

September 16, 2009

Legislative Reference Library
645 State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In The Matter of the Proposed Rules of the Capitol Area Architectural and Planning Board (CAAPB) Relating To Rules Governing Zoning and design for the Minnesota State Capitol Area; Governor's Tracking #AR 482

Dear Librarian:

The Capitol Area Architectural and Planning Board intends to adopt *The Rules Governing Zoning and Design in the Minnesota State Capitol Area*. We plan to publish a Dual Notice of Intent to Adopt Rules without a Public Hearing in the September 21, 2009 State Register.

The Board has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Board is sending the Library a copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 651-757-1507.

Yours very truly,



Paul Mandell
Principal Planner and Zoning Administrator, CAAPB

Enclosure: Statement of Need and Reasonableness

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendment to Rules Governing Zoning and Design Rules, Minnesota Rules, Chapter 2400

I. INTRODUCTION

The Capitol Area Architectural and Planning Board, hereinafter the Board or the CAAPB, proposes to amend its existing *Zoning and Design Rules*, MN. Rules, Chapter 2400. Pursuant to Minn. Stat. 15B.06 and 15B.03, Subd. 6), the Board has adopted these rules, to regulate the kind, character, height, and location of buildings and other structures constructed or used; the 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 Capitol Area (see Minn. Stat. 15B.06). The same statute also authorizes the Board, in order to protect and enhance the dignity, beauty and architectural integrity of the area, to include design standards and review procedures in its zoning rules design review procedures and standards with respect to construction activities within the area.

The Board first adopted zoning rules in 1973. For more than fifteen years after that, Board staff kept a record of the parts of the current rules that had proven to be inadequate, outdated, or merely irrelevant based on experience with projects occurring within the Capitol Area.

In 1999, the Board initiated a major rewrite of the new *Comprehensive Plan for the Minnesota State Capitol Area*, and as part of that effort, the Board's consultants drafted a report detailing how the rules might now be refined to assure compatibility with the new Comprehensive Plan and serve the best interests of the Board, the state government, and the public. Subsequently, the Board, following procedures under the Administrative Procedures Act (APA), successfully undertook a rewrite of the Zoning and Design Rules that was adopted in 2000.

Now, with a legislative appropriation, the Board initiated a complete rewrite of the Zoning and Design Rules, incorporating much of the recent work of the City of Saint Paul (hereafter "the city") in related zoning and land use decisions and planning.

These proposed rules have been developed by an outside consultant with experience in urban design, comprehensive plans and zoning rules. The rules have been thoroughly rewritten and reorganized by the Board, its staff, and its architectural advisors in regular consultation with representatives of the state Administration Department, from the City's Department of Planning and Economic Development, and residents of several neighborhoods within or immediately outside the Capitol Area.

This Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape upon request. To make a request, please contact Paul Mandell at the Capitol Area Architectural and Planning Board, 651-757-1507, or by fax, 651-296-6718.

II. DEPARTMENT'S STATUTORY AUTHORITY

The Board's principal statutory authority to adopt rules as proposed is contained in Minn. Stat. § 15B.03, Subd. 6, which reads "The Board may adopt rules under Chapter 14, the Administrative Procedure Act, that it believes are needed and reasonable to accomplish the purpose of this chapter."

In the world of planning, comprehensive plans guide development and land use, and zoning rules provide the codified tool of implementation for such plans. In municipalities of the metropolitan areas of Minnesota, these plans are revisited and updated every ten years, and that sense of timing, plus the fact that zoning rules for the Capitol Area have not under gone a thorough rewrite since 1982, while they were modified and slightly updated in 2000, all point to this procedure as long overdue, much needed, and indeed, reasonable.

Furthermore, MN. Statute 15B.06, subd. 1, provides:

- (a) Under the comprehensive plan, the board may regulate in the Capitol Area:
 - (1) the kind, character, height, and location of buildings and other structures;
 - (2) the size of yards and open spaces;
 - (3) the percentage of lots that may be occupied; and
 - (4) the uses of land, buildings and other structures.

- (b) The regulation must be done by zoning rules adopted under chapter 14, the Administrative Procedure Act.

Minn. Stat. § 15B.06, subd. 2 provides that the Board, in its zoning rules, may include standards and design-review procedures for proposed construction in the Capitol Area that significantly affect the area's dignity, beauty and architectural integrity." Minn. Stat. § 15B.06, subd. 2 (2008).

Finally, Minn. Stat. § 15B.08, subd. 1, states that no person may begin construction in the Capitol Area until he or she has completed the following steps:

- (1) submit[ted] the construction plans to the board;
- (2) secure[d] a zoning permit from the board; and
- (3) secure[d] a certificate from the board stating that the person has complied with the board's standards and design-review procedures.

Minn. Stat. § 15B.08, subd. 1(b) (2008).

These provisions from Chapter 15B of the Minnesota Statutes provide the Board with the necessary statutory authority to adopt the proposed rules.

III. NEED FOR THE RULES

The current zoning rules have become seriously outdated, and the amendments described below are necessary, among other reasons, in order to (1) effectively govern the Capitol Area; (2) make the rules user-friendly to the public; (3) enhance compatibility with the City's zoning rules and the Comprehensive Plan; and (4) respond to development, social and technological changes that are not adequately addressed in the outdated rules. Numerous amendments are needed to address new trends that either did not exist or were poorly addressed by the 2000 rules.

In addition, numerous non-substantive changes are proposed both in language and grammar at the suggestion of the Legislative Office of the Revisor. These changes are needed in order to modernize the language and to render it in plain English. It is reasonable to follow the Revisor's suggestions to make the rule readable in plain English and compatible with standard language as used by the Revisor in both statutes and rules.

IV. REASONABLENESS OF THE RULES

The Board, in many instances, is proposing zoning rule language that is identical or very similar to that adopted by the City of Saint Paul for its zoning ordinance. This approach and the rules as proposed are reasonable in that:

1. The Board and the City must operate cooperatively (Minn. Stat. 15B.19, Subd. 1), and the City must advise the Board (see Minn. Stat. 15B.19, subd. 2). Thus it is beneficial for the Board and the City to be familiar with each other's requirements. This is best accomplished if there is reasonable commonality between the rules of these two public bodies.
2. In many instances, the policies that the Board is proposing as rules have had the test of public hearings with the City, have been in place for some time, and/or have proven workable for both the City and individuals regulated thereby and, accordingly, serve as time-tested and acceptable standards for the Board to adopt.
3. The Capitol Area, over which the Board has jurisdiction, lies within the confines of the City of Saint Paul and it is sensible, where appropriate, for rules in both jurisdictions to be as compatible as possible in order to assure that contractors, architects, property owners, and the general public will not be unfairly burdened by two sets of disparate regulations.
4. If regulated individuals are familiar and comfortable with the particular zoning rules to be applied, the Board will achieve better compliance with the rules and better satisfy the purposes for which the Board was created (see Minn. Stat. 15B.01 ("Purposes of the Board")).

In addition to these reasons, Board staff has reviewed the latest trends, court decisions and public discussion related to the issues of economic development, urban design, and real estate to establish the most acceptable set of guidelines and rules. In recognition of the unique and highly visible nature of the Capitol Area, as well as the duties that the Board is charged with, the proposed rules are designed to best serve those goals.

A. Reasonableness of the Rules as a Whole.

Regulatory Analyses: Persons Affected

The people who will be affected most directly by these rules include all residents and owners of property, as well as all those who lease property, within the sixty-block Capitol Area. Those who work within or visit the area, as well as those within the City of Saint Paul impacted by sight lines or borders will be indirectly affected.

Should a hearing occur, witnesses likely to be called by the CAAPB would include: Wayne Waslaski (Director, Administration Department, Real Estate and Construction Services) and Lucy Thompson (City of Saint Paul Planning and Economic Development Department), and they would be asked to speak to the history of the relationship with the CAAPB and their involvement in the development of the proposed rules via the Task Force that worked to review the consultant's work, alongside CAAPB Staff and Architectural Advisors. In addition, Bonnie Erikson, a resident and property owner from the Capitol Heights Block Club, and Bob Spaulding, resident of downtown Saint Paul, a member of the Capitol River Council and member of the Saint Paul Planning Commission would be asked to speak from their neighborhood perspective on their involvement in the Task Force and the improvements in the proposed rule.

Regulatory Analyses: Probable Costs

There are no extraordinary costs to any agencies resulting from the implementation of these rules. The only costs that an agency would incur are the ones that would normally be incurred in following zoning rules for a district where quality of design and site planning are of considerable importance, virtually unchanged in this proposed rule change. There are likely to be additional costs due to the need for higher quality in design because of the unique character and critical nature of this special district, and the relationship to the Capitol Building, but because these costs would be different in each case due to size of each project, it is impossible to quantify them.

Without the force of law (or in this case, this rule), the goal and purposes for the CAAPB, "to preserve and enhance the dignity, beauty and architectural integrity; to protect and enhance and increase the open space; to develop proper approaches and to establish a flexible framework for growth..." might not be easily or regularly achieved. The powers and duties given to the Board appear to support the belief that there are no less costly or less intensive methods by which to achieve this goal.

The introduction of what today is referred to as "form-based zoning" has, to some degree, provided an improved manner for achieving this purpose, although it still relies on the force of law or the rules. As to probable costs and who might bear that cost of compliance, such costs would be an inevitable cost of, in effect, "doing business" in the Capitol Area, much the same as would be expected in any special district or historical district, be it a governmental entity, business or individual.

The Board has determined, based on forty years of experience, that there would be no possibility that the cost for any business or city with fewer than ten employees doing work related to the proposed rule would exceed or, for that matter, come anywhere near \$25,000. However, it has been long understood that such districts, likewise, bring benefits comparable to those extra costs, generally, related to quality of design.

For the Board, the cost associated with application and enforcement of this rule relates chiefly to the staff time (as well as that of Architectural Advisors and the Board, itself) necessary for timely review of zoning procedures. Impact on revenue, either to the Board or to the State General Fund is generated by the fees applied to the different zoning permits, maintained as low as possible to cover costs without serving as an obstacle to those wishing to do business in the Capitol Area.

As to the probable cost of not adopting the proposed rules, many of the changes in this rewrite have been made to alleviate the constant need for variances or to more clearly enunciate in written

form the expectations or design guidelines so as to encourage better service and more easily understood process, so if the proposed rules were not adopted, it would prove more costly in both time and money to not just the state and the Board, but likewise, all those desiring to do business in the area. At the same time, the lost opportunity to support improved design quality could result in lesser quality of our Capitol Building environs.

Zoning is a local prerogative and is not governed by federal legislation.

Regulatory Analyses: Performance-Based Rules

Because zoning laws are necessary in the metro area, the Board has attempted to simplify the proposed rules and make them as non-intrusive as possible while still responding to the duties with which the Board is charged (see Minn. Stat. 15B.01). Likewise, the Board has attempted to make compliance affordable, taking into consideration the demographics and unique circumstances of the area. However, as has been stated, to enhance the dignity, beauty and architectural integrity of the area, no less costly or less intensive methods are possible.

The Legislature has provided the Board with zoning powers as the means to carry out the mandates of MN Statutes, Chapter 15B. Zoning rules are accepted throughout the country as a standard means of land use regulation. Where possible, the Board has created guidelines rather than mandatory rules (related to such things as lighting, parking lot design, commemorative works and the like). The Board trusts that others will cooperate for the success of the larger efforts in the Capitol Area. In the end, regulation is necessary and rules are the best guarantee, but the Board in the proposed rule has implemented performance-based standards that emphasize superior achievement in meeting the agency's objectives and maximum flexibility for all parties doing business in the area who must comply with the rule. In clarifying design guidelines, zoning procedures, land use classifications, and other requirements while maintaining the greatest possible level of flexibility and lowest cost to the applicants and public, the Board believes it has met this goal in the best possible way.

Consult with Commissioner of Finance on Local Impact

As required by MN Statutes, Section 14.131, the Board has consulted with the Commissioner of Finance. We did this by sending to the commissioner copies of the document sent to the Governor's Office for review and approval prior to publication of the notice of Intent to Adopt. We sent this on September 3, 2009. The documents included the Governor's Office Proposed Rule and SONAR Form, the final draft of rules, and August draft of SONAR, as well as the form for the Commissioner of Finance Form relating to Local Governmental Impact and a memo indicating that there was no local governmental impact. Angela Vogt, the Board's Executive Budget Officer for the Office of Minnesota Management and Budget, has reviewed the Proposed Rule and our Draft SONAR and found that the Rule will have minimal or no new fiscal impact on local units of government.

Additional Notice Plan

For the past eighteen months, the Capitol Area Architectural and Planning Board (CAAPB) sought the insight of a Task Force, comprised of CAAPB Staff (2), CAAPB Architectural Advisors (3),

representatives of the Administration Department, City of Saint Paul Planning and Economic Development Department, one Capitol Area Board Member, and a representative from each of the two neighborhood organizations from those neighborhoods within the Capitol Area, to assist in the rewrite of the Board's *Rules Governing Zoning and Design for the Minnesota Capitol Area*.

The CAAP Board held two meetings (public hearings) on the Zoning Rules and proposed changes, and publicized to the one hundred or so people on our general mailing list.

The CAAP Board mailed out notice to those on the mailing list who live, own property, or work within the Capitol Area at the time of the publication of the Request for Comments in the State Register.

The CAAP Board sent electronic copy of the April Board memo summarizing key changes to the Zoning Rules and a copy of the draft Rule at that time to the Task Force, to thirty-plus members of the Capitol Heights Block Club, and made presentations on the draft Rule to the full Block Club, to the Capitol River Council, and the North Loop Block Club. A summary of the draft Rule was also presented by the City of Saint Paul Planning and Economic Development staff (part of the Task Force) to the Saint Paul Planning Commission.

In addition, the same memo was sent to representatives of the Saint Paul Cathedral, Capital City Partnership, Health Partners/Regions, HealthEast/Bethesda, Christ Lutheran Church, Sears, Saint Paul Public Housing Authority, the League of Minnesota Cities, University National Bank, the new Church of Scientology and three other neighborhood organizations, and on request, the draft Rule at that time was also sent out electronically.

When the CAAP Board publishes the Dual Notice of Intent to Adopt Rules, we intend to again mail that notice to all of the above parties, with the final proposed Rule available either in hard copy or electronically.

Determination of Local Government Need to Adopt or Amend Ordinance

It is the Board's determination that the local government, in this case the City of Saint Paul, does not need to adopt or amend any of their ordinances or other regulations as a result of this proposed rule. We make this determination based on the fact that since creation of our Board, the City has deferred to the Board, as a higher authority (state agency versus municipality), on all zoning matters and automatically refers all such matters falling within the statutory boundaries of the Capitol Area to the Board. For this reason, there is no conflict with any of the City's ordinances but rather, a cooperative relationship between the two bodies and their mutual ordinances.

B. Reasonableness of Individual Rules

Note: On instructions of the Revisor's Office, all new numbers are used, starting at 2400.2000 due to scale of rewrite and inability to re-use old numbers.

I. INTRODUCTORY PROVISIONS

2400.2000 TITLE.

Renumbered per Revisor's Instructions, as with rest of document.

2400.2005 AUTHORITY.

Entirely new text that picks up on language common to many zoning ordinances, presenting the legal basis upon which zoning rules are built, with corrected reference to new statute numbers for the Board resulting from Revisor's Office rewrite of statute for legislative approval in 2003.

2400.2010 PURPOSES.

Original text is renumbered and with corrected reference to new statute number.

2400.2015 APPLICABILITY AND SCOPE.

Relocated text from old 2400.0400 for scope with new title indicated under applications; for compatibility with other standard zoning ordinances. Renumbered accordingly.

2400.2020 EXEMPTIONS

Original text from old 2400.0960 and 2400.0970 (of the same titles) is reordered and inserted here, and renumbered accordingly.

2400.2025 SEVERABILITY.

Entirely new text, taken from common language for standard zoning rules, incorporated now to protect the integrity of the Zoning and Design Rules for the Capitol Area should any one part of the Rules be repealed or found to be invalid. While state statutes address the issue of severability, we have inserted this language intentionally so as to avoid any confusion for those not familiar with state rules and more accustomed to the usual municipal zoning rules.

2400.2030 RULES OF CONSTRUCTION.

Entirely new text, using standard zoning language for purposes of clarity of use by the public and others.

2400.2035 OTHER CITY, LOCAL, REGIONAL, STATE, AND FEDERAL REGULATIONS.

Entirely new language taken from standard zoning law to clarify, in this case, the relationship of unique Capitol Area rules to those of other governmental bodies.

2400.2040 DEFINITIONS. (All numbers adjusted as necessary.)

Subpart 2, Abut. New language to clarify relationship of neighboring parcels of land.

Subpart 3, Accessory Use. Specific examples have been deleted in favor of clearer presentation in new 2400.2605 under General Regulations.

Subpart 4, Adjacent. New language to explain another relationship of two objects or parcels.

Subpart 5, Adjoin. New language to explain neighboring parcels.

(Old) Subpart 5, Amusement Arcade. Removed. Addressed as indoor recreation (2400.2205) under District Uses.

Subpart 6, Auto Body Shop. Minor language changes for clarity.

Subpart 12, Basement. Expanded to include graphic that contrasts "basement" to "story".

Subpart 17, Building. New language that establishes common definition of structure.

Subpart 18, Building Height. Minor changes in language with regard to points of measurement to include current vernacular for clarity. Illustrations removed, but replaced with similar material in new 2400.2220 (RM, Moderate Density Residential District) among other places.

(Old) Subpart 19, Consumer Goods. Deleted as unnecessary.

(Old) Subpart 20, Convenience Store. Deleted as unnecessary.

Subpart 22, Contiguous. Another planning term for abutting.

Subpart 23, Corner Lot. Graphic added for clarity.

Subpart 24, Daycare. New language lists examples to accurately reflect current trends and applications.

Subpart 33, Floor Area. Minor language change to qualify application to basement and clarify how measurement is computed.

Subpart 36, Grade. Reworded for clarity with graphics added to illustrate application..

(Old) Subpart 36, Half-Story. Deleted as unnecessary.

Subpart 38, Home Occupation. Exclusions or limits regarding employee numbers eliminated as covered in new 2400.2720.

Subpart 40, Impervious Coverage. All new language for standards incorporated into Design Standards and other applications to help in making the rule more user-friendly and to address current trends..

Subpart 42, Live-Work Unit. New language added in recognition of new trends in housing.

(Old) Subpart 43, Lot Coverage. Deleted, replaced with details on impervious coverage. (New 2400.2040, Subpart 40.)

Subpart 48, Lot Width. Illustrations added for clarity.

(Old) Subpart 60, Person. Slightly reworded.

Subpart 61, Pervious pavement. All new language to address new trend in sustainable developments.

Subpart 63, Principal Use. Greater detail added to definition for purposes of clarity.

(Old) Subpart 63, Room. Deleted, with elimination of old antiquated mathematical formula.

Subpart 67, Sign.

I. Freestanding sign (formerly ground sign) is modified and expanded to be clearer and broader.

M. Monument Sign: a new category with all new language to address signs used by the state government and other large institutions.

P. Projecting sign: language modified with measurement of projection deleted; covered elsewhere.

V. Transit shelter/bench sign: renamed from former bus shelter/bench sign to be more inclusive.

Subpart 68, Sign Area. New language to help clarify how square footage is measured for signs.

Subpart 70, Story, Half. Reworded for clarity from old language for half-story.

(Old) Subpart 72, Temporary Use or temporary building. Deleted.

Subpart 76, Townhouse Dwelling. Slight rewording for clarity.

Subpart 80, Usable Floor Area. Graphics added to illustrate application and computation of area.

(Old) Subpart 80, Variance. Deleted as redundant to 2400.3160.

Subpart 82, Used For. New language inserted for clarity.

Subpart 83, Wind Energy Conversion System (WECS). All new language to acknowledge current trends and technology.

Subpart 84, Wind Turbine. All new language to address current trends.

Subpart 86, Zoning Administrator. New language to address the term more clearly instead of how that position is appointed.

II. ZONING DISTRICTS

2400.2100 ZONING DISTRICTS ESTABLISHED.

Renumbered due to reordering, and new numbering system of Revisors Office and expanded to address two new zoning districts. The new districts have been created (1) in response to changing times and new trends; (2) as an acknowledgement of the current on-the-ground reality; (3) in response to rewrite of the Capitol Area Comprehensive Plan; and (4) in response to new planning work by the City.

Medium density residential, formerly RM-2, now becomes simply RM.

The first new district, MXD (Mixed Use-Downtown) is created to acknowledge the difference in scale and resulting land use or density between a) the area immediately surrounding the State Capitol, and b) the area on the south side of Interstate 94, which is more affected by proximity to the downtown area and far more densely developed.

The second new district, CC-O (Central Corridor Overlay) is suggested by both the intensified planning for a new light rail transit line through the Capitol Area, as well as the City of Saint Paul's Rice Street Station Area Planning for the Central Corridor. It is meant, in this case, to be an overlay, guiding more specifically the land use and density around the fixed station location, allowing for the more intense level of development associated with transit stations, precluding auto-oriented uses in favor of transit, and providing support for redevelopment following urban design principles.

2400.2105 ZONING MAP

Renumbered due to reordering. Changes have been made to the zoning map to incorporate (1) the new zoning districts; and (2) rezoning of certain parcels based on new land use or clarified ownership governance. Revisions to the zoning map have also been made to acknowledge (3) land ownership; (4) redevelopment of applicable parcels; or (5) clear preferences or plans of the property owner.

One parcel, the land on Cedar Street between Charles Street and Como Avenues, formerly known as Lot V, has now been developed with townhouses; therefore, it is reasonable to rezone it from MX-Mixed Use to RM-Residential.

The parcel currently known as State Parking Lot Q is rezoned from MX-Mixed Use to G-1, Governmental Building. While no plans exist for a building on that land, it is owned by the State and is not likely to be available for sale or release by the State. Therefore, if it is redeveloped, that redevelopment would be only by the State.

Alongside Lot Q is a small portion of land, similar to the land to the south known as Cass Gilbert Park, that lies in steep slope and should be reserved for open space as a buffer between state parking and residential land along Capitol Heights and Robert Street. This land is, therefore, rezoned from MX-Mixed Use to G-2-Governmental Open Space.

To the east of this, the land owned and now redeveloped by Regions Hospital for their employee ramp is rezoned from G-1 Governmental to MX-Mixed Use, acknowledging both ownership and land use.

Farther south, the open space that is now Judicial Plaza and developed as a park is rezoned from G-1 to G-2 to acknowledge its value and permanent use as park land that helps provide an enhanced setting for the Capitol.

The block serving as host to the State Capitol is rezoned from G-1 for building to G-2 Open Space in recognition of the unique character of the State Capitol as the only building eligible or properly suited for the open space as redefined.

At the southern edge, across the freeways from the Capitol and Mall, the five blocks within the Capitol Area are rezoned into the new classification, MX-D, Mixed Use Downtown. This step is taken in recognition that these blocks follow a very different development model, due to the proximity of the downtown core, than the areas closer to the Capitol Building where height restrictions restrict development capacity.

A new classification for the Central Corridor Overlay District (CC-O) is created. Following on the work done by the City of Saint Paul in planning for light rail transit, this overlay district

applies to an area that spans various zoning districts where certain other guidelines apply. This area of change recognizes that once LRT comes, development pressures will increase and best use will demand greater densities.

This Central Corridor Overlay District encompasses land owned by Kelly Inn or by Sears, as well as all parcels east of Marion Street, south of Como Avenue, west of Cedar Street, north of University Avenue, along with Leif Erikson Park, where the station itself is to be located.

2400.2110 BOUNDARIES

Renumbered due to reordering, without any other changes.

(Old) 2400.0130-0150. All replaced with 2400.2100-2110.

III. USE DISTRICTS

(Old) 2400.0160 PERMITTED USES, Subparts 1, 2, and 3 through 2400.0410 BASIC LOT REQUIREMENTS

All deleted and replaced with new language and numbering as suggested for purposes of a more clear, user-friendly and cohesive rule, following again, more standard zoning law.

2400.2200 GENERAL PROVISIONS

New language to present a clear, more user-friendly flow to the rule, expanded to address development standards given little attention in the past.

As with standard zoning ordinances, a use is either listed as a permitted use or a conditional use. Any use not listed is prohibited. The new language more clearly presents this analysis while introducing the sense of development standards, in recognition that these Rules were always intended to more fully present design standards and criteria, as suggested by the title, "Rules Governing Zoning and Design for the Minnesota State Capitol Area."

2400.2205 TABLE: PERMITTED AND CONDITIONAL USES BY DISTRICT

Old material from sections 2400.0170 through 2400.0245 is presented with an expanded list. The information is listed in table form rather than text on a district-by-district basis, following the example of many new zoning ordinances. The list also references the uses to which new development standards apply, in recognition that this chapter was always intended to apply design rules in addition to the zoning rules.

The new language is designed to be more user-friendly, for those who come with proposals for a particular use, be it a retail use or housing or auto service. The public needs to know whether and where each use fits. While the old rule used the zoning district as a starting point, the new language presents, in a very concise format, all of the uses allowed in the Capitol Area, where they are a permitted or conditional use, and then notes whether there are certain design standards that apply to that use.

The chart lays out more clearly how the rules apply to state-owned parking lots, underground parking, or parking structures. The proposed rule also expands application of non-governmental uses that are either permitted or conditional uses for the G-1 district. It also references home daycare, live-work units, professional studio, veterinary clinics, carriage houses, mortuaries,

photocopying establishments, mail order houses, printing and publishing businesses, solar energy devices or systems, and wind energy devices or systems.

Changes incorporated include the following:

- The Minnesota State Capitol, in recognition of its uniqueness and due to design intent to surround it with permanent open space, becomes the only building permitted in the G-2 (Government Open Space) district.
- Commemorative works are now officially listed as a conditional use in the Residential and Mixed-Use districts to allow for more options, and for simple civic commemoratives.
- State owned surface parking lots become conditional uses in the G-1 and G-2 districts, acknowledging that the clear preference and design intent is to move toward structured parking. This would, in the long run, reduce the amount of land dedicated to more unsightly, surface lots that fail to meet the best use of land.
- Multiple family dwellings with five or more units are now classified as a conditional use in the Residential zone, and a permitted use in the Mixed-Use district(s), acknowledging the appropriateness of such increased density.
- Carriage house is a new category, introduced as a principal use in Residential and Mixed-Use districts, in recognition of existing conditions and trends.
- Live-work unit, another new category, is introduced as a conditional use in Residential districts and permitted in both Mixed-Use districts, in recognition of new trends.
- Cell towers and antennae are introduced as conditional uses, in light of their ever increasing use in urban areas.
- New categories including veterinary clinics, mortuaries, and photo copy centers are all introduced as appropriate uses that have been overlooked in the past.
- Post Offices are changed from a conditional to a permitted use for the Mixed-Use districts, as downsizing has made these uses more appropriate for the district.
- Other new uses introduced are printing and publishing or wholesale equipment facilities, along with solar energy and wind energy systems or devices, all as conditional uses with appropriate standards or safeguards.
- In the case of home occupations, antennae or cell towers, the size or intensity becomes a determinant of whether the use is a permitted or conditional use as per standards in 2400.2720-2725.

Lastly, this section adds new material in applying development standards, as found in 2400.2700 ff., Supplemental Regulations.

2400.2210 G-1 GOVERNMENT DISTRICT

New language, supplemented with graphics to better illustrate various elements for the district. The new material addresses architectural design standards, site planning, building placement and type, parking, lot area coverage, and building heights. Some of the changes have been made, in particular, to more comprehensively guide future development in light of the lessons learned from recent developments of civic governmental buildings. Subpart 3, Building Type is all new, with minimum lot widths created to establish a minimum standard. Subpart 5, Lot Area and Coverage creates a new minimum size for building and also establishes a new threshold of 85% lot coverage, instead of the current allowance for 100% coverage in order to encourage creation of open space for pedestrians.

2400.2215 G-2 GOVERNMENT DISTRICT – OPEN SPACE

New language that uses text supplemented with graphics is used to better illustrate various elements for the governmental open space district. The new rule permits only one building in the G-2 zone, the State Capitol Building. The Capitol Building block is changed from G-1 to G-2 in the rewrite to indicate the uniqueness of this particular building. The new material replaces parts of old 2400.0410.

2400.2220 RM – MODERATE DENSITY – RESIDENTIAL DISTRICT

New language, renumbered with expanded use of graphics, is designed to better illustrate various elements for the Residential district, replacing parts of old 2400.0410 (Basic lot requirements). It addresses architectural design standards, site planning, building placement and type, parking, lot area coverage, and building height.

Some changes have been made in lot width and lot size to acknowledge the number of undersized lots prevalent in the area, thus helping to minimize the number of variance proceedings. New building types have been included to address new trends, and a new comprehensive height limit has been created for primary buildings to safeguard the compatibility of neighborhood housing stock. Subpart 2, Building Placement reduces setbacks, again in recognition of the number of undersized lots in the district. Subpart 3, Building Types, likewise, reduces the requirements for multi-family units lot width given the size of lots in the area. The rule, as proposed, then establishes higher standards for larger buildings of three or more units in order to protect against the larger buildings that would likely be out of scale on all but a few sites within the district. It also adds carriage house as a new building type in the district.

Subpart 5 modifies requirements for minimum lot size downward and increases the allowed impervious coverage, and coverage by accessory buildings. These changes are made in recognition of the number of undersized lots.

Lastly, Subpart 6, Building Height adds new height requirements for both the primary building and for the new classification of carriage house.

2400.2225 MX – MIXED-USE DISTRICT

Renumbered and revised using new text supplemented with graphics to better illustrates various design elements for the Mixed-Use district. The Mixed-Use district permits any of those uses permitted in any other districts of the area. Text addresses site planning, building placement and type, parking, lot area coverage, and building height.

Subpart 3 shows completely new lot widths for each building type in order to try to establish some minimal standards. Subparts 4 and 5, with new minimum lot sizes, actually decreases the

permitted level of impervious coverage to recognize the likely need to deal with open space despite undersized lots. Subpart 4B also applies new standards to surface parking for this area.

2400.2230 MIXED USE DISTRICT – DOWNTOWN

This is an entirely new district that uses language addressing the difference in scale, density, and land use between the areas closer to the Capitol and the areas closer to the downtown and south of the freeway.

2400.2235 CENTRAL CORRIDOR OVERLAY (CC-O) DISTRICT

This is an entirely new overlay applied over the basic zoning classification, generated to address the light rail transit line and redevelopment potential surrounding the proposed station.

This districts' specific guidelines stem from planning work by the City to (1) address increased development pressure in the area immediately surrounding the future station location, and (2) incorporate work of the City, area residents and businesses in their station area planning for the Rice Street/Capitol Station. The new overlay is designed to be compatible with current zoning and the Comprehensive Plan while directing redevelopment within this area of change toward greater transit-oriented development levels. New language has been added with a new prohibition on auto-oriented uses and higher parking standards.

Item 5F addresses ground floor uses, reinforcing the direction found in both the 1998 Comprehensive Plan for the Minnesota State Capitol Area and the earlier Strategic Plan for State Facilities.

Item 6 then reduces the number of parking spaces in order to encourage and acknowledge improved transit operations and best use practices of our area facing more intense development pressures.

IV. HEIGHT DISTRICTS

2400.2300 HEIGHT DISTRICTS

Renumbered from 2400.0420 (of the same title) due to reordering. New language is incorporated to help others understand the conversion from Saint Paul datum to feet above sea level.

In addition, the proposed rule calls for an increase in the permitted height cap for the lot at Twelfth and Cedar Streets, because this is the sole remaining parcel eligible for redevelopment on the Capitol Mall. This increase achieves greater compatibility with new state developments surrounding this site, all of which (1) have been given height variances by the Board, and (2) will help buffer the south elevation of the existing Centennial Building.

V. FRONTAGE MAP AND STANDARDS

2400.2400 FRONTAGE MAP

Entirely new section is created with language to strengthen and improve understanding of expanded design standards found in 2400.0220. Much of the text in this section replaces the old designations under Visual Corridors, from old sections 2400.1150-1160.

Key differences in the designations and their applications include the following deletions: (a) Rice Street, Park Street, and Cedar Street north of Charles Avenue; (b) Aurora Avenue west of Rice Street; (c) the west side of Wabasha Street; and (d) the east side of Minnesota Street. Meanwhile, the new map contains the addition, under a new designation, of (1) Robert Street from Capitol Heights to Twelfth Street; and (2) Jackson Street from University Avenue to Twelfth Street, and (3) Rev. Dr. Martin Luther King Jr. Boulevard from Cedar Street to Robert Street, all to acknowledge a tiered set of views of the Capitol and its dome..

The new language establishes minimum height standards for the first time, in support of enhanced design directions.

Subparts 1 and 2. Provide basic rule validation, in this case creating section 2400.2400 to replace the old sections dealing with setback or visual corridor.

Subpart 3, Actual Map. This new map that reflects a hierarchy of different views is intended to replace the visual corridor map (old 2400.1150), referencing a stronger visual relationship to the Capitol Building based on exposure and actual visual connection, at each level, drawing a specific implication for architecture and design. This map uses locations either fronting on the Capitol Mall, in direct line of sight to the Capitol Building, or secondary views of the dome along a corridor to establish a hierarchy of treatments.

Subpart 4, Capitol Mall Frontage. This new language captures long held site planning criteria for the public buildings actually fronting on the State's Front Yard on the Capitol Architect Cass Gilbert's two key axis, as well as those parcels or buildings sitting in a direct relationship to the Capitol itself.

Subpart 5, Capitol View Frontage. This new language most closely aligns with what used to be view corridors along University Avenue, where setbacks and stepping back of upper floors, a new idea to design that will open up views of the Capitol dome, is more important than actual building materials.

Subpart 6, Civic Frontage. New language is used here to address the balance of corridors that align with a direct view toward the Capitol Building, but not directly connected with the Capitol grounds. Scale and architectural and design details are less monumental, but respectful in every way possible of the presence of the State Capitol Building.

Subpart 7, Flexible Frontage. This language addresses the area not already covered or in residential zoning with some general site planning guidelines.

Subpart 8, Residential. New language addressing setback in general for the blocks north of University Avenue and zoned Residential.

2400.2405, DESIGN STANDARDS FOR FRONTAGE TYPES.

A new chart addresses specifics other than setback or heights as applied to certain frontage classification, design criteria, and whether or not the resulting direction is a standard (required or mandatory) or a guideline (recommended).

While much of the underlying material comes from the old rule (2400.1210-1240), this new section is a key element in finally inserting clear design standards into a rule that has, to date, never been established in writing for all to find and apply.

The basis that underlies whether a policy is determined to be a standard or a guideline stems from: (1) visual impact upon the State Capitol; and (2) the level of such impact the particular item has in the overall setting. Elements such as choice of building material will have a far greater impact than the base of a sign. Likewise, a building on the Capitol Mall must be subject to more standards than a building remote to the Capitol and set into one of the surrounding neighborhoods.

2400.2410, RESIDENTIAL DESIGN STANDARDS.

New language is added to give clearer direction to residential developments.

The ultimate goal in the new standards is to provide design direction that will: (a) improve the setting of each residential structure; (b) mitigate the negative impacts of vehicles and structures on neighboring properties; and (c) generally improve the overall beauty of the neighborhoods.

(Old) 2400.0420, HEIGHT DISTRICTS.

Rewritten and modified in new 2400.2300.

(Old) 2400.0450 – 0620, PARKING.

Renumbered and rewritten in parts of new 2400.2800.

VI. BUILDING TYPES

2400.2500 BUILDING TYPES

New language applied to design standards, supplemented by graphics to establish parameters for the various building types.

2400.2505 EXAMPLES OF BUILDING TYPES

New illustrations intended to clarify various aspects of design relative to land use and building appearance, be they residential, commercial, or a variety of other key uses..

VII. GENERAL REGULATIONS

2400.2600 INTENT

New language to clarify the application of rules and new standards to accessory buildings, landscape, and lighting.

2400.2605 ACCESSORY BUILDINGS

Renumbered with some new language incorporating modifications of old text from 2400.0670 (of the same title) for purposes of clarity, user-friendliness, and accessibility.

- A. Revised wording of old 2400.0660.
- B. Revised wording of old 2400.0670, with increased coverage of the yard area allotment in recognition of the smaller lots in the area and a new cap on total ground floor area.
- C. New cap on number of accessory buildings permitted.
- D. Revised wording of old 2400.0680.
- E. Revised wording of old 2400.0670.

2400.2610 EXTERIOR LIGHTING

Renumbered with some clarifying language that incorporates more detail than is found in existing 2400.0800.

2400.2615 ENCROACHMENTS

Renumbered due to reordering with new language to address the material found in old 2400.0810 and 2400.1010-20 (all of the same subject) but in a more cohesive, user-friendly manner. This rule addresses matters such as entrance-way structures, open covered porches, decks, terraces, architectural features, ramps, chimneys, air conditioner condensers, satellite dishes, and amateur radio antennas (in the case of the last two items, with more restrictions on siting).

2400.2620 CORNER CLEARANCE

Renumbered and rewritten with language covering old 2400.0820 in a clear, user-friendly manner.

2400.2625 STREET AND LANDSCAPE ELEMENTS

Renumbered from old 2400.0830 due to reordering, with only slightly modified text for clarity.

2400.2630 LANDSCAPE AND SCREENING STANDARDS

Renumbered with old language from Visual Screens (2400.0700-0750), now rewritten and consolidated to be more user-friendly and consistent with City of Saint Paul. The proposed rule is intended to help make the policy and its application more clear. Sections B and C on landscaping of off-street parking are reworded and strengthened with qualitative and quantitative measures, most of which, again, stems from the old rule.

2400.2635 STORMWATER MANAGEMENT STANDARDS

New language references the subject of stormwater as applicable to the Capitol Region Watershed District, with the exemption for projects of the state governmental action due to jurisdictional issues between state and other governmental parties..

VIII. SUPPLEMENTAL REGULATIONS

2400.2700 SUPPLEMENTAL REGULATIONS

Substantially new language, intended to strengthen the understanding and interpretation of design standards, as referenced in 2400.2205, Table of Permitted and Conditional Uses.

2400.2705 STANDARDS FOR CIVIC AND INSTITUTIONAL USES

Some rewording of old 2400.1460 (Commemorative Works), 2400.0190 (Governmental District, G-2 Uses), and 2400.0200 (Governmental District, G-2 Conditional Use), along with new language to more clearly present design expectations for monuments and memorials, underground structures and daycare facilities, all reflecting the highly public nature of the Capitol Area.

2400.2710 STANDARDS FOR RESIDENTIAL USES

New language is inserted to address carriage houses, a use not formerly included in these rules.

2400.2715 STANDARDS FOR CONGREGATE LIVING USES

Some rewording of old 2400.0220, Paragraph N (Medium Density Multi-Family Residential), using city and state regulations as applicable. The provision particularly addresses licensed facilities, incorporating standards for size of facilities, its capacity and other criteria, and spacing or distance for siting of similar facilities.

2400.2720 STANDARDS FOR MIXED-COMMERCIAL-RESIDENTIAL USES

This section represents rewording of old language for home occupations from old 2400.0220, Section G (MD, Multi-Family Residential), with new language addressing applications for permitted and conditional uses regarding home occupations and live-work units.

2400.2725 STANDARDS FOR PUBLIC SERVICE AND UTILITY USES

Entirely new language for cell telephone antennae, addresses a technology never enumerated in prior rules. The language is taken from City zoning rules for consistency and public convenience.

2400.2730 STANDARDS FOR COMMERCIAL USES

New language for general retail uses, taken in general from City helps to assure consistency. In addition, new language is inserted to address outdoor display, storage, and sales.

2400.2735 STANDARDS FOR LIMITED PRODUCTION, PROCESSING AND STORAGE USES

New language applicable to uses which are related to production or manufacturing but could still be seen as compatible in non-governmental districts of the Capitol Area.

2400.2740 STANDARDS FOR ACCESSORY USES

Greatly expanded from old Accessory Uses, in this case applied to antennae, satellite dishes, outdoor storage, and solar and wind energy infrastructure.

2400.2800 GENERAL PARKING REQUIREMENTS

Reworded from old 2400.0450 (by same title).

2400.2805 LOCATION OF OFF-STREET PARKING SPACES

Reworded from old 2400.0460-0470, with new language acknowledging the State Capitol Campus as a single parking district. This allows for parking within the area, but not sited alongside the building served.

2400.2810 REDUCTION BELOW MINIMUM PROHIBITED

Reworded from old 2400.0480, with provision added for a waiver by the Board on a case-by-case basis.

2400.2815 SHARED OFF-STREET PARKING FACILITIES

Reworded from old 2400.0490, with authority now vested to zoning administrator as an administrative action, rather than as a variance that would go to the Board. This is added to help decrease the amount of land dedicated to off-street parking and to simplify the process.

2400.2820 SPACES REQUIRED

Reworded and reformatted from old 2400.0530 with new classifications and standards added for: (1) residences associated with places of worship; (2) trade and business schools; (3) live-work units; (4) mixed commercial-residential uses; (5) bed and breakfast residences; and (6) indoor recreational facilities.

2400.2825 CONSTRUCTION AND DESIGN OF OFF-STREET PARKING SPACES

Reworded from 2400.0540 with two items (M and N) deleted and applied elsewhere. In addition, there is a new standard width for parking spaces to save space. The section on bicycle parking is moved to new 2400.2830 as a stand-alone standard.

2400.2830 BICYCLE PARKING REQUIREMENTS

Reworded and expanded from parking details (old 2400.0540 (O)) with language currently drafted by the City as a means to encourage use of bicycles as an alternate to single-occupant vehicles.

2400.2835 LOADING SPACE REQUIREMENTS

Renumbered from old 2400.0610-0620.

2400.2900 INTENT

Renumbered from old 2400.0850.

2400.2905 CONSTRUCTION AND MAINTENANCE REQUIREMENTS

Reworded from old 2400.0860, Sections A, G, H, I, and J, and 2400.0920 with minor changes.

2400.2910 SIGN PLACEMENT AND HEIGHT REQUIREMENTS

Reworded from old 2400.0860, Sections B, C, D, E, K, D, and M with minor changes. New language, found in new Section H, applied to sidewalk signs.

2400.2915 DESIGN STANDARDS

New language for signage, providing more clarity in interpretation of rules.

2400.2920 EXEMPT SIGNS

Reworded and renumbered from old 2400.0910 with minor changes.

2400.2925 PROHIBITED SIGNS

Reworded and renumbered language from old 2400.0870 with new language addressing public announcements for passengers at transit stations, and most but not all changeable copy signs and electronic message signs.

2400.2930 SIGNS ALLOWED IN ALL DISTRICTS

Reworded and renumbered from old 2400.0860, (C) and (L).

2400.2935 SIGNS PERMITTED BY DISTRICT

Rewording and reformatting of old language in 2400.0870. Some new added language: (1) referencing monument signs, sidewalk signs, and window signs; and (2) reducing in some cases the size or numbers of signs which, under the new rule is aligned to lineal footage of the property. This has long been missing in the old rule, which meant that a small business on Rice Street was entitled to the same amount of signage as the multi-block Sears facility.

2400.2940 NONCONFORMING SIGNS

Slight rewording and renumbering of old 2400.0880.

Nonconformities

2400.3000 INTENT

A new section addressing merely intent and purposes.

2400.3005 GENERAL PROHIBITION: AUTHORITY TO CONTINUE

Renumbered and reworded from old 2400.1070 with minor changes.

2400.3010 REPAIRS AND MAINTENANCE

Reworded and renumbered from 2400.1100 with minor changes.

2400.3015 CHANGE IN TENANCY OR OWNERSHIP

Renumbered and reworded from old 2400.1110.

2400.3020 NONCONFORMING LOTS

Reworded and renumbered from old 2400.1050 and 2400.1060 with minor changes.

Administration

2400.3100 SCOPE

New purpose and intent language.

2400.3105 DUTIES OF THE BOARD

Renumbered from old 2400.1300.

2400.3110 GENERAL REQUIREMENTS

Renumbered from old 2400.1310.

2400.3115 SAINT PAUL PERMIT REQUIREMENTS

Reworded and renumbered from old 2400.1380 with minor changes.

2400.3120 SUBDIVISIONS OF PROPERTY

New language to address current practices of the CAAPB, in coordination with departments of the City, in order to fill a gap in CAAPB statutory authority.

2400.3125 DETERMINATION OF SIMILAR USE

Reworded and renumbered from old 2400.1320 with minor changes.

2400.3130 APPLICATION AND REVIEW PROCEDURES

Rewording and renumbering of old 2400.1370 and 2400.1420 with minor changes.

2400.3135 ZONING PERMIT APPLICATION

Rewording and renumbering of old 2400.1320 with minor changes. In addition, a new graphic is included to help explain the process in a clear, chronological manner.

2400.3140 CERTIFICATE OF DESIGN COMPLIANCE APPLICATION

Rewording and renumbering of old 2400.1350 and 2400.1360 with minor changes.

2400.3145 SIGN PERMIT APPLICATION

Renumbered from old 2400.0900.

2400.3150 SITE PLAN CONTENTS AND REVIEW

Reworded and renumbered from old 2400.1320-1330 with minor changes.

2400.3155 CONDITIONAL USES

New language taken from the City's zoning rules to fill a gap that existed on this matter in the old rule.

2400.3160 VARIANCES, Subpart(s) 1 and 2 (Variance Application and Disposition)

Some rewording and renumbering from old 2400.1510 and 1520.

2400.3165, Subparts 3-5 (Standards for Granting or Denial, Variance to Design Standards and Variances to Sign Rules)

New language taken from the City's zoning rules as an improvement over old 2400.1530. The City's language is clearer.

2400.3170 REZONING – ZONING AMENDMENTS

Renumbered from old 2400.1440.

2400.3175 APPEALS

New language to fill the gap in old rule.

2400.3180 ENFORCEMENT AND PENALTIES

Renumbering of old 2400.1470 with insertion of Statutory Language from 15B.06, Subd. 3 in addition.