



Application for Appeal

Department of Safety and Inspections

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Saint Paul, MN 55101

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RECEIVED

APR 12 2017

By: City of St Paul DSI

check

Zoning office use only

File # 17-000219

Fee

Tentative hearing date:

Appellant

Name Holiday Stationstores C/O Jake Bauer

Address 4567 American Blvd. West

City Bloomington, MN St. Zip 55437 Daytime phone 952 830-8839

Name of owner (if different) Zephyr Group LLP

Property Location

Address 1770 Old Hudson Road

Zoning file name 17-000219

Legal description: PIN 34.29.22.44.0001 Abbreviated legal 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

(attach additional sheet if necessary)

Type of Appeal: Application is hereby made for an appeal to the:

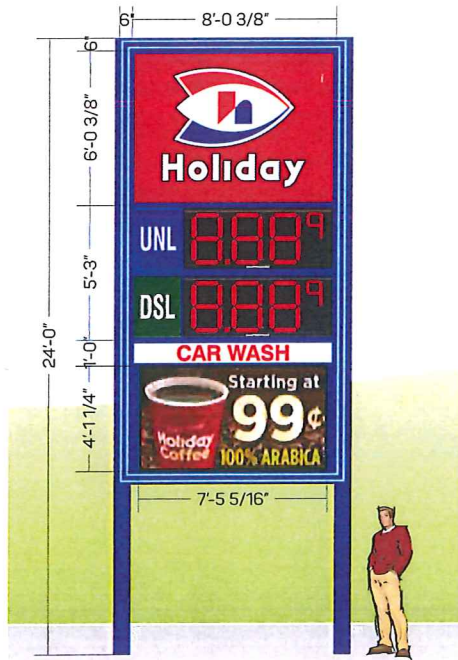
- Planning Commission, under the provision of Chapter 61, Section 701, Paragraph C of the Zoning Code, of a decision made by the Planning Administrator or Zoning Administrator
City Council, under the provision of Chapter 61, Section 702, Paragraph A of the Zoning Code, of a Decision made by the Planning Commission
Board of Zoning Appeals (BZA), under the provisions of Chapter 61, Section 701, Paragraph C of the Zoning Code, to appeal a decision made by the BZA on 4/10/17 File Number 17-000219 (date of decision)

Grounds of Appeal: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission, City Council, or BZA.

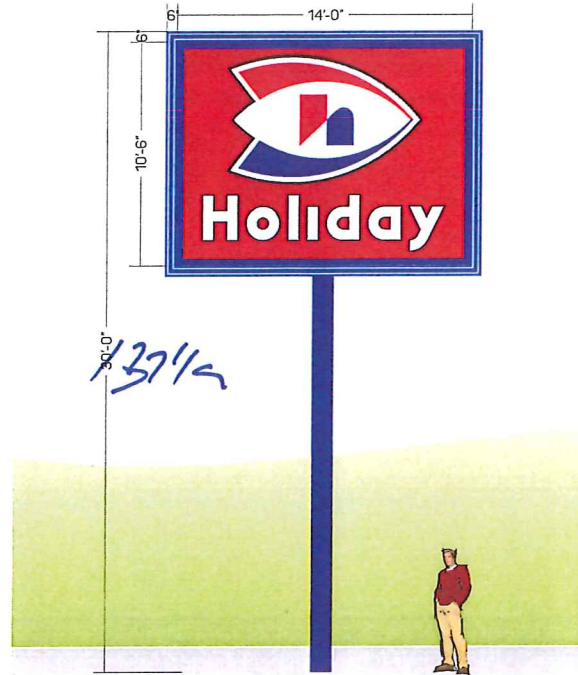
Please see attached Grounds of Appeal

Appellant's signature Date 4/10/17 City agent

Attachment One Proposed Signs Holiday Stationstore 1770 Old Hudson Road



The proposed dynamic display sign on the renovated present sign directed to White Bear Avenue



The proposed freestanding trademark sign directed to I 94

The proposed dynamic display sign has been relocated from the intersection to the building wall at the request of Ramsey County and St. Paul Traffic Engineers. See Attachment Five and the April 11 email from Robert Brown.

Grounds of Appeal  
Holiday Stationstores Major Variance 1770 Old Hudson Road

At the Board of Zoning Appeals meeting on February 13, 2017 Holiday requested and was granted a postponement of consideration of their application to allow additional time to meet with District One and respond to the omissions in their application noted by staff in their report to the Board dated January 25, 2017.

The Board granted our request for a postponement.

Holiday Stationstores appreciated the postponements the Board has provided us on this application. We have used this time to meet with the District One Land Use Committee on April 3, to prepare additional information and attachments to the Board in support of our application and respond to a new issue, the concern of Ramsey County and City traffic engineers about the possible safety issues created by the relocation of the semaphore west along Old Hudson Road as part of the road work at that intersection.

At their meeting on April 3 the District One Land Use Committee after much discussion determined they would change their recommendation reported to the Board on January 11. They no longer oppose the part of the variance regarding the operation of the dynamic sign while remaining in opposition to the part of the variance that would allow the trademark sign directed to I 94. See Attachment One.

We also used this time to review and respond to the comments made in the staff report. These additional comments are attached as "Extension of the basis for the variance requested by Indigo Sign Works for the Holiday Stationstore at 1770 Old Hudson Road".

On Tuesday April 4 staff informed us of a letter from Bob Brown at Ramsey County Public Works opposing the proposed location of the dynamic display sign on the freestanding sign at the corner of White Bear Avenue and Old Hudson Road. See Attachment One. On Thursday April 6 we met at the site with Ramsey County and St. Paul Public Works staff. We discussed rearranging the sign panels to leave a clear space behind the semaphore "head" but were not able to reach agreement this would be an effective solution due to the changes now under construction at the intersection.

To resolve this concern Holiday has now relocated the dynamic display sign from the freestanding sign on the corner to the building wall. See Attachment Five. The attached April 11 email from Robert Brown of Ramsey County Public Works confirms their objection is addressed by the relocation of the dynamic display signs from the corner to the building walls.

At the Board of Zoning Appeals meeting on April 10 the St. Paul Public Works staff present at the meeting and Holiday had hoped to update the Board with the new information developed during the postponement.

The Board chose not to accept any new information except from District One and the maker of the motions denying our application specifically referred to the findings in the now outdated staff report.

We request the City Council accept the information developed during the postponement, consider how it responds to the comments of the staff in their January 25 report and grant the requested variance.

Extension of the basis for the variance requested by Indigo Sign Works  
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The requested variance at this site has two parts:

a. On the face of the present freestanding sign directed to White Bear Avenue the permitted dynamic portion of this be allowed as provided in Sec. 64.405. - Signs with dynamic display as if in the prior B3 District rather than the present T3 District. The zoning designation of the site and surrounding parcels on both sides I 94 of was changed from B3 to T3 in October of 2015 anticipating the Gold Line Bus Rapid Transit implementation and Station Development

b. A second freestanding sign at the rear of the site not directed to White Bear Avenue but directed to I 94 as was a previous sign on this site be allowed with the setback (none) and height (37 ½ ft) as allowed in the T3 and B3 districts notwithstanding the requirements of the White Bear Avenue special district sign plan for a 35 ft setback and a height limit of 20 ft.

Please see Attachment One Proposed Signs Holiday Stationstore

**The dynamic display sign directed to White Bear Avenue**

The White Bear Avenue special district sign plan does not address signs with dynamic displays so the citywide sign regulations apply. Citywide standards for signs with dynamic displays are part of the zoning code. Please see Attachment Two St. Paul Dynamic Display Sign Regulations. However special restrictions are applied to dynamic displays when they are located in the by design less commercial T1—T4 traditional neighborhood and OS—BC business districts. These additional restrictions are found in Section 64.503 and limit dynamic displays to be monochromatic and shall not scroll or change their displays faster than every twenty (20) minutes rather than the 12 seconds allowed in the other commercial districts.

We are requesting a variance from the standards of Section 64.503 that will allow the images on the dynamic display at this site to be full color rather than monochromatic and to change every 12 seconds, both as allowed by Sec. 64.405. - Signs with dynamic display.

Our request is not to be exempt from dynamic sign regulations, or have a custom regulation for our site, but to allow a dynamic sign under the same conditions as at other similar sites and districts in the City and as are being used by our neighbors.

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

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

Staff has found this finding has been met.

b. The dynamic sign would not create a hazard.

Staff has found this finding is met and operation of the dynamic display with the standards of 64.405 would not create a hazard and this finding has been met.

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

In the SuperAmerica email of January 19, 2017 their objection is to the second freestanding sign directed to I 94. The next to last paragraph states, "We do not oppose or object to the variance for

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the existing (White Bear Avenue) sign as we believe ... fair and equitable". They do not object to the requested variance for the dynamic display on this sign.

On April 3 we met with the District 1 Land Use Committee. After much discussion the Committee determined they no longer oppose the proposed dynamic sign consistent with citywide (B3) standards at this site.

No other adjacent property has objected to the operation of the dynamic sign as proposed.

We believe this finding has now been met for the regulation of the dynamic sign.

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

Staff has found this finding has been met.

*In keeping and in harmony with the intent (character) of the T3 traditional neighborhood District*

Findings a – d above have been met.

As staff has noted in October of 2015 large areas on the south side of I 94 from Kennard to Ruth and on the north side of I 94 from Flandrau to the City Limits were rezoned from Commercial, mostly the B2 and B3 districts common in commercial areas all along White Bear Avenue, to the T2 or T3 districts anticipating redevelopment when the Gold Line Bus Rapid Transit line and the White Bear Avenue BRT station in the I94 right of way just east of Van Dyke is implemented.

The intended and desired character for this large area is described in the zoning code.

Sec. 66.311. - General intent, T traditional neighborhood districts.

TN traditional neighborhood districts are intended to foster the development and growth of compact, pedestrian-oriented urban villages. All four (4) districts are intended to encourage a compatible mix of commercial and residential uses within buildings, sites and blocks; new development in proximity to major transit streets and corridors; and additional choices in housing.

And for our site at Old Hudson Road and White Bear Avenue,

Sec. 66.314. - Intent, T3 traditional neighborhood district.

The T3 traditional neighborhood district provides for higher-density pedestrian- and transit-oriented mixed-use development. It is designed for development or redevelopment of land on sites large enough to support:

- (a) A mix of uses, including residential, commercial, civic and open space uses in close proximity to one another;
- (b) A mix of housing styles, types and sizes to accommodate households of varying sizes, ages and incomes;
- (c) A system of interconnected streets and paths that offer multiple routes for motorists, pedestrians and bicyclists, and are connected to existing and future streets;

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(d) A system of open space resources and amenities; and incorporation of environmental features into the design of the neighborhood.

The T3 district is also intended for smaller sites in an existing mixed-use neighborhood center where some of the above elements already exist, or in an area identified in the comprehensive plan as a potential "urban village" site. The above elements may be found within the T3 district or adjacent to it; the intent is that all would be present within a reasonable walking distance.

The intent of the T3 district reaches well beyond increased regulation of dynamic displays. It assumes conditions will be present to encourage assembly and fundamental and comprehensive redevelopment of both private parcels and the public infrastructure in this large area rezoned in late 2015.

Unfortunately the B3 character has persisted at this corner. See the Attachment Three Photos of White Bear Avenue and Old Hudson Road.

The Metropolitan Council's most optimistic estimate is the Gold Line could open in 2023 and begin driving the redevelopment and creating the new character of the sites now zoned for traditional neighborhood development.

Until then the character of the corner and its public infrastructure will remain the character of the B3, not T3 district. The requested variance will restore the previous B3 dynamic sign regulation until that time in the future when the BRT is realized and the district is redeveloped in the intended form. The Board can act granting allowing a minor exception to the standards of the T3 district in harmony with and in keeping with the general intent of the code as the necessary conditions do not exist and redevelopment that has not and is not occurring implementing the hopeful intent of the T3 district.

This finding is met, as the application of the B3 standards for dynamic displays at this site is compatible with the present and probable future unchanging character of the surrounding development and this is a minor change consistent with the general intent of the zoning code of capturing compatible investment in the City and assuring its success.

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

Staff has found this finding has been 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.*

Holiday, like our neighbors SuperAmerica and Subway have found the ability to use dynamic sign technology that allows the use of colors and images rather than simply monochromatic text and to better randomize the messages with a 12 second frequency of change like our neighbors at the corner: SuperAmerica, Subway and Walgreens is an important tool supporting the success of our Stationstores.

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The ability to use of color and images in comparison to only monochrome text both speeds comprehension of the message and makes it more memorable. The 12 second frequency allowed in business districts throughout St. Paul and used by our neighbors at this corner allows flights of messages while not causing distraction.

Holiday has installed this technology at Stationstores in districts of similar character in St. Paul, Minneapolis and the suburbs and uses it to compatibly feature specials on our expected products and to introduce new products available inside our Stationstores.

At this site it would be a practical difficulty to not be able use our location to effectively use this technology to reach out to our customers and frequently remind them of the specials on our expected products and to introduce new products available inside our Stationstores. This is a special practical difficulty at this location where our neighbors are able to use this technology effectively and the requested effective use is compatible and consistent with the present character of the development on the corner and similar commercial corners in St. Paul where it is allowed.

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

The landowner does not dispute the City competently provided the required notice of the proposed rezoning in October of 2015 when large areas on the south side of I 94 from Kennard to Ruth and on the north side of I 94 from Flandrau to the City Limits were rezoned from Commercial, mostly the B2 and B3 districts common in commercial areas all along White Bear Avenue, to the T2 or T3 districts anticipating redevelopment when the Gold Line Bus Rapid Transit line and the White Bear Avenue BRT station in the I94 right of way just east of Van Dyke is implemented.

However, even if the landowner had spoken up and requested their property be exempted from the study and be an exception retaining the B3 designation in the sea of T districts on the basis of preserving the B3 dynamic display regulation for their site it is improbable it would have been honored given the basis and scope of the rezoning. See Attachment Four Extent of Traditional Neighborhood Zoning Designation.

The plight of the landowner is created by the lack of the promised change to realize the intent of the rezoning of their parcel to T3.

Neither the City nor private redevelopers have to date made investments anticipated the T3 traditional neighborhood district envisions for the activities or uses – higher-density pedestrian- and transit-oriented mixed-use development on sites large enough to support: (a) A mix of uses, including residential, commercial, civic and open space uses in close proximity to one another; (b) A mix of housing styles, types and sizes to accommodate households of varying sizes, ages and incomes; (c) A system of interconnected streets and paths that offer multiple routes for motorists and pedestrians and bicyclists, and are connected to existing and future streets; and (d) A system of open space resources and amenities; and incorporation of environmental features into the design of the neighborhood within the district.

The plight of the landowner is being in a district that has retained its B3 character in spite if the rezoning to T3 and whose neighbors are operating their dynamic displays under the previous B3 regulations. These are the regulations the landowner seeks to restore to their site with this variance.

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

Staff has found this finding has been met.

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

Staff has found this finding has been met.

Based on these findings the part of the requested variance allowing the dynamic display sign this site to be operated in compliance with the standards of Sec. 64.405. - Signs with dynamic display rather than Sec. 64.503. - T1—T4 traditional neighborhood and OS—BC business districts (a) *Business and identification signs*, may now be approved.

**The freestanding trademark sign directed to I 94**

The proposed 37½ ft tall freestanding trademark sign located on the south property line of the site and directed to I 94 would be allowed by the T3 (and B3) district regulations. A similar but 50 ft tall trademark sign was present in this corner of the site prior to its redevelopment. The requirements of Sec. 64.625 - White Bear Avenue special district sign plan limits the height of freestanding signs in the district to 20 ft and requires a 35ft setback from the right-of-way.

The area covered by this plan includes commercial property along White Bear Avenue from Larpeur to I 94, a distance of approximately three and a half miles. The sign plan provides a unified framework for the sign systems of the various commercial nodes (e.g. Minnehaha, 7th Street, Hillcrest, etc.), which will fit the architecture of the buildings, clearly identify businesses, and enhance the image of the business districts and foster pride in the adjacent neighborhoods

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

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

Staff has found this finding has been met.

b. The trademark sign would not create a hazard.

Staff has found this finding has been met

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

Staff noted SuperAmerica, our competitor located across Old Hudson Road, has objected to the freestanding sign along I 94 in the southwest corner of the site.

In their judgment the Holiday site is extremely visible from I 94 in both directions and from both exit ramps and a trademark sign directed to I 94 is not required for visibility. Holiday's analysis differs. Because I 94 is depressed below the grade of the site and White Bear Avenue and the White Bear Avenue bridge significantly restricts and segments the view from westbound I 94 a simple trademark sign that can be quickly comprehended has been proposed to compensate for these conditions.



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They also are concerned the proposed freestanding sign with its narrow edge to I 94 would block the view of their site. Due to the sign's location at the western boundary of our site and parallel with that edge this is simply not a credible concern.

Last, they note 37½ ft tall sign on their site, located 525 ft and across Old Hudson Road from the depressed I 94, would not be visible from I 94 and therefore it would be unfair for Holiday to have such a sign. The opportunity for this site to have a sign directed to I 94 is not a matter of fairness. It's a matter of having a site abutting I 94 vs. having a site not abutting I 94. For these reasons Holiday does not find the objection of SuperAmerica credible.

On April 3 we met with the District 1 Land Use Committee. After much discussion the Committee determined the proposed trademark sign is still inconsistent with the desired character of White Bear Avenue.

No other adjacent property has objected to the trademark sign as proposed.

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

Staff has found this finding has been met.

*In keeping and in harmony with the intent of the White Bear Avenue special district sign plan*

Findings a, b, & d above have been met. The Board will have to resolve finding c and its role in determining the harmony and any conflict with the general purposes and intent of the White Bear Avenue special district sign plan and the zoning code.

The proposed sign will be located at the southern boundary of the White Bear Avenue special district sign plan area. The sign will be virtually inches from this boundary. The sign will be directed to I 94, not to White Bear Avenue. It will be parallel to White Bear Avenue and be located as far from White Bear Avenue as is possible on this site. With its "trademark only" content it will be superfluous to travelers on White Bear Avenue but informative to travelers on I 94, even if they do not plan to stop at the Stationstore at this time.

While the sign will be located at the right-of-way it will be setback 65 ft from the edge of the nearest travelled way, the on ramp to I 94, and setback 240 ft from the centerline of I 94, where it is intended to be read.

The sign plan provides a unified framework for the sign systems of the various commercial nodes (e.g. Minnehaha, 7th Street, Hillcrest, etc.), which will fit the architecture of the buildings, clearly identify businesses, and enhance the image of the business districts and foster pride in the adjacent neighborhoods. None of these conditions are present along I 94 on the edge of this site.

Due to the site's location on the southern boundary of the White Bear Avenue special district sign plan area, its location and lack of orientation to White Bear Avenue, the effect of the 20 ft tall store building partially obscuring the view of the sign from White Bear Avenue, its setback from the roadway it is intended to read from, the distance from the intersection of Old Hudson Road and White Bear Avenue, the heart of the business district and any adjacent neighborhood, the

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effect of granting this variance to allow the T3 district standards to apply to this sign will minimize any effect on the White Bear Avenue special district sign plan area.

Therefore the variance can be granted in harmony and not in conflict with the general purposes and intent of the White Bear Avenue special district sign plan and the zoning code.

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

Staff has found this finding has been 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.*

Due to the site's location both on White Bear Avenue and abutting I 94 the ability to use signs to reach both the travelers in the 23,600 vehicles using White Bear Avenue each day and the ability to reach the travelers in the 98,000 vehicles using I 94 each day is an essential feature of this site. The inability to have a sign permitted by the T3 district regulations but not the sign plan to reach this audience even with its limited effect on White Bear Avenue and the implementation of the sign plan would be a practical difficulty to realizing the effective use of the conditions at this site.

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

Staff has found this finding has been met.

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

Staff has found this finding has been met.

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

The variance will not alter the essential character of the I 94 corridor in the vicinity and by its location, orientation, the effect of the 20 ft tall store building partially obscuring the sign, and change in grade to the west will have a minimal effect on the essential character of White Bear Avenue or the business district at Old Hudson Road.

Based on these findings the part of the requested variance allowing the regulations of the T3 district to supersede and replace the height and setback requirements of the White Bear Avenue special district sign plan for freestanding sign may now be approved.

4/4/2017