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IN THE MATTER OF THE PROPOSED
AMENDMENT OF THE RULES OF THE
CAPITOL AREA ARCHITECTURAL
AND PLANNING BOARD

STATEMENT OF NEED
AND REASONABLENESS

The Capitol Area Architectural and Planning Board, hereinafter "Board" or "CAAPB," is in the process of amending its existing zoning rules and adopting design review procedures and standards pursuant to the provisions of the Minnesota Administrative Procedure Act. The Board's proposed amendments and new rules will be the subject of a rulemaking hearing to be conducted at the Cable Communications Building, 500 Rice Street, Saint Paul, Minnesota, commencing at 9:30 a.m. on May 28, 1981.

The principal statutory authority for the rules proposed is contained in Minn. Stat. § 15.50, Subdivision 2(A) (1980) which provides in part:

Pursuant to the comprehensive plan, or any portion thereof, the board may regulate, by means of zoning regulations adopted pursuant to the administrative procedure act, the kind, character, size of yards and open spaces, the percentage of lots that may be occupied, and the uses of land, buildings and other structures, within the area. To protect and enhance the dignity, beauty and architectural integrity of the capitol area, the board is further empowered to include in its zoning rules design review procedures and standards with respect to any proposed construction activities in the capitol area significantly affecting the dignity, beauty and architectural integrity of the area. No person shall undertake these construction activities as defined in the board's rules in the capitol area unless he has first submitted construction plans to the board, obtained a zoning permit from the board and received a written certification from the board specifying that he has complied with all design review procedures and standards.

Additional statutory authority for the Board's adoption of procedural rules is found in Minn. Stat. § 15.0412, Subdivision 3, which states:

Each agency shall adopt rules in the form prescribed by the revisor of statutes, setting forth the nature and requirements of all formal and informal procedures related to the administration of official agency duties

to the extent that those procedures directly affect the rights of or procedures available to the public.

This statement will show need and reasonableness in two specific ways. First, only generic showings of need and reasonableness will be set forth if the proposed rule change is: 1) not substantive in nature, and/or simply a change in nomenclature which, in most instances, will also be nonsubstantive, or 2) one of many rule changes which is supported by the same evidence and it is more convenient to discuss need and reasonableness in one place rather than repeat the same arguments repetitively.

Secondly, with respect to individual, substantive rule proposals, need and reasonableness is set forth for each such rule in a chronological manner.

GENERAL STATEMENT OF NEED AND REASONABLENESS

Numerous changes to existing CAAPB rules are not substantive in nature and/or constitute simple changes in nomenclature. The following establishment of need and reasonableness is intended to serve for all such changes, wherever they appear in the proposed rules. An examination of proposed CAAPB 101 and 102 is illustrative.

Proposed CAAPB 101, and, in fact, all of the proposed rules make the basic change from "CAAPC" to "CAAPB." This is a required amendment since law 1975, Chapter 271, § 3 changed the Capitol Area Architectural and Planning Commission to the Capitol Area Architectural and Planning Board.

Proposed CAAPB 101, 102, and the bulk of the proposed rules replace the word "regulations" with the word "rules" or effect similar changes with respect to this nomenclature. This type of change is needed and reasonable, since it carries out the general legislative intent (first manifested in Laws 1975, Chapter 380) to eliminate redundant phrases such as "rules and regulations" and use "rules" as the preferred term.

Proposed CAAPB 102 "contracts" references to state statutes to "Minn. Stat. § ____". This change is intended to comport with the abbreviated reference form frequently used in Minnesota state government. This proposed rule also renumbers rule subparts from, for example, "(a)" to "A." to comply with State Register requirements. Proposed CAAPB 102, A. B and C add language to the statutorily based list of purposes for which the Board was created. These changes simply reflect the changes to the Board's statutory charge effected through Laws 1980, Chapter 614, §§ 47 and 48. Use of statutory language in the proposed rules is crucial to advise regulated groups and individuals of the Board's overall and unique responsibilities, resulting in the promulgation of these rules.

A final type of rule change is discussed in the general statement, because, although substantive, it appears with such frequency in the Board's proposed rules that it would be impractical to repeat the following statements of need and reasonableness again and again. The Board, in many instances, is proposing zoning rule language which is identical or very similar to that adopted by the City of Saint Paul through its zoning ordinance. This approach and the rules as proposed are needed and reasonable because.

1. Since the Board and the City must operate cooperatively (Minn. Stat. § 15.50, Subdivision 2(a) [1980]) and the City must advise the Board (Minn. Stat. § 15.50, Subdivision 2(f)(4) [1980]), it is necessary that both the Board and City be well acquainted with the other's requirements. This is best accomplished if there is reasonable commonalty between the mandates of these two public bodies.

2. In many instances, the City ordinances which the Board is proposing as rules have been through the gristmill of public hearings, have been in place for some time, have proven workable for both the City and individuals regulated thereby and, accordingly, serve as time-tested and operable standards for the Board to adopt.

3. The Capitol Area in which the Board has jurisdiction is, of course, within the confines of the City of Saint Paul and it is sensible, where appropriate to have the same requirements applicable to both places in order to assure that contractors and architects familiar with the City's zoning ordinances will not be unfairly surprised by a set of totally different mandates.

4. In turn, if regulated individuals are familiar and comfortable with the particular zoning rules to be applied, better compliance will be achieved and the Board will better satisfy the purposes for which it was created.

The remainder of this statement will consider individual amendments and additions of a rule by the rule basis.

Chapter One: Title and Purposes

CAAPB 101 Title.

The title of these rules is revised to reflect the addition of design rules for visual corridors (Chapter 15).

CAAPB 102 Purposes.

This rule is necessary to reflect the current statutory purposes of the Capitol Area Architectural and Planning Board.

Chapter Two: Definitions

Many of the proposed revisions herein are necessary to reflect current conditions, to simplify language and therefore make more understandable these zoning and design rules, to define terms previously undefined, and to add explanatory material when necessary for greater public comprehension.

CAAPB 201 Accessory Use.

The first revision adds explanatory material to the definition of accessory use. This added language was recommended by the Planning Division of the St. Paul Planning And Economic Development Department to assist the public in understanding these rules.

The next two revisions to this section permitting only inside storage are necessary to implement the statutory purposes of the Board to protect and increase open space in the Capitol Area by prohibiting outside storage. The reference to industrial use is deleted since industrial uses are prohibited by these rules.

CAAPB 205 Billboard.

The definition of billboard has been relocated under the sign definitions (CAAPB 259) for greater public comprehension.

CAAPB 206 Board.

The reference to the Board of Zoning Appeals has been deleted since it is obsolete, there never has been such an appeals board and current provisions of the Administrative Procedures Act provide an adequate appeal mechanism.

CAAPB 210 Clinic. CAAPB 211 Club or Lodge.

This term is currently undefined. The language of the proposed definition is from the zoning ordinance of St. Paul.

CAAPC 211 (Commission) is deleted since the correct name in law is Capitol Area Architectural and Planning Board.

CAAPB 214 Curb Level.

There no longer is a Chief Engineer's position in the City of St. Paul. Its replacement is herein substituted for this obsolete term.

CAAPC 216 (Drive-In) is defined along with all other types of restaurants under the various restaurant definitions in CAAPB 254-256.

CAAPB 216 Dwelling Unit. CAAPB 223 Family.

This simplified definition of family as provided herein is necessary since the current definition was confusing if not unintelligible; in the administration of these rules that definition confused rather than clarified.

This new definition is reasonable in that it only clarifies; it neither changes the intent nor the impact of these rules.

CAAPB 229 Home Occupation.

This revision is needed in that the use of the terms "receptionist or office assistant" unnecessarily restricts the type of ancillary employee and may be inappropriate to some types of home occupations (i.e., watch repair).

CAAPB 230 Housing for the Elderly.

This definition is needed since this term was previously undefined. The language of the proposed definition is that of St. Paul.

CAAPB 241 Lot of Record.

This is the correct reference for Ramsey County.

CAAPB 245 Non-conforming building or sign.

This revision is necessary since non-conforming sign is currently undefined.

CAAPB 252 Principal Building. CAAPB 253 Principal Use.

These terms are used throughout the CAAPB zoning rules and are currently undefined. The definitional language is that of St. Paul.

CAAPB 254 Restaurant. CAAPB 255 Restaurant, Drive-In.
CAAPB 256 Restaurant, Fast-food.

Currently only drive-in restaurants are defined in our rules. These definitions correct that omission and are patterned after those of St. Paul.

CAAPB 259 Sign.

The new definition is patterned after St. Paul. It is also necessary since it is more comprehensive in nature.

The definition of billboard is not substantively altered.

The addition of the word "institution" is for purposes of clarification.

Marquee is currently undefined. The definition provided is that of St. Paul.

Political signs are a new sign category. The definition now provided is that of St. Paul.

CAAPB 266 Underground Structure.

"Underground structure" is a term now utilized in revised Chapter Four (Use Regulations). As such a definition is needed. This definitional language was recommended by staff of the Planning Division of the St. Paul Planning and Economic Development Department of St. Paul.

Chapter Three: Zoning Districts

The changes in this chapter fall into two categories: the creation of two new zoning districts, Governmental District G-2 and Mixed Use District (MX), and changes to the official zoning map entitled "Zoning Districts for the Capitol Area."

CAAPB 301 Districts Established.

The first new district established is Governmental District G-2. The purpose of this district is to allow only below-grade, or underground, construction within the area so designated, and as such is necessary in order to implement the Board's statutory duty to protect, enhance and increase the open spaces within the Capitol Area.

The creation of this G-2 district will also ensure that there is sufficient open space to make the Capitol Area visible, attractive, and accessible to the people of Minnesota. This development of public open spaces surrounding the Capitol is an essential and integral part of the Board's Comprehensive Plan (Confer Comprehensive Plan Policy 5; see Appendix attached). As such this zoning district will assist the Board in furthering its statutory responsibilities.

The second new district, the Mixed Use District (MX), is a combination of the Residential District (RM-2), the Business District (B-2), and the Office-Service (OS-1) District.

Such a district of mixed uses is needed in an area of intense development, such as the Capitol Area, where certain land uses are compatible and can therefore be combined without undue negative impact upon each individual use.

It should be noted that the creation of this district is the recommendation of the Capitol Area Citizens Committee, a group advisory to the Board and the St. Paul Housing and Redevelopment Authority in a joint study of the residential and commercial portion of the Capitol Area (Minnesota State Capitol Area North Study, February, 1975).

The necessity of applying these two districts to the Capitol Area is further delineated under the following section entitled "Zoning Map Changes."

ZONING MAP CHANGES

(Zoning maps appear on pages 64 and 65)

We are proposing the following changes for the reasons stated below:

A. Blocks 89, 121, and those parcels fronting Rice Street to new zoning designation Mixed Use District (MX)

This proposed amendment to the zoning map is reasonable in that it recognizes the reality of the situation on these 2+ blocks and removes what could be considered rather arbitrary distinctions. Currently within one of these 2+ blocks there are three mutually exclusive zoning categories (Business, Office-Service, and Residential). The other full block has two. Within this small area one parcel may be zoned for business use only, while an immediately adjoining parcel is zoned for residential use only. The resultant patchwork quilt of zoning is not only confusing to the public and difficult to administer, but it also appears arbitrary in that there are no natural boundaries intervening, such as streets or even alleys. The proposed zoning designation will remove what could be deemed the capricious nature of existing zoning and will more adequately reflect the mixture of uses already permitted within these 2+ blocks. At the same time, incompatible uses, such as industrial, will remain excluded.

This change also recognizes the need for more private office space in the Capitol Area, and encourages continuation of those community-oriented businesses which now serve the Capitol Area, by providing appropriate areas for the development of such compatible uses within the overall framework of the Comprehensive Plan.

The rule change does not preclude residential development, another goal of the Comprehensive Plan, but recognizes that such housing will probably be of a medium-density, medium or high rise nature compatible with commercial or office uses. There is a need for more private (non-state of Minnesota) office space near the Capitol. Currently relatively little land in the Capitol Area is available for such development; almost all of the land currently zoned for office use (or proposed for office zoning) has already been developed either by the State or Bethesda Hospital, two large and growing institutions.

This zoning change will therefore open up some land for such office development in one of the most appropriate areas according to the Comprehensive Plan. This will occur without precluding the potential of appropriate residential or commercial development and without consuming valuable open space. (Comprehensive Plan policy 7.2, see Appendix attached.) This new zoning thus also respects the need for existing local businesses which now serve the surrounding community to remain and develop in the area by permitting these appropriate community business uses. (Comprehensive Plan policies 8 and 8.4)

In this manner this new zoning designation will allow these three necessary uses to share the relatively-limited amount of land available for development in the Capitol Area.

On Block 120 those parcels fronting Rice Street (now all commercial uses) are included in this new category since they functionally and historically are part of the Rice Street small business community.

B. Application of new category G-2

The Comprehensive Plan for the Minnesota State Capitol Area emphasizes the need for permanent open space around the Capitol. The following policy statements reinforce this need:

Provide a dignified setting for the Capitol which will enhance all faces of the Capitol and allow for the proper spatial and functional relationship between it and surrounding buildings. (Comprehensive Plan policy 4).

Provide sufficient open space to make the Capitol Area visible, attractive, and accessible to the people of Minnesota. Protection, enhancement, and development of the public open spaces surrounding the Capitol are an essential and integral part of the Plan. (Comprehensive Plan policy 5)

This application of G-2 is needed and reasonable because it is consistent with the Comprehensive Plan and also with the statutory purposes for which the CAABP was established (Minn. Stat. § 15.50). The new G-2 category will help to preserve the dignity and beauty of the Capitol and Capitol grounds and to protect, enhance and increase the open spaces within the Capitol Area.

C. Block 120 (part) to RM-2 District

(That block bounded by Marion Street, Sherburne Avenue, Rice Street, and Charles Avenue except for those parcels fronting on Rice Street).

This proposed rezoning, from a commercial zoning (B-2) to a residential one (RM-2) is necessary in order to protect the rights of the residential properties currently on that block. The area to be rezoned now consists entirely of one or two-family residences; significant residential rehabilitation has occurred on this block within the past few years. This rezoning is proposed to protect that investment and preserve the residential nature of that block.

The original zoning of that part of block 120 was residential; it was changed in 1973, from residential to commercial, in anticipation of the development of a large shopping center. That development has neither occurred nor is now considered desirable, either by the local neighborhood planning council, District 7, or by the Board.

This change is consistent with current St. Paul zoning and, equally important, with the policies of the Comprehensive Plan (Comprehensive Plan policies 9 and 9.2; see Appendix attached).

D. Two blocks area is SE part of Capitol Area to OS-1

(Those blocks bounded by Jackson Street, Twelfth Street, Robert Street, and Fourteenth Street)

The revision to the Zoning Map changes the zoning for these two blocks from G-1 to OS-1. It should be emphasized that this rezoning does not preclude further state office development on these blocks; the rezoning simply opens up office development to the private sector.

This rezoning is proposed because it more effectively implements the goals and objectives of the Comprehensive Plan. That Plan proposed the development of a strong link of office buildings and services relating to state government and employees along the two blocks in question. This link, or as referred to in the Comprehensive Plan the "Spine", would connect the Capitol Area with downtown St. Paul. This rezoning then is needed to encourage the development of such a link by opening up development opportunities to the private sector.

The rezoning as proposed is identical to that of St. Paul. It would also make certain current non-conforming uses conforming without imposing any undue burden on any current owner.

CAAPB 303 Boundaries.

The change in section D is necessary in order to remove an obsolete reference to the Board of Zoning Appeals for the Capitol Area. No such board has ever been established; the Capitol Area Board itself acts as such a board of appeals.

The deleted language is also no longer necessary because of the contested case provisions of the Administrative Procedures Act, which provisions have been enacted since this rule was first promulgated in 1973.

Chapter Four: Use Regulations

This Chapter describes the uses permitted as principal and conditional uses in the zoning districts established in Chapter Three of these rules.

The changes herein are necessary for two general reasons. These proposed amendments clarify the intent of the original rules by making them more specific, by restructuring them in a more orderly and consistent manner, and by providing some explanatory material necessary for more adequate public comprehension.

Secondly these amendments describe the uses permitted in the new zoning districts established in Chapter Three, the Governmental G-2 District and the Mixed Use District.

CAAPB 401 Uses Permitted.

This change restructures the rule for purposes of clarity and updates its language to reflect the current statutory purposes of the Board.

CAAPB 402 Governmental District (G-1); Principal Uses.

This addition reinforces the definition of Accessory Use. It is necessary and reasonable in order to fulfill the Board's statutory purposes of preserving and enhancing the dignity and beauty of the Capitol Area, and protecting and increasing open space.

CAAPB 403 Governmental District (G-1); Conditional Uses.

This amendment clarifies that the intent of the Board and its Comprehensive Plan has always been to encourage this type of cultural use within the Governmental District. (Confer Comprehensive Plan policy 6.3 in Appendix attached.)

This amendment also reinforces and makes more specific that this use is included among "other uses reasonably necessary and convenient for the satisfactory and efficient operation of the facilities of State Government . . ." (existing language, emphasis added).

CAAPB 404 Governmental District (G-2); Principal Uses.

This rule describes the principal uses permitted in the new district Governmental District G-2. This new rule is necessary because current zoning designates all state lands as G-1 and does not distinguish between buildings, parking, and parks. Current zoning thus neither adequately reflects the policies of the Board's Comprehensive Plan nor effectively implements the Board's statutory purposes to protect and increase open space.

The proposed new zoning category is reasonable because it recognizes that certain areas have always been perceived as part of a permanent open space system around the Capitol. The Comprehensive Plan, reflecting Cass Gilbert's original plan for the Capitol Area, designated the Mall and other parcels as park or open space.

CAAPB 405 Governmental District (G02); Conditional Uses.

The conditional uses allow the construction of underground structures in the G-2 zone provided certain criteria (A-F) are met. These criteria are necessary to protect and enhance open space and provide appropriate vistas.

These criteria are reasonable in that they recognize that certain underground uses can coexist with above-grade open space. Thus prudent use is made of the limited amount of land available in the Capitol Area without sacrificing the goals and objectives of the Board and its Comprehensive Plan.

CAAPB 406 Medium-density, multiple-family Residential District (RM-2); Principal Uses.

This amendment allowing churches and synagogues in the residential district rectifies an oversight in the original rules; the Board's present rules contain no reference to churches as a permitted use even though there are currently three churches in the Capitol Area.

This change is also consistent with St. Paul's zoning ordinance.

CAAPB 407 Medium-density, Multiple-family Residential District (RM-2); Conditional Uses.

This change adds to this section amateur radio station towers as a conditional use in the RM-2 District.

This is a restructuring of our rules since the same provision had existed in Chapter Ten (Exterior Lighting and Structural Regulations) as CAAPC 1004. This change is necessary for reasons of internal cohesion since, as a conditional residential use, it should be more logically found in this Chapter.

CAAPB 408 Community Business District (B-2); Principal Uses.

The first change is one of terminology and has been previously explained under Chapter Three.

The second change is necessary in order to clarify that local businesses in the Capitol Area not only serve residents but public and private employees of the Capitol Area. This change recognizes the fact that the +6,000 employees within the Capitol Area are a significant reason many businesses actually locate there.

The last change to this rule clarifies that fast-food restaurants are not a principal use; this change is explained in CAAPB 409 following.

CAAPB 409 Community Business District (B-2); Conditional Uses.

This first substantive change to this section is needed since it removes an ambiguity in the Board's current rules; restaurants are noted as both a principal use and a conditional use (CAAPC 406 F and CAAPC 406 J). It is reasonable that a restaurant other than a drive-in or a fast-food restaurant should be a principal use since such restaurants have less negative impact upon adjacent properties and are commonly considered principal uses in community business districts, as they are in fact in the St. Paul zoning ordinance.

The next change in this section clarifies that fast-food restaurants are permitted as a conditional use in the Capitol Area.

This change is actually an elaboration of the existing language "restaurants, bars, lounges, drive-ins, and similar establishments" (CAAPC 407J) and is needed as the term "fast-food" has increasingly come into use since this rule was first adopted. Therefore specific inclusion of this term should assist the public and avoid misunderstandings.

As drive-ins are included as conditional uses so now are fast-food restaurants, since both uses may require conditions to keep them from negatively impacting upon adjacent properties and to assure that they are compatible with the Capitol Area.

The inclusion of fast-food restaurants as a conditional use is identical to St. Paul's ordinance and is therefore necessary not only for purposes of consistency with the zoning of the surrounding municipality, but to avoid the unfortunate situation of the Capitol Area imposing less safeguards upon this use and thus becoming an island of such uses within the city.

The next substantive change, the addition of hotels or other similar establishments, is necessary to clarify the intent of these rules, which is to include all transitory lodging establishments. The failure to mention hotels in the present rules was an apparent oversight that could cause some confusion to the general public. This is consistent with the policies of the Board's Comprehensive Plan.

The final substantive change in this section allows principal uses permitted in the Office-Service District (OS-1), except governmental uses, in the B-2 District when located on the second floor or above.

This change recognizes that often offices exist very compatibly with business uses, especially when on the second floor or above, and this change is consistent with provisions of St. Paul's ordinance. The change maintains the emphasis of the Comprehensive Plan on commercial uses in this district by designating these office-service uses as conditional uses and restricting them to second floors or above. The exclusion of G-1 uses is necessary in order to prevent encroachment of governmental uses by limiting them to the G-1 District, an area adequate for their growth and development.

CAAPB 410 Office-Service District (OS-1); Principal Uses.

This change includes in the OS-1 District those principal uses of the Governmental District G-1.

This change is necessary to remove certain ambiguities in the Board's present rules which have proved troublesome. Currently executive, administrative and professional offices are allowed in the OS-1 District, yet there is a Governmental District for State of Minnesota offices.

This change is proposed concurrently with the revisions to the official zoning map whereby a portion of the southeastern part of the Capitol Area (those blocks bounded by Twelfth Street, Jackson Street, Fourteenth Street, and Robert Street) are rezoned from G-1 to OS-1. This new language is thus necessary to allow existing governmental uses in that area the opportunity for growth and development.

CAAPB 411 Office-Service District (OS-1); Conditional Uses.

This change permits in the OS-1 District those conditional uses of the Governmental District G-1.

This change is necessary to remove the same ambiguities referred to above (CAAPB 410).

CAAPB 412 Planned Unit Development District (PD); Intent, Establishment and Principal Uses.

The reason for including additional language on the Planned Unit Development District is to provide a more complete explanation of the intent of the District and to assist the general public with understanding this provision. This new language does not substantively change the current rule.

CAAPB 417 Mixed Use District (MX); Principal Uses. CAAPB 418 Mixed Use District (MX); Conditional Uses.

The need for this new district has been previously explained in Chapter Three; its application within the Capitol Area has been explained in that same chapter.

Businesses, offices, and residences can often be compatibly combined in intense development areas within or near the downtown core of metropolitan areas, such as in the Capitol Area. And it is often necessary that such uses be combined in order to best utilize the limited amount of land available in such intensified development areas.

This combination of uses is therefore appropriate in certain areas and is consistent with the purposes of the Board and the policies of its Comprehensive Plan.

Chapter Five: Area, Height, Bulk, and Setback Regulations

CAAPB 502 Requirements (Revisions to Chart A)

Minimum Yard Setback - Front Yard

The front yard setback in the G-1, B-2 and OS-1 zones have been changed from 0 to 5 feet to provide for a continuous greenspace along the streets. This requirement is reasonable as it would not provide a hardship for current property owners since it would only apply to new construction. It is needed to enhance the beauty of the Capitol Area, to increase the open spaces and to develop proper approaches to the Capitol.

Medium Density, Multiple-Family District (RM-2)

The references to height districts, as well as the section on Height District #2, have been deleted because Height District #2 as proposed in the revised map, no longer includes any part of the RM-2 zone but is entirely within the OS-1 zone.

Community Business District (B-2)

This change reflects the name change for this zoning district and has been previously explained in Chapter Three.

Mixed Use District (MX)

This new district has proposed regulations consistent with the B-2 and OS-1 zones to which it is most closely related.

The note at the bottom of this chart is to call attention to the special requirements of Visual Corridors as contained in Chapter 15 and is included for purposes of internal reference.

(Notes to Schedule of Regulations Chart/Revisions)

The present note C is proposed to be deleted because in the new Height District #2 there is no multiple-family zone and therefore no longer applies.

Changes in the language regarding floor areas (new note C) have been made to make the bonus rule workable. The present wording was incorrect and did not accomplish the intent of the section. Additional square feet designations have been added to clarify the intent of the bonus feature, and are not substantive changes.

CAAPB 503 Height Districts

The concept of height districts, and the maximum elevations of 944.0 feet (specified in section A) and 966.0 feet (specified in section B) remain unchanged. Additional language has been added to clarify the rationale of the 944 foot elevation and to advise readers as to the number of stories generally permitted in District #1. Thus there are no substantive changes, merely explanatory ones, in this section.

(Height District Map)

The Height Districts map shown on page 21 has been modified slightly. The housing area (RM-2) between Cass Gilbert Park and Jackson Street has been changed from District #2 to District #1 because the grades in this area are low and buildings higher than 944 feet are not desired or necessary.

Blocks 89 and 121, previously in District #2, have been changed to District #1, because the ground elevation of these blocks will permit four to six story buildings. Taller towers, which exceed the 944 foot height limitation and leave the surrounding site open, are not desirable or compatible in this area of the Capitol.

The south boundary of District #2 has been moved north approximately 120 feet because buildings taller than four stories facing the Capitol building across Sherburne will visually compete with the Capitol.

Chapter Six: Parking Regulations

In general the changes proposed for this chapter are necessary to adequately reflect new conditions and to rectify certain omissions in current rules. Many of the following rule changes are also modeled after St. Paul parking regulations and are therefore proposed to ensure compatibility and uniformity of standards.

CAAPB 601 Parking Spaces Required.

This rule is changed to substitute "principal building or structure" for the term used in the current rule, "main building or structure", (emphasis added).

This change is necessary since the term "principal" is part of standard zoning language, as the term "main" is not. "Principal" is also used in the St. Paul zoning ordinance.

CAAPB 602 Location of Off-street Parking Spaces.

This rule revision prohibits off-street residential parking within the front yards required in Chapter Five of these rules.

This change is needed in order to protect and enhance the residential nature of certain Capitol Area neighborhoods; the lack of this requirement has proved a problem in past situations where cars have been parked on the front lawns disrupting the open lawn effect of the block. This has resulted in a number of complaints from adjoining homeowners to the Capitol Area Board.

This change is also modeled after a current provision of St. Paul's parking regulations, and as such is compatible with surrounding St. Paul neighborhoods.

CAAPB 605 Joint Off-street Parking Facilities.

The added language is necessary to clarify and make specific an assumption within current CAAPB rules; that assumption was that when hours of operation changed and became in whole or in part concurrent, the original parking requirements would apply.

Since ownership and uses continually change, this added language is necessary to provide a means of addressing any problems which could arise from changing hours of operation.

CAAPB 607 Handicapped Access.

This new rule is required by state law. Its language is also identical to that of St. Paul's zoning ordinance.

CAAPB 608 Mixed Uses.

This rule is needed for reasons similar to those for CAAPB 605. Occasionally a building may combine various uses, for example a hotel which not only has rooms for lodging but includes a restaurant and bar. It has always been the intent of these rules that such a building would provide a total number of parking spaces for each of these uses computed separately. That content and assumption is now made specific by its inclusion as a stated rule, thereby avoiding public misunderstanding and precluding the potential for future problems.

CAAPB 609 Minimum Number of Required Off-street Parking Spaces.

The substantive revisions to this rule modify the minimum number of off-street parking spaces required for individual uses within the Capitol Area.

The first change (section A) reduces the number of parking spaces for governmental use from one space for every two hundred square feet of usable floor area to one per every three hundred square feet. This change recognizes that the Capitol complex, near the downtown core of St. Paul, is readily served by mass transit, and that reliance by state employees upon mass transit or other forms of paratransit such as commuter vans or car pools has steadily increased since this requirement was first adopted in 1973. (In fact, according to the Minnesota Department of Administration there currently are 300 empty off-street parking spaces available for state employees within the Capitol complex.)

Part of the state governmental complex is included in the City of St. Paul's definition of downtown; the remainder is immediately adjacent to it. This change then also recognizes that state governmental office use is similar to general office use, and that for such general office uses in downtown St. Paul no off-street parking is currently required.

This is reasonable not only in light of the availability and efficiency of public transit systems in downtown St. Paul, but also because of the scarce commodity of available land in such an intensified development area. It needs to be recognized that the use of this valuable land for a low-intensity use such as parking is often financially prohibitive.

The first changes proposed for section B are only for purposes of reorganizing this section for greater clarity and have no substantive effect.

The first substantive change in this section reduces the number of off-street parking spaces for multiple family uses from $1\frac{1}{2}$ to 1 per each dwelling unit. The Board's experience in administering these rules has shown that the current requirement is excessive; applicants for zoning permits for apartment buildings have requested, and been granted, a variance from this requirement because they have demonstrated that their prospective tenants either utilize mass transit or walk to work in the nearby state governmental complex.

This reduction is also reasonable because residential development in downtown St. Paul, to which this area is immediately adjacent, need not provide any off-street parking.

Housing for the elderly is also a form of multiple family use and as such its reduction is concomitant with the above. Modifying this current requirement was also strongly recommended by the City of St. Paul's parking administrator, who indicated that the current requirement was much too excessive based upon St. Paul's experience.

The next category, Boarding House, is also revised for some of the same reasons. Although this is a seldom-used category for the Capitol Area, the current requirement was not reasonable in that users of this type of housing usually do not have more than one automobile each, if any. In addition boarding houses do not have a large number of employees. Thus the revised number of required parking spaces is reasonable in that it should provide more than adequate off-street parking.

Section C deals with parking requirements for institutional uses. The first revision therein is not a substantive change; auditoriums had been listed in this category but as "Theaters and auditoriums." Separating it out and listing it alphabetically, as are all other institutional uses, is needed for greater clarity. The current requirement for auditoriums is not changed.

This change is reasonable in that it recognizes that there is a difference in the type of entertainment provided by theaters and auditoriums. Productions in auditoriums are usually single performances with attendance at or near seating capacity; movie theater sell-outs occur less frequently.

The next change, deletion of the words "and auditoriums", is concomitant with the above.

The last change in this section modifies the number of off-street parking spaces for insitutional theaters by reducing the requirement from one per each three seats to one per five. This change is identical to a revision of St. Paul's parking regulations and is proposed partly for that reason.

This change is also reasonable in that theaters usually repeat performances so that the demand is spread out over a longer period of time. This change also takes into account the fact that theaters in downtown St. Paul, which is immediately adjacent to the Capitol Area, are required to provide no off-street parking.

The next section (section D) covers parking requirements for commercial uses.

The first change includes auditoriums as a commercial use category. This corrects the omission in current rules of dealing with the topic of commercial auditoriums. The parking requirement for this use is the same as for institutional auditoriums and for the same reasons as above.

The next change is somewhat more substantive. The parking requirement for restaurants and bars is slightly reduced, by deleting the one additional space per premises. This change is reasonable in that the reduced requirement will be identical to that of St. Paul; also no reason could be postulated to explain the need for that one additional space.

The following change adds the word "hotel" to the commercial lodging category. This change is needed to correct an oversight in the current rules; it does not change the required number of parking.

The last change in this section adds theaters as a commercial use category. This change, as explained earlier, corrects an omission in that current rules overlook commercial theaters. The parking requirement for commercial theaters is the same as for institutional theaters and for the same reasons as explained above.

Section E deals with parking requirements for office uses.

The first few changes proposed herein are needed to recognize the differences in customer/client turnover between banks (1,000 square feet), other financial institutions such as loan companies (1:200), and general business or professional offices (1:300).

The first specific change adds the words "Savings and Loan Associations, Credit Unions, and similarly-regulated financial institutions." These added rules are necessary to clarify that these uses are quite similar to the uses occurring within a bank and as such should provide the same number of off-street parking.

The next change recognizes that most loan companies and similar establishments have less need for off-street parking because of less clients and therefore requires a smaller number of spaces.

The following change also recognizes that business and professional offices, excluding medical offices, have less client turnover than banks. In addition this reduction is needed in that downtown offices were not required to provide any off-street parking; as such our current requirement appeared inordinate and actually served to discourage appropriate office development in the Capitol Area, an area adjacent and similar in office use to downtown St. Paul. Current requirements were encouraging an office building surrounded by a parking lot, a model more suitable to a suburban location.

As explained earlier for governmental offices, this reduction is also reasonable in that it recognizes that the Capitol Area is within the convergence of many mass transit lines.

The last changes clarify that this category refers to medical professions; as such the term "medical" is added for purposes of clarify.

The modification in the method of computing the actual requirement was necessary in order to simplify the administration of these rules; it has been difficult at times to determine what a "similar use area" was. For example, there were questions whether an x-ray room was a similar use area.

It should also be noted that the parking required of such medical offices remains significantly greater than other office categories.

CAAPB 610 Construction of Off-street Parking Spaces.

The first revisions to this rule are not substantive and are for purposes of better form.

The changes to the minimum length and width of each parking space are reasonable in that they simply recognize the fact that cars are significantly smaller than they were in 1973 when these requirements were first enacted. These same reductions have been in effect in St. Paul for well over a year and have proven sufficient.

The addition of Section C is needed for similar reasons. This change reflects the trend to compact cars; this trend in St. Paul has been documented by its parking administrator who has indicated that 50% or more of the cars parking in downtown St. Paul are compacts.

The next change in this rule is section H where the term "visual screen" is added. This addition is necessary to reflect changes to Chapter Nine (Visual Screens) and to therefore maintain internal consistency.

Section I adds earth berms as a method of providing wheel stops. This addition provides greater latitude to the public while still maintaining the intent of the original requirement.

Chapter Eight: Accessory Building Regulations

The revisions proposed for this chapter are not substantive in impact. The term "main building" is changed to "principal building" since that is a more standard term in zoning terminology and is also used throughout the St. Paul zoning ordinance.

The reference in CAAPB 804 to RM-2 Multiple-Family Residential District, Height District #2, is deleted since the revised Height District Map (Chapter Five) eliminates all residential areas from that height district.

Chapter Nine: Visual Screens

The term visual screens is substituted for wall or fence throughout these rules. This is consistent with the intent of the section, which is to allow several methods of visually screening incompatible uses, all of which may be equally effective in various situations.

The rule change will specifically allow plant material to be used for visual screening. It designates minimum sizes as well as time limits to ensure that the plant material will accomplish its purpose of screening.

The rules for visual screening are consistent with the zoning ordinance of the City of St. Paul which served as a model for this section. The City has thus also broadened its definition of visual screen to include landscape materials.

The use of plant materials to visually screen at times may be not only equally effective as a wall or fence, but it also may be more aesthetically appropriate. This rule change therefore allows the applicant greater latitude in choosing how to fulfill this requirement.

CAAPB 901 Visual Screens Required.

The term visual screens is substituted for wall or fence throughout the rules for consistency with the intent of the section. The section requires the visual screening of incompatible uses and allows several alternative methods which may be equally effective in various situations.

The new language specifically allows plant material to be used for the visual screen if appropriate height and density requirements are met.

CAAPB 902 Visual Screens for Off-street Parking.

This section establishes a minimum number of four parking spaces as the size requirement for visual screening for off-street parking. This requirement is reasonable since parking areas of more than four spaces could have a negative impact on adjacent residential property. The present zoning rules have no minimum number of spaces and are therefore too strict.

CAAPB 905 Construction of Visual Screens.

The additional language in section A clarifies the materials that can be used for visual screening and allows more flexibility in materials in order to accomplish the same objective.

Section E of CAAPB 905 establishes time limits, size requirements and maintenance conditions for plant material in order to ensure that these living materials will accomplish the intent of the rules for visual screening.

The sizes of plant material required are reasonable in that they are commonly used sizes, readily available throughout the area. In addition, these sizes ensure a certain acceptable level of quality that can be more easily reviewed and enforced.

The rules for visual screening are consistent with the zoning ordinance of the City of St. Paul.

The requirement for an unbroken visual barrier within two growing seasons is reasonable for healthy plant material and ensures that the plants will not be spaced abnormally far apart.

Planting areas of at least four feet in width are needed to provide sufficient growing space and moisture for the plants.

The genus and species will assist in the review of plans to determine the appropriateness of specific plants for the proposed location.

The requirement for maintenance of the plant material is necessary so that the purpose and intent of the visual screen is not lost due to neglect over a period of time.

CAAPB 906 Variances.

Additional language has been added to clarify the procedure for seeking a variance to the rules.

Chapter Ten: Exterior Lighting and Structural Regulations

CAAPB 1004 Street and Landscape Elements.

The current language dealing with amateur radio station towers is deleted from this section and placed in Chapter Four. This non-substantive change was recommended by the Planning Division and Economic Development Department as a more logical placement.

The new language relates to street and landscape elements. These exterior structures such as bus shelters and benches, have a significant impact on the visual environment and aesthetics of the Capitol Area. This impact was initially recognized by the City of St. Paul when, in 1977, they adopted an ordinance regulating the location and design of newsstands (St. Paul Ordinance 16354, 1977).

Since their impact is so significant it is reasonable for the Board to exercise some control over their design and location, considering the Board's duty to preserve and enhance the dignity and beauty of the Capitol grounds and Capitol Area.

In addition the Board's responsibility to protect, enhance, and increase open space would seem to call for some control over those elements which can unnecessarily clutter such open spaces. It should also be pointed out that the Board is only exercising this control within areas which are by function or by designation open space, that is, public right-of-way and the G-2 zone.

Chapter Eleven: Sign Regulations

The changes proposed for this chapter are generally necessary for three reasons: to clarify and update these sign rules and their administration, to make these sign rules compatible with those of St. Paul, and to modify them so that they are more effective in implementing the Board's statutory purposes and the policies of its Comprehensive Plan.

CAAPB 1101 Intent

The changes proposed for this rule are needed to simply state the rule in a clearer fashion and to update that language to reflect current CAAPB statutory purposes. It might also be noted that the intent of this rule to protect open space and enhance the area's aesthetics is not unique. One of the City of St. Paul's purposes for its sign ordinance is: "To protect open space and areas characterized by unique environmental, historical and architectural resources." (St. Paul Zoning Ordinance, Chapter 66.101)

CAAPB 1102 Required Conditions

The first substantive change clarifies that a sign permit is necessary before any signs can be installed in the Capitol Area. This is current CAAPB practice based upon the provisions of Chapter 14 (Administration). Repeating it in this section is for purposes of clarification.

The second substantive change (CAAPB 1102B) is also for purposes of clarification and to remove any internal inconsistency in current CAAPB rules. This rule as currently stated prohibits signs which overhang or project into a public right-of-way; yet, in the following section on permitted signs, it allows marquees and other projecting signs, which it defines in part as extending over public property.

The third change (CAAPB 1102C) has little substantive effect. The Board is replacing the current provision with language identical to that of the St. Paul's ordinance for purposes of conformity and because the St. Paul language is clearer in that it includes traffic signs. The St. Paul language is also slightly more specific; thus, it affords persons subject thereto a better understanding of the precise requirements.

The remainder of this section's rule changes (G-L) are all additional required conditions which are in substance identical to provision of the sign ordinance of St. Paul, the municipality which surrounds the Capitol Area. Therefore, the overriding reason for the following proposed additions is for the purpose of uniformity with St. Paul in order to avoid public confusion.

Required condition G is also necessary for reasons of public safety.

Condition H requires the removal of unsafe signs within 24 hours after notification and the removal of unsightly signs within a reasonable period (15 days of notification). Removal of unsafe signs is for reasons of public safety.

Removal of unsightly signs is a specific recommendation of five of St. Paul's 17 neighborhood planning districts and is a recommendation of a 1978 study of University Avenue commissioned by the St. Paul Planning and Economic Development Department. It is also a 1980 recommendation of the St. Paul Planning Commission.

Removal of such signs is also a duty of the CAAPB, since one of its statutory purposes is to "preserve and enhance the dignity, beauty and architectural integrity of the . . . Capitol Area."

The definition of unsightly signs is reasonable in that a sign which is not recognizable at a distance of 20 feet no longer communicates and, therefore, is no longer a functional sign.

Conditions I and J prevent damage to public trees and landscaping, preserve and enhance the aesthetics of the Capitol Area.

Condition K contributes to the safety of persons utilizing public right-of-ways and is uniform with St. Paul's ordinance.

Condition L is similar to a provision of St. Paul's sign ordinance. It is needed to establish a standard sign nomenclature for parking in order to assist the public in quickly identifying and locating off-street parking without unnecessarily cluttering the landscape with such signs. It is reasonable because it only requires adherence to sign standards identical to currently existing international sign standards and, in turn, the City of St. Paul.

CAAPB 1103 Permitted Signs

The heading "Use Districts" is revised to reflect proposed changes in nomenclature (Chapter Three of these proposed rules), and the creation of a new use district, the Governmental District G-2 (Chapter Four).

Under "Permitted Non-Accessory Signs" political signs have been added as a new category, as they have increasingly come into use since these rules were first adopted in 1973 and do fall under both the current and proposed sign definition. This addition clarifies that such signs are permitted in every use district except governmental, where such politically partisan signs would not be appropriate.

CAAPB 1103 also increases the maximum square feet area of identification and name plate signs. The current maximum size has proven inadequate to effectively identify buildings of such scale as are common in the Capitol Area.

In 1976, the State of Minnesota through its Department of Administration commissioned a study of exterior signage in the Capitol Area, including state building identification signs. That study recommended identification signs for state buildings of the size we are now recommending as maximum. Proportional changes are also proposed for private buildings.

The inclusion of the term "Animated" under the category "Structure Types" is proposed since the current rules, in the definition chapter (Chapter Two), refer to "Flashing, Animated, or Moving Sign." This change simply rectifies this earlier omission.

CAAPB 1104 Nonconforming signs

The most significant impact of this proposed rule is the removal of all non-conforming signs by January 1, 1986.

This proposed change applies to all non-conforming signs--not just billboards, in the Capitol Area of St. Paul, an area which the State has deemed to be a unique architectural and historic resource. All non-conforming signs in the rest of the city would continue to be grandfathered in. The Capitol Area has been designated an area unique and significant to the State of Minnesota not only by legislative language but by past public actions aimed at preserving the areas architectural, historic, and environmental quality. Public investments have been committed, and special development controls have been imposed on both the public and private sector.

Public objectives and public investment in this area require a more effective solution to the problems of nonconforming signs than would be found through attrition. Attrition has not worked since 1973, when the CAAPB zoning rules first imposed prohibitions on new billboards, festoon signs, and other non-conforming signs. Existing non-conforming signs have become more obvious and apparent as public improvement efforts have proceeded. (Examples of such efforts are Leif Erickson Park southeast of the Rice Street-University Avenue intersection and the Rice-Marion apartment development at the intersection of Rice Street and Como Avenue.)

Since the creation of CAAPB in 1967, the legislature has intended the Capitol Area Board to regulate advertising devices within the Capitol Area. It has also been legislative intent that the Capitol Area Board have and execute the authority to remove non-conforming signs ("Advertising devices which do not meet the requirements of the rules and regulations may be ordered by the board to be removed." Minn. Statutes 1980, Chapter 15.50, subd. 7).

The proposed rule then provides a due process mechanism for notifying appropriate parties that the Board is proposing to order the removal of non-conforming signs within approximately four and a half years.

Provisions A-G allowing continued use of non-conforming signs until January 1, 1986, are in substance identical to their respective counterparts in St. Paul's sign ordinance. These provisions also do not, in substance, depart from existing provisions of Chapter Thirteen (Nonconformities). They are placed in this chapter for purposes of internal consistency and public comprehension.

CAAPB 1105 Administration and enforcement

This rule proposes a separate administrative procedure for sign permits than currently provided in the Board's rules under Chapter Fourteen (Administration), since sign permit administration generally requires less information and review, and can therefore be a simpler process for the public.

The provisions of this rule are patterned after St. Paul's sign ordinance and generally follow the procedures outlined in the existing Chapter Fourteen of the Board's rules.

CAAPB 1106 Sign Permit; application

The information required for a sign permit application by this rule is necessary in order to effectively administer these rules and allow the Board and its delegates to make informed judgments and obtain additional information as needed.

CAAPB 1107 Exemptions

The exemptions to this sign rule as provided are identical to those of St. Paul.

Neither the statutory purposes of the Capitol Area Board nor the goals or objectives of its Comprehensive Plan require sign permits for the four types of "signs" specified.

CAAPB 1108 Abandoned signs

This proposed rule is almost identical to a provision of St. Paul's sign ordinance and addresses a problem unique to sign usage. The purpose of a sign is to inform; when the information provided by a sign is incorrect or misleading the sign no longer serves any useful public purpose and therefore is dysfunctional and should be removed.

Because of St. Paul's sign ordinance, an almost identical provision applies throughout St. Paul except for the Capitol Area. There is no reason it should not apply there also.

CAAPB 1109 Variances

This rule merely serves as an internal reference to Chapter Sixteen (Variances) and is included for purposes of clarity and assistance to the general public.

Chapter Fourteen: Administration

The revisions provided herein are necessary for three general reasons. They simplify the Board's procedures and delete duplication with the City of St. Paul, thus providing the public with a less burdensome and yet more efficient method of obtaining necessary permits and certificates.

Other of these revisions are needed to reflect the Board's updated statutory purposes.

These amended rules are also required in order to provide a process for obtaining a Certificate of Design Compliance. This is a requirement recently enacted by the Legislature, and delegated to the Board, in order to protect and enhance the dignity, beauty, and architectural integrity of the Capitol Area (Minnesota Laws 1980, Chapter 614, sec. 48).

CAAPB 1401 Duties of Board.

The only significant change in this section is to name the Board's authorized representative to administer these rules the Zoning Administrator. This addition is one of semantics; it is a term common in zoning administration and also used in the St. Paul zoning ordinance. As such it should prove useful for public understanding and comprehension.

CAAPB 1402 Zoning Permit Required.

The deletion herein is needed for purposes of clarity; the deleted term "of a deleted class" is neither defined nor used in any other place in the current rules. As such it has proved confusing.

The revised language is completely consistent with zoning law and is necessary for implementing the Board's responsibilities and duties.

CAAPB 1403 Zoning Permit; Application.

The new internal references are necessary due to the preceding revisions of these rules.

Section D provides a more adequate number of copies (three) and is the minimum number necessary since the Board is advised on all architectural and planning matters by three architects.

Section E revised includes some illustrations of the types of materials which may be necessary in order to enable the Board to discharge its duties and responsibilities. As such inclusion of this new language is needed to assist the public to better understand what may be required of it.

CAAPB 1404 Consideration of Site Plan

The rule provides the parameters within which the Board will consider the site plan referred to in CAAPB 1403. As such its inclusion is needed for purposes of equity; it gives the public a clear indication of the Board's criteria in considering submitted site plans.

This rule is also consistent with its counterpart in the St. Paul zoning ordinance and thus is necessary for consistency with that municipality's procedures, procedures usually more often encountered by the public.

CAAPB 1405 Additional Site Requirements

These additional site requirements were recommended by the Planning Division of the St. Paul Planning and Economics Development Department; identical requirements are found in that municipality's zoning ordinance. Inclusion herein assists in establishing consistency and thus should be more easily understood by the public since this information is commonly required within the Twin City metropolitan area.

Inclusion herein is also necessary as an internal reference to the possible need for landscaping, fences, and walls; the delineation of such possible requirements are contained in Chapter Nine (Visual Screens).

CAAPB 1406 Certificate of Design Compliance.

This rule is needed in order to further the statutory purposes of the Board and satisfy its lawful responsibilities.

The Board is proposing the establishment of such a certificate pursuant to that provision of state law that "No person shall undertake these construction activities as defined in the Board's rules in the Capitol Area unless he has first submitted construction plans to the Board, obtained a zoning permit from the Board and received a written certification from the Board specifying that he has complied with all design review procedures and standards." (Minn. Stat. 15.50, Subdivision 2[a])

CAAPB 1407 Certificate of Design Compliance; Application.

This rule sets forth the information, plans, and drawings necessary for the Board and its architectural advisors to make an informed decision on whether the proposed construction satisfies the CAAPB design rules (Chapter Fifteen).

The information requested is reasonable in that it is patterned after similar municipal ordinances with design control provisions, such as those of the Historic Hill District Board of St. Paul.

CAAPB 1408 Consideration of Applications.

The first changes in this section reflect previous revisions and are needed for purposes of internal consistency. The addition of the last statement in this rule is provided to assure the applicant that a certificate of design compliance will be granted if he meets the standards.

Old rule CAAPC 1405 (Variance) is being deleted since this subject is now more appropriately being addressed in its own chapter, Chapter Sixteen.

CAAPB 1409 Building Permits Required.

The revised rule eliminates an obsolete provision of our current rules requiring applicants within the Governmental Zoning Districts of obtaining two building permits, one issued by the City of St. Paul and the other by the Board.

Since all building permits are issued based upon the respective application's conformance to the State Building Code, this requirement is duplicative and thus unnecessarily burdensome.

In addition, the rule as revised is reasonable in that it reminds the applicant that a building permit by the City of St. Paul is also required.

CAAPB 1410 Certificate of Occupancy Required.

The revision incorporated herein reflects the broadening of the term "fence" to include plant and other landscape materials. As such the need for this change is explained in Chapter Nine.

CAAPB 1411 St. Paul Certificate of Occupancy.

This revision is needed to correct the obsolete and duplicative nature of the current rule as is explained in CAAPB 1409 above.

It should also be noted that the Board, unlike the City, has neither the expertise nor the resources to enforce this rule or rule CAAPB 1409. (The Board's zoning and design rules largely relate to questions of land use and building design; building codes, however, are concerned with technical issues such as conformance to health and safety requirements.)

CAAPB 1413 Permit Expiration.

This new rule, similar to a provision of the St. Paul zoning ordinance, is needed to foreclose the possibility of applicants securing permits in anticipation of future rule revisions while actual construction does not begin until after the revised rule takes effect. This rule is not proposed for hypothetical reasons; the Board has occasionally had experiences of this nature.

CAAPB 1414 Fees.

As in the situation described in CAAPB 1413 above, the Board has infrequently authorized issuance of a zoning permit upon payment of fees and the fee has not been paid for, at times, over a year. This provision is modeled after its counterpart in the St. Paul ordinance and is a standard one in most zoning codes; as such it is needed because it removes any ambiguities and clearly notifies the applicant of the consequences of nonpayment of fees.

Deletion of Chapter Fifteen: Notice and Amendment

The subject matter for this entire chapter is deleted since it is no longer needed.

CAAPC 1501 (Notice) is no longer necessary since the provisions of the Administrative Procedures Act now govern with their notification requirements. As regards any variance requests, Chapter Sixteen (Variances) provides adequate notice provisions.

The notice to property owners within 200 feet of the premises for which a zoning permit is applied for has proven obsolete unnecessary, and confusing; not only does St. Paul not have any similar provision but this notice was confusing to the general public in that if an application was in conformity with CAAPB zoning rules the Board was obligated to grant a zoning permit. This notice requirement also submitted all applicants who were in conformity with the rules to an unnecessary ten-day delay, a delay not experienced in St. Paul where applications in conformity with the St. Paul zoning ordinance are granted immediately.

CAAPC 1502 (Amendment) is no longer necessary because of the provisions of the Administrative Procedures Act.

Chapter Fifteen: Design Rules for Visual Corridors

The Comprehensive Plan is articulate and comprehensive in its description of planning and design requirements for each parcel in the Capitol area. The 1973 rules, however, omitted most of the essential provisions. Experience in interpreting the Zoning Rules has shown this omission is significant; it is impossible to "protect and enhance the dignity of the Capitol" without some further description of the three dimensional building that will be permitted. (see attached drawings). This difficulty prompted the Minnesota Legislature to specifically authorize the Board to adopt design requirements (Minn. Stat. § 15.50, Subdivision 2 [1980]).

The 1980 Comprehensive Plan has identified specific corridors which spatially define the Capitol setting and its major approaches. (A map of these corridors, identified as Visual Corridors, is on page 66 of the proposed rules or on page 1683 of the State Register, Volume 5, number 43.)

The Board has used great restraint in establishing the boundaries of these design standards and in establishing design rules which encourage rather than prohibit design creativity. To provide the greatest degree of control in ensuring a proper setting for the Capitol, it would be desirable to apply these standards to the entire Capitol area. To minimize and carefully assess the impact of these controls, the standards have been applied only to the primary visual corridors, where the impact of the built environment directly affects the image of the Capitol.

CAAPB 1501 Designation. CAAPB 1502 Application.

Most people arrive at or view the Capitol from the major streets identified on the visual corridor map. These streets carry high volumes of traffic and connect directly to freeways or major arterials. Thus the image of the State Capitol and Capitol area is established within these corridors for the greatest number of people.

These visual corridors include those approach routes and open spaces which provide the strongest visual impact of the Capitol area and Capitol Building. Their edges define the mall and Capitol environs; major views and vistas are framed within these corridors.

All new or major rehab building projects are included. This is consistent with State and City codes.

Substantial renovation of existing buildings is permitted without compliance with this section.

CAAPB 1503 Building Height

Current zoning rules already include height restrictions. Zoning ordinances throughout the country include height restrictions when the height of a building significantly and adversely affects the

surrounding community. Height restrictions are used when buildings block views, solar access, or create a visual scale that is incompatible with existing buildings in that neighborhood.

In the Capitol area, the aspect of compatible scale is most important. The present rules limit the height of buildings so new structures will not visually dominate or overwhelm the Capitol Building. Similarly, low buildings at the edges of large open spaces or major approach routes are visually insignificant and out of scale with the Capitol and major buildings surrounding the Capitol. The public right-of-way and open space in the designated corridors ranges in width from 100' to several hundred yards. Buildings of one story, however attractive they might be, are visually unable to adequately define the visual corridor, are out of scale with the street and surrounding buildings, and thus inappropriate.

Twenty-five to sixty-five foot building heights are visually desirable along these corridors (creating proportions of building height to street width of 1:4 to 2:3).

Although three to four story heights are desirable, this may be too restrictive, and, accordingly, a minimum of two story height (typically 25 ft. to 30 ft.) is specified. Analysis of land area and specific sites, along University for example, has indicated that owners/developers can optimize their land utilization and still meet their parking requirements with two story buildings. Use requirements have been relaxed so that the first and second stories may have different uses. Thus, two story construction should not be an unreasonable requirement.

With available land in the Capitol area at a premium, and location of the designated corridors so economically important to the area, underutilization of land should not be permitted for new development. One story buildings, surrounded by open on-grade parking areas, represent this kind of underutilization.

Land zoned G-2 must remain open space. Terraced, underground, or bermed (changes to topography such as creation of terraced mounds of earth in order to minimize the visual impact of auto parking, etc.) construction is normally permitted in the G-2 zone. Along visual corridors, however, it is important that such construction be designed so as to not block views and vistas for vehicle passengers or pedestrians.

CAAPB 1504 Setbacks.

To create visual definition of the corridor, the facades of buildings must be reasonably close to the property line to prevent further diminution of the vertical scale (due to significant setback).

Since parking in the front yards is not permitted (Section 1505), large setbacks are unnecessary. In fact, it may be difficult for an owner to provide adequate parking for his building on most sites if large setbacks are created.

To create a visual wall along the corridors which will spatially define the corridor and frame views along approach routes, building facades must be reasonably aligned. Alignment along an inflexible setback line is unnecessary; however, voids created by entry courts, access points, and spaces between buildings create enough gaps in the corridor wall so that alignment within a narrow setback band is necessary.

CAAPB 1505 Parking.

Location of parking in front of buildings in the visual corridor jeopardizes the line of facades that define the corridor. It further widens the corridor and diminishes, in perspective view, the apparent height of buildings.

Views of buildings along the street, if interrupted by parked cars in the foreground, make the entire street environment unattractive, thus degrading the image of the Capitol area.

Parking in front of buildings will necessitate numerous curb cuts to provide access to this parking. This will increase congestion and pollution, and increase the hazard to pedestrians.

Parking compounds/areas at the rear of the lot or interior of the block will be accessible from the alleys or sidestreets, thus reducing turning movements on the arterial streets. It can be made more secure by fencing or enclosure. If ramps are built to permit additional building bulk, ramps in the rear or interior of the block will not jeopardize the visual impact of the ramp as viewed from the corridor--which is the view seen by most people.

CAAPB 1506

Consistent with other provisions of these rules, cars and parking areas should be visually screened from the surrounding neighborhood. A six foot planting area is deemed minimum, especially if cars overhang curbs or bumpers.








Islands are required in large lots to reduce the negative visual impact of extensive asphalt surfaces.

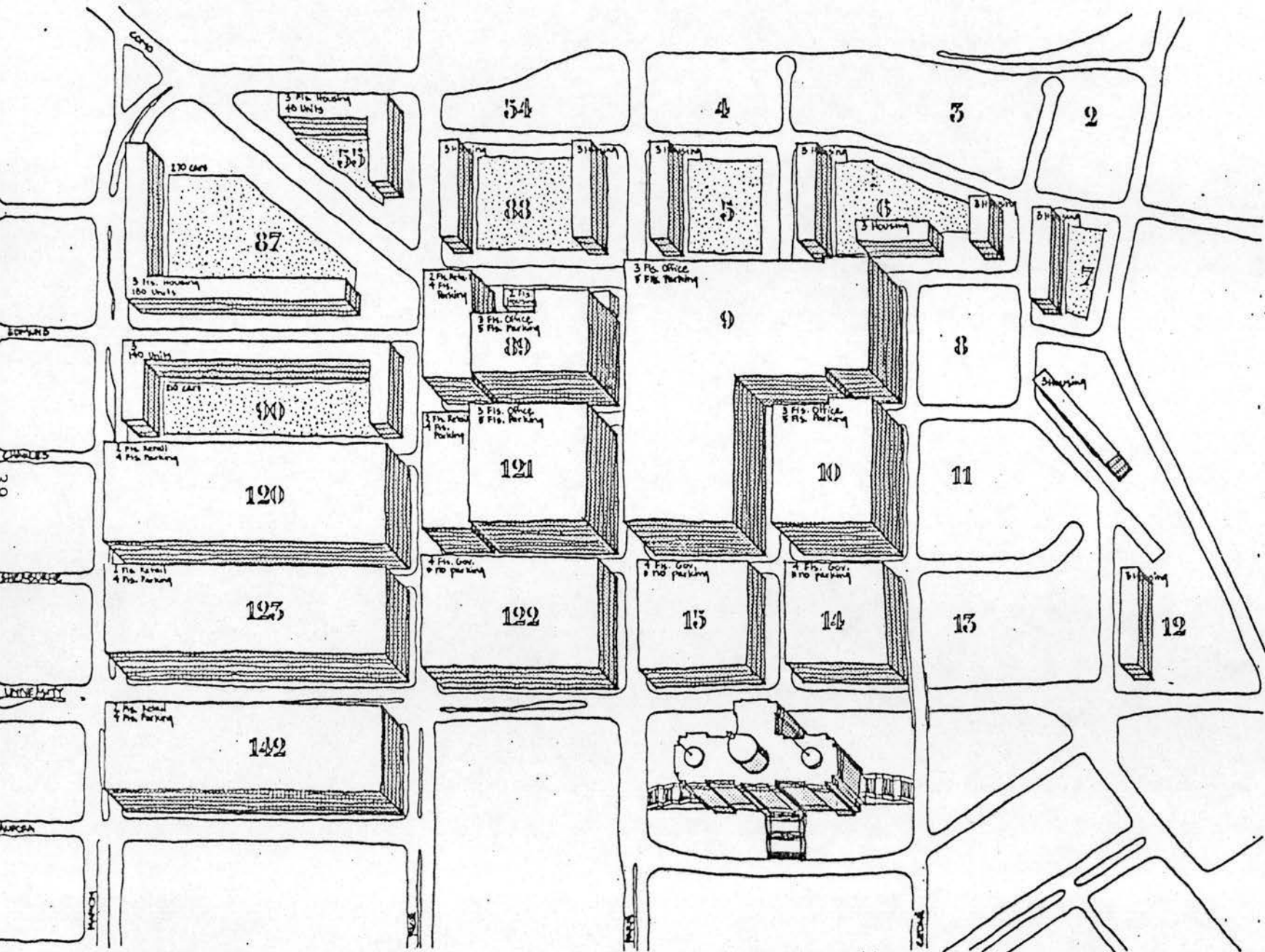
Plant materials which can survive an environment produced by exhaust fumes and runoff water are specified. It is essential that large enough specimens be selected to provide a reasonable visual barrier--otherwise the intent of this section has no beneficial impact for many years (if then).

CAAPB 1507 Access/Egress.

Multiple access points along the corridor are unacceptable. They create congestion, safety hazards (due to vehicles making left turns

Maximum Building Permitted by Present Code

-  Commercial
-  Office
-  Government
-  Residential
-  Parking
-  No. of Stories, Occupancy
-  Block Designation



Capitol Area
Architectural
and Planning
Board



or crossing moving lanes), and pollution.

Adequate access to parking in the rear of buildings is typically available throughout the Capitol area. In cases of extreme hardship a variance procedure is provided (see proposed Chapter 16).

CAAPB 1508 Freestanding Signs.

Freestanding signs are usually required when buildings are set back from the street and/or parking is permitted in front of the building. Adequate building or tenant identification is permitted on the building itself.

CAAPB 1509 Mechanical and Electrical Equipment.

Consistent with other provisions of this section and rules, efforts to make buildings and visual corridors more attractive can be negated by unsightly mechanical or electrical equipment. While such equipment may be required, it may be located so as not to be in front of or on the roof of buildings, or may be screened from view.




CAAPB 1510 Additional Criteria.




The image of the Capitol area is determined by the visual quality of its three dimensional environment. Since building edifices create most of this three dimensional environment, it is imperative that buildings be well designed.

It is not the intent of this chapter to dictate or legislate good design, but to establish the aesthetic parameters that provide a reasonable basis for reviewing any design. The proposed design standards are quite specific in identifying the aesthetic factors that must be considered, but quite liberal in the sense that a broad range of design solutions will be permitted. In all cases, it is made clear that designs will be reviewed in relation to their surrounding context.

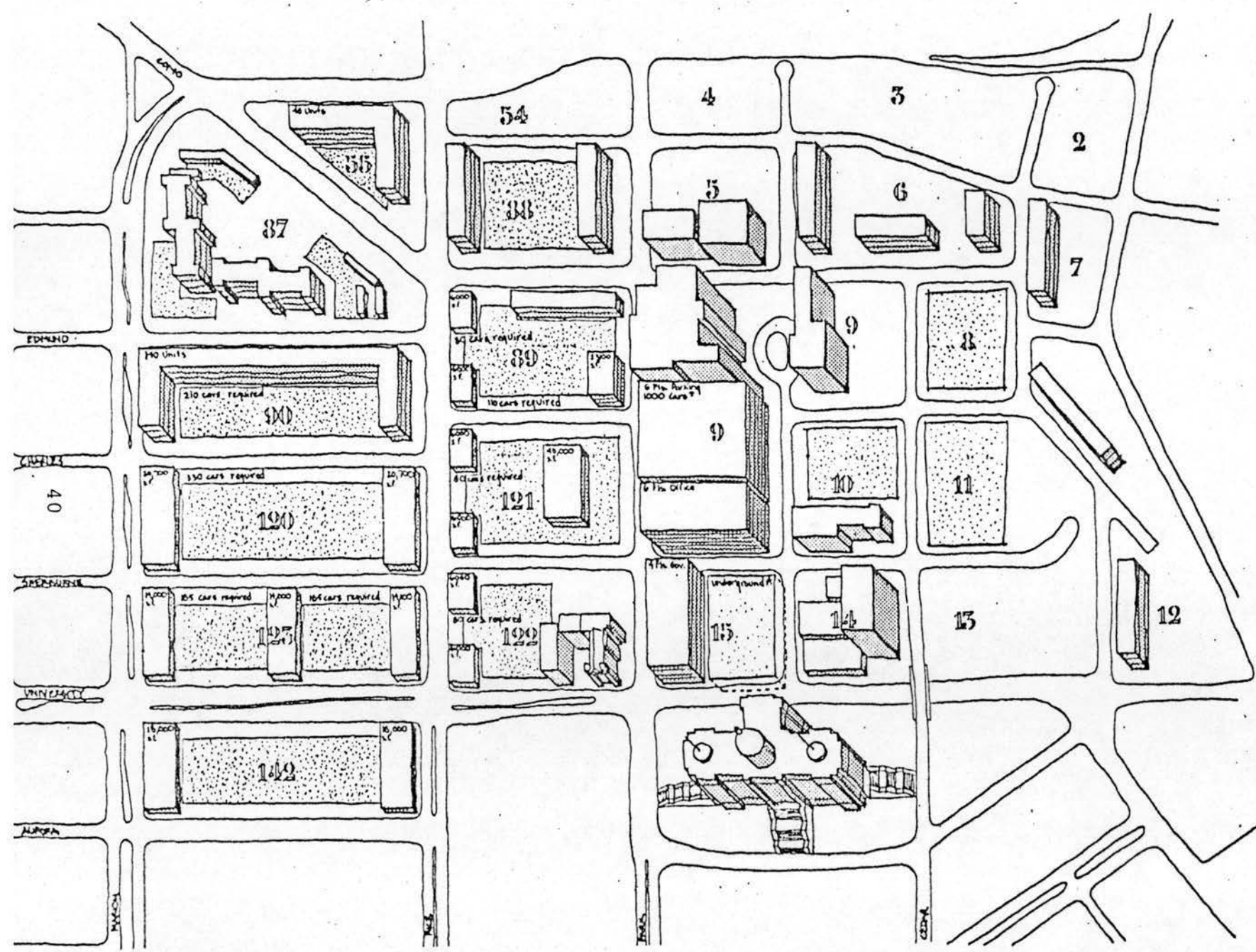
The Board has used restraint in specifying these design standards. Many codes enacted for historic districts and Capitol areas throughout the country are far more restrictive in establishing design solutions for new projects in their district. The proposed standards do not attempt to legislate good design by eliminating all but a single set of preselected design ideas; instead they describe only those qualities that are essential to visually defining the corridors surrounding the Capitol, and establish aesthetic parameters which must be considered in any reasonable definition of design.

Maximum Building Limited by On-Grade Parking

-  Commercial
-  Office
-  Government
-  Residential
-  Parking

-  4 No. of Stories, Occupancy
-  * Required by Comprehensive Plan
-  (D) Block Designation

Capitol Area
Architectural
and Planning
Board



Chapter Sixteen: Variances

This Chapter establishes procedures and standards for the granting of variances to the design, signage and other rules presently existing or proposed by the Board.

Generally, the Board believes variance procedures are needed in light of the unique nature of its duties and its rules in furtherance thereof. As previously noted, the Board was created to preserve and enhance the dignity, beauty and integrity of the capitol and capitol area, protect and enhance open spaces and develop proper approaches to the capitol area, and establish a framework for expansion of state governmental buildings (Minn. Stat. § 15.50, Subdivision 1 [1980]).

Given the broad and somewhat esoteric nature of its duties and concomitant rules and the continuing evolution of new design concepts and construction materials, the Board believes that comprehensive variance procedures and standards are necessary in order to reasonably apply its zoning and design rules to certain hardship situations and to provide exceptions for the use of unique architectural designs and building materials. The alternatives, amending CAAPB rules each time hardships or design considerations merit changes or attempting to anticipate every appropriate exception at the time of the rule promulgation, are neither realistic or reasonable.

In preparing appropriate variance rules, the Board has also been mindful of two additional and significant considerations. First, persons who have complied with CAAPB rules should not be disadvantaged or treated in a discriminatory fashion by the Board's granting of a variance request. In other words, variance rules should not operate to afford one person a variance, while denying same to others similarly situated. Secondly, variances should not be granted if they erode or defeat the Board's legislative charge noted supra.

An examination of the Board's proposed variance rules demonstrates that they satisfy the foregoing general considerations, comply with statutory requirements and meet the test of need and reasonableness.

CAAPB 1602 Requests for a Variance

The rule sets forth the documentation which an individual seeking a variance must submit to the Board. In order to make a reasonable and informed judgment as to the nature and merits of a variance request, the Board must have the information required, namely: the nature of the variance requested and reasons therefor, technical information relating to the request and the requesting party's arguments as to why his request meets the Board's variance criteria.

CAAPB 1603 Disposition of Variance Requests.

This rule establishes the bulk of variance procedures (required by Minn. Stat. § 15.0412, Subdivision 1a. [1980]) to be followed. These may best be considered by individual subpart.

CAAPB 1603 A. essentially requires the Board to give 30 days detailed notice of a variance request to interested parties and allow them to submit their comments. This provision is needed and reasonable in order to effectively alert both those persons who may be affected and those who wish to "audit" Board activities to be assured of fair treatment and afford them ample time in which to express their views.

CAAPB 1603 B. allows the Board to direct a variance applicant to submit additional information or appear before it so as to further ensure that the Board will have sufficient information to make a proper determination.

CAAPB 1603 C. authorizes the Board, upon giving seven days notice, to require that the applicant and persons who have submitted written request appear before and make arguments to the Board. This rule provides an opportunity to both the proponents and opponents of a variance matter to provide additional input at Board request. It allows the Board to obtain additional needed information if a variance request is complicated in nature or if there appears to be multiple points of view. The provision also clarifies the fact that such appearances do not constitute a contested case. If it is ever concluded that a dispute regarding the granting of a variance may give rise to a contested case, the Board would, of course, proceed pursuant to the contested case procedures contained in Minn. Stat. § 15.0418 et seq. Since these procedures are already set forth in Minnesota Statutes, it is not appropriate to duplicate them in CAAPB rules. See Minn. Stat. § 15.0412, Subdivision 1.

CAAPB 1603 D. underscores the necessity of following the variance procedure by providing that persons failing to do so will not receive variances.

CAAPB 1603 E. requires that the Board inform both the applicant and other interested parties of its determination in writing within 30 days of rendering same and, as such, meets the related requirements of Minn. Stat. § 15.0412, Subdivision 1a.

CAAPB 1604 Standards for Granting and Denying Variances.

Sections A, B and C of this rule set forth the standards to be applied to the granting of general variances, design variances and sign variances respectively. Aside from small distinctions required by the differences in subject matter, the standards are essentially

the same. The standards are necessary to: comply with Minn. Stat. § 15.0412, Subdivision 1e., acquaint the applicant with the criteria which must be met and assure the applicant that a variance will be granted if he meets the standards. The standards are somewhat general in nature, since, as noted supra, it is impossible to anticipate and provide criteria for each contingency. However, the standards adequately address and provide protection to the three elements which must be balanced: 1) hardship to the applicant, and, where appropriate, new design and construction techniques, 2) the rights of others similarly situated, and 3) the need for the Board to satisfy its statutory responsibilities as to preservation of and enhancements to the capitol area.

Comprehensive Plan for the State Capitol Area
1980-1990

POLICIES

Policy 1 General Policies

The Capitol Area is divided into two design districts:

A - The Capitol Building and the governmental complex

B - The related peripheral area

Design District A, defines boundaries within which the state has almost total control. Development within this Design District requires a competition in the selection of building design. The design must conform to all applicable provisions of this Plan and be approved by the Board. In addition to design competition requirements, zoning regulations are also in force in Design District A.

Design District B boundaries define a 'sphere of influence' around the Capitol. Significant land use decisions within District B could greatly effect the beauty and dignity of the Capitol Buildings and grounds, and conversely decisions regarding the Capitol and governmental complex could effect land uses within District B. Development in Design District B is influenced by zoning as well as design standards and guidelines.

The main regulatory tool, the Zoning Ordinance, stands as a separate document to ensure desired land uses, protect open spaces, and conditions landscaping, siting and design of facilities to be constructed. The Zoning Ordinance's jurisdiction covers all of the Capitol Area: Districts A and B. As this Plan is the document from which policy direction for the Zoning Ordinance is drawn, if the two documents are

in conflict on a policy issue, the Plan should be the governing document and the Zoning Ordinance amended accordingly.

In general, the Zoning Ordinance should ensure development which is compatible with the Capitol Area. New developments or redevelopment projects should promote a variety of housing types, private office space, public and professional services, and commercial uses.

- 1.1 Facilities, functions and activities which supplement and are compatible with those of the Capitol Area should be retained and developed in order to reinforce its position as a larger neighborhood and the community as a whole.
- 1.2 Such land uses should include opportunities for a variety of housing types, private office space, public and professional services and commercial uses. When appropriate the area for such uses should be carefully delineated in order to prevent encroachment from one to the other.
- 1.3 In cases where the present Zoning Ordinance does not, due to historical precedence, agree with the desired Land Use Plan, any changes in the Zoning Ordinance must be in the direction of conformance with the Land Use Plan.

Policy 2 "Preserve the dignity, beauty and architectural integrity of the Capitol Building, State Office Building, Historical Society Building."

- 2.1 "Prohibit demolition or alteration of any portion of the exterior of these buildings in any way which detracts from or significantly alters their image."

- 2.2 "Preserve the integrity of the interior of the State Capitol, including its historic and architectural features, and review and approve all interior renovation plans for the Capitol Building."
- 2.3 "Review and approve all alterations to artistic and historic features of the State Capitol grounds, e.g., sculpture, monuments and plaques."
- 2.4 "The design of major new State building facilities/projects in Design District "A" should be determined by a competition as described in Statute 15.50."

Policy 3 "Visual controls, especially minimum heights, maximum heights, and maximum set-back requirements are an important part of the overall plan for the Capitol Area."

- 3.1 "The maximum height and bulk of buildings should be limited so future buildings do not visually compete with the Capitol or block important vistas."
- 3.2 "Buildings along important visual corridors and spaces should be a minimum of two stories in height to prevent visually underscaled streetscapes and under-utilization of land."
- 3.3 "Non-residential buildings along important visual corridors should maintain the average set-back alignment of their existing buildings on the block, or - if not applicable - should be sited close to the street or the minimum set-back line. In no case will parking be permitted in non-residential projects between the buildings and the street. Continuous facades are encouraged to visually define and contain the street space."

3.4 "In residential areas, minimum set-back from the street will be required to ensure privacy and provide landscaped areas surrounding the buildings. In commercial districts, sufficient set-back should be provided to permit planting of street trees."

3.5 "The Board shall consider and apply available incentives for projects that meet design standards and are deemed to enhance the beauty and dignity of the Capitol Area."

3.6 "City of St. Paul should be encouraged to provide public financial participation only to projects that are in compliance."

Policy 4 Provide a dignified setting for the Capitol which will enhance all faces of the Capitol and allow for the proper spatial and functional relationship between it and surrounding buildings.

4.1 Develop a public space or plaza which will provide an appropriate entry for the Capitol, unify the foreground between the Capitol and surrounding buildings, and provide exterior pedestrian circulation and activity areas.

4.2 The Mall south of the Capitol should be designed to give definition and enclosure to the open space bounded by the proposed Capitol Plaza on the North, Highway Department and Centennial Office Buildings on the west and east, respectively, and I-94 on the south.

i. Mall landscaping and design of the features within it should be consistent with the Master Landscape Plan.

- ii. A goal of the Comprehensive Plan is to eliminate unnecessary traffic and surface parking on the mall. This should be implemented to the maximum degree possible.
 - iii. Mall should be designated for activities and facilities focusing on the human scale.
 - iv. Appropriate landscaping, statuary, fountains, displays and ancilliary facilities are appropriate.
- 4.3 The North Capitol Plaza should visually and physically link the Capitol with the North Capitol Area. University Avenue should be depressed to avoid vehicle-pedestrian conflicts, reduce noise, and visual distraction.
- 4.4 Consistent with Cass Gilbert's original plan, the blocks immediately north of University Avenue should be reserved to the maximum degree possible as part of the permanent open space surrounding the Capitol.
- 4.5 A new plaza which can become a focal point between the proposed spine to the downtown and the east axis of the Capitol should be developed east of the Capitol Building.
- 4.6 Leif Erickson Park on the west should be retained as permanent open space.

Policy 5 Provide sufficient open space to make the Capitol Area visible, attractive, and accessible to the people of Minnesota. Protection, enhancement, and development of the public open spaces surrounding the Capitol are an essential and integral part of the Plan.

- 5.1 Major approach routes to the Capitol should be designed to provide visual orientation and attractive views of the Capitol. Avenues should be landscaped to unify the approaches.
- i. Important views of the Capitol from the west along University Avenue should be improved. The Avenue should be landscaped to unify the approach and make vistas more attractive. The buildings should have a relatively uniform set-back from the street, and should be continuous along the length of each block. They should be at least two (2) stories high, and may be up to four (4) stories in height.
 - ii. The approach from the north along Capitol Boulevard, as well as from Park Avenue, should be similarly treated with proper landscaping and continuous building facades.
 - iii. The approach from the east is more limited because of the slope of the hill, but the same objectives apply.
- 5.2 Eliminate unnecessary street traffic around the Capitol.
- 5.3 Develop pedestrian linkages between major state buildings, parking areas and pedestrian plazas.
- 5.4 The north visual axis between the Capitol and Bethesda should be developed as a landscaped pedestrian mall/spine.
- 5.5 Open parking areas, both public and private, must be paved, landscaped and screened to provide an attractive visual appearance in accordance with design standards.
- 5.6 Streets in the Capitol Area should be planted with boulevard trees. Such planting is to be consistent with the Comprehensive Plan and Master Landscape Plan; sufficient set-back should be provided for this program.

5.7 Cass Gilbert park should be permanently preserved as open space.

Policy 6 Establish a flexible framework for the growth of Capitol Buildings which will be in keeping with the spirit of Cass Gilbert's original plan.

- 6.1 Provide adequate space for State functions which require close proximity to the Capitol Building.
- 6.2 Space needs for office of chief executive, supreme court, and legislature, and related ceremonial spaces may be met by renovation of the existing buildings surrounding the Capitol, or construction of new facilities. Further state building development in the north Capitol Area should be limited to executive, judicial and legislative functions, and restricted to the sites indicated (Block 122 and the south portion of Blocks 9 and 10).
- 6.3 Space needs for cultural and historical purposes should be met by renovation of existing buildings or construction of new facilities adjacent to the State Capitol and/or the existing Minnesota Historical Society Building.
- 6.4 A spine of future government office facilities, parks and enclosed pedestrian walkways should be developed. This spine should bridge the freeway and link the Capitol Area with the downtown areas. Future administrative functions requiring nearness to the Capitol should be located in the spine.
- 6.5 Only facilities for essential and immediate maintenance services should be provided in or near the Capitol Area.

Policy 7 Permit private organizations and public associations which require
aa proximity to the State Capitol to locate in designated areas
surrounding Design District "A."

- 7.1 Encourage development of office services along the "spine".
- 7.2 Permit office development on Blocks 89 and 121, in accordance with planning and design guidelines.
- 7.3 Bethesda Hospital should be encouraged to remain in its present location.
- 7.4 Permit location of office services on upper floors of commercial buildings.

Policy 8 Commercial activity in the Capitol area should generally be located between Rice and Marion south of University, along University and on the east side of Rice Street. The area south of University should contain a community scaled shopping center. The commercial areas along University, and Rice Streets should be defined as community and neighborhood-scaled commercial areas, respectively.

- 8.1 Encourage appropriate commercial facilities in the North Capitol area which serve the Capitol Area's residents and employees.
- 8.2 Encourage the rehabilitation of architecturally significant structures and construction of new ones along University Avenue and the east side of Rice Street north of University. New structures, however, should conform to planning and design guidelines for the area.
- 8.3 Discourage strip development elsewhere in the north Capitol Area, but permit spot renovation and rehabilitation where it is compatible with the Land Use provisions of the Comprehensive Plan, or permits significant existing structures to remain.
- 8.4 Permit new commercial development, including retail and/or office uses, which serve local residents or employees, and which are located within or are part of a mixed-used development.

- 8.5 Discourage incompatible commercial uses or activities which do not serve neighborhood and/or local residents. Prohibit new warehouses, unenclosed auto sales, and exterior storage areas.

Policy 9 Provide a diversity of housing choices in the residential neighborhood surrounding the Capitol.

- 9.1 In the residential neighborhood north of Bethesda Hospital, low rise housing should be permitted. Rehabilitation of present structures should be encouraged.
- 9.2 In the area west of Rice Street, defined by Blocks 55, 87, 90, and 120, new housing should be encouraged for moderate income residents, permitting both rental and private ownership (see Guidelines for Blocks 90 and 120).
- 9.3 Medium density housing should be permitted in Block 89 and 121 if planned in conjunction with other uses and designed consistent with design controls for these blocks.
- 9.4 New housing should be encouraged east of the Capitol (Blocks 7 and 12), including private ownership, townhouses, condominiums, and multi-family housing.

Policy 10 "Establish a framework which results in efficient traffic movement and circulation patterns."

- 10.1 "Approach routes to the Capitol should be designed to permit easy and convenient access to the Capitol Building and other major state and private facilities."
 - i. "Approach routes should permit visitors and employees direct access to respective parking areas."