

BOARD OF ZONING APPEALS STAFF REPORT
=====

TYPE OF APPLICATION: Major Variance **FILE:** #17-000219

APPLICANT: JOEY CRARY, INDIGO SIGN WORKS

HEARING DATE: February 13, 2017

LOCATION: 1770 OLD HUDSON ROAD

LEGAL DESCRIPTION: Section 34 Town 29 Range 22 Part Sly Of Old Hudson Rd And Nly Of Hwy 392 And W Of White Bear Ave Of E 196 00/100 Ft Of Se 1/4 Of Sec 34 Tn 29 Rn 22

PLANNING DISTRICT: 1

PRESENT ZONING: T3

ZONING CODE REFERENCE: 64.503(a)(6) & 64.625
Sunray-Battle Creek-Highwood White Bear

REPORT DATE: January 25, 2017 **BY:** Karen Zacho

DEADLINE FOR ACTION: March 3, 2017

DATE RECEIVED: January 3, 2017

A. **PURPOSE:** Two variances of the sign code requirements in order to reface the existing sign on the southwest corner of the intersection of Old Hudson Road and White Bear Avenue with a dynamic display (electronic messages) for the Holiday gas station that is being rebuilt. 1) The text and images on the sign must have only one color; the applicant is requesting that the text and images have full color. 2) Signs shall not change the display faster than every 20 minutes; the applicant is requesting that their sign change every 30 seconds.

Two variances of the sign code requirements in the White Bear Avenue special district sign plan overlay to construct a new freestanding business sign along I-94 on the southwest corner of the Holiday gas station property. 1) New freestanding signs are permitted in the overlay district only for buildings that have a setback of at least 35 feet from the right-of-way; the Holiday gas station building will have a setback of 5.5 feet from the south property line; the applicant is requesting a variance to allow a freestanding sign within the setback area. 2) Freestanding signs have a height limit of 20 feet, the applicant is requesting a 37.5-foot high sign, for a height variance of 17.5 feet.

- B. SITE AND AREA CONDITIONS:** The site of the new Holiday gas station is bounded by Old Hudson Road on the north, White Bear Avenue to the east, and Hwy I-94 to the south.

Surrounding Land Use: Commercial businesses on the west, north, and east sides, and I-94 Hwy to the south.

C. ZONING CODE CITATION:

64.503(a)(6) – T1—T4 traditional neighborhood and OS—BC business districts. Dynamic displays shall be monochromatic, shall not scroll or change their displays faster than every twenty (20) minutes, and shall be turned off between 11:00 p.m. and 7:00 a.m. or after business hours, whichever is later, except that interior window signs six (6) square feet or less in area with only text providing only open/closed information may have more than one (1) color.

Sec. 64.625. - White Bear Avenue special district sign plan. (7)

Pole signs can bring a business with a setback up to the street. Like projecting signs, pole signs are effective for both vehicular and pedestrian traffic, but they also can be a source of sign clutter. Pole signs are permitted for individual buildings that are occupied by a single business and that have a setback from the street right-of-way of thirty-five (35) feet or more. Pole signs shall use as little structure as possible, shall be stationary, and shall be no higher than twenty (20) feet above grade at the highest point. Structural elements of the sign should be painted black or another dark color.

D. BACKGROUND:

This property was previously used as a gas station/car wash. In October, 2015, the property was rezoned from B3, commercial business zoning district, to T3, traditional neighborhood zoning district, for the Gold Line Bus Rapid Transit Station Development. The T3 zone is more restrictive for signage than the B3 district. There are currently three commercial businesses at this intersection; two have full color electronic message centers and one is monochromatic.

E. FINDINGS:

1. *The variance is in harmony with the general purposes and intent of the zoning code*

The applicant was hired by Holiday gas station to create a signage plan for the new construction of a gas station/convenience store/carwash. Sign a) The owner is proposing a full color dynamic display sign in the same location as the existing freestanding sign on the northeast corner of the property. Sign b) The owner is also proposing a 37.5' high pylon sign on the southwest corner approximately 5.5' from the south property line.

Sign a) In October, 2015, the parcel was rezoned to a T3, traditional neighborhood zoning district. Prior to the rezoning, all of the property owners received written notification about the rezoning. This district limits the sign display to monochromatic; the dynamic display sign copy can change no faster than once per 20

minutes; and the display must be turned off between 11 p.m. and 7 a.m. or after business hours, whichever is later. Holiday has not requested a variance of the requirement to turn off the display sign as specified. The applicant says the signage frame being re-used is similar to other signs located on the property to the north, Super America, and to the north-east, Subway, and they want to have similar dynamic displays on their sign. The Super America sign is full color and when staff timed it, it changed every five minutes. The Subway sign is full color and changes about every 11 seconds. In order to be competitive with the other commercial businesses, the applicant says Holiday needs to have a full color sign which changes copy more frequently than the allowed every 20 minutes.

Sign b) The intent of the White Bear Avenue Special Sign District Plan is to provide strong, clear identification of businesses and to reduce sign clutter. The sign plan provides a unified framework that will enhance the image of the business districts and foster pride in the adjacent neighborhoods. However, the Plan stipulates that a pole sign must be located 35' from the right-of-way at a maximum height of 20'. Due to the grade difference between the property to the west and the Holiday gas station, the owner is concerned that the pylon sign would be hidden behind the wall of the building to the west and would not be visible soon enough for traffic traveling east on I-94 to take the exit. While the Plan supports pole signs they can also be a source of clutter. The Plan states the signs shall have minimal structure and the framework should be painted black or another dark color. The applicant is proposing a dark blue frame with LED lighting along the framework where the sign is located. The sign shall have a programmable dimmer capability which would limit the brightness.

This request conforms to the provisions of Section 64.207, the findings necessary for sign variances, as follows:

a. The variance is due to unusual conditions pertaining to sign needs for a specific building or lot.

The Holiday gas station/convenience store/car wash is a new business with a new building, it is important to provide signage that is clear and readable from roadways while blending with the existing signage in the neighborhood in terms of size and clarity. This finding is met for both variance requests.

b. The sign would not create a hazard.

The proposed signs would not create a hazard. This finding is met for both variance requests.

c. The sign would not be objectionable to adjacent property owners.

Objections to this request have been raised from the Super America station to the north and from the district council. This finding is not met for both variance requests.

d. The sign would not adversely affect residential property through excessive glare and lighting.

The nearest residentially zoned property is located over 175 feet to the east and the applicant has been informed that the maximum illumination level for Sign a) with dynamic display may not exceed 0.3 foot candles above ambient light level as measured from fifty feet from the sign's face. Sign b), located along I-94 and not near residential uses should not adversely affect residential property through excessive glare and lighting. Both signs will have programmable dimming capability to lower the brightness if it becomes an issue. This finding is met for both variance requests.

Sign a) In proposing a dynamic display sign at this location, the applicant's goal is to provide clear identification for the new business comparable to other signs at the intersection. However, the property has been rezoned to T3 and the intent of traditional neighborhood zoning is to put further restrictions on dynamic display signs and there have been objections raised to the proposed sign. This request is not in keeping with the intent of the code.

Sign b) A taller sign at this location would not be in keeping with the intent of the code as noted in the White Bear Avenue Special Sign District Plan and there have been objections raised to the proposed sign. This request is not in keeping with the intent of the code.

This finding is not met for both variance requests.

2. *The variance is consistent with the comprehensive plan.*

The proposed sign will provide greater visibility for the new gas station/convenience store/car wash. This request is in keeping with the goals of the comprehensive plan to coordinate business signs to achieve greater consistency among businesses. This finding is met.

3. *The applicant has established that there are practical difficulties in complying with the provision that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

Sign a) A freestanding sign for the previous gas station/car wash was in the same location but was not a sign with dynamic display. New dynamic display signs must meet current regulations. A monochromatic sign changing copy every 20 minutes, meeting the current regulations, is not a practical difficulty. This finding is not met for Sign a).

Sign b) The applicant says the wall of the adjoining building would limit the view of the freestanding sign at 20 feet in height from I-94 with sufficient time to exit the freeway. This finding is met for Sign b).

4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

Sign a) The landowner, at the time of the Gold Line Bus Rapid Transit Station Development Study would have received notification about the rezoning and should have been aware of the restriction on signage for the property under the new T3 zoning. This finding is not met for Sign a).

Sign b) The applicant says the commercial building to the west and a line of trees would block out visibility for customers. This finding is met for Sign b).

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

Signs are permitted in all zoning districts and the requested variances would not change the zoning classification of the property. This finding is met for both signs.

6. *The variance will not alter the essential character of the surrounding area.*

Sign a) The proposed sign is located in a traditional neighborhood zoning district; the dynamic display sign as proposed is in keeping with the essential character of the neighborhood. This finding is met for Sign a).

Sign b) The pylon sign at the height proposed is in keeping with the general character of the surrounding area but does not meet the regulations noted in the White Bear Avenue Special Sign District Plan. This finding is not met for Sign b).

- F. **DISTRICT COUNCIL RECOMMENDATION:** Staff has received a recommendation from District 1 to deny both sign variances.
- G. **CORRESPONDENCE:** Staff has received a letter from the business owner at 1771 Old Hudson stating concern regarding Sign b).
- H. **STAFF RECOMMENDATION:** Based on findings 1, 3, 4, and 6, staff recommends denial of the variances for both signs.