIONAL USES IN THE CONCORD GATEWAY MIXED-USE ZONING DISTRICT

WHEREAS, the City Code establishes certain standards for development in the City of South St. Paul, including standards for permitted and conditional uses in the Concord Gateway Mixed-Use District (CGMU); and

WHEREAS, the City of South St. Paul has proposed to amend zoning code Section 118-125 regarding the Concord Gateway Mixed-Use Zoning (CGMU) District; and

WHEREAS, the proposed code amendment would allow body art establishments as a permitted use, subject to licensing requirements; and

WHEREAS, the proposed code amendment would allow medical uses for animals as a conditional use; and

WHEREAS, the proposed code amendment would require a Conditional Use Permit for churches and schools (public or private). These are all uses that are currently listed as permitted; and

WHEREAS, the proposed code amendment would continue to allow drive through facilities with a conditional use permit in the CGMU-2 subdistrict but would prohibit drive-through facilities within the CGMU-1 subdistrict; and

WHEREAS, the Planning Commission held a public hearing on the proposed resolution at their February 5, 2020 meeting; and

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of South St. Paul, Minnesota, as follows:

1. Approval of amendments to Section 118-125 of the City Code, changing the list of permitted and conditional uses that are allowed in the Concord Gateway Mixed-Use zoning districts.

Adopted this 5th day of February, 2020.
ATTEST:

Chair

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

(a) **Purpose.** The purpose of the Concord Gateway mixed-use (CGMU) district is to provide an area for compact, mixed-use development made mutually compatible through a combination of careful planning, urban design and coordinated public and private investment. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. The placement of building edges and the treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian-friendly environment envisioned for the CGMU. The standards in this section are intended to implement and effectuate the principles and relationships established in the city's Concord Gateway Framework Plan, a copy of which is on file in the office of the city clerk, which will be carried out through specific standards related to site planning, signage, architecture, building materials, and landscaping. The CGMU is divided into two subdistricts, CGMU-1 and CGMU-2, as depicted on the official zoning map.

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

1. Accessory store, apparel.
2. Altering, pressing and repair of wearing apparel.
3. Appliance store.
4. Art gallery.
5. Bakery.
6. Banks and other financial institutions without drive-through facilities.
7. Barbershop.
8. Beauty shop.
9. **Body art establishment (pursuant to licensing requirements)**
11. Cafe, cafeteria, restaurant, or delicatessen, without drive-through facilities.
12. Camera store.
13. Candy, nut or confectionery store.
14. **Church.**
15. Club or lodge, private.
16. Copy service or printing service.
17. Department store.
18. Flower shop.
19. Furniture store.
20. Gift, novelty, or souvenir store.
22. Hardware store.
23. Hotel or motel.
25. Laundromat or dry cleaning.
26. Library.
(26) Locksmith.
(27) Luggage store.
(28) Machines, business sales and service.
(29) Magazine stand or newsstand.
(30) Massage therapy (licensed pursuant to article XII of chapter 18 of the City Code).
(31) Meat market for retail sale to the public.
(32) Medical or dental office or clinic (for humans only).
(33) Museum.
(34) Musical instrument and musical recordings store.
(35) Notions store.
(36) Office.
(37) Optician.
(38) Painting, wallpaper and decorating store for retail sales and service.
(39) Pet store.
(40) Repair and servicing of items the sale of which is permitted in this district.
(41) Residential multifamily dwelling units, if within a structure containing at least four units.

(42)—School—public or private.

(4242) Shoe store.

(4243) A small wireless facility, as defined in section 54-402, that is located in the right-of-way, as long as all provisions of sections 54-400—54-429 have been met.

(4244) Sporting goods store.

(4245) Stationery store.

(4246) Tanning salon.

(4247) Tobacco store.

(4248) Toy store.

(4249) Variety store.

(4250) Video sales and rental.

(c) Accessory uses. Within the CGMU-1 or CGMU-2 subdistricts, the following uses shall be permitted accessory uses:

(1) Off-street parking of automobiles for patrons or employees of a permitted use.

(2) Off-street loading areas as regulated herein.

(3) Signs, fences, and decorative landscape features as regulated herein.

(4) Customary uses incidental to the principal use as determined by the city council.

(d) Conditional uses, CGMU-1. Within the CGMU-1 subdistricts, no structure or land may be used for any of the following uses except by conditional use permit:

(1) On-sale and off-sale liquor establishments as regulated by this Code.

(2) Amusement or entertainment, as defined and regulated by this Code.

(3) Church
(3) Drive-through facilities for a permitted use, if provisions for vehicle stacking, vehicle maneuvering, outdoor speaker devices, appearance and lighting of outdoor menu boards, and other related matters can be shown to be in keeping with the intent and character of the CGMU district and compatible with surrounding uses.

(4) Medical uses (for animals)

(45) Residential dwelling units within the same building as nonresidential uses, if provisions for parking, security, noise, odors, and other related issues affecting the residential units can be shown to be handled adequately and in keeping with the best interests of the residents.

(56) Theaters.

(77) School, public or private.

(68) Parking ramps or parking garages.

(79) Buildings in excess of 50 feet in height, if such buildings will not block significant views from existing uses or views to significant features within the CGMU district, and if such buildings can be shown to be in keeping with the intent and character of the CGMU district and compatible with surrounding uses.

(810) Any permitted use or any other conditional use, if 10,000 square feet or more in gross floor area, if such use can be shown to be in keeping with the intent and character of the CGMU district and compatible with surrounding uses.

(911) Other uses determined by the city council to be similar in purpose and character to other permitted or conditional uses in this district.

(e) Conditional uses, CGMU-2. Within the CGMU-2 subdistricts, no structure or land may be used for the following uses, except by conditional use permit:

1. Any conditional use allowed in the CGMU-1 subdistrict.
2. Automobile and truck service uses.
3. Equipment and vehicle rental.
4. Gasoline service stations, auto repair, sales, and storage.
5. Automobile car wash.

(7) Drive-through facilities for a permitted use, if provisions for vehicle stacking, vehicle maneuvering, outdoor speaker devices, appearance and lighting of outdoor menu boards, and other related matters can be shown to be in keeping with the intent and character of the CGMU district and compatible with surrounding uses.

(f) Lot area, lot width, and yard requirements. The following standards apply to both the CGMU-1 and CGMU-2 subdistricts.

1. Principal structure setback standards shall be as follows:

<table>
<thead>
<tr>
<th>Yards</th>
<th>Build-to line (0—10 feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front yard:</td>
<td></td>
</tr>
<tr>
<td>Side yard/interior:</td>
<td>0 feet minimum</td>
</tr>
<tr>
<td>Side yard/corner:</td>
<td>Build-to line (0—10 feet)</td>
</tr>
</tbody>
</table>
(2) Accessory structure setback standards shall be as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>Minimum Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rear yard</td>
<td>5 feet minimum</td>
</tr>
<tr>
<td>Side yard (street)</td>
<td>20 feet minimum</td>
</tr>
<tr>
<td>Side yard</td>
<td>0 feet minimum</td>
</tr>
<tr>
<td>Front yard</td>
<td>20 feet minimum</td>
</tr>
</tbody>
</table>

(3) Parking setback standards shall be as follows:

<table>
<thead>
<tr>
<th>Location</th>
<th>Minimum Setback</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rear yard</td>
<td>5 feet minimum</td>
</tr>
<tr>
<td>Side yard (street)</td>
<td>5 feet minimum</td>
</tr>
<tr>
<td>Side yard</td>
<td>5 feet minimum</td>
</tr>
<tr>
<td>Front yard</td>
<td>5 feet minimum</td>
</tr>
</tbody>
</table>

(4) In the CGMU district in the front yard, a build-to-line is established which provides a minimum and maximum front setback for buildings and other structures, from the right-of-way or property line. The minimum front building setback shall be zero feet, and the maximum shall be ten feet from the right-of-way or property line, for all properties on streets within the CGMU-1 subdistrict.

(5) For parking, different minimum setbacks apply, but there is no maximum.

(6) For all properties within the CGMU district, the required setbacks to Concord Street shall follow the rear yard setbacks above.

(7) In the CGMU-1 subdistrict, at least 60 percent of the street frontage of any lot shall be occupied by building facades meeting the build-to line. Other portions of a building beyond the 60 percent may be set back farther than required by the build-to line.

(8) In the CGMU-2 subdistrict, at least 40 percent of the street frontage of any lot shall be occupied by building facades meeting the build-to line. Other portions of a building beyond the 40 percent may be set back farther than required by the build-to line. The length of the building facade shall be measured as the maximum width of the building projected to the front lot line on lines perpendicular to the front lot line.
(9) On lots with more than one street frontage, the build-to line shall apply on each side fronting a street.

(10) The build-to line may be met either with an enclosed building or an arcade constructed with a permanent roof of the same materials as the remainder of the building.

(11) At least the first and second floor must meet the build-to line. Arcades at street level and terracing of building facades above the second floor are encouraged.

(12) At a minimum, the first 50 feet of the lot frontage on either side of a street intersection must be occupied by buildings meeting the build-to line. Parking or other space open to the sky is not allowed within this first 50 feet.

(13) Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements to a minimum height of two and one-half feet and a maximum height of three and one-half feet above the level of the parking lot at the build-to line.

(14) New parking structures (including garages) shall maintain a setback equal to the setbacks required in this section for other structures, except that where such parking structure is adjacent to other parking in a side or rear yard condition, the parking structure may have a zero setback. Where a new parking structure is adjacent to an existing use in a side or rear yard condition, the parking structure must maintain at least a ten-foot setback.

(15) Drive-through or drive-in lanes are not allowed within the build-to line or in front of any building; they must be located to the side or rear of a building.

(16) "Building height" means the vertical distance from the average elevation of the adjoining ground level or the established grade, whichever is lower, to:
   a. The top of the cornice of a flat roof;
   b. The top of a mansard roof;
   c. A point directly above the highest wall of a shed roof;
   d. The uppermost point of a round or other arch-type roof; or
   e. The mean distance from the eave line to the peak of the highest gable on a pitched or hip roof.

(17) The maximum height of buildings in the CGMU district shall be 50 feet, except as allowed by conditional use permit. The minimum height shall be 24 feet in the CGMU-1 subdistrict and 16 feet in the CGMU-2 subdistrict.

(g) Parking.

(1) Parking for residential units in the CGMU district shall be provided on site, and shall be calculated as required under article VII of this chapter. The residential parking spaces shall be specifically reserved for the use of residents and visitors only, separate from any commercial, office, or other uses on site or nearby, and shall not be counted as part of any shared parking or joint parking arrangement. Parking in driveways at the rear of townhomes may be counted towards the requirements of this regulation if it does not interfere with other traffic movement.

(2) Parking for nonresidential uses shall be as required under article VII of this chapter. If present, on-street parking directly in front of a given building or lot shall count toward fulfilling the total parking requirement.

(3) On-grade parking is prohibited in the front yard directly in front of a building. Parking shall be provided to the side or rear of buildings in midblock areas.

(4) In the CGMU-1 subdistrict where parking fronts a public street, the maximum parking lot width shall be 65 feet measured at the lot frontage.
(5) In the CGMU-2 subdistrict where parking fronts a public street, the maximum parking lot width shall be 130 feet, measured at the lot frontage.

(6) Parking shall be prohibited within 50 feet of the intersection of any public streets within the CGMU district.

(h) Building and architectural provisions.

(1) All buildings shall be designed to accomplish the goals and policies of the comprehensive plan and the framework plan. Building materials shall be attractive in appearance, durable with a permanent finish, and of a quality that is consistent with the standards and intent of the framework plan. Where appropriate, buildings shall carry over materials and colors of adjacent buildings, with the exception of prohibited materials.

(2) All buildings shall include the following elements:
   a. Accent materials, which shall be wrapped around walls that are visible from a public street or open space;
   b. Buildings containing office and retail uses shall maintain 40 percent minimum window coverage on each first floor front that faces a street or public open space;
   c. Complimentary major material colors;
   d. A combination of vertical and horizontal pattern designs in the building facade.

(3) Any exterior building wall adjacent to or visible from a public street, public open space, or abutting property may not exceed 50 feet in length without significant visual relief consisting of one or more of the following:
   a. The facade shall be divided architecturally by means of significantly different materials or textures;
   b. Horizontal offsets of at least four feet in depth;
   c. Vertical offsets in the roofline of at least four feet; or
   d. Fenestration at the first floor level that is recessed horizontally at least one foot into the facade.

(4) Building facades shall be divided into similar bays of roughly equal width between 20 and 40 feet in width.

(5) Exterior building materials shall be classified primary, secondary, or accent materials. Primary materials shall cover at least 60 percent of the facade of a building. Secondary materials may cover no more than 30 percent of the facade. Accent materials may include door and window frames, lintels, cornices, and other minor elements, and may cover no more than ten percent of the facade. Allowable materials are as follows:
   a. Primary exterior building materials may be brick, stone, or glass. Bronze-tinted or mirror glass are prohibited as exterior materials.
   b. Secondary exterior building materials may be decorative block or integrally-colored stucco.
   c. Synthetic stucco may be permitted as a secondary material on upper floors only.
   d. Accent materials may be wood or metal if appropriately integrated into the overall building design and not situated in areas that will be subject to physical or environmental damage.
   e. All primary and secondary materials shall be integrally colored.
   f. Decorative block shall be colored only by means of a pigment integral to the block material, not applied to the surface.
   g. All primary and secondary materials shall be earth tones, compatible with and complimentary to the natural stone and brick of existing historic buildings in the district.
h. Sheet metal, corrugated metal, asbestos, iron, shakes, and plain flat concrete block (whether painted or integrally colored or not) are not acceptable as exterior wall materials on buildings within the Concord Gateway district.

(6) All mechanical equipment, whether roof-mounted or ground-mounted, shall be completely screened from ground-level view of adjacent properties and public streets, or designed to be compatible with the architectural treatment of the principal building.

(7) All exterior trash enclosures or other accessory structures shall be constructed of the same materials and colors as the principal building.

(8) Consistent interior window treatments are required for windows that are visible from a public street or open space in offices and multiple residential complexes.

(9) All buildings containing nonresidential uses on the ground floor shall meet the following standards:
   a. The building shall have entrances to a street or public open space spaced no more than 100 feet apart.
   b. Entrances shall be oriented conveniently to the street frontage and to on-street and off-street parking serving the use.

(10) All buildings containing residential uses on the ground floor shall have a first floor elevation at least two and one-half feet above the adjacent street level in the front yard.

(11) All trash, recyclable materials, and equipment for handling them, including compactors, shall be totally screened from eye-level view from public streets and adjacent properties, whether in the front, side or rear, either by being stored within the principal structure or stored within an accessory structure enclosed by a roof and readily served through swinging doors or an overhead door on tracks.

(12) Loading docks shall not be located in the front yard and shall be completely screened from eye-level view of public streets and public open spaces by means of landscaping which is at least 80 percent opaque year-round within two years after planting, or by a screen wall of the same materials and colors as the principal building.

(13) All landscaping shall comply with the following provisions:
   a. All land area not occupied by buildings, parking, driveways, sidewalks, or other hard surface shall be sodded or mulched and landscaped with city-approved ground cover, flowers, shrubbery and trees.
   b. At least ten percent of the total land area within the perimeter of private parking and driveway areas shall be landscaped. Landscaped areas provided within the build-to line may be credited toward this ten percent landscaping requirement on a square-foot-for-square-foot basis, for up to half of the ten percent requirement, or five percent.
   c. Parking lot landscaped islands shall be a minimum of 150 square feet in area and include at least one overstory or evergreen tree meeting the requirements of this article.
   d. Where parking abuts the site perimeter there shall be provided at least one overstory tree per 25 feet of site perimeter.
   e. At least one overstory tree shall be provided for every 500 square feet of landscaped area on the entire site.
   f. The landscape plan shall include a full complement of overstory, ornamental and evergreen trees, shrubbery, and ground covers that are hardy and appropriate for the locations in which they are planted, and which provide year-round color and interest.
   g. Plant selection shall be as follows:
1. The following trees may not be used to satisfy the landscaping requirement of this section:

<table>
<thead>
<tr>
<th>Acer negundo</th>
<th>Box elder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acer saccharinum</td>
<td>Silver maple</td>
</tr>
<tr>
<td>Catalpa speciosa</td>
<td>Northern catalpa</td>
</tr>
<tr>
<td>Elaeagnus</td>
<td>Russian olive</td>
</tr>
<tr>
<td>Ginkgo Biloba</td>
<td>F. Ginkgo (female prohibited, male permitted)</td>
</tr>
<tr>
<td>Morus alba</td>
<td>Mulberry</td>
</tr>
<tr>
<td>Populus deltoides</td>
<td>Cottonwood</td>
</tr>
<tr>
<td>Populus species</td>
<td>Poplars</td>
</tr>
</tbody>
</table>

2. The following trees may be used to satisfy the landscaping requirement of this section, but only in areas that are reasonably protected from winter wind conditions:

<table>
<thead>
<tr>
<th>Picea pungens glauca</th>
<th>Colorado blue spruce</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinus alba</td>
<td>White pine</td>
</tr>
<tr>
<td>Pinus resinosa</td>
<td>Red pine</td>
</tr>
</tbody>
</table>

3. The following trees may be used to satisfy the landscaping requirement of this section, but only in areas that are not on or immediately adjacent to a public street boulevard:

<table>
<thead>
<tr>
<th>Tilia cordata</th>
<th>Little leaf linden</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fraxinus mandshurica mandana</td>
<td>Mancana ash</td>
</tr>
</tbody>
</table>

(14) Reserved.
(15) Lighting in the CGMU district shall be subject to the following:

a. All exterior lighting in the CGMU district shall be downcast cutoff type fixtures and shall follow the styles and types identified in the framework manual. No light source may be more than 16 feet above the ground, except by conditional use permit for buildings more than 20 feet in height.

b. The applicant for any building project shall provide a photometric lighting diagram prepared by a qualified professional showing light levels, in footcandles, from all exterior artificial lighting for all points on and within ten feet of the site.

c. Lighting levels in exterior parking areas shall average one-half footcandle with a minimum of one-tenth footcandle in all locations.

d. Lighting levels in interior parking areas shall average two footcandles, with a minimum of one-half footcandle in all locations.

e. Lighting levels shall not exceed one-half footcandle at the abutting property line or right-of-way line, and no direct glare from lighting on site shall extend onto the public street, public open space or neighboring properties.

(l) Nonconforming uses. Nonconforming buildings and sites can be maintained through repair and maintenance. Nonconforming buildings and sites that are damaged 50 percent or less of their market value may be rebuilt. Nonconforming buildings and sites may be expanded up to ten percent of their floor area or assessed value, provided the expansion is consistent with the zoning that existed prior to the effective date of the ordinance from which this section is derived. Expansion of nonconforming buildings or sites between ten percent and 50 percent of their floor area or assessed value will be required to come into reasonable partial compliance with the provisions of this section as determined by the development review committee. Expansion of nonconforming buildings or sites or rebuilding of sites or buildings damaged by more than 50 percent of market value is not allowed unless the entire building and site is brought into compliance with this section.

(j) Administration. Permitted uses in the CGMU-1 or CGMU-2 subdistricts must first be submitted to the city, in accordance with the site plan provisions of this chapter, which shall determine conformance of the proposed projects, with the intent and requirements of this section. All development plans are subject to city council review and approval. Conditional use permits shall be processed in accordance with section 118-40.

(k) Prohibited uses. The following uses of land or buildings in the CGMU are prohibited:

(1) State-licensed residential care facilities;

(2) Housing with services establishments registered under Minn. Stat. ch. 144D;

(3) Within the CGMU-1 or CGMU-2 subdistricts, no structure or land may be used for small wireless facilities located outside of the right-of-way.