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Title: Memorializing the City Council's decision to deny the appeal by Keith Hovland from a Planning Commission decision granting the applications of OutFront Media, LLC regarding an advertising sign located at 2516 Wabash Avenue West.

Sponsors: Amy Brendmoen

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Date	Ver.	Action By	Action	Result
6/25/2020	1	Mayor's Office	Signed	
6/24/2020	1	City Council	Adopted	Pass

Memorializing the City Council's decision to deny the appeal by Keith Hovland from a Planning Commission decision granting the applications of OutFront Media, LLC regarding an advertising sign located at 2516 Wabash Avenue West.

WHEREAS, OutFront Media, LLC ("Applicant"), on November 22, 2019, made the following applications to the Saint Paul Planning Commission ("Commission") under Zoning File No. 19-103-405: moving a nonconforming advertising sign pursuant to Leg. Code §§ 62.109(d) and 64.301(a); converting the advertising sign to a "dynamic display" sign pursuant to Leg. Code § 64.302; and, pursuant to Leg. Code § 61.601, for a variance to permit a change to the angle of the sign's display board which is located on property commonly known as 2516 Wabash Avenue West and legally described as WINSTON'S ADDITION, ST. PAUL, PART NLY AND NWLY OF WABASH FRONTAGE RD OF FOL SUBJ TO ESMTS WABASH AVE AS VAC IN B 58 PLANS 38 ADJ AND LOT A ALSO EX N 40 FT MEASURED FROM S L OF HOLLINSHEADS ADD AND EX W 450 FT THE FOL PART OF NW 1/4 OF SEC 32 T 29 R 23 N; [Parcel Identification No. 32.29.23.22.0005]; and

WHEREAS, on December 12, 2019, pursuant to Leg. Code § 61.303, the Commission's Zoning Committee duly conducted a public hearing at which the Applicant and all persons present were given an opportunity to be heard and, following the close of the public hearing and based upon all the reports and evidence presented, as substantially reflected in the hearing record and minutes, the Committee duly moved to recommend that the Applicant's applications be approved for the reasons set forth in the staff report dated December 4, 2019; and

WHEREAS, on December 20, 2019, the Chair of the Zoning Committee's reported the recommendation to approve the Applicant's applications whereupon, following deliberations on the matter by the Commission, the Commission moved to approve the said applications based upon the following findings as set forth in Planning Commission Resolution No. 19-61 which is hereby entirely incorporated by reference into this Resolution:

"1. The application is for changing the angle of the east-facing billboard face in to convert it to a dynamic display avoid being in the visual field of any residence.

2. Zoning Code §62.109(d) states: *The planning commission may permit the relocation of a legal nonconforming use if the commission makes the following findings:*

(1) *In residential districts, the expansion, or relocation will not result in an increase in the number of dwelling units;* This finding does not apply. It is not in a residential district.

(2) *For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district;* This finding does not apply. It is not an expansion of a nonconforming use.

(3) *The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood;* This finding is met. The proposed use will be a dynamic display billboard replacing the current static billboard. The new billboard will be angled to have fewer potential visual impacts to residences in the neighborhood.

(4) *Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses;* This finding is met. There is no off-street parking required.

(5) *Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use;* This finding is met. There is no zoning category that allows billboards as a land use.

(6) *After the expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare;* This finding is met. The use is similar in character to the exiting use. The new billboard will be angled to have fewer potential visual impacts to residences in the neighborhood. Zoning Code §64.302 includes standards for dynamic display to minimize driver distraction.

(7) *The use is consistent with the comprehensive plan.* This finding is generally met. The Comprehensive Plan is neutral regarding billboards. Advertising billboards were prohibited in the City of Saint Paul in 2005, per Zoning Code §64.420. This ordinance codified the citywide billboard ban that the many "special sign districts" were close to establishing collectively. The intent of Zoning Code §64.302 is to allow for conversion of a limited number of exiting billboards in exchange for removing a greater number of billboards across the city:

Dynamic display technologies can greatly expand the advertising capacity and graphic flexibility of billboards. However, §64.420 prohibits any new advertising signs in the city in order to protect and improve views, aesthetics, community pride and investment, and the visibility of local businesses. One purpose of this chapter is to reduce the number of billboards in the city. The provisions of the present section seek to offer benefits both to the public and to billboard owners. This section allows increased advertising through the addition of dynamic display technologies on existing billboards along certain freeways in exchange for voluntary reductions in the number of billboards in the city. In this way, this billboard conversion is consistent with the City's long-term goals and policies.

(8) *A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the expansion or relocation.* This finding is met. The approved petition is attached to the application.

3. Except in a B4 or B5 zoning district, a legally nonconforming, illuminated billboard may be converted to a billboard with a dynamic display if the following conditions are met:

(1) *The billboard is located within three hundred thirty (330) feet of 1-94 or I-35E north of/- 94 and is designed to be read from the highway.* This finding is met. The billboard is approximately 105 feet from 1-94.

(2) *The billboard is at least one (1) mile measured along the freeway from any other billboard with a dynamic display designed to be read by drivers heading in the same direction on the highway.* This finding is met. There are no other dynamic display billboards within one mile directed at westbound drivers on 1-94.

(3) *Only one (1) sign face on a billboard structure is converted.* This finding is met. Only the east-facing

billboard face is proposed to be converted.

(4) *The billboard is not in the visual field of any residence, regardless of municipal boundaries, that is in a residential or TN traditional neighborhood zoning district and has windows which are facing and from which the dynamic display is directly visible. "Visual field" means the cone-shaped area in front of a billboard, drawn on a map, that extends perpendicular from the center of the sign face for one thousand (1,000) feet with a vertex angle of seventy-five (75) degrees and also includes peripheral triangles on both sides of the cone, which are delineated by extending the line of the sign face two hundred (200) feet in each direction from its center, and from these two (2) points connecting to the two (2) outer points of the cone. This finding can be met if the nonconforming use permit and variance are approved allowing the angle of the billboard to be adjusted.*

(5) *The owner of the billboard shall apply for and receive a sign permit for the conversion from the city. This finding can be met. This is condition 2 of this permit.*

(6) *As part of the permit application, the applicant shall agree in writing to remove permanently other existing billboards in the city; for each square foot of dynamic display space being created, six (6) square feet of illuminated billboard faces, or eight (8) square feet of non-illuminated faces shall be removed. Billboards that the applicant owns or controls in residential zoning districts or any other locations designated for billboard removal by resolution of the city council must be taken down before billboards taken down in other areas of the city will be counted toward this removal requirement. Billboards may be counted toward the removal if they have been or will be removed between one (1) year prior to the application and two (2) months following the issuance of the permit. The removals must include the complete removal of the billboard structures including the foundations of any freestanding billboards.*

Prior to approval of the sign permit, the applicant must agree in writing that the city may remove the billboards if the applicant has not done so before the new electronic message sign is put into operation, and the applicant must submit a cash deposit or letter of credit acceptable to the city to pay the city's cost for that removal. The applicant must also agree in writing that the removal of the billboards is done voluntarily and the applicant has no right, under any law, to compensation from any governmental unit for the removed signs. When a billboard is permanently removed (including the sign or display surface and all elements of the sign structure) for purposes of dynamic display conversion under this section or when a billboard is permanently removed for any other reason, and the owner of the removed billboard surrenders in writing any state and local permits previously issued for the removed billboard, no new sign and/or sign structure permit will be issued for the real property on which the removed billboard was located. This finding can be met. The applicant has agreed in writing to remove the required billboards and will comply with these provisions as part the sign permitting process.

(7) *If the removed signs are ones for which a state permit is required, the applicant and owners must surrender such permits to the state. The billboard with a dynamic display may not be put into operation until proof is provided to the city that such state permits have been surrendered. This finding can be met. The applicant has agreed in writing to remove the required billboards and will comply with these provisions as part the sign permitting process.*

4. The application requests a variance to adjust the angle of the east-facing billboard. §61.601 of the Zoning Code states that the planning commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

(a) *The variance is in harmony with the general purposes and intent of the zoning code. The variance is in harmony with the intent and provisions in the zoning code to allow conversion of a billboard face to dynamic display subject to several conditions, including not being in the visual field of a residence, as defined. The variance is to allow the sign to be shifted slightly (rotating approximately five degrees to the north, per site plan) to avoid being in the visual field of a residence.*

(b) *The variance is consistent with the Comprehensive Plan. This finding is generally met for the reasons stated in Finding 2(7).*

(c) *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. This finding is met. The variance has been requested to make the use comply with the standards for billboards with dynamic display, as stated in Finding 3. This is a reasonable use of the property for the reasons stated in Finding 2(7).

(d) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

This finding is met. Dynamic display billboards have a requirement that they are not in the "visual field" of any residence. This is not a requirement for static billboards. Changing the angle on the sign will allow the new sign to comply with the additional code requirement (see Finding 3(4)).

(e) The variance will not permit any use that is not allowed in the zoning district where the affected land is located. The billboard use is not allowed in the zoning district but can remain as a nonconforming use. The change in angle will not permit any uses other than the existing nonconforming use.

(f) The variance will not alter the essential character of the surrounding area. Because it is an existing use, and the change in angle will likely be imperceptible to most people, the variance is not anticipated to have any effect on the character of the surrounding area."

AND, WHEREAS, in approving the Applicant's requests, the Commission's approval was made subject to two conditions:

1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
2. The applicant shall obtain a sign permit for the conversion from the City of Saint Paul."

AND, WHEREAS, on December 30, 2019, Keith Hovland ("Appellant"), pursuant to Leg. Code § 61.702(a), duly filed an appeal from the Commission's December 20, 2019 decision and requested a public hearing before the City Council; and

WHEREAS, Appellant's appeal was assigned Council File No. 20-1 and set on for hearing before the Council on February 19, 2020; and

WHEREAS, On February 19, 2020, having provided the required notice, the Council, pursuant to Leg. Code § 61.702(b), duly conducted a public hearing on Appellant's appeal where all persons interested were afforded an opportunity to be heard and, following the conclusion of the public hearing and having deliberated on the matter, the Council, based upon all the files, records and testimony produced in this matter; does hereby

RESOLVE, that the Council of the City of Saint Paul hereby denies Appellant's appeal as the Council finds that Appellant has not demonstrated that the Commission erred in its facts, findings or procedures when it approved the Applicant's variance applications on December 20, 2019; and

BE IT FURTHER RESOLVED, in denying the said appeal, the Council adopts as its own in support of its decision, the facts and findings set forth in Planning Commission Resolution No. 19-61 together with the

conditions imposed by the Commission as set forth in the said Resolution; and

BE IT FINALLY RESOLVED, that a copy of this adopted Memorialization Resolution shall be provided to the Appellant, the Applicant, the Zoning and Planning Administrators and to the Planning Commission.