

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 750

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 11-20
DATE FOR REVIEW 12-1
DATE DUE 12-10

Adopted w/a hearing X
Adopted w/o a hearing _____
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved _____
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See SR.

✓ Order Adopting 11.20.81 Date combined with F. of F.

___ Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
5.28.81 Date of Hearing

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
✓ At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate

✓ Publication in State Register
✓ At least 30/~~20~~ days prior to hearing/~~adoption~~

✓ Hearing Examiner's Report

NA Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ Agency's Findings of Fact combined with Order Adopting

N/A LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

___ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

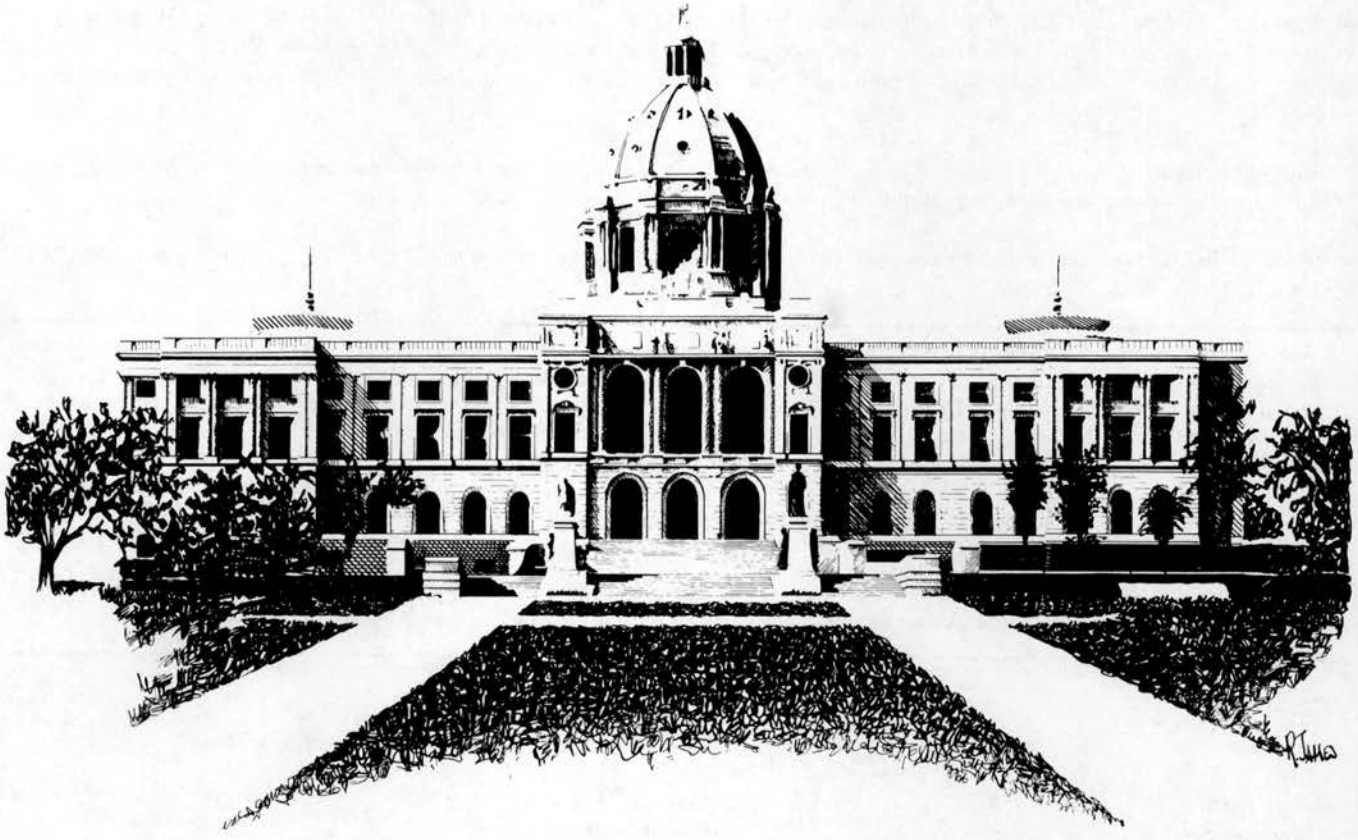
✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

STATE REGISTER

STATE OF MINNESOTA



VOLUME 5, NUMBER 43

April 27, 1981

Pages 1651-1702

STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 5		
44	Monday Apr 20	Monday Apr 27	Monday May 4
45	Monday Apr 27	Monday May 4	Monday May 11
46	Monday May 4	Monday May 11	Monday May 18
47	Monday May 11	Monday May 18	Monday May 25

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $120.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $2.25 per copy.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION.** Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative lisitngs of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
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The listings are arranged in the same order as the table of contents of the MCAR.

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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Capitol Area Architectural and Planning Board

Proposed Capitol Area Zoning and Design Rules

Notice of Hearing

Notice is hereby given that a public hearing on the abovecaptioned matter will be held at Cable Communications Building, 500 Rice Street, Saint Paul, MN, commencing at 9:30 a.m. on May 28, 1981, and continuing until all persons have had an opportunity to be heard.

Through this proceeding, the board will comprehensively amend and update its zoning rules for the Capitol Area. Rule changes include amendments to existing rules regarding definitions, zoning districts, permitted uses, building height and setback, parking, signage, accessory building, visual screens, administration and enforcement, and exceptions. Additionally, new rules establishing variance procedures and standards for the review of the design of buildings and structure within defined visual corridors are being proposed.

One free copy of these proposed rules may be obtained by writing the Capitol Area Architectural and Planning Board, Room 400 S.W., State Office Building, St. Paul, Minnesota 55155. Additional copies of these proposed rules will be distributed at the May 28th hearing.

The statutory authority of the Board to adopt these rules is provided in Minn. Stat. § 15.50, subd. 2 (1980).

Notice: The proposed rules may be modified as the result of the hearing process. The board therefore strongly urges those who are potentially affected in any manner by the proposed rules to participate in the hearing process.

All interested or affected persons will have an opportunity to participate concerning the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearings, written statements or material may be submitted to Hearing Examiner Richard Luis, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within five (5) working days after the close of the hearing, unless the Hearing Examiner orders at the hearing that the record will remain open for a longer period not to exceed twenty (20) calendar days. All such statements will be entered into and become part of the record. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, in order to save time and avoid duplication, it is suggested that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearings shall be governed by the rules of the Office of Administrative Hearings, Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). Questions relating to procedures may be directed to Hearing Examiner Richard Luis.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the board. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the board (in the case of the board's submission or resubmission to the Attorney General).

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone: (612) 5615.

April 13, 1981

Lou Wangberg
Chairman

Amendments as Proposed

Chapter One: Title and Purpose

CAAPB ~~CAAPC~~ 101 Title. "These ~~regulations~~ rules shall be known and may be cited as the "Capitol Area Zoning and Design ~~Regulations~~ Rules."

CAAPB ~~CAAPC~~ 102 Purposes. These ~~regulations~~ rules are adopted by the Capitol Area Architectural and Planning ~~Commission~~ Board to further the statutory purposes of the ~~Commission~~ board as stated in ~~Minnesota Statutes Section 15.50~~ Minn. Stat. § 15.50.

A. ~~(a)~~ to preserve and enhance the dignity, ~~and~~ beauty, and architectural integrity of the Capitol, ~~and~~ the buildings immediately adjacent to it, the Capitol grounds, and the Capitol area;

B. ~~(b)~~ to protect, enhance, and increase the open spaces within the Capitol Area when deemed necessary and desirable for the improvement of the public enjoyment thereof;

C. ~~(c)~~ to develop proper approaches to the Capitol Area for pedestrian movement, the highway system, and mass transit system so that the area achieves its maximum importance and accessibility; and

D. ~~(d)~~ to establish a flexible framework for growth of the Capitol buildings which will be in keeping with the spirit of the original design.

Chapter Two: Definitions

[In rules 202-204, 213, 215, 231-239, 242-244, 246-251, the only changes are: ~~CAAPC~~ to CAAPB, ~~Commission~~ to Board, and ~~regulations~~ to rules.]

CAAPB 200 ~~Unless a different meaning is clearly indicated by the context,~~ For the purposes of these rules, the terms defined below shall have the meanings ascribed to them.

CAAPB ~~CAAPC~~ 201 Accessory use: A use which is incidental to, customarily found in connection with, and (except in the case of off-street parking spaces and loading) located on the same zoning lot as, the principal use to which it is related. Generally, an accessory use occupies less square footage than the principal use.

Accessory uses include, but are not limited to, the following:

[CAAPC 201 a.-c. Reletter as CAAPB 201 A.-C.]

D. ~~d.~~ Storage within a fully enclosed building of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.

~~e. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.~~

[CAAPC 201 f. Reletter as CAAPB 201 E.]

~~CAAPC 205. Billboard: An advertising sign over sixteen (16) square feet in area.~~

[CAAPC 206 Renumber as CAAPB 205.]

CAAPB 206 ~~CAAPC 207~~ Board. ~~The Board of Zoning Appeals for the Capitol Area~~ The Capitol Area Architectural and Planning Board, as created by Minn. Stat. § 15.50, subd. 1.

[CAAPC 209 Renumber as CAAPB 208.]

CAAPB 209 ~~CAAPC 210~~ Capitol area. As defined in ~~M.S. 1969, Section 15.50, subd. 2, as amended by Laws 1971, Chapter 25, sec. 9,~~ Minn. Stat. § 15.50, the Capitol Area consists of that area of the City of St. Paul within the following boundaries:

"Beginning at the point of intersection of the centerline of the Arch-Pennsylvania freeway and the centerline of Marion Street, thence southerly along the centerline of Marion Street to the north line of the right-of-way of Interstate Highway 94, thence easterly along the said north line to the centerline of Cedar Avenue, thence southeasterly along the centerline of Cedar Avenue to the centerline of Tenth Street, thence northeasterly along the centerline of Tenth Street to the centerline of Minnesota Street, thence northwesterly along the centerline of Minnesota Street to the centerline of Eleventh Street, thence northeasterly along the centerline of Eleventh Street to the centerline of Jackson Street, thence northwesterly along the centerline of Jackson Street to the centerline of the Arch-Pennsylvania freeway extended, thence westerly along the centerline of the Arch-Pennsylvania freeway extended and Marion Street to the point of origin . . .

CAAPB 210 Clinic. An establishment where human patients who are not lodged overnight are admitted for examination and/or treatment by a group of physicians, dentists, or similar professionals.

~~CAAPC 211: Commission: The Capitol Area Architectural and Planning Commission created by M.S. 1967, Sec. 15.50, subd. 1.~~

CAAPB 211 Club or lodge. Building or premises used for associations of an educational, fraternal or social character, not operated or maintained for profit. This term shall not include churches, synagogues, or other houses of worship.

CAAPB ~~CAAPC~~ 212 Comprehensive plan. The plan adopted by the Capitol Area Architectural and Planning ~~Commission~~ Board pursuant to Minn. Stat. § 15.50, subd. 2 ~~on August 13, 1970,~~ including any unit or part of that plan and any amendment to that plan or parts thereof.

CAAPB ~~CAAPC~~ 214 Curb level. The mean level of a curb adjoining a zoning lot. On corner lots, curb level is the average of the mean levels of the adjoining curbs on the intersecting streets. Where no curb level has been established, the ~~Chief Engineer~~ Department of Public Works of the City of St. Paul shall establish such curb level, or its equivalent.

~~CAAPC 216 Drive In: A restaurant where food or beverages are sold to the customer in a ready to consume state primarily for consumption off the premises, or where facilities are provided for consumption of the food or beverages in an automobile parked upon the premises.~~

CAAPB 216 ~~CAAPC 217~~ Dwelling unit. A building or portion thereof, designed for occupancy by one ~~household~~ family for residential purposes and having cooking facilities.

[CAAPC 218-223 Renumber as CAAPB 217-222.]

CAAPB 223 ~~CAAPC 224~~ Family. ~~One or two persons or parents, with their direct lineal descendants and adopted or legally cared for children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of four or less persons living in such housekeeping unit shall be considered a separate family for the purpose of this Ordinance.~~ One or more persons living as a single housekeeping unit in a dwelling.

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[CAAPC 225-229 Renumber as CAAPB 224-228.]

CAAPB 229 ~~CAAPC 230~~ **Home occupation.** An occupation or business carried on in a dwelling by the resident thereof, not involving retail or manufacturing business, and employing no persons other than members of the immediate family residing on the premises, except one (1) ~~receptionist or office assistant~~ ancillary employee; including but not limited to the businesses and occupations of doctors, ministers, architects, lawyers, dentists, authors, artists, musicians, and other similar occupations.

CAAPB 230 **Housing for the elderly.** A multiple-family structure controlled by either a public body, institutional body, or a non-profit corporation, eighty (80) percent of whose occupants shall be sixty-five (65) years of age or over.

[CAAPC 240 and 240 a.-c. Reletter as CAAPB 240 and 240 A.-C.]

CAAPB ~~CAAPC~~ 241 **Lot of record.** A parcel of land, the dimensions of which are shown on a document or map on file with the County ~~Registrar~~ Register of Deeds or in common use by state or municipal or county officials, and which actually exists as so shown.

CAAPB ~~CAAPC~~ 245 **Non-conforming building or sign.** A building or portion thereof or a sign lawfully existing at the effective date of these ~~regulations~~ rules, or amendments thereto, and that does not conform to the provisions of ~~the regulations~~ these rules pertaining to the district in which it is located.

CAAPB 252 **Principal building.** A building in which is conducted the principal use of the zoning lot upon which it is situated.

CAAPB 253 **Principal use.** The main use to which the premises are devoted and the principal purpose for which the premise exists.

CAAPB 254 **Restaurant.** A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within a building.

CAAPB 255 **Restaurant, drive-in.** A business establishment whose principal business is the selling of food, frozen desserts, or beverages to the customer in a ready-to-consume state, in individual servings, and where the customer consumes these foods, frozen desserts, or beverages in an automobile parked on the premises.

CAAPB 256 **Restaurant, fast food.** A business establishment whose principal business is the selling of pre-prepared, quick-order, and packaged foods in a ready-to-consume state, packaged in non-returnable, disposable containers or wrappings, and where the customer may consume these foods while seated at tables or counters located within a building.

CAAPB 257 ~~CAAPC 252~~ **Room.** For the purposes of determining lot area, requirements, and density in a multiple-family residential district, a living room, dining room, and bedroom equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing 1, 2, or 3-bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purposes of computing density.

[CAAPC 253 Renumber as CAAPB 258.]

CAAPB 259 ~~CAAPC 254~~ **Sign.** ~~A placard, board, or similar device publicly displayed for the purpose of providing~~ The use of words, numerals, figures, devices, designs, or trademarks which purpose is to show or advertise a person, firm, profession, business, service, product, message, or provide information, warnings, or directions, including the following kinds of signs:

A. ~~a.~~ Accessory sign: A sign which pertains to the principal use of the premises.

B. ~~b.~~ Advertising sign: A non-accessory sign ~~relating~~ related to an activity, service, or business not carried out on the premises upon which the sign is placed.

C. Billboard: An advertising sign over sixteen (16) square feet in area.

[CAAPC 254 c. Reletter and Renumber as CAAPB 259 D.]

[CAAPC 254 d. (1) and (2) Reletter and Renumber as CAAPB 259 E. 1. and 2.]

[CAAPC 254 e.-h. Reletter and Renumber as CAAPB 259 F.-I.]

J. ~~i.~~ Identification and name place: A business sign stating the name of a person, firm, institution, or name or description of a certain permitted use.

K. Marquee: A permanent roofed structure attached to and supported by the building and projecting over public right-of-way.

L. ~~j.~~ Non-accessory sign: A sign which does not pertain to the principal use of the premises.

M. Political sign: A temporary sign which displays information pertaining to an uncoming governmental district, city, county, state or national election.

[CAAPC 254 k.-o. Reletter and Renumber 259 N.-R.]

S. ~~p.~~ Temporary sign: A sign other than a political sign intended to be displayed for a short time for special events.

[CAAPC 255-259 Renumber as CAAPB 261-265]

CAAPB 266 Underground structure: Any completed building designed to be built partially or wholly below grade. A completed structure which was not intended to serve as a substructure or foundation of a building.

[CAAPC 260-261 Renumber as CAAPB 267-268; CAAPC 261 a.-c. Renumber as 268 A.-C.]

CAAPB ~~CAAPC 262~~ 269-299 are reserved for future use.

Chapter Three: Zoning Districts

CAAPB ~~CAAPC~~ 301 Districts established. The following zoning districts for the Capitol Area are hereby established:

A. ~~a.~~ Governmental District (G-1).

B. Governmental District (G-2).

C. ~~b.~~ Medium-Density, Multiple-Family Residential District (RM-2).

D. ~~c. Local~~ Community Business District ~~(B-1)~~ (B-2).

E. ~~d.~~ Office-Service District (OS-1).

F. ~~e.~~ Planned Unit Development District (PD).

G. Mixed Use District (MX).

CAAPB ~~CAAPC~~ 302 Zoning map. The Capitol Area is hereby divided into zoning districts as shown on the official zoning map entitled "Zoning Districts for the Capitol Area." Such map and any amendments with all explanatory matter therein, are hereby made a part of these ~~regulations~~ rules.

CAAPB ~~CAAPC~~ 303 Boundaries. Where uncertainty exists with respect to the boundaries of any of the districts established in these ~~regulations~~ rules as shown on the official Capitol Area Zoning District Map, the following ~~rules~~ shall ~~be applied~~ govern:

[CAAPC 303 a.-c. Reletter to CAAPB 303 A.-C.]

D. ~~d.~~ Where unzoned property may exist, or where, due to the scale, lack of detail, or illegibility of the Zoning Map, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon, the exact location of district boundary lines shall be determined by the board ~~of Zoning Appeals for the Capitol Area~~ upon the written application of a property owner or upon its own motion.

Chapter Four: Use Regulations

CAAPB ~~CAAPC~~ 401 Uses permitted.

A. ~~a.~~ Except as otherwise provided by these ~~regulations~~ rules, no building or tract of land shall be devoted to any use other than a principal use or a conditional use permitted in the zoning district in which such building or tract of land is located.

~~b.~~ A principal use shall be permitted upon the finding by the ~~Commission~~ board that the proposed use is:

[Reletter (a) and (b) to 1. and 2.]

[Reletter (c) and (i) as B. and 1.]

2. ~~(ii)~~ Will not adversely affect the beauty, ~~and~~ dignity and architectural integrity of the Capitol Area; and

3. ~~(iii)~~ Will be established pursuant to the conditions and requirements for such uses enumerated in these ~~regulations~~ rules and such additional conditions and requirements as the ~~commission~~ board may impose to insure compliance with sub paragraphs ~~(i)~~ 1. and ~~(ii)~~ 2. above.

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[CAAPC 402 a.-g. Reletter as CAAPB 402 A.-G.]

H. ~~h.~~ Accessory buildings, structures, and uses. Outside storage is prohibited.

[CAAPC 403 Reletter as CAAPB 403]

A. ~~a.~~ Retail and service establishments, exhibition space, museums, historical and cultural centers, tourist information facilities, and other uses reasonably necessary and convenient for the satisfactory and efficient operation of the facilities of State Government and to provide adequate public access thereto.

CAAPB 404 Governmental district (G-2); principal uses. Permanent open spaces which preserve and enhance the Capitol Area shall be permitted in the Governmental District (G-2). Such uses shall include, but not be limited to, lawns, gardens, landscaped areas, and plazas.

CAAPB 405 Governmental District (G-2); conditional uses. Underground structures containing uses as regulated in G-1 zone, provided that the following criteria are met:

A. Location and type of landscaping will preserve and enhance the Capitol Area.

B. Safeguards for erosion control are provided; these shall include, but not be limited to, landscaping and seeding of topsoil.

C. Proof that soil conditions will not cause damage to adjacent property shall be provided.

D. Only above ground uses which are essential to the operation of underground structures shall be permitted; these may include ventilation shafts. Said above ground accessory uses shall in no way detract from the Capitol Area.

E. At least seventy-five percent (75%) of surface areas shall be devoted to G-2 uses.

F. Vistas of the Capitol shall remain intact.

[CAAPC 404 a.-h. Renumber as CAAPB 406 A.-H.]

I. Churches, chapels, synagogues, temples, and other similar houses of worship.

[CAAPC 405 Renumber as CAAPB 407; Reletter a., (i), (ii); b.; c., (i), (ii); d., (i)-(vi); e., (i)-(iii); f.-i.; j., (i)-(iii); and k. as A., 1., 2.; B.; C., 1., 2., D., 1.-6.; E., 1.-3.; F.-I.; J., 1-3.; and K.]

L. Amateur radio station towers, subject to the following conditions:

1. Radio towers for licensed amateur radio stations which exceed the allowable height of structures in residentially zoned districts shall not exceed seventy-five (75) feet above established grade.

2. Said towers shall be located only in the rear yard portion of the lot and shall be provided setbacks from side lot line equal to at least the greater of the two side yards required in these rules.

CAAPB 408 ~~CAAPC 406 LOCAL~~ Community Business District (B-1); principal uses. Only those uses which primarily serve the individual shopping and service needs of residents and employees within the Capitol Area and persons residing in nearby residential areas and which provide limited facilities for automobile access and parking shall be permitted as principal uses in a ~~Local~~ Community Business District. Such principal uses include but are not limited to, the following:

[a.-e., g. Reletter as A.-E., G.]

F. ~~f.~~ Restaurants and lounges, except drive-ins and fast-food restaurants.

CAAPB 409 ~~CAAPC 407 LOCAL~~ Community Business District ~~(B-1)~~ (B-2); Conditional uses. The following conditional uses shall be permitted pursuant to the provisions of ~~CAAPC~~ CAAPB 401 and subject to the conditions hereinafter imposed for each use:

[Reletter a.-i.; k., (i)-(iii); l.; and m. as A.-I.; K., 1.-3.; L.; and M.

J. ~~j. Restaurants,~~ ~~b~~Bars, drive-ins, fast-food restaurants, and similar establishments.

N. ~~n.~~ Motels, hotels, or other similar establishments, subject to the following conditions.

[Renumber (i) and (ii) as 1. and 2.]

O. ~~o.~~ Any combination of permitted and conditional uses for ~~Local~~ Community Business District when such uses are combined in a single structure or in connected or closely related structures and are located near a parking lot or lots specifically intended to provide parking for the customers and patrons of said uses.

P. All principal uses permitted in the Office-Service District (OS-1), excluding G-1 uses, when located on the second floor or above.

[Reletter p. as Q.]

[CAAPC 408 a.-e. Renumber as CAAPB 410 A.-E.]

F. All principal uses permitted in the Governmental District (G-1), as governed by CAAPB 403.

[CAAPC 409 a.-b., Renumber as CAAPB 411, A.-B.]

C. Those uses permitted as conditional uses in the Governmental District (G-1), CAAPB 403, subject to the conditions therein imposed for each use and pursuant to the provisions of CAAPB 401.

CAAPB 412 ~~CAAPC 410~~ Planned Unit Development District (PD); intent, establishment and principal uses. Upon application made to the ~~Commission~~ board, a Planned Unit Development District may be established by the ~~Commission~~ board upon final approval of a plan of development in the manner provided in these ~~regulations~~ rules. Such Planned Unit Development District may include all or part of one or more zoning districts and shall be the zoning district for the lot or lots included in the plan. Only those uses specified in the plan of development as finally approved by the ~~Commission~~ board shall be permitted in the Planned Unit Development District. The PD Planned Development District is intended to permit the private and/or public development or redevelopment of areas throughout the Capitol Area which shall be substantially in accord with the goals and objectives of the Comprehensive Plan. The use patterns of the areas involved shall provide a desirable environment and shall be harmonious to the general surrounding uses permitting flexibility in overall development while insuring adequate safeguards and standards for public health, safety convenience, and general welfare.

[CAAPC 411 Renumber as CAAPB 413.]

[CAAPC 412 a.-e. Renumber as CAAPB 414 A.-E.]

[CAAPC 413-414 Renumber as CAAPB 415-416]

CAAPB 417 Mixed Use District (MX); principal uses. Only those uses which are permitted as principal uses in the Medium-Density, Multiple-Family Residential District (RM-2), the Community Business District (B-2), and the Office-Service District (OS-1) shall be permitted as principal uses in a Mixed Use District.

CAAPB 418 Mixed Use District (MX); conditional uses. Only those uses which are permitted as conditional uses in the Medium-Density, Multiple-Family Residential District (RM-2), the Community Business District (B-2), and the Office-Service District (OS-1) shall be permitted as conditional uses in the Mixed Use District pursuant to the provisions of CAAPB 401 and subject to the conditions therein imposed as a conditional use in the RM-2, B-2 and OS-1 Districts.

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

[In rules 501 and 502 Notes to Schedule of Regulations Chart, Notes A and B, the only changes made are: CAAPC to CAAPB, Commission to Board, and regulations to rules.]

CAAPB ~~CAAPC~~ 502 Requirements. The floor area ratio, lot coverage, height, yard setback, and size of lot in each zoning district shall be as set forth on the following chart. **[See p. 1662 of this issue.]**

~~Note C.~~

~~In Height District #2, multiple-family residential buildings less than four (4) stories in height shall conform to the area, bulk, and setback regulations for the RM 2 Height District #1.~~

Note ~~D.~~ C.

In ~~B-1~~ B-2 Business District, required ~~minimum~~ maximum floor areas may be ~~reduced~~ increased to encourage certain building features which produce public benefits as follows:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

CHART A: Schedule of Regulations Limiting Height, Bulk, Density, and Area by Zoning Districts.

Zoning District	Maximum Floor Area Ratio Permitted	Maximum % of Lot Coverage Permitted (Area of all structures)	Maximum Height of Bldg. or Structure Permitted. (Maximum elevation above sea level given. Specific heights will vary with ground elevation of each site)	Minimum Yard Setback (for lot in feet)				Minimum Size Lot Per Unit	
					SIDES			AREA	
				Front	Least One	Total of Two	Rear	(Sq. Ft.)	(Feet)
Governmental District (G-1)	6.0	None	944.0 feet	~~0'~~ 5'	0'	0'	0'	None	None
Medium Density, Multiple-Family District (RM-2) ~~A. Height District #1 (See Attached Map)~~ 1. One-Family Detached Dwelling	None	30%	944.0 feet	25'	4' (See also Notes A and B)	8'	35'	5,000	40'
2. Two-Family Dwelling	None	30%	944.0 feet	25'	9' (See also Notes A and B)	18'	25'	3,500	30'
3. Multiple-Family Dwelling	None	30%	944.0 feet	25'	½ ht. or 15' whichever is greater.	30' (See also Notes A and B)	25'	(See Note A)	(See Note A)
~~B. Height District #2 (See Attached Map)~~ ~~1. One-Family Detached Dwelling~~	~~None~~	~~30%~~	~~944.0 feet~~	~~25'~~	~~4'~~ ~~(See also Note B)~~	~~8'~~	~~35'~~	~~5,000~~	~~40'~~
~~2. Two-Family Dwelling~~	~~None~~	~~30%~~	~~944.0 feet~~	~~25'~~	~~9'~~ ~~(See also Note B)~~	~~18'~~	~~35'~~	~~3,500~~	~~30'~~
~~3. Multiple-Family Dwelling~~	~~None~~	~~40%~~	~~966.0 feet (See also Note C)~~	~~0'~~	~~50'~~ ~~(See also Note B)~~	~~100'~~	~~50'~~	~~(See Note A)~~	~~(See Note A)~~
~~Local~~ Community Business District ~~(B-1)~~ (B-2)	4.0	None	944.0 feet	~~0'~~ 5'	0' (See also Note ~~B~~C)	0'	0'	None	None
Office-Service District (OS-1)	6.0	None	See Attached Height District Map	~~0'~~ 5'	0'	0'	0'	None	None
Planned Unit Development District (PD)	(See Note ~~E~~D)	(See Note ~~E~~D)	(See Note ~~E~~D)	(See Note ~~E~~D)				(See Note ~~E~~D)	(See Note ~~E~~D)
Mixed Use District (MX)	2.0	None	944.0 feet	5'	0'	0'	0'	None	None

Note: Special requirements may apply in designated Visual Corridors pursuant to Chapter Fifteen of these rules.

	Building Feature	Unit of Feature upon which Bonus is Based	Additional Sq. Ft. of Floor Area Allowed: OS-1 Office Service	Additional Sq. Ft. of Floor Area Allowed: B-1 Local Business District	Maximum Bonus (Percent of Basic Allowable Gross) Floor Area
(i)	Arcade	Each square foot of arcade area	7 sq. ft.	4 sq. ft.	20%
(ii)	Plaza	Each square foot of plaza area	7 sq. ft.	5 sq. ft.	15%

Note ~~E.~~ D.

The ~~Commission~~ board shall require that all buildings in a Planned Development District substantially conform to the ~~regulations~~ rules for adjacent districts.

CAAPB ~~CAAPC~~ 503 Height districts. In order to preserve the State Capitol Building as the dominant structure in the Capitol Area, no building shall be constructed to a height greater than the maximum height permitted in the Height District, as shown on the attached map. Said maximum heights are as follows:

A. Height District #1: No building shall be constructed to a height greater than 944.0 feet above sea level. This elevation corresponds to the height of the Capitol Building exclusive of the dome; generally, this would allow a building height of four to six stories in the Capitol Area.

B. Height District #2: No building shall be constructed to a height greater than 966.0 feet above sea level. Boundaries are described in map designated "Height Districts of the Capitol Area".

[See pp. 1664 and 1665 of this issue.]

Chapter Six: Parking Regulations

[In rules 603, 604, and 606 the only changes are: CAAPC to CAAPB, Commission to Board, and regulations to rules.]

CAAPB ~~CAAPC~~ 601 Parking spaces required. There shall be provided in all zoning districts, at the time of erection or enlargement of any ~~main~~ principal building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided as hereinafter prescribed.

CAAPB ~~CAAPC~~ 602 Location of off-street parking spaces. Off-street parking for other than residential use shall be either on the same lot or within the same district and within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot.

Off-street parking for residential use shall not be within the required front yard setback.

CAAPB ~~CAAPC~~ 605 Joint off-street parking facilities. Two or more buildings or uses may jointly provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately; provided, however, that where the operating hours of the buildings or uses providing such joint parking facilities do not overlap, the ~~Commission~~ board may, upon written application, reduce the number of parking spaces otherwise required. Whenever such hours of use change and do overlap, however, the number of required parking spaces shall revert to not less than the sum of the requirements for the several individual uses computed separately.

CAAPB 607 Handicapped access. Wherever access to the handicapped is required by Chapter 55 of the Minnesota State Building Code, at least one (1) space per fifty (50) spaces, or fraction thereof, shall be provided for the use of the handicapped. Each space reserved for the exclusive use of the handicapped shall be designated by an international wheelchair symbol.

CAAPB 608 Mixed uses. In cases of mixed uses, the total requirements for off-street parking shall be the sum of the

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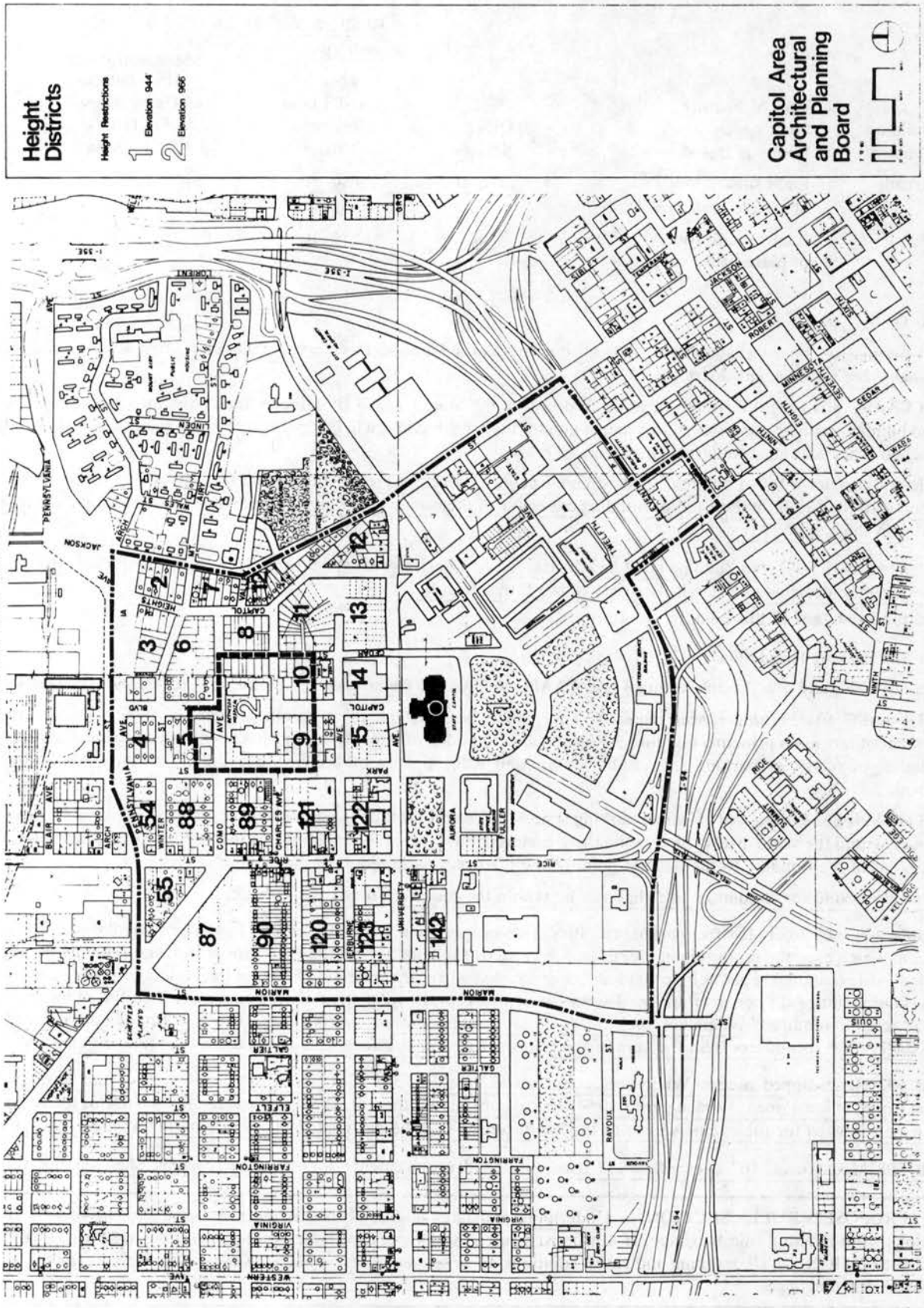
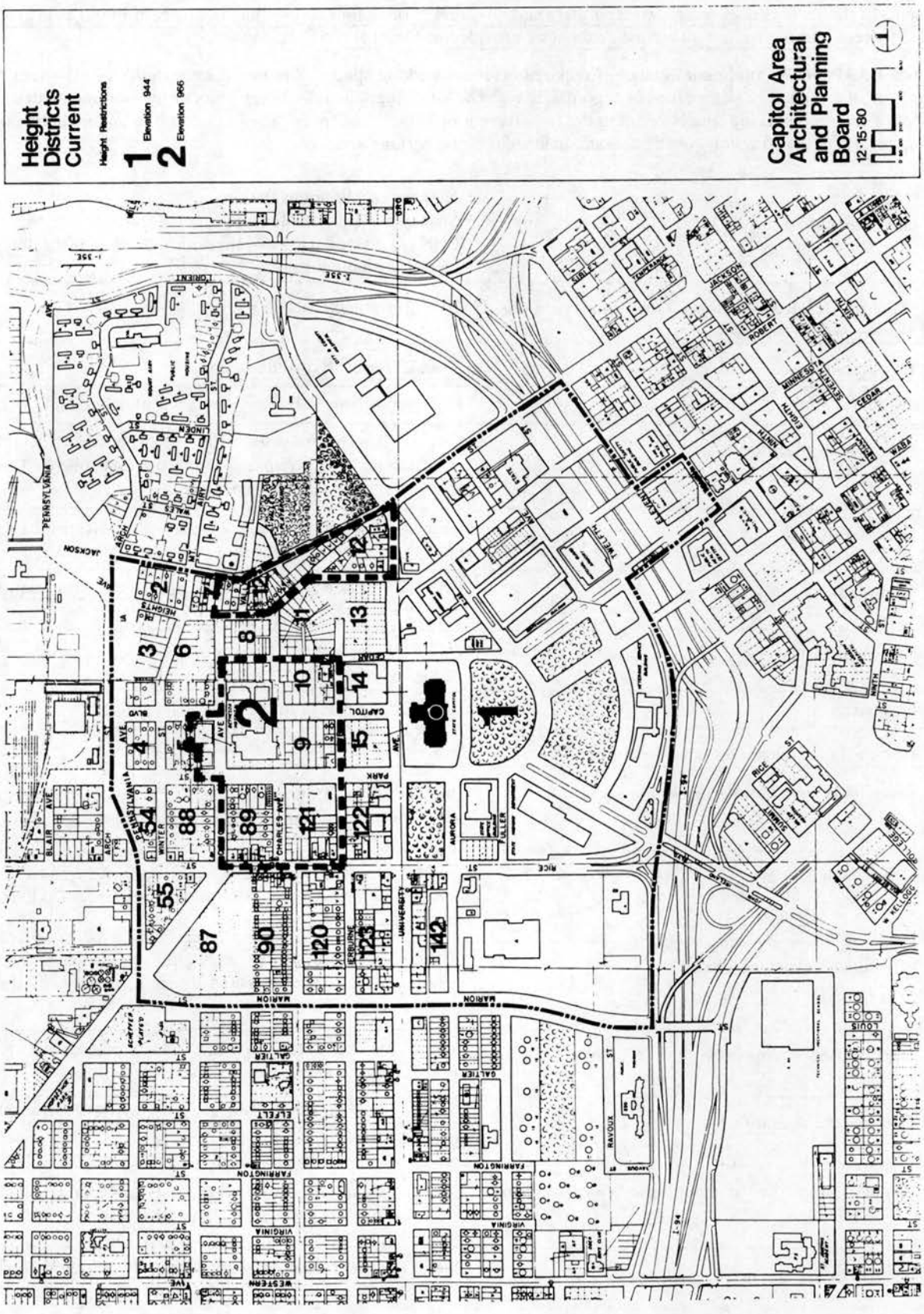
[PROPOSED NEW MAP]



[PROPOSED FOR REPEAL]



requirements of the various uses computed separately and off-street parking for one use shall not be considered as providing the required off-street parking for any other use, except as provided in CAAPB 605.

CAAPB 609 ~~CAAPC 607~~ **Minimum number of required off-street parking spaces.** The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.

Use	Number of Minimum Parking Spaces per Unit of Measure
A. ~~a.~~ Governmental	One (1) for every ~~two~~ three hundred ~~(200)~~ (300) square feet of usable floor area.
B. ~~b.~~ Residential ~~Residential,~~ One-Family~~,~~ ~~Two-Family and Townhouse~~	Two (2) for each dwelling unit.
Two-Family and Townhouse	Two (2) for each dwelling unit.
Multiple Family	One ~~and one-half (1-½)~~ (1) for each dwelling unit.
Housing for the Elderly	One (1) for each ~~three~~ four ~~(3)~~ (4) units. Should units revert to general occupancy, then one ~~and one-half (1½)~~ (1) ~~spaces~~ per unit shall be provided.
Boarding House	One ~~and one-half (1½)~~ (1) per each dwelling unit plus one (1) for each two (2) roomers.
C. ~~c.~~ Instititional Auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
Churches or Temples	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
Hospitals	One and one-half (1½) for each one (1) bed.
Homes for the aged and convalescent homes	One (1) for each two (2) beds.
Elementary and Junior high schools	One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium.
Senior high schools	One (1) for each one (1) teacher, employee, or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
Private Clubs or lodge halls	One for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Theaters ~~and auditoriums~~	One (1) for each ~~three~~ ~~(3)~~ five (5) seats plus one (1) for each two (2) employees.
D. ~~d.~~ Commercial Auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
Planned commercial or shopping area located in any "B" District	One (1) for each one hundred (100) square feet of usable floor area, plus one (1) for each one (1) employee.
Auto wash	One (1) for each one (1) employee. In addition, forty (40) reservoir parking spaces shall be provided.

Beauty Parlor or Barber Shop	Three (3) spaces for each of the first two (2) beauty or barber chairs, and one and one-half (1½) spaces for each additonal chair.
Bowling Alleys	Five (5) for each one (1) bowling lane.
Dance halls, pool or billiard parlors, roller or ice skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building, or health codes.
Establishments for the sale and consumption on the premises of beverages, food, or refreshments	One (1) for each one hundred (100) square feet of usable floor space~~, plus one~~.
Furniture and applicance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses	One (1) for each eight hundred (800) square feet of usable floor area. (For the floor area used in processing space shall be provided for each one (1) person employed therein.)
Automobile service center	Two (2) for each lubrication stall, rack, or pit, and one (1) for each gasoline pump.
Laundromats and coin-operated dry cleaners	One (1) for each two (2) machines.
Mortuary establishment	One (1) for each fifty (50) square feet of assembly room usable floor space, parlors, and slumber rooms.
Motel, hotel, or other commercial lodging establishment	One (1) for each one (1) occupancy unit.
Motor vehicle sales and service establishments	One (1) for each two hundred (200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room.
Retail stores except as otherwise specified herein	One (1) for each hundred and fifty (150) square feet of usable floor space.
Theaters	One (1) for each five (5) seats plus one (1) for each two (2) employees
E. ~~e.~~ Offices Banks, Savings and Loan Associations, Credit Unions, and similarly-regulated financial institutions	One (1) for each one hundred (100) square feet of usable floor space.
Other financial institutions such as loan companies and similar establishments	One (1) for each two hundred (200) square feet of usable floor space.
Business offices or professional offices except as indicated in the following item	One (1) for each ~~two~~ three hundred ~~(200)~~ (300) square feet of usable floor space.
Professional offices of doctors, dentists, or similar medical professions	One (1) for each one hundred (100) square feet of usable floor area ~~in waiting rooms, and one (1) for each examing room; dental chair, or similar use area~~.

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CAAPB 610 ~~CAAPC 608~~ **Construction of off-street parking spaces.** Wherever the off-street parking requirements require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following ~~standards and regulations~~ rules:

A. ~~a.~~ No parking lot shall be constructed unless and until a zoning permit therefore is issued by the ~~Commission~~ board and a building permit is obtained from the City. Applications for a zoning permit shall be submitted in such form as may be determined by the ~~Commission~~ board and shall be accompanied by two (2) sets of plans for the development and construction of the parking lot ~~showing~~ demonstrating that the provisions of these ~~regulations~~ rules will be ~~fully~~ complied with fully.

B. ~~b.~~ Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width Of One Tier of Space Plus Maneuvering Lane	Total Width Of Two Tiers of Spaces Plus Maneuvering Lane
0° (Parallel parking)	12 ft.	8 ft.	~~23~~21 ft.	20 ft.	28 ft.
30° to 53°	12 ft.	8 ft. 6 in.	~~20~~18 ft.	~~32~~30 ft. 6 in.	~~52~~49 ft.
54° to 74°	15 ft.	8 ft. 6 in.	~~20~~18 ft.	~~36~~35 ft. ~~6 in.~~	~~58~~55 ft.
75° to 90°	20 ft.	9 ft.	~~20~~18 ft.	~~40~~38 ft.	~~50~~56 ft.

C. Parking areas may designate up to fifty percent (50%) for compact cars only; in which case, the minimum layout dimensions may be reduced to eight feet (8') width and sixteen feet (16') length.

[CAAPC 608 c.-f. Reletter as CAAPB D.-G.]

H. ~~g.~~ The off-street parking area shall be provided with a continuous and obscuring wall or visual screen as required in ~~CAAPC 901~~ CAAPB 902.

I. ~~h.~~ Wheel stops or earth berms shall be required for each parking space in lots of three (3) or more car capacity.

J. ~~i.~~ The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with a durable, dustless surfacing in accordance with specifications approved by the ~~Commission~~ Board. The parking area shall be surfaced within one (1) year of the date the permit is issued.

[CAAPC 608 j.-m. Reletter as CAAPB 610 K.-N.]

Chapter Seven: Loading Regulations

[In Chapter Seven the only change is CAAPC to CAAPB.]

[In rules 701-703 the only change is CAAPC to CAAPB.]

Chapter Eight: Accessory Building Regulations

[In rule 801 the only changes are: CAAPC to CAAPB, Commission to Board, and regulations to rules.]

CAAPB ~~CAAPC~~ 802 **Attached accessory buildings.** When an accessory building is attached to a ~~main~~ principal building, it shall be subject to, and must conform to, all ~~regulations~~ rules applicable to the ~~main~~ principal building.

CAAPB ~~CAAPC~~ 803 **Yard limitations.**

A. ~~a.~~ Accessory buildings shall not be erected in any required yard, except a rear yard. All accessory buildings shall be set back at least three (3) feet from all interior lot lines.

B. ~~b.~~ An accessory building shall occupy not more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any nonrequired rear yard, provided that in no instance shall the area of the accessory building exceed the ground floor area of the ~~main~~ principal building.

C. ~~c.~~ In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than one (1) foot to such a rear lot line. In no instance shall an accessory building be located within a dedicated public right-of-way.

CAAPB ~~CAAPC~~ 804 **Height limitations.** Accessory buildings in any residential area~~, except in the RM 2 Multiple Family Residential District, Height District #2,~~ shall not exceed one (1) story or fourteen (14) feet in height. In Height District #2,

accessory buildings or structures used for the parking of motor vehicles shall not exceed three (3) stories or thirty (30) feet in height.

Chapter Nine: ~~Wall and Fence Regulations~~ Visual Screens

CAAPB ~~CAAPC~~ 901 ~~Wall or fence~~ Visual screens required. For those Zoning Districts and uses listed below, there shall be provided and maintained on those sides of a zoning lot abutting or adjacent to a residential district an obscuring wall, ~~or~~ fence, or other visual screen having a minimum height as required below~~:~~. (For purposes of this section a wall or fence is considered a visual screen.)

Use	~~Wall/Fence~~ Requirement (height in feet)
a. ~~Commercial~~ Community Business District ~~(B-1)~~ (B-2)	4 ft. 6 in.
b. Office Service District (OS-1)	4 ft. 6 in.
c. Hospital (ambulance and delivery areas)	6 ft. 0 in.
d. Utility building, station, and/or sub-station	6 ft. 0 in.

Where plant materials are used to provide a visual screen they shall meet the above height requirements when mature and shall be of sufficient density to visually separate the zoning lot from the adjacent residential district.

CAAPB 902 Visual screens for off-street parking. For all off-street parking areas of more than four (4) parking spaces there shall be provided and maintained a visual screen of sufficient height and density to visually separate the parking area from adjacent property. All such visual screens shall be of a minimum height of four (4) feet, six (6) inches, when constructed or, in the case of plant materials, when mature.

CAAPB 903 ~~CAAPC 902~~ Location of ~~wall or fence~~ visual screens.

A. ~~a.~~ Required ~~walls or fences~~ visual screens shall be located on the lot line except where underground utilities interfere and except in instances where these ~~regulations~~ rules require conformance with front yard setback lines in abutting Residential Districts, in which cases the ~~Commission~~ board shall establish the location of the ~~wall or fence~~ visual screen. When a yard is required, all land between the wall and property line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material, and ornamental trees. The ground shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

B. ~~b.~~ Required ~~walls or fences~~ visual screens may, upon approval of the board, be located on the opposite side of an alley right-of-way from a non-residential zone when mutually agreeable to affected property owners. The uniformity of the required ~~wall or fence~~ visual screen in a given block shall be considered by the board in reviewing such request.

CAAPB 904 ~~CAAPC 903~~ Openings. No ~~wall or fence~~ visual screen required by these ~~regulations~~ rules shall have openings for pedestrians, vehicular traffic, or other such purposes, except as provided in these ~~regulations~~ rules and as may be approved by the board.

CAAPB 905 ~~CAAPC 904~~ Construction of ~~walls and fences~~ visual screens.

A. The visual screens herein required shall consist either of various fence materials, earth berms, plant materials, or a combination thereof.

[CAAPC 904 a.-c. Reletter as CAAPB 905 B.-D.]

E. The species, size, location, and spacing of plant materials shall be appropriate for the purpose intended, and shall be planted within one hundred eighty (180) days from the date of issuance of a Certificate of Occupancy and shall thereafter be maintained to provide a visual screen to abutting properties.

1. Minimum Plant Sizes (at time of planting)

medium and large trees:* 2½ inch caliper

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small trees:	6-8 ft. overall height
shrubs:	15-18 in. overall height

*shall be balled and burlapped stock

2. Wherever plant materials are used to satisfy a visual screen requirement, planting shall be sufficiently dense to provide an unbroken visual barrier within a maximum of two (2) growing seasons after the time of planting.

3. Planting areas shall be at least four (4) feet in width.

4. The genus and species of all plant materials must be identified on all plans submitted for permit approval.

5. The owners shall be responsible for maintaining all landscaping in a healthy and growing condition and keeping it free from refuse and debris. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting seasons.

CAAPB 906 ~~CAAPC 905~~ Variances. In consideration of a request to vary ~~wall or fence~~ visual screen requirements between non-residential and residential districts, the ~~Commission~~ board shall make a determination on the following matters.

A. ~~a.~~ A determination as to whether or not the residential district is considered to be an area in transition and will become non-residential in the near future.

In such cases as it determines the residential district to be a future non-residential area, the ~~Commission~~ board may temporarily waive ~~wall~~ visual screen requirements for an initial period not to exceed twelve (12) months. Granting of subsequent waivers shall be permitted, provided that the ~~Commission~~ board shall make a determination as hereinbefore described.

B. ~~b.~~ A determination as to whether or not any governmental action in the area will change the physical condition so as to make a ~~wall~~ visual screen unnecessary.

In consideration of a request to vary visual screen requirements for off-street parking, the provisions of Chapter Sixteen of these rules shall apply.

Chapter Ten: Exterior Lighting and Structural Regulations

[In rules 1002 and 1003 the only changes are: CAAPC to CAAPB, Commission to Board, and regulations to rules.]

[CAAPC 1001 a.-e. Reletter to CAAPB 1001 A.-E.]

~~**CAAPC 1004. Amateur Radio Station Towers.** Amateur radio station towers shall be permitted in all residential districts subject to the following conditions:~~

~~a. Radio towers for licensed amateur radio stations which exceed the allowable height of structures in residentially zoned districts shall not exceed seventy-five (75) feet above established grade.~~

~~b. Said towers shall be located only in the rear yard portion of the lot and shall be provided setbacks from side lot lines equal to at least the greater of the two side yards required in these regulations.~~

CAAPB 1004 Street and landscape elements. All exterior structural elements such as benches, transit shelters, vending equipment, and similar elements in the public right-of-way or in the G-2 zone, shall be approved by the board for both design and location.

Chapter Eleven: Sign Regulations

CAAPB ~~CAAPC~~ 1101 Intent. The purpose of this section is to regulate outdoor advertising and outdoor signs of all types in the Capitol Area. ~~It is intended by the provisions of this section~~ The intent is to control signs, to reduce hazards and traffic accidents, to relieve pedestrian and traffic congestion, to protect and provide more open space, to preserve and enhance the dignity, ~~and~~ beauty, and architectural integrity of the Capitol Area, and to insure that all signs are suitably integrated with the architectural design of any structure in the Capitol Area on which they are mounted or to which they relate.

CAAPB ~~CAAPC~~ 1102 Required conditions. No sign shall be permitted in the Capitol Area except as provided in ~~CAAPC~~ CAAPB 1103~~.~~ and without first obtaining the requisite permit for such sign. All signs permitted by ~~CAAPC~~ CAAPB 1103 shall satisfy the following conditions:

A. ~~a.~~ All signs shall conform to all applicable provisions of the Building Code of the City of Saint Paul.

B. ~~b.~~ No sign, unless specifically permitted in a zoning district and except those projecting business signs permitted in business districts that do not violate Minn. Stat. § 160.27, and those established by the City of Saint Paul, Ramsey County, the

State of Minnesota, or the United States, shall be located in, project into, or overhang a public right-of-way or dedicated public easement in any district.

C. ~~e. All directional signs required for the purpose of orientation, or direction, when established by the City of Saint Paul, Ramsey County, the State of Minnesota, or the United States, shall be permitted in all districts.~~ Signs of the City of Saint Paul, County of Ramsey, State, and Federal governments and subdivisions and agencies thereof which give orientation, direction, or traffic control information shall be permitted in all zoning districts.

[Reletter d.-f. as D.-F.]

G. No sign or sign structure shall be erected or maintained at any location where by reason of its position, size, shape, content, color or illumination, it may interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

H. All signs which are unsafe and/or unsightly shall be repaired or removed. Unsafe signs must be repaired or removed within twenty-four (24) hours after notification. Unsightly signs must be repaired or removed within fifteen (15) days of notification. The term "unsightly" shall mean a condition in which the sign has deteriorated to the point where at least one-fourth (¼) of the surface area of the name, identification, description, display, illustration or other symbol is no longer clearly recognizable at a distance of twenty (20) feet; or where paint is peeling, chipping, or flaking from the structure surface, or where the sign has developed significant rust, corrosion, rotting, or other deterioration in the physical appearance, or is so faded that it is not clearly recognizable at a distance of twenty (20) feet; or where an illuminated electrical sign is no longer in proper working order. Removal, in the case of painted wall signs, shall mean a complete repainting of the background on which the sign was painted, or a sandblasting of the surface to reveal an exterior finish compatible with surrounding surfaces, so that no part of the sign is any longer visible.

I. No sign shall be painted directly on or affixed to any tree, rock or utility pole.

J. Lots on which signs are located shall be kept neat, orderly, and free of debris by the owner.

K. When specifically permitted in a zoning district, signs projecting over a public right-of-way may project up to four (4) feet from the property line, but in no case shall come closer than two (2) feet from the curb line, or be less than ten (10) feet above ground level. Such signs shall not violate Minn. Stat. § 160.27.

L. For parking lot areas, one (1) identification sign not to exceed a total of fifteen (15) square feet in area is permitted per parking lot entrance. An identification sign up to twenty-five (25) square feet in area, however, shall be permitted if such sign incorporates the following uniform parking symbol: Fifty (50) percent of the total sign area of the parking identification sign must bear thereon a blue rectangle with a white letter "P" with the letter "P" being not less than forty (40) percent of the area of the blue rectangle. The remaining portion of the sign incorporating such a parking symbol may be used for other pertinent information. In addition to the one (1) identification sign per parking lot entrance, however, one (1) directional sign not to exceed a total of four (4) square feet is permitted per entrance or exit. Such directional signs may be up to ten (10) square feet in area if they also incorporate the above-prescribed parking symbol. These parking identification and directional signs are in addition to other signs permitted in each zoning district.

CAAPB ~~CAAPC~~ 1103 **Permitted signs.** In addition to the aforementioned parking identification and directional signs ~~T~~the following signs are permitted in the districts indicated on the following chart. **[See p. 1672 of this issue.]**

CAAPB 1104 **Nonconforming signs.** When a lawful sign exists at the effective date of these rules or amendments thereto and which is made non-conforming by reason of these rules, such sign may continue until January 1, 1986, as long as it remains otherwise safe, not unsightly (as defined in CAAPB 1102 H.), or not abandoned (as defined in CAAPB 1107), subject to the following provisions:

A. No sign shall be enlarged or altered in a way which increases its nonconformity.

B. Should such sign or sign structure be destroyed by any means to any extent of more than fifty-one (51) percent of its replacement cost, it shall not be reconstructed except in conformity with the provisions of these rules.

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PERMITTED BY DISTRICT

Use Districts	RM-2 Multiple Family	OS-1 Office Service	~~B-1~~ B-2 ~~Local~~ Community Business	PD Planned Development	G-1 & G-2 Governmental
1. Permitted Non-Accessory Signs					
a. Advertising Sign	0	0	0	0	0
b. Billboard	0	0	0	0	0
c. Vehicle Business Sign	0	0	0	0	0
d. Political Sign	X	X	X	X	0
2. Permitted Accessory Signs					
a. Business Signs	0	1 50	1 100	1 200	0
b. Bulletin Board	1 12	0	0	0	1 12
c. Festoon Sign	0	0	0	0	0
d. Identification & Name Plate	1 ~~2~~7	1 ~~6~~21	1 ~~6~~21	1 ~~6~~21	1 ~~6~~21
e. Marquee	0	0	2 100	0	0
f. Real Estate	2 12	2 12	2 12	2 12	0
g. Real Estate Development	2 50	2 50	0	2 50	0
h. Temporary	0	1 12	1 12	1 12	0
i. Vehicle Business Sign	0	0	0	0	0
3. Structure Types					
a. Free Standing	X	X	X	X	X
b. Flashing, Animated or Moving	0	0	0	0	0
c. Projecting	0	X	X	X	0
d. Roof	0	0	0	0	0
e. Wall	X	X	X	X	X

1 12 — 1: Maximum number of signs per building or per vacant zoning lot.
12: Maximum square feet area each sign per building or vacant zoning lot.

Note: "0" indicates that no sign of the type in the left column is permitted.

"X" indicates permitted structure type.

C. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the rules for the zoning district in which it is located after it is moved.

D. No existing sign devoted to a use not permitted by these rules in the zoning district in which it is located shall be enlarged, extended, or moved except in changing the sign to a sign permitted in the zoning district in which it is located.

E. When a structure loses its nonconforming status, as set forth in Chapter Thirteen of these rules, all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

F. Signs may be repainted, reposted, or replaced when there is a change of tenancy, ownership, or management of any nonconforming use.

CAAPB 1105 Administration and enforcement. The board shall designate a Zoning Administrator who is hereby authorized and directed to enforce all the provisions of these rules.

The Zoning Administrator shall enforce the provisions of these rules and amendments thereto and shall have the power to certify compliance and issue permits, and to make inspections of buildings or premises necessary to carry out his duties in the enforcement of these rules.

No permit shall be issued by the Zoning Administrator until he has reviewed all plans in detail and found them to conform to these rules.

The Zoning Administrator shall not grant any variances with respect to these rules in carrying out his or her duties as Zoning Administrator. Variances shall be granted by the board. The Zoning Administrator shall grant a permit upon a finding of compliance with the conditions imposed by these rules.

CAAPB 1106 Sign permit; application. Applications for sign permits shall be submitted in writing to the Zoning Administrator. Each application shall contain the following information:

A. the name and addresses of the display structure and property;

B. the address at which any signs are to be erected;

C. the lot, block, and addition at which billboards are to be erected and the street on which they are to front, and

D. a complete set of plans showing the necessary elevations, distances, size and other details to fully and clearly represent the construction and placing of the display structure.

CAAPB 1107 Exemptions. The following signs shall not require a permit. These exemptions shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of these rules or any other law or ordinance regulating the same.

A. The changing of the display surface on a painted or printed sign only. However, this exemption shall apply only to onsite changes involving sign repainting and/or poster replacement.

B. Signs six (6) square feet or less in size.

C. Lettering on motor vehicles when not utilized as a parked or stationary outdoor display sign.

D. Political signs.

CAAPB 1108 Abandoned signs. Any sign which advertises, identifies, or pertains to an activity no longer in existence shall be removed by the owner of the property within thirty (30) days from the time the activity ceases existence. This provision does not apply to seasonal activities during the regular periods in which they are closed.

CAAPB 1109 Variances. The board shall have the authority to grant variances from the strict applications of these rules for unique signs or unusual conditions pertaining to sign needs for a specific building or lot pursuant to the provisions of Chapter Sixteen of these rules.

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Chapter Twelve: Exceptions

[In rules 1203-1208 the only changes are: CAAPC to CAAPB, Commission to Board, and regulations to rules.]

CAAPB ~~CAAPC~~ 1201 Application. Except as otherwise provided in CAAPB 1101-1105, ~~T~~the ~~regulations~~ rules for all Zoning Districts, except the Governmental District, shall be subject to the following interpretations and exceptions.

CAAPB ~~CAAPC~~ 202 Essential services. Essential services shall be permitted as authorized and regulated by law and ~~regulation,~~ rule. ~~it being the intention hereof to exempt such~~ eEssential services are exempt from the application of these ~~regulations~~ rules.

Chapter Thirteen: Nonconformities

[In rule 1307 the only change is CAAPC to CAAPB]

[CAAPC 1301 (1)-(3) Reletter to CAAPB 1301 A.-C.]
[CAAPC 1302 (1) and (2) Reletter as CAAPB 1302 A. and B.]
[CAAPC 1303 a.-c. Reletter as CAAPB 1303 A.-C.]
[CAAPC 1304 Reletter as CAAPB 1304; strike "(1)" and incorporate that paragraph into 1304; Reletter a.-c. as A.-C.]
[CAAPC 1305 Reletter to CAAPB 1305; strike (1) and incorporate that paragraph into 1305; Reletter a.-e. as A.-E.]
[CAAPC 1306 (1) and (2) Reletter to CAAPB 1306 A. and B.]

Chapter Fourteen: Administration

CAAPB ~~CAAPC~~ 1401 Duties of ~~Commission~~ board. The ~~Commission~~ board shall accept applications for, and issue, any certificate or permit which is required by these ~~regulations~~ rules, keep and maintain all plans, files, and records pertaining thereto, and perform all other functions necessary for the orderly administration of ~~this ordinance~~ these rules. The ~~Commission~~ board may delegate any or all of these duties to any subcommittee or authorized representative. Said subcommittee or authorized representative shall be known as the board's Zoning Administrator.

CAAPB ~~CAAPC~~ 1402 Zoning permit required. Except as otherwise provided in ~~CAAPC 409-413~~ CAAPB 411-415 and CAAPB 1101-1107, no land, building or structure, in any district, shall hereafter be changed to a different use ~~of a different class~~, and no building, structure or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until the ~~Commission~~ board has issued a Zoning Permit, certifying that the plans and intended use, including any conditional use, of land, buildings, and structures are in conformity with all provisions of these ~~regulations~~ rules.

CAAPB ~~CAAPC~~ 1403 Zoning permit; application. Except as otherwise provided in ~~CAAPC 409-413~~ CAAPB 411-415 and CAAPB 1101-1107, all applications for zoning permits shall be submitted in writing and shall contain the following information:

A. ~~a.~~ The legal description of the property in question;

B. ~~b.~~ The fee owner of such property; and, in all cases where the applicant is not the fee owner of the property, the application shall state the nature of the applicant's interest in the property;

C. ~~c.~~ A concise description of the proposed use, including accessory and conditional uses, if any;

D. ~~d.~~ Three copies of ~~A~~a site plan which clearly illustrates the following:

[(i)-(v) Reletter as 1.-5.]

E. ~~(vi)~~ Such other information as may be reasonably necessary to permit the ~~Commission~~ board to determine whether the proposed use, including accessory and conditional uses, satisfies the requirements of these ~~regulations~~ rules. This includes, but is not limited to, floor plans, elevations, and landscape plans or schemes.

Nothing herein shall be construed to prohibit an applicant from presenting such additional information, in such form as the ~~Commission~~ board may permit, which is relevant to the nature of the proposed use and its relation to and effect upon adjacent uses and the beauty, ~~and~~ dignity, and architectural integrity of the Capitol Area.

CAAPB 1404 Consideration of site plan. In reviewing the site plan the board shall consider:

A. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.

B. The traffic circulation features within the site and location of automobile parking areas, and may make such requirements with respect to any matters as will assure:

1. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.

2. Satisfactory and harmonious relations between the development on the site and the existing and prospective development of abutting land and adjacent neighborhoods.

C. The arrangement of buildings, uses and facilities of the proposed development in order to assure abutting property and/or its occupants will not be reasonably affected.

CAAPB 1405 Additional site requirements. In conjunction with approving the site plan, the board may require the following:

A. Landscaping, fences, and walls in pursuance of the objectives of these rules and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant;

B. Marginal access drives where such marginal access drives are necessary for safety.

CAAPB 1406 Certificate of design compliance. Subject to the provisions of Chapter Fifteen no building, structure, or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until it has been issued, in addition to a Zoning Permit issued by the board and a Building Permit by the City of St. Paul, a Certificate of Design Compliance by the board certifying that the plans of the building or structure are in conformity with all provisions of the design rules as provided in CAAPB 1502-1610.

CAAPB 1407 Certificate of design compliance; application. In addition to the requirements for a zoning permit, all applications for a certificate of design compliance shall be submitted in writing and shall include three copies of the following:

A. Plans, sections, and all elevations of the proposed structure drawn to scale, showing the overall dimensions of the exterior faces of the structure, the proposed type and location of any sign or other appurtenances such as overhangs, housing for utilities, and television or radio antennas, and also showing in outline form other adjacent buildings and structures, and landscape features within a reasonable distance that will be seen when looking at any of the elevations of the structure.

B. Landscape plans or schemes, including any landscaping required for off-street parking.

C. Such other information as may be reasonably necessary to permit the board to determine whether the proposed construction or reconstruction satisfies the requirements of these rules.

CAAPB 1408 ~~CAAPC 1404~~ Consideration of applications. Applications in the form prescribed in ~~CAAPC~~ CAAPB 1403 and CAAPB 1407 shall be submitted to the ~~Commission's Executive Secretary~~ Zoning Administrator and shall be considered and acted upon not later than seventy-five (75) days following submission of the application; provided, however, that the ~~Commission~~ board may in order to permit additional study of a proposal, postpone approval or denial of an application for an additional forty-five (45) days where it finds that the proposed use may significantly affect the beauty, ~~and~~ dignity, and architectural integrity of the Capitol Area. Applications shall be approved if they meet all applicable requirements of these rules.

~~**CAAPC 1405. Variance.** In granting a zoning permit, the Commission may grant a variance from the strict applications of the provisions of these regulations where by reason of exceptional narrowness, shallowness, shape, or area of the property in question or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to, or exceptional undue hardship upon, the owner of such property, provided that in no case may a variance be granted which permits a use not otherwise permitted in the district in question; and further provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these regulations. In granting a variance the Commission may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of these regulations. In granting or denying a variance, the Commission shall state the grounds upon which its decision is based.~~

CAAPB 1409 ~~CAAPC 1406~~ Building permits required.

~~(1) Governmental District. No building, structure, or part thereof in the Governmental District shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until it has been issued, in addition to a Zoning Permit issued by the Commission, a Building Permit by the Commission, certifying that the plans of the building of the structure are in conformity with all provisions of the State Building Code.~~

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~~(2) Other Districts.~~ No building structure, or part thereof, ~~in any district except the Governmental District,~~ shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until it also has been issued, in addition to a Zoning Permit issued by the ~~Commission~~ board, a Building Permit by the City of Saint Paul, certifying that the plans of the building or structure are in conformity with all provisions of the City of Saint Paul Buidling Code.

[CAAPC 1407 (1)-(4) Reletter and renumber as CAAPB 1410 A.-D.]

E. ~~(5)~~ The ~~Commission~~ board may issue a temporary Certificate of Occupancy for the principal building on a project before full completion of fencing, landscaping, and parking, if, in its judgment, such items cannot be completed at the same time as the building. In all such instances, the Certificate of Occupancy shall be marked "Temporary — For One (1) Year Only" and shall not be renewable. As soon as the fencing, ~~and~~ parking and landscaping is fully completed and inspected and approved by the ~~Commission~~ board, the "Temporary" Certificate shall be cancelled and a permanent Certificate of Occupancy issued. If any portion of the required fencing, ~~or~~ parking or landscaping is not fully completed within one year following the date of the Temporary Certificate, the certificate shall automatically become null and void, and the use of any portion of the premises thereafter shall cease until a Certificate of Occupancy is issued.

CAAPB 1411 ~~CAAPC 1408~~ St. Paul Certificate of Occupancy ~~In Governmental District.~~

~~(1) No building, structure or part thereof, in the Governmental District, which is hereafter erected, constructed, reconstructed, altered, enlarged, or moved shall be occupied or used unless it also has been issued a Certificate of Occupancy by the Commission, certifying that such building or structure is in conformity with the provisions of the State Building Code.~~

~~(2)~~ No building, structure, or part thereof, in any district ~~except the Governmental District,~~ which is hereafter erected, constructed, reconstructed, altered, enlarged, or moved shall be occupied or used unless it also has been issued, in addition to a Certificate of Occupancy issued by the ~~Commission~~ Board, a Certificate of Occupancy by the City of Saint Paul, certifying that such building or structure is in conformity with the provisions of the applicable building code.

CAAPB 1412 ~~CAAPC 1409~~ Final inspection. The holder of every Zoning Permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the ~~Commission~~ board immediately upon the completion of the work authorized by such permit, for a final inspection prior to issuance of a Certificate of Occupancy.

CAAPB 1413 Permit expiration. No zoning permit or certificate of design compliance permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is started and is proceeding with the terms of such a permit.

CAAPB 1414 ~~CAAPC 1410~~ Fees. Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of these ~~regulations~~ rules, shall be collected by the ~~Commission~~ Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the ~~Commission~~ board and shall cover the cost of notification, inspection and supervision resulting from enforcement of these ~~regulations~~ rules.

When any fees are not paid within six (6) months of authorization of any permit or certificate said authorization shall be null and void.

~~CHAPTER FIFTEEN~~
~~NOTICE AND AMENDMENT~~

~~CAAPC 1501. NOTICE. Upon receipt of an application for any certificate or permit required by these regulations, or for a variance, the Commission shall serve notice of such application by mailing a written notice thereof, including a description of the property and the permit or certificate in question to all persons entitled to receive notice of Commission action pursuant to Minnesota Statutes § 15.0412 and to the owners of property within 200 feet of the premises in question not less than ten (10) days prior to the meeting of the Commission at which such application shall be first considered.~~

~~CAAPC 1502. AMENDMENT. The property owner or other interested party may petition the Commission for an amendment to these regulations, including an alteration in the boundary of any zoning districts, or any modification of the permitted or conditional uses in any such district, or in any other respect, by submitting to the Commission a petition describing the property in question, the names and addresses of the petitioners, the desired amendment and the reasons therefor. The Commission may, upon its own initiative, propose any such amendment by giving notice of the proposed amendment in the manner provided by Minnesota Statutes § 15.0412. Notice of any such proposed amendment shall be given in the manner provided in Minnesota Statutes § 15.0412. The Commission shall consider any proposed amendment at any regular meeting held not less than thirty (30) nor more than ninety (90) days after notice of the amendment has been given in the manner required above. No such amendment shall be adopted unless the Commission finds that adoption of such amendment is consistent with the Comprehensive Plan.~~

Chapter Fifteen: Design Rules for Visual Corridors

CAAPB 1501 Designation. That part of University Avenue and adjacent land, Cedar Street and adjacent land, John Ireland

Boulevard and adjacent land, Park Avenue and adjacent land, Sherburne Avenue and adjacent land, and Rice Street and adjacent land as identified on the attached map entitled Visual Corridors are hereby designated as Visual Corridors in the Capitol Area. [See p. 1683 of this issue.]

CAAPB 1502 Application. The rules set forth in this chapter shall apply to the following activities if they are undertaken within the visual corridors designated in CAAPB 1501. [See p. 1683 of this issue.]

A. The construction of a new building or structure.

B. The moving or reconstruction of an existing building or structure.

C. The repair or alteration of an existing building or structure if the cost of the repairs or alterations exceed sixty (60) percent of the replacement value of the building or structure, exclusive of its foundation.

CAAPB 1503 Building height. Buildings other than those in the G-2 zone shall be of a minimum height of two stories above grade, and a maximum height of elevation 944 feet as defined in CAAPB 503.

Land in the G-2 zone adjacent to visual corridors shall remain landscaped open space. Underground construction, as defined in CAAPB 405, is permitted as a conditional use provided it does not interrupt views and vistas from street level.

CAAPB 1504 Setback. Buildings in the visual corridors shall be sited close to the street; specifically facades facing the corridor shall be located in a setback zone, defined by lines 6 feet and 15 feet from the front property line, except as noted below:

A. Where a new building is adjacent to existing buildings, these buildings shall maintain the average setback alignment of existing buildings on the same block.

B. State buildings along Cedar Avenue and John Ireland Boulevard shall be setback a distance no more than 40 feet from the front property line in order to visually expand the open space corridor.

C. Residential buildings in the RM-2 zone shall conform to the setbacks for that zone.

CAAPB 1505 Parking. Off-street parking will not be permitted between the building and streets designated visual corridors.

A. Off-street parking shall be behind buildings on the interior of the block.

B. Off-street parking shall be adequately lighted with cut-off type fixtures that will not allow excessive light intrusion onto adjacent property.

CAAPB 1506 Landscaping. Required setbacks and parking areas shall be landscaped.

A six feet minimum planting area shall be provided between parking and adjacent properties. Off-street and unenclosed parking areas of more than fifty (50) spaces shall be divided by planting islands.

Plant material shall conform to high-quality nursery standards and the following minimum sizes at planting:

Shade Trees — 2½" cal. BB

Small Trees — 8'-10' height

Shrubs — 15"-18" height

CAAPB 1507 Access/egress. Vehicular access from streets designated important visual corridors is prohibited. Access and egress shall be from streets other than the designated visual corridor street.

CAAPB 1508 Signage. In addition to the sign provisions of CAAPB 1103, freestanding signs are prohibited in the area designated in CAAPB 1501.

CAAPB 1509 Mechanical and electrical equipment. All mechanical and electrical equipment, such as transformers, air conditioning and heating units, television and other antennae, and similar exposed mechanical and electrical elements shall be

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completely concealed from public view. Concealed from public view is defined as not visible from any point within the visual corridor at ground level to an elevation equal to the roof level.

CAAPB 1510 Additional design criteria. In order to further achieve harmony of design, visual compatibility and protect and enhance the dignity, beauty and architectural integrity of the Capitol Area, the following additional requirements shall be applied to construction, reconstruction, repair or alteration activities subject to this chapter. In the event that any of the following requirements conflicts or is inconsistent with the design requirements set forth in CAAPB 1503 through 1509, those contained in CAAPB 1503 through 1509 shall supersede and govern in all cases.

A. Continuity of walls. Appurtenances of a building such as building facades, fences, and landscape masses, shall visually contribute to the spatial definition of the visual corridor and form cohesive walls of enclosure along those streets designated visual corridors to ensure visual continuity of the building with those buildings, squares, and places conforming with these design rules to which it is visually related.

B. Proportion and dimension of building's front facade. The relationship of the width of building to height of the front elevation shall be visually compatible to those buildings, squares and places conforming with these design rules to which it is visually related.

C. Proportion of openings within the facility. The relationship of the width of the windows to height of windows in a building shall be visually compatible with those buildings, squares and places conforming with these design rules to which the building is visually related.

D. Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with those buildings, squares and places conforming with these design rules to which it is visually related.

E. Rhythm of spacing of buildings on streets. The relationship of a building to the open space between it and adjoining buildings shall be visually compatible to those buildings, squares and places conforming with these design rules to which it is visually related.

F. Rhythm of entrance and/or porch projection. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible to those buildings, squares and places conforming with these design rules to which it is visually related.

G. Relationship of materials, texture and color. The relationship of the materials, texture and color of the facade of a building shall be visually compatible with the predominant materials used in those buildings conforming with these design rules to which it is visually related. Masonry, concrete and glass materials are generally appropriate.

H. Roof shapes. The roof shape of a building shall be visually compatible with those buildings conforming with these design rules to which it is visually related.

I. Scale of a building. The size of a building, the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those buildings, squares and places conforming with these design rules to which it is visually related.

J. The place and orientation of the front elevation of a building, including the shape and composition of its architectural elements shall be visually compatible with those buildings, squares, and places conforming with these design rules to which it is visually related.

K. All the elements of the landscape design of a building, such as planted areas, plant materials, grading, and pedestrian walks and areas, shall be visually compatible with the corresponding elements of those buildings, squares and places conforming with these design rules to which it is visually related.

CAAPB 1511 Variances. The board shall have the authority to grant variances from the strict application of these rules pursuant to the provisions of CAAPB 1504.

Chapter Sixteen: Variances

CAAPB 1601 Purpose. The procedures and standards contained herein shall govern the consideration and disposition of all variance requests submitted to the board.

CAAPB 1602 Requests for a variance. A person desirous of obtaining a variance from the application of one or more of these rules shall initiate the variance process by submitting to the board four copies of the following information and documents:

A. A statement setting forth the precise nature and extent of the proposed variance and the reasons the variance is being requested.

B. Any supporting documentation necessary to provide a complete description of the proposal including, but not limited to, architectural plans and drawings, topographical information and project cost data.

C. A detailed statement addressing each of the applicable variance criteria contained in this chapter and setting forth the reasons as to why the variance request is in conformance with these criteria.

CAAPB 1603 Disposition of variance requests. The board shall grant or deny a variance request pursuant to the following procedures and standards:

A. Upon receipt of a variance request, the board shall send written notice thereof to all persons who have registered their names with the board for the purpose of being notified of rulemaking proceedings or variance requests and the board shall not act upon the variance request for 30 calendar days after it has issued the notice.

The notice shall contain a brief description of the variance request, a statement that any person wishing to comment on the request may do so in writing and a statement that the board will not act on the variance request until interested persons have been afforded at least 30 calendar days after the board's issuance of the notice to submit their comments.

B. If, after receiving the variance request, the board determines that additional information must be submitted by the requesting person, it may direct the person seeking the variance to:

1. Submit additional data regarding the variance request to the board or its Executive Secretary, or

2. Appear before the board or its Executive Secretary to provide additional information thereon.

C. To facilitate full consideration of a variance request the board may, in its discretion, request that the person seeking the variance and other persons who have submitted written comments regarding the variance appear before the board and make arguments to the board. In such event, the board shall provide the aforementioned persons notice of the request appearance at least seven days before the board meeting at which the variance request is to be considered. This procedure shall not constitute a contested case as defined in Minn. Stat. § 15.0411, subd. 4.

D. If a person requesting a variance fails to follow the variance procedures specified in these rules, the variance shall be denied.

E. The CAAPB shall set forth in writing and submit to the person requesting the variance and other persons who have submitted written comments thereon the reasons why it has granted or denied the variance request within 30 days after its disposition of the request.

CAAPB 1604 Standards for granting and denying variance requests.

A. The board shall grant a variance to the application of any of its rules, excepting its design standards and sign rules, only if it determines that all of the following criteria have been met:

1. Strict application of the rule to which a variance is being requested would cause undue and substantial hardship to the owner of the property by reason of the unusual topography or other exceptional aspect of the property in question.

2. The granting of the variance does not confer a benefit on the person requesting the variance which is not enjoyed by other persons similarly situated.

3. The granting of the variance does not substantially impair the intent and purposes of these rules.

4. The variance may be granted without substantial detriment to another person or the public good.

B. The board shall grant a variance to the application of its design standards if it determines that:

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1. Strict application of the design rules would prevent implementation of a design which, in terms of meeting the intent of the rules, is equal to or superior to the design alternatives authorized by the rules, and

2. The criteria set forth in CAAPB 1604 A. 2., 3. and 4. have been met.

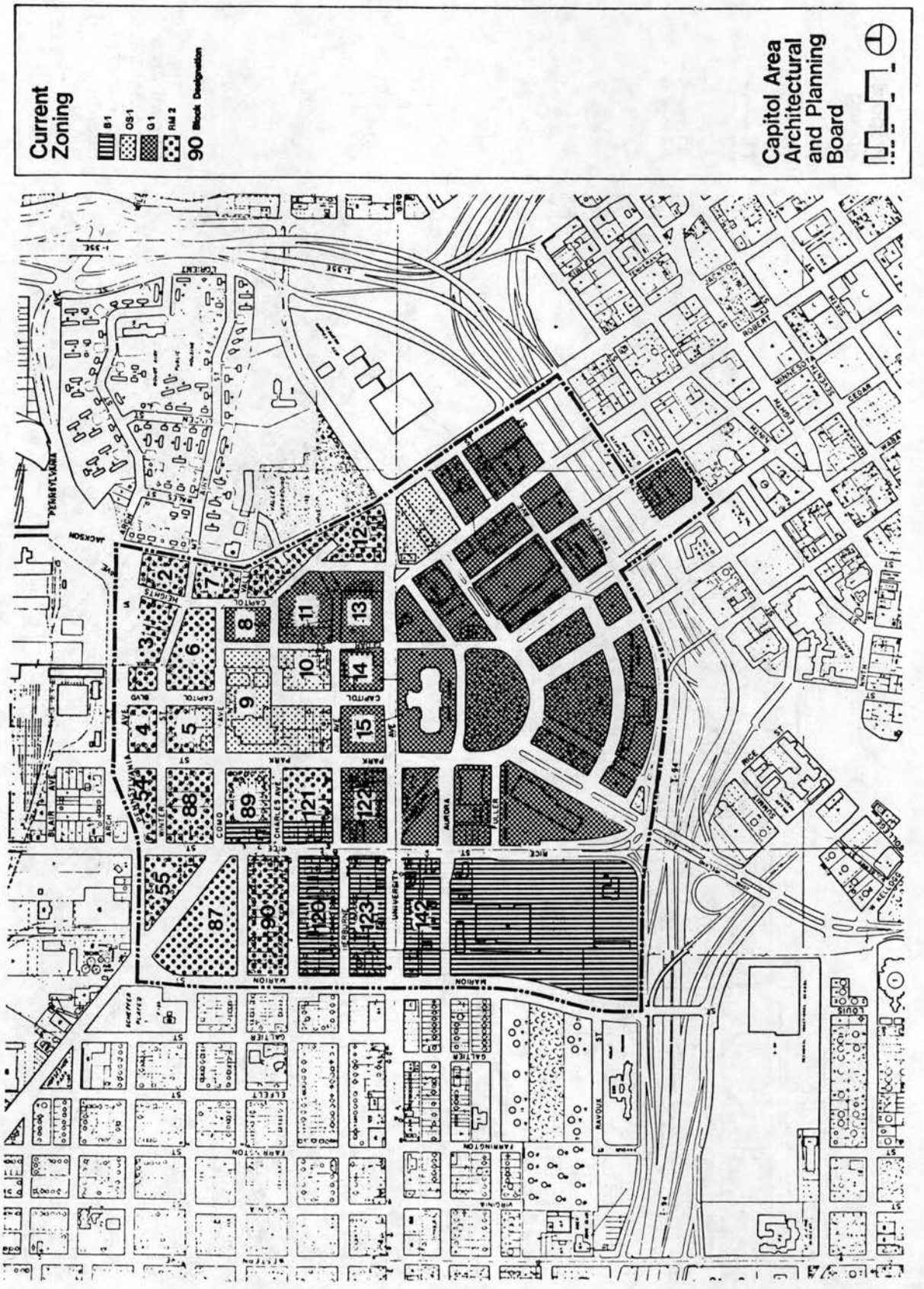
C. The board shall grant a variance to application of its sign rules if it determines that:

1. Unusual conditions exist with respect to a specific building or lot which require the installation of a unique sign,

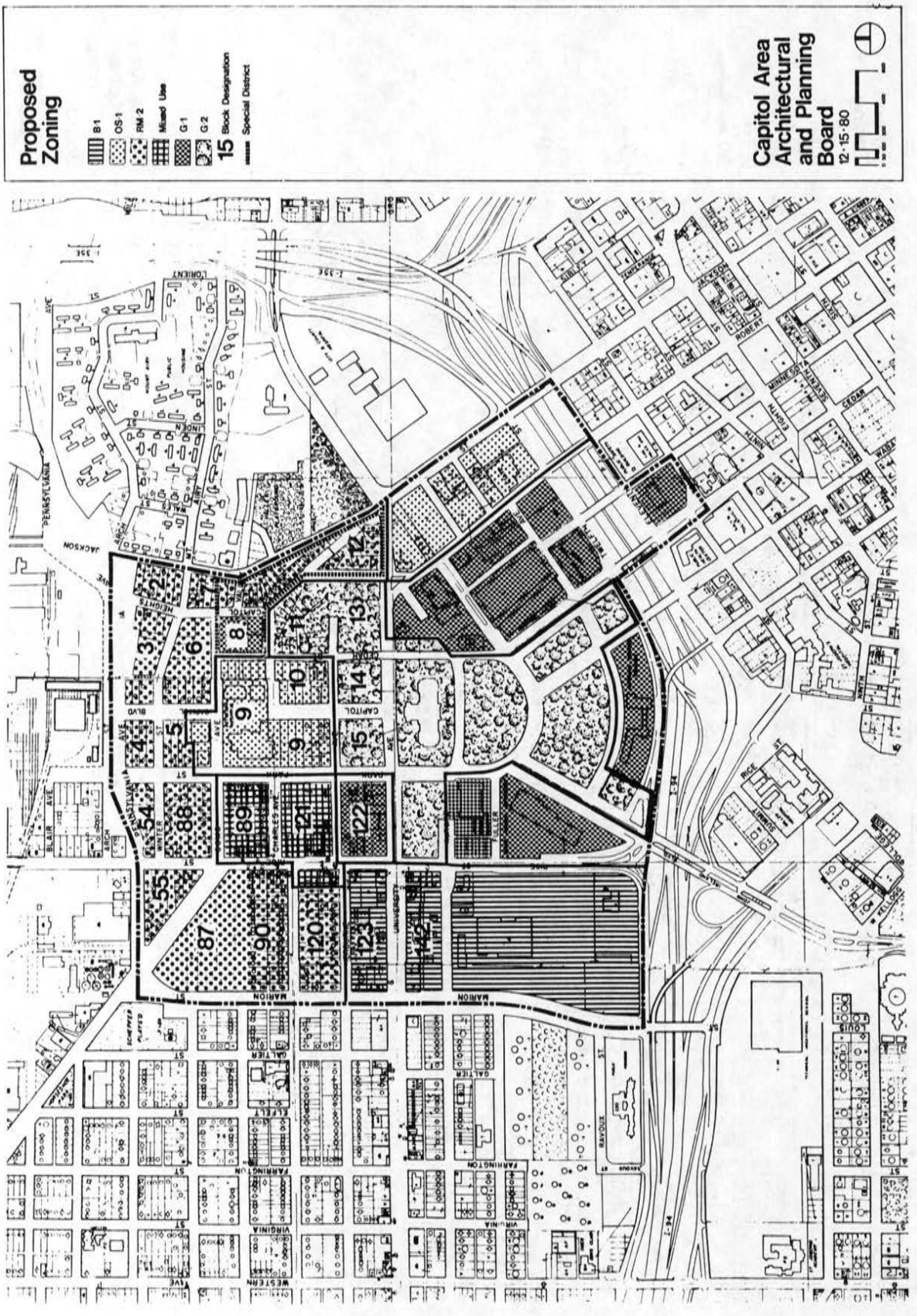
2. The granting of the variance does not result in the installation of a sign in a zoning district in which such a sign is not permitted by these rules, and

3. The criteria set forth in CAAPB 1604 A. 2., 3. and 4. have been met.

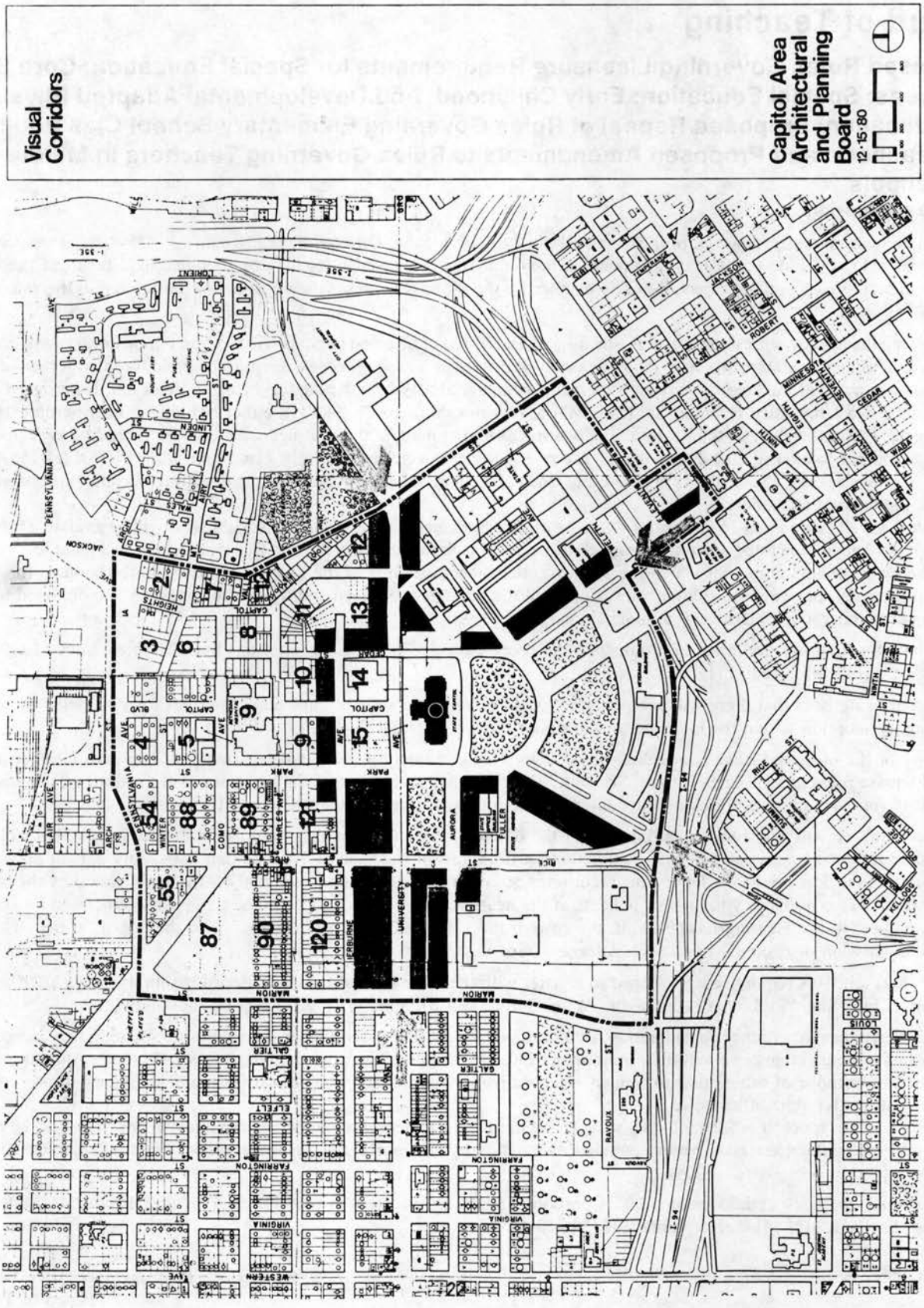
[PROPOSED FOR REPEAL]



[PROPOSED NEW MAP]



[PROPOSED VISUAL CORRIDORS]



Board of Teaching

Proposed Rules Governing Licensure Requirements for Special Education: Core Skill Areas; Special Education: Early Childhood; and Developmental/Adapted Physical Education; Proposed Repeal of Rules Governing Elementary School Classroom Teachers; and Proposed Amendments to Rules Governing Teachers in Middle Schools

Notice of Hearing

A public hearing concerning the proposed rules will be held at State Office Building, Room 83, 435 Park Street, St. Paul, Minnesota 55155 on June 6, 1981, commencing at 9:00 a.m. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Peter C. Erickson, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, MN 55104, telephone (612) 296-8118 either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The board's statutory authority to promulgate the proposed rules is provided by Minn. Stat. § 125.05, subd. 1 (1980) and Minn. Stat. § 125.185, subd. 4 (1980).

The board estimates that there will be no cost to local bodies in the state to implement the rules for two years immediately following its adoption within the meaning of Minn. Stat. § 15.0512, subd. 7 (1978).

A copy of the proposed rules is attached hereto. One free copy may be obtained by writing to Kenneth L. Peatross, 608 Capitol Square Building, 550 Cedar Street, St. Paul, MN 55101. Additional copies will be available at the door on the date of the hearing. If you have any questions on the content of the proposed rules, contact Kenneth L. Peatross.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the board. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner, in the case of the Hearing Examiner's Report, or to the board, in the case of the board's submission or resubmission to the Attorney General.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any one month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone (612) 296-5616.

April 6, 1981

Kenneth L. Peatross, Executive Secretary
Board of Teaching

Rules as Proposed (all new material)

5 MCAR § 3.050 Elementary schools. [Proposed for repeal.]

5 MCAR § 3.050 Elementary school classroom teachers, grades 1-6.

A. All candidates recommended for licensure as elementary school classroom teachers (grades 1-6) shall hold a baccalaureate degree and shall have satisfactorily completed a program leading to the licensure of elementary school classroom teachers which has been approved by the Minnesota Board of Teaching.

B. Each program leading to the licensure of elementary school classroom teachers (grades 1-6) submitted to the Board of Teaching for approval shall include a general/liberal studies component consisting of at least one third of the baccalaureate degree requirement of the institution. The general/liberal studies component shall be designed to provide candidates recommended for licensure as an elementary school classroom teacher (grades 1-6) with knowledge, skills, and understandings within each of the following categories of this component:

1. Symbolics of information, which must include three areas within this category such as, but not limited to, composition, public speaking, languages, linguistics, history and structure of the English language, logic, and mathematics. The area of mathematics is required of all candidates recommended for licensure as elementary school classroom teachers.

2. Humanities, which must include three areas within this category such as, but not limited to, music, art, theatre, literature, and philosophy.

3. Natural and social sciences, which must include four areas within the category of natural and social sciences. At least one area of natural science such as, but not limited to, life science, earth science, and physical science is required of all candidates recommended for licensure as elementary school classroom teachers. At least one area of social science such as, but not limited to, anthropology, economics, geography, history, political science, psychology, sociology, and interdisciplinary studies is required of all candidates recommended for licensure as elementary school classroom teachers.

C. Each program leading to the licensure of elementary school classroom teachers (grades 1-6) submitted to the Board of Teaching for approval shall include a professional education component designed to provide candidates recommended for licensure with basic knowledge, skills, and understandings in all of the following: foundational studies, organization and management of instruction, content and methods, pre-student teaching and student teaching experiences, and the profession of teaching.

1. Foundational studies. This category consists of basic knowledge which underlies the study of education and teaching, and includes all of the following:

a. The study of child growth and development from early childhood through early adolescence, including typical and atypical patterns of development.

b. The study of the learning process, with emphasis on physical, intellectual, emotional, and social differences in students as influenced by various cultures and family life styles.

c. The study of education and the school as an institution in the context of a changing pluralistic society.

2. Organization and management of instruction. This category consists of basic knowledge, skills, and understandings for planning, implementing, and evaluating instruction for all students within a classroom, and includes all of the following:

a. Development of differentiated instructional strategies and techniques, and the application of these strategies and techniques to unique learning styles, differing physical, emotional, mental capabilities; and differing environments and cultures.

b. Skills to assess, diagnose, prescribe, evaluate, and report individual student achievement.

c. Organizational, management, and communication skills and strategies to facilitate individual and group learning, including development of positive self-concepts and group dynamics.

d. Selection, utilization, and evaluation of a variety of instructional technologies, community resources, and print and nonprint instructional media.

e. Development of skills to integrate elementary curriculum areas.

f. Implementation of instruction within school organizational patterns including the recognition of differentiated roles, responsibilities, and tasks of school personnel.

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g. Implementation of techniques to evaluate the curriculum and instructional strategies utilized.

h. First aid training.

3. Content and methods. This category consists of basic knowledge of content, materrials, and scope and sequence of K-6 curriculum; and skills necessary to teach in the elementary schools; including provision for individual differences of students, in all of the following curriculum areas:

a. Art: to promote artistic development through knowing about, responding to, and producing art.

b. Communication skills.

(1) Language arts: to provide for the development and integration of listening, speaking, handwriting, spelling, language usage, and creative and practical writing.

(2) Literature: to provide for the development of reading interests and appreciation of literature through exposure to types of children's literature and modes of presentation, including storytelling.

(3) Reading: to provide for the development of pre and basic reading skills and the diagnosis and correction of reading difficulties.

(4) Application of language arts and reading to elementary curriculum areas.

c. Health: to promote attitudes and habits necessary to safe and healthful living.

d. Mathematics: to provide for the development of basic arithmetic operations, problem-solving skills, measurement techniques, including the metric system, geometric concepts, and computing devices.

e. Music: to sing, play, and conduct simple rhythm patterns and melodies; develop creative patterns for dancing and movement; provide for playing, making, and utilizing musical instruments; and beginning exposure to musical heritage.

f. Physical education: to provide experiences that promote physical and motor growth and development; team, individual, and life long physical activities.

g. Science: to develop processes of scientific inquiry for topics within school science curricula.

h. Social studies: to develop processes of gathering, organizing, reporting, and interpreting social science data.

i. Interdisciplinary studies: emerging topics of an interdisciplinary nature which may include, but are not limited to, environmental education, career education, family life education, and death education.

4. Pre-student teaching and student teaching experiences. This category consists of cooperative experiences between teacher preparation institutions and classroom teachers in a school setting in grades 1-3 and in grades 4-6 in which theory and practice are combined, and includes all of the following:

a. A series of formal observations of teaching and directed instructional experiences in an elementary school, prior to student teaching, which shall begin early in the professional education component.

b. Student teaching, which shall consist of full school day experiences for one academic quarter or the equivalent thereof in an elementary school in which the student teacher assumes responsibility for the management of the classroom and the implementation of the complete program for all students within a classroom for a minimum of one week. Full school day experience is defined as a normal load for a teacher in the school in which the student teaching takes place.

5. The profession of teaching. This category consists of basic knowledge of the professional responsibilities of a teacher, both within and beyond the instructional setting, and includes all of the following:

a. A minimum level of proficiency in the written English language.

b. Skills necessary to communicate and interact with staff members, resource personnel, parents, and other members of the community in order to meet the individual needs of students.

c. Skills to evaluate self and peer teaching performance.

d. Responsibilities of the individual teacher to clients served, to the employing school district and its administration, and to the teaching profession.

e. Legal rights of students, parents, administrators, school boards, and teachers.

f. Essential statutes, rules, and legal procedures affecting the preparation and licensure/relicensure of teachers and the teacher as a public employee.

g. Purposes of the major education professional organizations and learned societies and their contributions to education and the education profession.

D. An institution applying to the Board of Teaching for approval of its elementary school classroom teacher preparation program (grades 1-6) shall meet the provisions of 5 MCAR § 3.141. In addition, institutions are also authorized to submit for approval elementary school classroom teacher preparation programs (grades K-6) provided such programs meet the provisions of this rule and the provisions of 5 MCAR § 3.051, Kindergarten.

E. The issuance of the first continuing license is contingent upon:

1. Possession by the applicant of a previously issued valid and appropriate entrance license, and

2. One year of elementary school teaching experience during the time that the applicant holds an appropriate entrance license.

F. The continuing license shall be renewed according to rules of the Board of Teaching pertaining to continuing education/relicensure.

G. This rule is effective July 1, 1985, for all applicants for entrance licenses.

5 MCAR § 3.0901 Special education: core skill areas.

A. All candidates recommended for licensure in areas or fields which require completion of core skill area requirements in special education shall satisfactorily complete the core skill area licensure requirements enumerated in provision B. of this rule as part of the preparation program approved by the Minnesota Board of Teaching.

B. Core skill area requirements in special education shall provide candidates recommended for licensure with knowledge, skills, and understandings in all of the following:

1. Theoretical foundations.

a. Understanding of human growth and development, which shall include:

(1) typical and atypical development

(2) stages from conception to death

(3) affective, language, cognitive, and sensorimotor areas

(4) factors influencing development, including physiological, social, physical environment, and psychological.

b. Understanding of learning and teaching theories.

c. Knowledge of construction, interpretation, application and limitation of standardized and nonstandardized assessment procedures.

d. Knowledge of handicapping conditions and their educational implications.

2. Curriculum and instruction.

a. Understanding of curriculum design and instructional strategies.

b. Understanding of adapting curriculum and instructional strategies to meet individual learning styles.

3. Special education instructional systems.

a. Knowledge of program delivery systems, including all levels of service.

b. Understanding of individual and group management strategies.

c. Understanding of effective use of school and outside resources in creating a positive learning environment.

d. Understanding a variety of systems for reporting and evaluating the effectiveness of an individual student's program.

e. Understanding of the child study/team planning process.

f. Ability to translate comprehensive assessment data reflecting the student's current level of functioning into an individual educational plan.

4. Communication/consultation.

a. Knowledge of institutional and administrative factors which facilitate or impede delivery of services.

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b. Ability to effectively communicate the needs and rights of handicapped persons.

c. Ability to use interpersonal skills when working with parents, professionals, paraprofessionals, agencies, students and other persons or groups.

d. Understanding the roles and organizational structures of regular and special education and the part they play in providing total service for the student.

e. Ability to serve in a consultative capacity with individuals and groups, including parents and students.

5. Organizational, historical, and legal factors.

a. Knowledge of state and federal laws, rules, and regulations relating to regular and special education.

b. Understanding of due process and data privacy requirements.

c. Knowledge of historical and philosophical background of the education of handicapped persons and knowledge of attitudes toward handicapped persons.

d. Understanding of how to identify and access resources relevant to handicapped persons.

6. Abilities basic to all special education preparation.

a. Ability to observe, analyze, and describe the instructional strategies being applied in an educational situation.

b. Ability to function as a member of a team in designing appropriate educational programs for handicapped students.

c. Ability to apply team designed strategies in an educational setting.

d. Ability to design and apply instructional strategies in an educational setting.

e. Ability to identify and use non-school resources relevant to handicapped persons.

f. Ability to assess results of instruction.

C. An institution applying to the Minnesota Board of Teaching for approval of preparation programs which require inclusion of core skill area requirements enumerated in this rule shall demonstrate how provision B. of this rule is incorporated in each preparation program.

D. This rule is effective July 1, 1985, for all applicants for licensure in areas or fields which require completion of core skill area requirements in special education.

5 MCAR § 3.0902 Special education: early childhood.

A. All candidates recommended for licensure to teach Special Education: Early Childhood (ages birth-kindergarten) shall:

1. Hold a baccalaureate degree, and

2. Satisfactorily complete core skill area requirements in special education enumerated in 5 MCAR § 3.0901, and

3. Satisfactorily complete a Special Education: Early Childhood preparation program (ages birth-kindergarten), approved by the Minnesota Board of Teaching, consisting of at least 54 quarter hours, or the equivalent.

B. Each program leading to the licensure of teachers of Special Education: Early Childhood (ages birth-kindergarten) shall provide candidates recommended for licensure with knowledge, skills, and understandings, distributed equally between instructional strategies for teaching children with normal development and children with handicapping conditions, in all of the following:

1. Typical and atypical development of infants, toddlers, and pre-primary children which includes integration and relationship of the following:

a. Understanding of the development of sensorimotor skills and associated disorders and delays, including self-help skills.

b. Understanding of early language development and associated disorders and delays, including knowledge of alternative forms of communication.

c. Understanding of cognitive development and associated disorders and delays.

d. Understanding of social and emotional development and associated disorders and delays.

2. Understanding of specific handicapping conditions and their developmental and educational implications for infants, toddlers, and pre-primary children.

3. Measurement procedures appropriate for infants, toddlers, and pre-primary children with normal development and children with handicapping conditions, which shall include:

a. Ability to observe and analyze the total learning environment of the child.

b. Ability to utilize a variety of screening instruments or methods and knowledge of their limits.

c. Ability to determine educational performance by selection, administration, and interpretation of appropriate educational assessments.

d. Understanding of diagnostic strategies appropriate for children with handicapping conditions.

e. Ability to use interview techniques to gain and maintain information from parents, other family members, teachers, and other significant care-givers.

4. Organization and management of instruction, consisting of planning, implementing, and evaluating educational programs for infants, toddlers, and pre-primary children with normal development and children with handicapping conditions in one-to-one and group situations, which shall include:

a. Ability to program effectively for the following developmental areas:

(1) Sensorimotor,

(2) Language,

(3) Cognitive,

(4) Social/emotional,

(5) Creative expression.

b. Ability to individualize educational programming.

c. Ability to select, evaluate, adapt, and develop curriculum, materials, and technology.

d. Ability to work with children in a variety of settings, including classrooms, community programs, and home-based programs.

e. Ability to involve the public and private agency personnel in the instructional program through referrals, continuing communication, preparation of reports, and development of interagency coordination and cooperation.

f. Ability to supervise nonlicensed personnel in the delivery of educational programs.

g. Ability to design and implement educational environments consistent with the concept of the least restrictive alternative.

5. Family-child-school relations for infants, toddlers, and pre-primary children with normal development and children with handicapping conditions, which shall include:

a. Understanding the implications of children in family dynamics.

b. Understanding the role of parents as primary informal teachers of their children.

6. Pre-practicum and practicum experiences with infants, toddlers, and pre-primary children, in a setting in which theory and practice are combined, which shall include:

a. A series of formal observations of teaching and directed instructional experiences, prior to a practicum experience.

b. Practicum experience, which shall consist of a minimum of 180 clock hours of supervised teaching experiences with children with normal development and their parents.

c. Practicum experience, which shall consist of a minimum of 180 clock hours of supervised teaching experiences with children with handicapping conditions and their parents.

Upon completion of pre-practicum and practicum experiences, candidates recommended for licensure shall have had such experiences with normal development and handicapped infants, toddlers, and pre-primary children with a variety of disorders and served through a variety of program models, such as home-based or pre-school class.

C. An institution applying to the Board of Teaching for approval of its Special Education: Early Childhood teacher preparation program shall meet the provisions of 5 MCAR § 3.141. All approved programs leading to the licensure of teachers of Special Education: Early Childhood shall include a description of the way in which practicing teachers may have their teaching

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experience and teacher preparation in those areas enumerated in A. and B., above, evaluated and credited by an institution maintaining an approved program leading to the licensure of teachers of Special Education: Early Childhood. Such evaluation shall include previous teaching experience and previous teacher preparation.

D. Provisional licensure. A provisional license shall be issued to an applicant who holds a valid entrance, continuing, or life teaching license and who has completed a minimum of 15 quarter hours, or the equivalent, selected from B., above, in a program approved by the Minnesota Board of Teaching leading to the licensure of teachers of Special Education: Early Childhood. Previous teaching experience and/or previous teacher preparation evaluated according to the provisions of C., above, may apply toward provisional licensure. The provisional license shall be valid for two years. Successive two-year renewals of provisional licensure in Special Education: Early Childhood shall be issued to an applicant who provides evidence of completion of a minimum of 15 quarter hours, or the equivalent, selected from A.2. and B., above, in a program approved by the Minnesota Board of Teaching leading to the licensure of teachers of Special Education: Early Childhood. Provisional licensure shall remain in effect until July 1, 1993, at which time provisional licensure shall be repealed without further action by the Minnesota Board of Teaching.

E. Continuing licensure. The continuing license shall be issued and renewed according to rules of the Board of Teaching governing continuing education/relicensure.

F. This rule is effective July 1, 1985, for all applicants for licensure to teach Special Education: Early Childhood.

5 MCAR § 3.0909 Developmental/adapted physical education.

A. All candidates recommended for licensure to teach Developmental/Adapted Physical Education (grades prekindergarten-12) shall:

1. Hold a baccalaureate degree, and

2. Hold a valid license as a teacher of physical education, grades K-12, and

3. Satisfactorily complete core skill area requirements in special education enumerated in 5 MCAR § 3.0901, and

4. Satisfactorily complete a Developmental/Adapted Physical Education teacher preparation program, approved by the Minnesota Board of Teaching, consisting of at least 27 quarter hours, or the equivalent.

B. Each program leading to the licensure of teachers of Developmental/Adapted Physical Education (grades prekindergarten-12) shall provide candidates recommended for licensure with knowledge, skills, and understandings in all of the following:

1. Theoretical foundations of developmental/adapted physical education, consisting of the sciences of biology, anatomy, and/or human physiology, which shall include:

a. Understanding of sequences of motor development from early childhood through adolescence, including typical and atypical patterns of development.

b. Understanding of physically handicapping conditions which interfere with motor function.

c. Understanding of physical rehabilitation as applied to physical education programs for handicapped and special needs students.

2. Organization and management of instruction, consisting of planning, implementing, and evaluating physical education instruction for handicapped and special needs students (grades prekindergarten-12), which shall include:

a. Understanding of scope, sequence, and implementation of developmental/adapted physical education curriculum.

b. Ability to identify, assess, and evaluate physical and motor development of handicapped and special needs students.

c. Ability to develop, adapt, select, and utilize a variety of instructional resources to implement a developmental/adapted physical education curriculum.

d. Knowledge of the application of research to developmental/adapted physical education curriculum.

e. Ability to adapt physical education activities and curriculum for handicapped and special needs students.

f. Ability to select and adapt facilities and equipment for handicapped and special needs students.

g. Ability to supervise nonlicensed personnel in the delivery of developmental/adapted physical education programs for handicapped and special needs students.

h. Teaching experiences with handicapped and special needs students, including students in regular physical education classes and students in self-contained special education classes, and experiences in two or more of the handicapped categories set forth in M.S. 120.03.

C. An institution applying to the Board of Teaching for approval of its Developmental/Adapted Physical Education preparation program (grades prekindergarten-12) shall meet the provisions of 5 MCAR § 3.141. All approved programs leading to the licensure of teachers of Developmental/Adapted Physical Education shall include a description of the way in which practicing teachers may have their teaching experience and teacher preparation in those areas enumerated in A. and B., above, evaluated and credited by an institution maintaining an approved program leading to the licensure of teachers of Developmental/Adapted Physical Education. Such evaluation shall include previous teaching experience and previous teacher preparation.

D. Provisional licensure. A provisional license shall be issued to an applicant who meets the requirements of A.1. and A.2., above, and who has completed a minimum of 15 quarter hours or the equivalent selected from B.1. and B.2., above, in a program approved by the Minnesota Board of Teaching leading to the licensure of teachers of Developmental/Adapted Physical Education. Previous teaching experience and/or previous teacher preparation evaluated according to the provisions of C., above, may apply toward provisional licensure. The provisional license shall be valid for two years, after which full licensure as specified in A., above, shall be required. Provisional licensure shall remain in effect until July 1, 1990, at which time provisional licensure shall be repealed without further action by the Minnesota Board of Teaching.

E. Continuing licensure. The continuing license shall be issued and renewed according to rules of the Board of Teaching governing continuing education/relicensure.

F. This rule is effective July 1, 1985, for all applicants for licensure to teach Developmental/Adapted Physical Education (grades prekindergarten-12).

Amendments as Proposed

5 MCAR § 3.054 Teachers in middle schools.

~~A. A teacher who teaches in a middle school shall hold a valid Minnesota elementary classroom teaching license or secondary classroom teaching license.~~

A. All candidates recommended for licensure as teachers in middle schools shall:

1. Hold a baccalaureate degree, and

2. Hold a valid Minnesota license as an elementary or secondary classroom teacher, and

3. ~~In addition,~~ eExcept as provided in B. of this rule, ~~a teacher teaching in a middle school shall~~ satisfactorily complete a preparation program, approved by the Board of Teaching, leading to the licensure of middle school teachers, as follows:

a. ~~1.~~ A teacher holding a valid Minnesota elementary classroom teaching license shall complete an approved program leading to the licensure of middle school teachers consisting of a minimum of 24 quarter hours or the equivalent. Such programs shall include all of the following areas:

(1) ~~a.~~ Philosophy and organization of the middle school

(2) ~~b.~~ Adolescent psychology

(3) ~~c.~~ Interdisciplinary planning

(4) ~~d.~~ Special learning and behavior problems

(5) ~~e.~~ Teaching experience with adolescents

(6) ~~f.~~ A minimum of 12 quarter hours or the equivalent of course work in a single academic licensure field.

b. ~~2.~~ A teacher holding a valid Minnesota secondary classroom teaching license shall complete an approved program leading to the licensure of middle school teachers consisting of a minimum of 24 quarter hours or the equivalent. Such programs shall include all of the following areas:

(1) ~~(a)~~ Philosophy and organization of ~~a~~ the middle school

(2) ~~b.~~ Pre-adolescent psychology

(3) ~~c.~~ Developmental reading

(4) ~~d.~~ Interdisciplinary planning

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(5) ~~e.~~ Remedial reading

(6) ~~f.~~ Special learning and behavior problems

(7) ~~g.~~ Teaching experience with pre-adolescents.

B. Provisions of this rule shall not be interpreted to prevent a teacher from teaching in a middle school at those grade levels for which valid Minnesota classroom teaching licensure is held or to require such teacher to secure additional licensure to continue to teach at those grade levels in a middle school for which valid Minnesota classroom teaching licensure is held.

C. Minnesota colleges and universities approved to prepare teachers and which request approval of a program according to this rule shall provide evidence that programs to prepare middle school teachers submitted for approval have been developed with participation from elementary and secondary teachers, middle school administrators, students, and interested citizens. Such programs shall also include:

1. A statement of philosophy which sets forth the view of the institution with respect to the middle school.

2. An enumeration of the specific knowledge, skills, and understandings to be developed in the proposed program.

3. A description of program components which includes statements specifically relating individual components of the program to the philosophy and outcomes enumerated under 1. and 2., above.

4. A plan for assessing learning outcomes for individual candidates for licensure.

D. Nothing in this rule shall prohibit Minnesota colleges and universities which offer approved programs leading to the licensure of teachers in middle schools from collaborating with local school districts to develop jointly the program of instruction enumerated in A.1. and A.2., above, which will meet the needs of local school districts. Such programs must meet the requirements of the approved middle school licensure program offered by the college or university. Recommendation of candidates for licensure who complete such programs shall be the responsibility of the college or university through which the program was developed.

E. ~~D.~~ All approved programs leading to middle school teacher licensure shall include a description of the way in which practicing teachers may have their teaching experience and teacher preparation in those areas enumerated in A., above, evaluated and credited by an institution maintaining an approved program leading to middle school teacher licensure. Such evaluation ~~may~~ shall include previous teaching experience and/or previous teacher preparation.

F. ~~E.~~ Applicants holding a valid Minnesota elementary or secondary classroom entrance teaching license shall be issued an entrance middle school teaching license upon the completion of the requirements of A.1. or 2. of this rule.

G. ~~F.~~ Applicants holding a valid Minnesota elementary or secondary classroom continuing or life teaching license shall be issued a continuing middle school teaching license upon the completion of the requirements of A.1. or 2. of this rule.

H. ~~G.~~ The first and subsequent continuing middle school teaching licenses shall be issued to applicants who have completed the requirements of A.1. or 2. of this rule and who meet the requirements of the Board of Teaching for the issuance of the first and/or subsequent Minnesota elementary or secondary classroom continuing teaching licenses.

I. Persons holding a valid Minnesota secondary school classroom teaching license and who meet the requirements set forth in provision A. of this rule shall be granted a license to teach full-time in any middle school the subjects or fields in which secondary school licensure is held.

J. Persons holding a valid Minnesota elementary school classroom teaching license and who meet the requirements set forth in provision A. of this rule shall be granted a license to teach full-time in any middle school the subject or field in which the requirement of A.3.a.(6) of this rule has been completed.

K. Persons holding a valid Minnesota secondary classroom teaching license who have a minimum of three years of teaching experience in a Minnesota middle school prior to July 1, 1983, as verified by the employing school superintendent shall, upon application, be issued a license to teach full-time in any middle school those subjects or fields in which valid Minnesota secondary classroom teaching licensure is held.

L. Persons hold a valid Minnesota elementary classroom teaching license who have a minimum of three years of teaching experience in a Minnesota middle school prior to July 1, 1983, as verified by the employing school superintendent shall, upon application, be issued a license to teach full-time in any middle school those subjects or fields in which this teaching experience in a Minnesota middle school was completed.

L. Persons hold a valid Minnesota elementary classroom teaching license who have a minimum of three years of teaching experience in a Minnesota middle school prior to July 1, 1983, as verified by the employing school superintendent shall, upon

application, be issued a license to teach full-time in any middle school those subjects or fields in which this teaching experience in a Minnesota middle school was completed.

M. ~~H.~~ From July 1, 1978, until July 1, 1983, any person licensed by the Minnesota Board of Teaching for any of the grade levels in a middle school where the person is assigned to teach is granted authority to teach areas and subjects specified by the duly issued licenses at any of the grade levels in the middle school regardless of grade level restrictions on the license currently held.

N. ~~I.~~ Except for provisions ~~H.~~ K., L., and M., all provisions of this rule shall become effective July 1, 1983.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

State Board of Education (State Board for Vocational Education) Department of Education Vocational-Technical Division

Adopted Rules Governing the Distribution of Post-Secondary Vocational Education Aids

The rules proposed and published at *State Register*, Volume 5, Number 29, pp. 1131-1135, January 19, 1981 (5 S.R. 1131) are now adopted with the following amendments:

Amendments as Adopted

Chapter Six: Post-Secondary Vocational-Technical Education

5 MCAR § 1.0104 Tuition and fees.

E. A late penalty may be charged not to exceed $10.00 per period established pursuant to D. of this rule. ~~Penalty payments shall be deducted from foundation aid.~~ The penalty assessment period is the period of time between the date tuition was demanded and the commencement of classes.

5 MCAR § 1.01043 Post-secondary vocational supply aid.

B.5.a. When the total requests for supply aid are equal to or less than 105 percent of the funds appropriated for this purpose, each AVTI shall have ~~their~~ its request reduced by an equal percentage so that the allocations make maximum use of but do not exceed the funds appropriated for this purpose.

5 MCAR §§ 1.0105 and 1.0107 [Repealed.]

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Department of Employee Relations

Adopted Rules Governing Restoration of Seniority and Special Expenses

The rules published and proposed at *State Register*, Volume 5, Number 17, pp. 659-661, October 27, 1980 (5 S.R. 659) are now adopted, with the following amendments.

Amendments as Adopted

2 MCAR § 2.119 Restoration of seniority and continuous service credit. An appointing authority, who reemploys an employee who has voluntarily left employment of the agency to enter employment in another agency and who has been employed continuously by the state, shall reinstate the seniority and continuous service credit that existed at the time the employee left the agency.

Any employee who was mandatorily retired at age 65 prior to January 1, 1979, shall have all seniority and continuous service credit existing at the time of the mandatory retirement restored upon the employee's return to state service in any employment status in which seniority is accrued.

An employee who was required to resign due to pregnancy shall have all seniority and continuous service credit existing at the time of resignation restored upon written application to her appointing authority, if:

A. The employee returned to the agency from which she resigned within one year of resignation and notifies her appointing authority within 180 days from the effective date of this rule that she wishes to have seniority and continuous service credit restored under this provision, or

B. The employee returned to state service in another agency within one year of resignation and subsequently returned to the agency from which she resigned, and the employee notifies her appointing authority within 180 days from the effective date of this rule that she wishes to have seniority and continuous service credit restored under this provision.

All changes in continuous service credit for vacation accrual purposes resulting from the application of this rule shall be effective retroactively to July 4, 1979. If the application of this provision causes an employee's vacation leave balance to exceed the established maximum, the employee shall not lose the excess vacation and shall be given one year in which to reduce her vacation balance to the maximum allowed.

All changes in seniority for purposes of lay off shall be effective 15 calendar days after the employee gives written notice to the appointing authority.

Except as provided above, seniority of a former employee who was reinstated or appointed from a reemployment list shall begin on the date of reemployment in the state service. Seniority at the time of termination may be restored by the appointing authority upon the written request of the employee.

2 MCAR § 2.181 D. Special expenses.

1. Definitions

a. For the purposes of this ~~section~~ part, the term "employee" means all employees in the executive branch of state government; and individuals serving on statutory and non-statutory boards, councils, task forces and commissions; ~~and persons requested to attend state sponsored workshops, meetings, or conferences where the benefit of their attendance accrues primarily to the state~~ excluding consultants on contract to the state.

b. For the purposes of this ~~section~~ part, "work area" means: (1) the seven county metropolitan area for employees regularly stationed in that area or (2) the area within a 35 ~~road miles~~ mile radius of the employee's work station for employees regularly stationed outside the seven county metro area.

2. Reimbursements covered by this ~~section~~ part are limited to:

a. The actual cost of a meal, notwithstanding the limits contained in ~~Section~~ part B. of this rule and without regard to the employee's assigned work area, provided the meal is on the agenda of a conference, workshop, seminar, or meeting and the employee's attendance has been approved by the appointing authority;

b. Registration fees for conferences, seminars or workshops where the employee's attendance has been approved by the appointing authority;

~~c. Breakfast or dinner within the employee's work area where the employee is assigned to actively participate in state business two hours before or four hours after the assigned shift;~~

[d.-f. Reletter as c.-e.]

~~3. For the purposes of this section, the appointing authority shall determine (a) when the benefit of a person's~~

~~attendance at a work shop, conference, meeting or seminar accrues primarily to the state; (b) when an event is directly related to the employee's position; and (c) the number of employees that may attend the same reimbursable event.~~

3. For purposes of this part, no special expenses will be reimbursed unless the benefit of an employee's attendance at a workshop, conference, meeting, or seminar accrues primarily to the state and has been approved by the appointing authority. When an appointing authority approves such attendance, it will be presumed that it accrues primarily to the benefit of the state. The reimbursement of special expenses are subject to the approval of the Commissioner of Finance who is authorized to enforce this rule.

SUPREME COURT

Decisions Filed Friday, April 17, 1981

Compiled by John McCarthy, Clerk

50817/329 State of Minnesota v. C. A., Appellant. Scott County.

A motion pursuant to Minn. Stat. § 299C.11 (1980) for the return of finger and thumb prints, photographs and other identification data was properly granted; other portions of appellant's motions for expungement were properly denied on the facts of this case.

Courts have inherent authority to grant relief when necessary to the performance of their unique judicial functions and inherent authority to remedy serious constitutional violations flowing from retention of criminal records.

Affirmed. Sheran, C. J.

50750/330 State of Minnesota v. M. C., Appellant. St. Louis County.

Minn. Stat. § 299C.11 (1980) requires the return of all copies of finger and thumb prints, photographs and identification data. Appellant has not justified the remainder of her motion for expungement as an exercise of the inherent authority of the courts to remedy serious infringements of constitutional rights or to grant relief when necessary to the performance of their unique judicial function.

Affirmed. Sheran, C. J.

51765/Sp. State of Minnesota v. Donald F. Zernechel, Appellant. Blue Earth County.

Evidence of defendant's guilt of burglary and criminal sexual conduct in the second degree was sufficient.

Trial court did not prejudicially err in denying defense motion to prohibit the prosecution from cross-examining defendant, if he testified, concerning a prior conviction for felonious possession of a controlled substance.

Trial court's instruction on definition of "force" in prosecution in which force was not an element was superfluous and nonprejudicial.

Record on appeal fails to establish that defendant's privately-retained trial counsel did not represent him adequately.

Affirmed. Todd, J.

Opinion Filed Tuesday, April 7, 1981

81-215/Sp. State of Minnesota, Appellant v. Lee J. Kochendorfer. Ramsey County.

District court erred in granting pretrial defense motion to suppress evidence on fourth amendment grounds; affidavit in support of warrant contained sufficient information obtained by independent police observation to establish probable cause that marijuana would be found at defendant's residence when warrant was executed.

Reversed and remanded for trial. Sheran, C. J. Took no part, Todd, J.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Public Welfare
St. Peter State Hospital

Notice of Request for Proposals for Health Related Services

Notice is hereby given that the St. Peter State Hospital Complex, Mental Health Division, Department of Public Welfare, is seeking the following services for the period July 1, 1981 through June 30, 1982. These services are to be performed as requested by the Administration of the St. Peter State Hospital Complex.

1) Services of a consulting psychologist to include providing psychological evaluations and examinations for patients at the St. Peter State Hospital. Preparation and presentation of lectures, consulting with staff members, teaching members of the psychology staff with regard to testing and psychological treatment. Estimated amount of contract will not exceed $15,000.

2) Services of an individual who specializes in internal medicine, to provide medical evaluations of mentally ill and chemically dependent patients at St. Peter State Hospital as well as medical examinations and care of the population at Minnesota Security Hospital. This individual will provide primary care and act as a consultant to staff physicians. The estimated amount of the contract will not exceed $22,000.

3) Services of a consulting psychiatrist to provide psychiatric evaluations and make recommendations with regard to psychotropic medications. Individual will aid staff in the special area of geriatric psychopharmacology and geriatric psychiatry. The estimated amount of the contract will not exceed $18,000.

4) Services of a consulting psychiatrist to provide psychiatric examinations of men referred to the Intensive Treatment Program for Sexual Aggressives (ITPSA), participate in their evaluation and recommendations to courts. Consultation of patient care and program aspects of ITPSA. Psychiatric examinations on other residents, present and past, of Minnesota Security Hospital, with reports to court or review process, as requested. The estimated amount of the contract will not exceed $23,100.

5) Services of a consulting psychiatrist to provide psychiatric assessment, with emphasis on use of psychotropic medications in controlling behavior, follow-up reviews and feedback reviews for developmentally disabled clients at the Minnesota Valley Social Adaptation Center (MVSAC). Also, to be responsible for medication for residents on specific units at the Minnesota Security Hospital. The estimated amount of the contract will not exceed $35,750.

Responses for the above services must be received by May 22, 1981.

Direct inquiries to:

Thomas R. Bolstad
Sr. Accounting Officer
St. Peter State Hospital Complex
100 Freeman Drive
St. Peter, MN. 56082
Phone: (507) 931-7116

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration Cable Communications Board

Invitation to Comment on Proposed Cable Service Territory for the Municipality of Prior Lake

On March 9, 1981, the City of Prior Lake proposed a cable service territory (CST) consisting of the corporate limits of the city of Prior Lake.

On June 12, 1981 the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from the municipality included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, other units of government and individuals.

The board will set aside a portion of its May 1, 1981 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103, (612) 296-2545.

Energy Agency

Notice of Intent to Solicit Outside Comment and Extension of Comment Period Regarding Rules Governing the Minnesota Emergency Motor Fuel Conservation Plan

Notice is hereby given that the Minnesota Energy Agency is extending the date for receipt of written comment on rules governing the State Emergency Motor Fuel Conservation Plan from April 24 to May 15, 1981. The rules and notice of intent to solicit comment appeared in the *State Register* on April 9, 1981.

Statements of information and comment shall now be accepted until May 15, 1981. Any written material received by the agency shall become part of the record when the rules are promulgated.

Ethical Practices Board

Advisory Opinion #78 Re: Potential Conflict of Interest—State Legislator

Approved by the Ethical Practices Board on April 10, 1981

Issued to:

Representative Douglas W. Carlson
372 State Office Building
St. Paul, MN 55155

Summary

#78.When a legislator's official duties require action which would substantially affect his financial interests, he must disclose both the matter requiring action and the nature of his potential conflict of interest.

The full text of the opinion is available upon request from the office of the State Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148

State Board of Investment

Investment Advisory Council

Notice of Regular Meeting

The Investment Advisory Council will meet Tuesday, April 28 at 7:30 a.m. at the MEA Conference Room, 41 Sherburne Avenue, Saint Paul.

State Board of Investment

Notice of Regular Meeting

The State Board of Investment will meet Tuesday, April 28 at 10:00 a.m. in the State Capitol, Room 130, Saint Paul.

Pollution Control Agency

Application by the City of Worthington for A National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS) Permit for Its Wastewater Treatment Facility

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held by the Minnesota Pollution Control Agency (MPCA) pursuant to Minn. Stat. ch. 115 (1980) and 6 MCAR § 4.8036 on Monday, June 8, 1981, at the Farmers Room, Nobles County Court House, 315 Tenth Street, Worthington, Minnesota 56187, commencing at 1 p.m. An evening session will be held commencing at 7 p.m., also on June 8, 1981, at the same location in order to provide an opportunity to participate to those who cannot attend the day session. If necessary, the hearing will be continued at 9 a.m. on Tuesday, June 9, 1981, at the same location and thereafter until adjournment.

The City of Worthington, 303 Ninth Street, Worthington, MN 56187, has applied for reissuance of its NPDES/SDS permit for its wastewater treatment facility. The city currently owns and operates a trickling-filter type wastewater treatment facility located in the NW1/4 of the NE1/4 of Section 13, Township 102 N, Range 20 W, Worthington Township, Nobles County, Minnesota. The wastewater treatment facility is designed to treat an average flow of 2,090,000 gallons per day with a 5-day biochemical oxygen demand (BOD_5) strength of 750 milligrams per liter (mg/1). The wastewater treatment facility has a continuous discharge to Okabena Creek. Okabena Creek flows northeast from Worthington and outlets approximately 30 miles downstream in South Heron Lake, Jackson County, Minnesota. South Heron Lake outlets to Heron Lake.

Okabena Creek, South Heron Lake and Heron Lake are classified pursuant to 6 MCAR § 4.8024. The portion of Okabena Creek from Worthington to Brewster (which includes the portion of the Creek to which the wastewater treatment facility discharges) is classified as a Class 7 (Limited Resource Value) water. The portion of Okabena Creek from Brewster to South Heron Lake is classified as a Class 2 (Fisheries and Recreation) water. South Heron Lake and Heron Lake are also classified as Class 2.

The Director of the MPCA made a preliminary determination to issue the proposed permit in conjunction with a proposed stipulation agreement. The proposed permit would authorize the City of Worthington to construct and operate its wastewater treatment facility in accordance with the effluent limitations, monitoring requirements and other conditions set out in the permit. The proposed permit would expire December 31, 1985. The City of Worthington is presently unable to comply with the effluent limitations set out in the proposed permit. The City needs to construct a new or upgraded wastewater treatment facility in order to comply with these effluent limitations. The proposed stipulation agreement establishes, among other things, interim effluent limitations which must be met by the City. The proposed stipulation agreement would terminate June 30, 1983.

Public notice (number 14M-468) of the permit application and the preliminary determination to issue the proposed permit was made on February 13, 1981, pursuant to 6 MCAR § 4.8036. The Board of Commissioners of Jackson County (Petitioners) requested a hearing in response to the public notice. The following groups joined in the Jackson County petition.

The Middle Des Moines Watershed District; the Jackson County Conservation League; the Jackson Soil and Water Conservation District; the Cities of Heron Lake and Windom; the Townships of Weimer, Delafield, Alba, Heron Lake, Des Moines, Springfield, Wisconsin Christiana, Enterprise, West Heron Lake, Round Lake, Belmont, and Southbrook; the Hotaoan Gun Club; the American Legion of Heron Lake, Post 224; the Lakefield Jaycees, the Jackson Liberty Post American Legion; the Willow Point Gun Club; the North Heron Lake Game Producer's Association; the Kiwanis Club; the Okabena

Development Association; the students of Pleasantview Elementary School; the faculty, students and employees of Lakefield High School; the Lakefield VFW Post 4743; and the Pohlman Gun Club.

The Petitioners have requested that:

1. The application for the reissuance of the city's NPDES/SDS permit be denied; or, in the alternative,

2. The proposed permit be issued with the following conditions:

a. effluent limitations sufficient to protect downstream Class 2 waters (Petitioners allege the effluent limitations contained in the proposed permit are not sufficient for this purpose);

b. a compliance schedule requiring construction of a new wastewater treatment facility, with pretreatment, by 1983;

c. a condition allowing for review and modification of the permit, if necessary, upon completion of the current study, funded by the Legislative Commission on Minnesota Resources, of Heron Lake.

The purpose of the hearing is to determine whether the proposed permit should be issued and, if so, the terms and conditions of such permit. In addition to the issues identified by Petitioners, such other issues as are germane to the determination of the issuance or denial of the proposed permit, as may be determined during prehearing conferences, may be addressed at the hearing.

Please be advised that these issues may, without further notice, be modified and/or amended by the Hearing Examiner during prehearing conferences. Additionally, prehearing conferences may result in the establishment of foundation for witnesses and exhibits and, furthermore, may lead to a settlement of the issues surrounding the permit issuance. A prehearing conference is currently scheduled for April 21, 1981, at 10:30 a.m., through a telephone conference call. Those interested in participating in the prehearing conference should be either at the office of Becky A. Comstock, Broeker, Hartfeldt, Hedges & Grant, 2850 Metro Drive, Suite 800, Minneapolis, Minnesota 55420, telephone: (612) 854-5263, attorney for Petitioners; David R. VonHoltum, Grose, VonHoltum, VonHoltum, Sieben & Schmidt, Ltd., 607 Tenth Street, Worthington, Minnesota 56187, telephone: (507) 376-4166, attorney for City of Worthington, or Marlene E. Senechal, 1935 West County Road B-2, Roseville, Minnesota, telephone: (612) 296-7342, attorney for MPCA Staff.

The hearing will be held before Ms. Phyllis Reha, Office of Administrative Hearings, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone: (612) 296-8109, a Hearing Examiner appointed by the Chief Hearing Examiner of the State of Minnesota. All parties have the right to be represented by legal counsel, themselves, or any other representative of their choice, if not otherwise prohibited as the unauthorized practice of law. The hearing will be conducted pursuant to the procedures set out in Minn. Stat. §§ 15.0411 through 15.052, 9 MCAR §§ 2.201 through 2.299 (Office of Administrative Hearings Contested Case Rules), and 6 MCAR §§ 4.3001 through 4.3013 (Minnesota Pollution Control Agency Rules of Procedure), to the extent the latter rules do not conflict with the former rules.

The above-cited procedural rules are available for inspection at the Office of Administrative Hearings and the MPCA or may be purchased from the State Register & Public Documents Section of the Department of Administration, 117 University Avenue, Saint Paul, Minnesota 55155, telephone: (612) 296-2874.

The following persons are parties to the hearing at the present time, pursuant to 6 MCAR § 4.3009: the applicant (the City of Worthington), and the Petitioners. In addition, the MPCA Staff intends to file a Petition to Intervene as a party. Any other person wishing to become a party to the hearing must file a Petition to Intervene with the Hearing Examiner pursuant to 9 MCAR § 2.210 on or before May 15, 1981, and a copy must be served on all existing parties and the MPCA. The Petition may be filed after May 15, 1981, if there is good cause for the petitioner's failure to file the Petition in a timely manner. The Petition must show how the petitioner's legal rights, duties, or privileges may be determined or affected by the contested case, and shall set forth the grounds and purposes for which intervention is sought and indicate the petitioner's statutory right to intervene if one should exist. The name and address of the Hearing Examiner and the names and addresses of counsel for the Petitioners, the City of Worthington and the MPCA Staff are noted above.

The Hearing Examiner may, in the absence of a Petition to Intervene, nevertheless hear the testimony and receive exhibits from any person at the hearing, or allow a person to note his appearance, or allow a person to question witnesses, but no person shall become, or be deemed to have become, a party by reason of such participation. Persons offering testimony or exhibits may be questioned by parties to the hearing.

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the Hearing Examiner or the MPCA in determination of the above-entitled matter. Persons attending the hearing should bring all factual information or evidence bearing on the case which they wish to have included in the record.

The application form, proposed permit, comments received, hearing requests, and other documents related to this matter may be inspected and copied any time between 8:30 a.m. and 4 p.m., Monday through Friday, at the Minnesota Pollution

Control Agency, 1935 West County Road B-2, Roseville, Minnesota, telephone: (612) 296-7217; or at the Minnesota Pollution Control Agency, Regional Office, 1104 East College Drive, Marshall, Minnesota 56258, telephone: (507) 537-7146.

Questions concerning the issues raised in this Notice of and Order for Hearing or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Marlene E. Senechal at the address and phone number noted above.

All persons are advised that, if they intend to appear as parties at the hearing, the Notice of Appearance form enclosed with this Order must be completed and returned to the Hearing Examiner within twenty (20) days of the date of service of the Notice of and Order for Hearing. **Should a party fail to appear at the hearing, the issues set out in this order may be deemed proved** with the consequence that the proposed permit may be issued in its present form.

If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Hearing Examiner as soon as possible but, in any event, at least five days prior to the hearing. A copy of the request must be served on the MPCA and all other parties.

April 6, 1981.

Louis J. Breimhurst
Executive Director

STATE OF MINNESOTA
OFFICE OF THE STATE REGISTER

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

Agency Exhibit No. 14
File No.
Date

RECEIVED
ADMINISTRATIVE HEARINGS

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."

CAAPB 302

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 commerical 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 1½ 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 insititutional 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 situtations.

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 ordiance 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 apparant 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

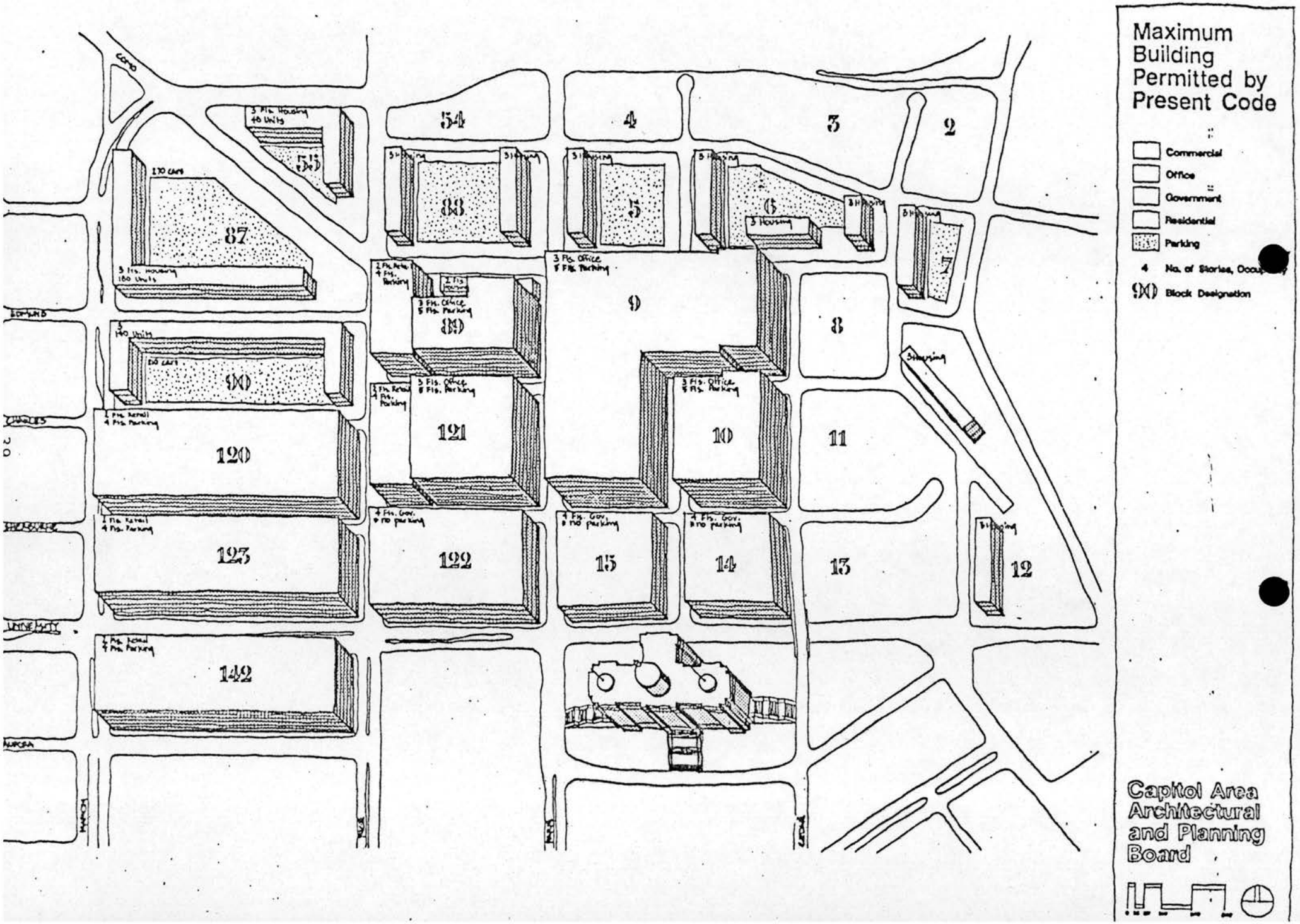
Consistent with other provisions of these rules, cars and parking areas should be visually screened from the surrounding neighborhood. A six foot planting area is deemed minimum, especially if cars overhang curbs or bumpers.

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
4 No. of Stories, Occupancy
(M) Block Designation
Capitol Area Architectural and Planning Board
54
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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.

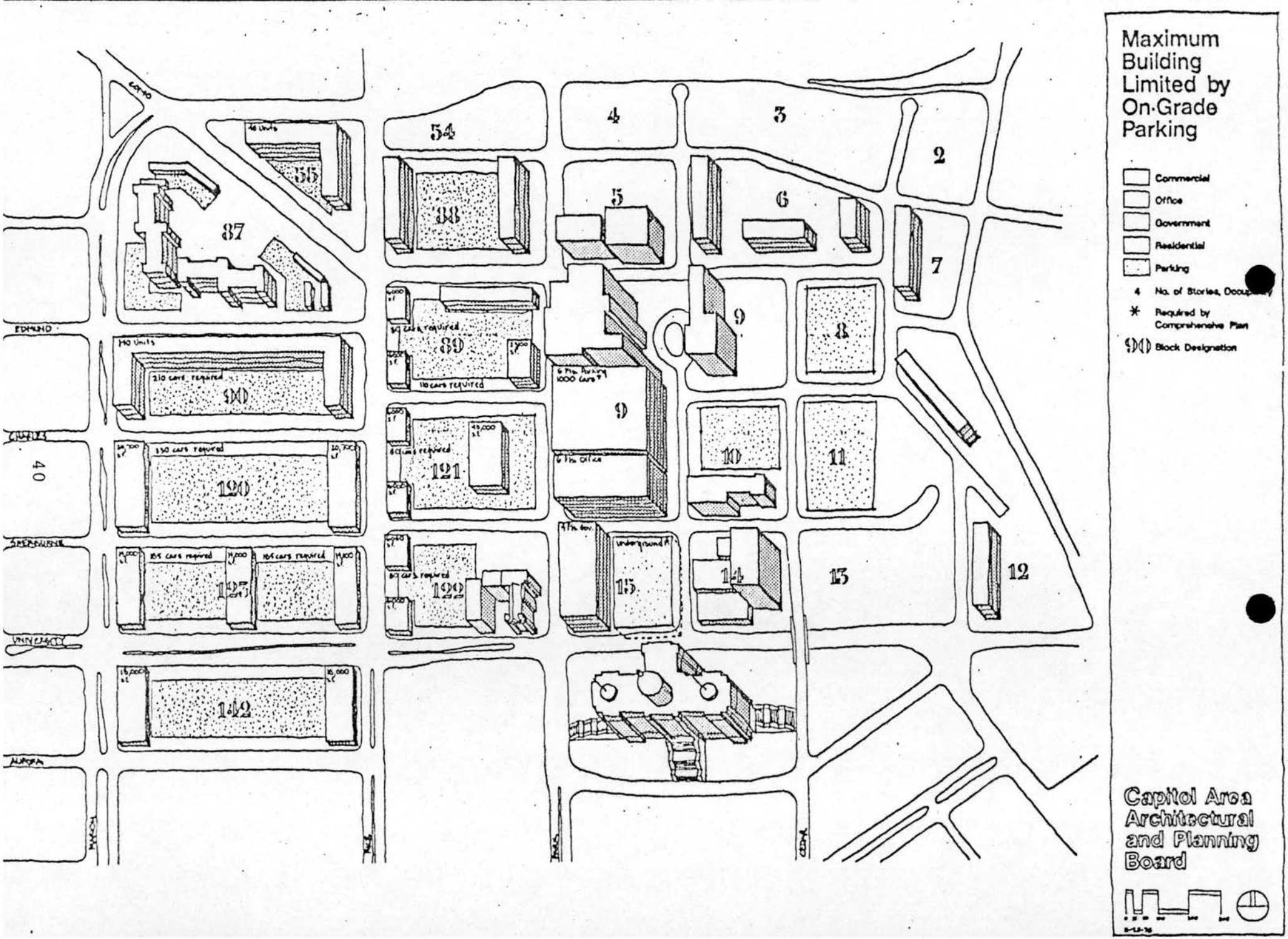
Consistent with other provisions of this section and rules, efforts to make buildings and visual corridors more attractive can be negated by unsightly mechanical or electrical equipment. While such equipment may be required, it may be located so as not to be in front of or on the roof of buildings, or 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
900 Block Designation
Capitol Area Architectural and Planning Board
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88
89
90
91
92
40
EDMUND
SHERMAN
VANDERCOOK
AURORA
210 cars required
330 cars required
185 cars required
110 cars required
80 cars required
6 Flr. Office
6 Flr. Parking 1000 cars
Underground
4 Flr. Gov.

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."

ii. "Routes and parking areas should be adequately signed to minimize confusion."

10.2 "A long-term goal of the Capitol Area Plan is to eliminate vehicular traffic and surface parking from the Mall. To achieve this, streets not required for local access, local circulation and/or recreational traffic should be progressively eliminated. Through traffic should be diverted to major streets on the perimeter of the Mall, Rice Street, University Avenue, Robert Street, and Twelfth Street."

10.3 "Surface parking on the Mall should be progressively eliminated."

10.4 Adequate provision should be made for efficient movement of emergency servic vehicles.

10.5 "University Avenue, immediately north of the Capitol building, should be redesigned so that it does not create a visual or physical barrier between the Capitol and the North Capitol Area. The present negative visual and acoustical impact should be minimized, and existing hazards for vehicle and pedestrian movements at the intersection of Capitol Boulevard and University Avenue should be eliminated.

Policy 11 "Establish a public and private parking network that provides parking for residents,elected public officials, employees and visitors."

11.1 "Parking areas should be located in relation to access points, rider destinations, land use and visual considerations. Plans for all off-street parking facilities should be compatible with other elements of the Comprehensive Plan."

11.2 "In Design District "A", the State of Minnesota should provide adequate parking for elected and appointed officials, state employees and visitors. These parking needs may be met by the use of parking structures, surface parking (except where restricted on the Mall), parking along designated streets, and/or leased spaces."

11.3 "Parking for legislators and visitors should be located within a convenient walking distance to their destination."

11.4 "Parking for state employees should be located on the periphery of the Capitol complex."

11.5 "Public facilities should be adequately identified, signed, and landscaped. This treatment should be implemented at the time new facilities are constructed."

11.6 "In Design District "B," off-street parking should be provided to eliminate unacceptable congestion on public streets."

Policy 12 "Encourage the development of convenient transit services for the Capitol Area and usage of those services."

12.1 "The Capitol complex must become an integral segment of the Metropolitan Transit Plan to provide convenient access for both State employees and the public."

12.2 "Bus shelters and protected waiting areas should be provided along all major routes, convenient to all major buildings."

12.3 "Support a transit system which links the Capitol and surrounding neighborhoods with downtown intensified centers. If the transit system is a fixed guideway system, then guideways, stations, and all other visible devices should be completely underground or concealed in the area defined as the Capitol Plaza and Mall."

12.4 "Car pools and other operations which will reduce number of cars driven to Capitol Area should be encouraged."

Policy 13 "Establish a pedestrian movement system which provides convenient access to all State buildings, plazas and park areas."

"Vehicle-pedestrian conflicts should be eliminated wherever possible."

13.1 "Pedestrian circulation should be efficient and attractive."

13.2 "An enclosed pedestrian system should be developed between major State buildings."

13.3 "When development on the Spine occurs pedestrian walkways which will connect the Capitol Area with the skyway system of downtown St. Paul should be planned."

13.4 "Public parking, transit stations, and pedestrian access points should be provided convenient to public places and park areas.

13.5 Provide outdoor pedestrian routes across the Mall between buildings."

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Chapter One: Title and Purpose

CAAPB 101 Title. "These rules shall be known and may be cited as the "Capitol Area Zoning and Design Rules."

CAAPB 102 Purposes. These rules are adopted by the Capitol Area Architectural and Planning Board to further the statutory purposes of the board as stated in Minn. Stat. S 15.50.

A. To preserve and enhance the dignity, beauty, and architectural integrity of the capitol, the buildings immediately adjacent to it, the capitol grounds, and the capitol area;

B. To protect, enhance, and increase the open spaces within the capitol area when deemed necessary and desirable for the improvement of the public enjoyment thereof;

C. To develop proper approaches to the capitol area for pedestrian movement, the highway system, and mass transit system so that the area achieves its maximum importance and accessibility; and

D. To establish a flexible framework for growth of the capitol buildings which will be in keeping with the spirit of the original design.

Chapter Two: Definitions

[In rules 202-204, 213, 215, 231-239, 242-244, 246-251, the only

changes are: to CAAPB, to board, and to rules.]

CAAPB 200 For the purposes of these rules, the terms defined below shall have the meanings ascribed to them.

CAAPB 201 Accessory use: A use which is incidental to, customarily found in connection with, and (except in the case of off-street parking spaces and loading) located on the same zoning lot as, the principal use to which it is related. Generally, an accessory use occupies less square footage than the principal use.

Accessory uses include, but are not limited to, the following:

[CAAPC 201 a.-c. Reletter as CAAPB 201 A.-C.]

D. Storage within a fully enclosed building of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.

[CAAPC 201 e. is repealed.]

[CAAPC 201 f. Reletter as CAAPB 201 E.]

[CAAPC 205 is repealed.]

[CAAPC 206 Renumber as CAAPB 205.]

CAAPB 206 Board. The Capitol Area Architectural and Planning Board, as created by Minn. Stat. S 15.50, subd. 1.

[CAAPC 208 Renumber as CAAPB 207.]

[CAAPC 209 Renumber as CAAPB 208.]

CAAPB 209 Capitol area. As defined in Minn. Stat. S 15.50, the capitol area consists of that area of the city of St. Paul within the following boundaries:

"Beginning at the point of intersection of the centerline of the Arch-Pennsylvania freeway and the centerline of Marion Street, thence southerly along the centerline of Marion Street to the north line of the right-of-way of Interstate Highway 94,

thence easterly along the said north line to the centerline of Cedar Avenue, thence southeasterly along the centerline of Cedar Avenue to the centerline of Tenth Street, thence northeasterly along the centerline of Tenth Street to the centerline of Minnesota Street, thence northwesterly along the centerline of Minnesota Street to the centerline of Eleventh Street, thence northeasterly along the centerline of Eleventh Street to the centerline of Jackson Street, thence northwesterly along the centerline of Jackson Street to the centerline of the Arch-Pennsylvania freeway extended, thence westerly along the centerline of the Arch-Pennsylvania freeway extended and Marion Street to the point of origin...."

CAAPB 210 Clinic. An establishment where human patients who are not lodged overnight are admitted for examination and/or treatment by a group of physicians, dentists, or similar professionals.

[CAAPC 211 is repealed.]

CAAPB 211 Club or lodge. Building or premises used for associations of an educational, fraternal or social character, not operated or maintained for profit. This term shall not include churches, synagogues, or other houses of worship.

CAAPB 212 Comprehensive plan. The plan adopted by the Capitol Area Architectural and Planning Board pursuant to Minn. Stat. S 15.50, subd. 2 including any unit or part of that plan and any amendment to that plan or parts thereof.

CAAPB 214 Curb level. The mean level of a curb adjoining a zoning lot. On corner lots, curb level is the average of the mean levels of the adjoining curbs on the intersecting streets. Where no curb level has been established, the Department of Public Works of the city of St. Paul shall establish such curb level, or its equivalent.

[CAAPC 216 is repealed.]

CAAPB 216 Dwelling unit. A building or portion thereof, designed for occupancy by one family for residential purposes and having cooking facilities.

[CAAPC 218-223 Renumber as CAAPB 217-222.]

CAAPB 223 Family. One or more persons living as a single housekeeping unit in a dwelling.

[CAAPC 225-229 Renumber as CAAPB 224-228.]

CAAPB 229 Home occupation. An occupation or business carried on in a dwelling by the resident thereof, not involving retail or manufacturing business, and employing no persons other than members of the immediate family residing on the premises, except one (1) ancillary employee; including but not limited to the businesses and occupations of doctors, ministers, architects, lawyers, dentists, authors, artists, musicians, and other similar occupations.

CAAPB 230 Housing for the elderly. A multiple-family structure controlled by either a public body, institutional body, or a nonprofit corporation, eighty (80) percent of whose occupants shall be sixty-five (65) years of age or over.

[CAAPC 240 and 240 a.-c. Reletter as CAAPB 240 and 240 A.-C.]

CAAPB 241 Lot of record. A parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by state or municipal or county officials, and which actually exists as so shown.

CAAPB 245 Nonconforming building or sign. A building or portion thereof or a sign lawfully existing at the effective date of these rules, or amendments thereto, and that does not conform to the provisions of these rules pertaining to the district in which it is located.

CAAPB 252 Principal building. A building in which is conducted the principal use of the zoning lot upon which it is situated.

CAAPB 253 Principal use. The main use to which the premises are devoted and the principal purpose for which the premise exists.

CAAPB 254 Restaurant. A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in nondisposable containers, and where the customer consumes these foods while seated at tables or counters located within a building.

CAAPB 255 Restaurant, drive-in. A business establishment whose principal business is the selling of food, frozen desserts, or beverages to the customer in a ready-to-consume state, in individual servings, and where the customer consumes these foods, frozen desserts, or beverages in an automobile parked on the premises.

CAAPB 256 Restaurant, fast food. A business establishment whose principal business is the selling of pre-prepared, quick-order, and packaged foods in a ready-to-consume state, packaged in non-returnable, disposable containers or wrappings, and where the customer may consume these foods while seated at tables or counters located within a building.

CAAPB 257 Room. For the purposes of determining lot area, requirements, and density in a multiple-family residential district, a living room, dining room, and bedroom equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing 1, 2, or 3-bedroom units and including a "den," "library," or other extra room shall count such extra room as a bedroom for the purposes of computing density.

[CAAPC 253 Renumber as CAAPB 258.]

CAAPB 259 Sign. The use of words, numerals, figures, devices, designs, or trademarks which purpose is to show or advertise a

person, firm, profession, business, service, product, message, or provide information, warnings, or directions, including the following kinds of signs:

A. Accessory sign: A sign which pertains to the principal use of the premises.

B. Advertising sign: A nonaccessory sign related to an activity, service, or business not carried out on the premises upon which the sign is placed.

C. Billboard: An advertising sign over sixteen (16) square feet in area.

[CAAPC 254 c. Reletter and Renumber as CAAPB 259 D.]

[CAAPC 254 d. (1) and (2) Reletter and Renumber as CAAPB 259 E. 1. and 2.]

[CAAPC 254 e.-h. Reletter and Renumber as CAAPB 259 F.-I.]

J. Identification and name ~~plaee~~ plate : A business sign stating the name of a person, firm, institution, or name or description of a certain permitted use.

K. Marquee: A permanent roofed structure attached to and supported by the building and projecting over public right-of-way.

L. Nonaccessory sign: A sign which does not pertain to the principal use of the premises.

M. Political sign: A temporary sign which displays information pertaining to an ~~uneoming~~ upcoming governmental district, city, county, state or national election.

[CAAPC 254 k.-o. Reletter and Renumber 259 N.-R.]

S. Temporary sign: A sign other than a political sign intended to be displayed for a short time for special events.

[CAAPC 254 q.-r. Reletter and renumber as 259 T.-U.]

[CAAPC 255-259 Renumber as CAAPB 261-265.]

CAAPB 266 Underground structure: Any completed building designed to be built partially or wholly below grade. A

completed structure which was not intended to serve as a substructure or foundation of a building.

[CAAPC 260-261 Renumber as CAAPB 267-268; CAAPC 261 a.-c. Renumber as 268 A.-C.]

CAAPB 269-299 are reserved for future use.

Chapter Three: Zoning Districts

CAAPB 301 Districts established. The following zoning districts for the capitol area are hereby established:

A. Governmental district (G-1).

B. Governmental district (G-2).

C. Medium-density, multiple-family residential district (RM-2).

D. Community business district (B-2).

E. Office-service district (OS-1).

F. Planned unit development district (PD).

G. Mixed use district (MX).

CAAPB 302 Zoning map. The Capitol area is hereby divided into zoning districts as shown on the official zoning map entitled "Zoning Districts for the Capitol Area." Such map and any amendments with all explanatory matter therein, are hereby made a part of these rules.

CAAPB 303 Boundaries. Where uncertainty exists with respect to the boundaries of any of the districts established in these rules as shown on the official Capitol Area Zoning District Map, the following shall govern:

[CAAPC 303 a.-c. Reletter to CAAPB 303 A.-C.]

D. Where unzoned property may exist, or where, due to the scale, lack of detail, or illegibility of the zoning map, there is any uncertainty, contradiction, or conflict as to the intended location of any district boundaries shown thereon, the exact location of district boundary lines shall be determined by the board upon the written application of a property owner or upon its own motion.

Chapter Four: Use Regulations

[Change all internal references in Chapter Four from CAAPC to CAAPB.]

CAAPB 401 Uses permitted.

A. Except as otherwise provided by these rules, no building or tract of land shall be devoted to any use other than a principal use or a conditional use permitted in the zoning district in which such building or tract of land is located.

A principal use shall be permitted upon the finding by the board that the proposed use is:

[Reletter (a) and (b) to 1. and 2.]

[Reletter (c) and (i) as B. and 1.]

2. Will not adversely affect the beauty, dignity and architectural integrity of the capitol area; and

3. Will be established pursuant to the conditions and requirements for such uses enumerated in these rules and such additional conditions and requirements as the board may impose to insure compliance with sub paragraphs 1. and 2. above.

[CAAPC 402 a.-g. Reletter as CAAPB 402 A.-G.]

H. Accessory buildings, structures, and uses. Outside storage is prohibited.

[CAAPC 403 Reletter as CAAPB 403]

A. Retail and service establishments, exhibition space, museums, historical and cultural centers, tourist information facilities, and other uses reasonably necessary and convenient for the satisfactory and efficient operation of the facilities of state government and to provide adequate public access thereto.

CAAPB 404 Governmental district (G-2); principal uses. Permanent open spaces which preserve and enhance the capitol area shall be permitted in the governmental district (G-2). Such uses shall include, but not be limited to, lawns, gardens,

landscaped areas, and plazas.

CAAPB 405 Governmental district (G-2); conditional uses. Underground structures containing uses, as regulated in G-1 zone, shall be permitted provided that the following criteria are met:

A. Location and type of landscaping will preserve and enhance the capitol area.

B. Safeguards for erosion control are provided; these shall include, but not be limited to, landscaping and seeding of topsoil.

C. ~~Proof~~ Reasonable documentation satisfactory to the board that soil conditions will not cause damage to adjacent property shall be provided.

D. Only above ground uses which are essential to the operation of underground structures shall be permitted; these may include ventilation shafts. Said above ground accessory uses shall in no way detract from the capitol area.

E. At least seventy-five percent (75%) of surface areas shall be devoted to G-2 uses.

F. Vistas of the capitol shall remain intact.

[CAAPC 404 a.-h. Renumber as CAAPB 406 A.-H.]

I. Churches, chapels, synagogues, temples, and other similar houses of worship.

[CAAPC 405 Renumber as CAAPB 407; Reletter a., (i), (ii); b.; c., (i), (ii); d., (i)-(vi); e., (i)-(iii); f.-i.; j., (i)-(iii); and k. as A., 1., 2.; B.; C., 1., 2., D., 1.-6.; E., 1.-3.; F.-I.; J., 1-3.; and K.]

L. Amateur radio station towers, subject to the following conditions:

1. Radio towers for licensed amateur radio stations which exceed the allowable height of structures in residentially zoned districts shall not exceed seventy-five (75) feet above established grade.

2. Said towers shall be located only in the rear yard

portion of the lot and shall be provided setbacks from side lot line equal to at least the greater of the two side yards required in these rules.

CAAPB 408 Community business district (B-1); principal uses. Only those uses which primarily serve the individual shopping and service needs of residents and employees within the capitol area and persons residing in nearby residential areas and which provide limited facilities for automobile access and parking shall be permitted as principal uses in a community business district. Such principal uses include but are not limited to, the following:

[a.-e., g. Reletter as A.-E., G.]

F. Restaurants and lounges, except drive-ins and fast-food restaurants.

CAAPB 409 Community business district (B-2); conditional uses. The following conditional uses shall be permitted pursuant to the provisions of CAAPB 401 and subject to the conditions hereinafter imposed for each use:

[Reletter a.-i.; k., (i)-(iii); l.; and m. as A.-I.; K., 1.-3.; L.; and M.

J. Bars, drive-ins, fast-food restaurants, and similar establishments.

N. Motels, hotels, or other similar establishments, subject to the following conditions.

[Renumber (i) and (ii) as 1. and 2.]

O. Any combination of permitted and conditional uses for community business district when such uses are combined in a single structure or in connected or closely related structures and are located near a parking lot or lots specifically intended to provide parking for the customers and patrons of said uses.

P. All principal uses permitted in the office-service district (OS-1), excluding G-1 uses, when located on the second floor or above.

[Reletter p. as Q.]

[CAAPC 408 a.-e. Renumber as CAAPB 410 A.-E.]

F. All principal uses permitted in the governmental district (G-1), as governed by CAAPB ~~403~~ 402.

[CAAPC 409 a.-b., Renumber as CAAPB 411, A.-B.]

C. Those uses permitted as conditional uses in the governmental district (G-1), CAAPB 403, subject to the conditions therein imposed for each use and pursuant to the provisions of CAAPB 401.

CAAPB 412 Planned unit development district (PD); intent, establishment and principal uses. Upon application made to the board, a planned unit development district may be established by the board upon final approval of a plan of development in the manner provided in these rules. Such planned unit development district may include all or part of one or more zoning districts and shall be the zoning district for the lot or lots included in the plan. Only those uses specified in the plan of development as finally approved by the board shall be permitted in the planned unit development district. The PD planned development district is intended to permit the private and/or public development or redevelopment of areas throughout the capitol area which shall be substantially in accord with the goals and objectives of the comprehensive plan. The use patterns of the areas involved shall provide a desirable environment and shall be harmonious to the general surrounding uses permitting flexibility in overall development while insuring adequate safeguards and standards for public health, safety, convenience, and general welfare.

[CAAPC 411 Renumber as CAAPB 413.]

[CAAPC 412 a.-e. Renumber of CAAPB 414 A.-E.]

[CAAPC 413-414 Renumber as CAAPB 415-416]

CAAPB 417 Mixed use district (MX); principal uses. Only those

uses which are permitted as principal uses in the medium-density, multiple-family residential district (RM-2), the community business district (B-2), and the office-service district (OS-1) shall be permitted as principal uses in a mixed use district.

CAAPB 418 Mixed use district (MX); conditional uses. Only those uses which are permitted as conditional uses in the medium-density, multiple-family residential district (RM-2), the community business district (B-2), and the office-service district (OS-1) shall be permitted as conditional uses in the mixed use district pursuant to the provisions of CAAPB 401 and subject to the conditions therein imposed as a conditional use in the RM-2, B-2 and OS-1 districts.

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

[In rules 501 and 502 notes to schedule of regulations chart, notes A and B, the only changes made are: CAAPC to CAAPB, commission to board, and regulations to rules.]

CAAPB 502 Requirements. The floor area ratio, lot coverage, height, yard setback, and size of lot in each zoning district shall be as set forth on the following chart.

[Note C following CAAPC 502 is repealed.]

Note C.

In B-2 business district, required maximum floor areas may be increased to encourage certain building features which produce public benefits as follows:

	Building Feature	Unit of Feature upon which Bonus is Based	OS-1 Office Service	Additional Sq. Ft. of Floor Area Allowed B-1 Local Business District	Maximum Bonus (Percent of Basic Allowable Gross) Floor Area
(i)	Arcade	Each square foot of arcade area	7 sq. ft.	4 sq. ft.	20%

(ii) Plaza	Each square foot of plaza area	7 sq. ft.	5 sq. ft.	15%

Note D.

The board shall require that all buildings in a planned development district substantially conform to the rules for adjacent districts.

CAAPB 503 Height districts. In order to preserve the state capitol building as the dominant structure in the capitol area, no building shall be constructed to a height greater than the maximum height permitted in the height district, as shown on the attached map. Said maximum heights are as follows:

A. Height district #1: No building shall be constructed to a height greater than 944.0 feet above sea level. This elevation corresponds to the height of the capitol building exclusive of the dome; generally, this would allow a building height of four to six stories in the capitol area.

B. Height district #2: No building shall be constructed to a height greater than 966.0 feet above sea level. Boundaries are described in map designated "Height Districts of the Capitol Area".

Chapter Six: Parking Regulations

[In rules 603, 604, and 606 the only changes are: CAAPC to CAAPB, commission to board, and regulations to rules.]

CAAPB 601 Parking spaces required. There shall be provided in all zoning districts, at the time of erection or enlargement of any principal building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be provided as hereinafter prescribed.

CAAPB 602 Location of off-street parking spaces. Off-street parking for other than residential use shall be either on the same lot or within the same district and within three hundred (300) feet of the building it is intended to serve, measured

from the nearest point of the building to the nearest point of the off-street parking lot.

Off-street parking for residential use shall not be within the required front yard setback.

CAAPB 605 Joint off-street parking facilities. Two or more buildings or uses may jointly provide the required off-street parking, in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately; provided, however, that where the operating hours of the buildings or uses providing such joint parking facilities do not overlap, the board may, upon written application, reduce the number of parking spaces otherwise required. Whenever such hours of use change and do overlap, however, the number of required parking spaces shall revert to not less than the sum of the requirements for the several individual uses computed separately.

CAAPB 607 Handicapped access. Wherever access to the handicapped is required by Chapter 55 of the Minnesota State Building Code, at least one (1) space per fifty (50) spaces, or fraction thereof, shall be provided for the use of the handicapped. Each space reserved for the exclusive use of the handicapped shall be designated by an international wheelchair symbol.

CAAPB 608 Mixed uses. In cases of mixed uses, the total requirements for off-street parking shall be the sum of the requirements of the various uses computed separately and off-street parking for one use shall not be considered as providing the required off-street parking for any other use, except as provided in CAAPB 605.

CAAPB 609 Minimum number of required off-street parking spaces. The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space,

any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one parking space.

	Use	Number of Minimum Parking Spaces Per Unit of Measure
A.	Governmental	One (1) for every three hundred (300) square feet of usable floor area.
B.	Residential ~~one-family~~	~~Two (2) for each dwelling unit.~~
	Residential, one-family	Two (2) for each dwelling unit.
	Two-family and townhouse	Two (2) for each dwelling unit.
	Multiple family	One (1) for each dwelling unit.
	Housing for the elderly	One (1) for each four (4) units. Should units revert to general occupancy, then one (1) per unit shall be provided.
	Boarding house	One (1) per each dwelling unit plus one (1) for each two (2) roomers.
C.	Institutional ~~auditoriums~~	~~One (1) for each three (3) seats plus one (1) for each two (2) employees.~~
	Auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
	Churches or temples	One (1) for each three (3) seats or six (6) feet of pews in the main unit of worship.
	Hospitals	One and one-half (1 1/2) for each one (1) bed.
	Homes for the aged and convalescent homes	One (1) for each two (2) beds.
	Elementary and junior high schools	One (1) for each one (1) teacher, employee or administrator, in addition to the requirements of the auditorium.

	Senior high schools	One (1) for each one (1) teacher, employee, or administrator, and one (1) for each ten (10) students, in addition to the requirements of the auditorium.
	Private clubs or lodge halls	One for each three (3) persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
	Private tennis clubs, or other similar uses	One (1) for each two (2) member families or individuals.
	Theaters	One (1) for each five (5) seats plus one (1) for each two (2) employees.
D.	Commercial ~~auditoriums~~	~~One (1) for each three (3) seats plus one (1) for each two (2) employees.~~
	Auditoriums	One (1) for each three (3) seats plus one (1) for each two (2) employees.
	Planned commercial or shopping area located in any "B" district	One (1) for each one hundred (100) square feet of usable floor area, plus one (1) for each one (1) employee.
	Auto wash	One (1) for each one (1) employee. In addition, forty (40) reservoir parking spaces shall be provided.
	Beauty parlor or barber shop	Three (3) spaces for each of the first two (2) beauty or barber chairs,

	and one and one-half (1 1/2) spaces for each additional chair.
Bowling alleys	Five (5) for each one (1) bowling lane.
Dance halls, pool or billiard parlors, roller or ice skating rinks, exhibition halls, and assembly halls without fixed seats	One (1) for each three (3) persons allowed within the maximum occupancy load as established by local, county or state fire, building, or health codes
Establishments for the sale and consumption on the premises of beverages, food, or refreshments	One (1) for each one hundred (100) square feet of usable floor space.
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses	One (1) for each eight hundred (800) square feet of usable floor area. (For the floor area used in processing, space shall be provided for each one (1) person employed therein.)
Automobile service center	Two (2) for each lubrication stall, rack, or pit, and one (1) for each gasoline pump.
Laundromats and coin-operated dry cleaners	One (1) for each two (2) machines.
Mortuary establishment	One (1) for each fifty (50) square feet of assembly room usable floor space, parlors, and slumber rooms.
Motel, hotel, or other commercial lodging establishment	One (1) for each one (1) occupancy unit.
Motor vehicle sales and	One (1) for each two hundred

	service establishments	(200) square feet of usable floor space of sales room and one (1) for each one (1) auto service stall in the service room.
	Retail stores except as otherwise specified herein	One (1) for each hundred and fifty (150) square feet of usable floor space.
	Theaters	One (1) for each five (5) seats plus one (1) for each two (2) employees.
E.	Offices ~~banks, savings and loan associations, credit unions, and similarly-regulated financial institutions~~	~~One (1) for each one hundred (100) square feet of usable floor space.~~
	Banks, savings and loan associations, credit unions, and similarly-regulated financial institutions	One (1) for each one hundred (100) square feet of usable floor space.
	Other financial institutions such as loan companies and similar establishments	One (1) for each two hundred (200) square feet of usable floor space.
	Business offices or professional offices except as indicated in the following item	One (1) for each three hundred (300) square feet of usable floor space.
	Professional offices of doctors, dentists, or similar medical professions	One (1) for each one hundred (100) square feet of usable floor area.

CAAPB 610 Construction of off-street parking spaces. Wherever the off-street parking requirements require the building of an

off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following rules:

A. No parking lot shall be constructed unless and until a zoning permit therefore is issued by the board and a building permit is obtained from the city. Applications for a zoning permit shall be submitted in such form as may be determined by the board and shall be accompanied by two (2) sets of plans for the development and construction of the parking lot demonstrating that the provisions of these rules will be complied with fully.

B. Plans for the layout of off-street parking facilities shall be in accord with the following minimum requirements:

Parking Pattern	Maneuvering Lane Width	Parking Space Width	Parking Space Length	Total Width Of One Tier of Space Plus Maneuvering Lane	Total Width Of Two Tiers of Spaces Plus Maneuvering Lane
0° (Parallel parking)	12 ft.	8 ft.	21 ft.	20 ft.	28 ft.
30° to 53°	12 ft.	8 ft. 6 in.	18 ft.	30 ft. 6 in.	49 ft.
54° to 74°	15 ft.	8 ft. 6 in.	18 ft.	35 ft.	55 ft.
75° to 90°	20 ft.	9 ft.	18 ft.	38 ft.	56 ft.

C. Parking areas may designate up to fifty percent (50%) of their area for compact cars only; in which case, the minimum layout dimensions for each compact car space then may be reduced to eight feet (8') width and sixteen feet (16') length.

[CAAPC 608 c.-f. Reletter as CAAPB D.-G.]

H. The off-street parking area shall be provided with a continuous and obscuring wall or visual screen as required in CAAPB 902.

I. Wheel stops or earth berms shall be required for each parking space in lots of three (3) or more car capacity.

J. The entire parking area, including parking spaces and maneuvering lanes, required under this section shall be provided with a durable, dustless surfacing in accordance with specifications approved by the board. The parking area shall be surfaced within one (1) year of the date the permit is issued.

[CAAPC 608 j.-m. Reletter as CAAPB 610 K.-N.]

Chapter Seven: Loading Regulations

[In Chapter Seven the only change is CAAPC to CAAPB.]

[In rules 701-703 the only change is CAAPC to CAAPB.]

Chapter Eight: Accessory Building Regulations

[In rule 801 the only changes are: CAAPC to CAAPB, commission to board, and regulations to rules.]

CAAPB 802 Attached accessory buildings. When an accessory building is attached to a principal building, it shall be subject to, and must conform to, all rules applicable to the principal building.

CAAPB 803 Yard limitations.

A. Accessory buildings shall not be erected in any required yard, except a rear yard. All accessory buildings shall be set back at least three (3) feet from all interior lot lines.

B. An accessory building shall occupy not more than twenty-five (25) percent of a required rear yard, plus forty (40) percent of any nonrequired rear yard, provided that in no instance shall the area of the accessory building exceed the ground floor area of the principal building.

C. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building shall not be closer than one (1) foot to such a rear lot line. In no instance shall an accessory building be located within a dedicated public right-of-way.

CAAPB 804 Height limitations. Accessory buildings in any residential area shall not exceed one (1) story or fourteen (14) feet in height. In height district #2, accessory buildings or structures used for the parking of motor vehicles shall not exceed three (3) stories or thirty (30) feet in height.

Chapter Nine: Visual Screens

CAAPB 901 Visual screens required. For those zoning districts and uses listed below, there shall be provided and maintained on those sides of a zoning lot abutting or adjacent to a residential district an obscuring wall, fence, or other visual screen having a minimum height as required below. (For purposes of this section a wall or fence is considered a visual screen.)

Use	Requirement (height in feet)
~~a.~~ A. Community business district (B-2)	4 ft. 6 in.
~~b.~~ B. Office service district (OS-1)	4 ft. 6 in.
~~c.~~ C. Hospital (ambulance and delivery areas)	6 ft. 0 in.
~~d.~~ D. Utility building, station, and/or sub-station	6 ft. 0 in.

Where plant materials are used to provide a visual screen they shall meet the above height requirements when mature and shall be of sufficient density to visually separate the zoning lot from the adjacent residential district.

CAAPB 902 Visual screens for off-street parking. For all off-street parking areas of more than four (4) parking spaces there shall be provided and maintained a visual screen of sufficient height and density to visually separate the parking area from adjacent property. All such visual screens shall be of a minimum height of four (4) feet, six (6) inches, when constructed or, in the case of plant materials, when mature.

CAAPB 903 Location of visual screens.

A. Required visual screens shall be located on the lot line except where underground utilities interfere and except in instances where these rules require conformance with front yard setback lines in abutting residential districts, in which cases

the board shall establish the location of the visual screen. When a yard is required, all land between the wall and property line shall be kept free from refuse and debris and shall be landscaped with deciduous shrubs, evergreen material, and ornamental trees. The ground shall be planted and kept in lawn. All such landscaping and planting shall be maintained in a healthy, growing condition, neat and orderly in appearance.

B. Required visual screens may, upon approval of the board, be located on the opposite side of an alley right-of-way from a non-residential zone when mutually agreeable to affected property owners. The uniformity of the required visual screen in a given block shall be considered by the board in reviewing such request.

CAAPB 904 Openings. No visual screen required by these rules shall have openings for pedestrians, vehicular traffic, or other such purposes, except as provided in these rules and as may be approved by the board.

CAAPB 905 Construction of visual screens.

A. The visual screens herein required shall consist either of various fence materials, earth berms, plant materials, or a combination thereof.

[CAAPC 904 a.-c. Reletter as CAAPB 905 B.-D.]

E. The species, size, location, and spacing of plant materials shall be appropriate for the purpose intended, and shall be planted within one hundred eighty (180) days from the date of issuance of a certificate of occupancy and shall thereafter be maintained to provide a visual screen to abutting properties.

1. Minimum plant sizes (at time of planting)

medium and large trees:*	2 1/2 inch caliper
small trees:	6-8 ft. overall height
shrubs:	15-18 in. overall height

* shall be balled and burlapped stock

2. Wherever plant materials are used to satisfy a visual

screen requirement, planting shall be sufficiently dense to provide an unbroken visual barrier within a maximum of two (2) growing seasons after the time of planting.

3. Planting areas shall be at least four (4) feet in width.

4. The genus and species of all plant materials must be identified on all plans submitted for permit approval.

5. The owners shall be responsible for maintaining all landscaping in a healthy and growing condition and keeping it free from refuse and debris. Dead plant materials shall be removed within a reasonable time and replaced during the normal planting seasons.

CAAPB 906 Variances. In consideration of a request to vary visual screen requirements between non-residential and residential districts, the board shall make a determination on the following matters.

A. A determination as to whether or not the residential district is considered to be an area in transition and will become non-residential in the near future.

In such cases as it determines the residential district to be a future non-residential area, the board may temporarily waive visual screen requirements for an initial period not to exceed twelve (12) months. Granting of subsequent waivers shall be permitted, provided that the board shall make a determination as hereinbefore described.

B. A determination as to whether or not any governmental action in the area will change the physical condition so as to make a visual screen unnecessary.

In consideration of a request to vary visual screen requirements for off-street parking, the provisions of Chapter Sixteen of these rules shall apply.

Chapter Ten: Exterior Lighting and Structural Regulations

[In rules 1002 and 1003 the only changes are: CAAPC to CAAPB, commission to board, and regulations to rules.]

[CAAPC 1001 a.-e. Reletter to CAAPB 1001 A.-E.]

[CAAPC 1004 is repealed.]

CAAPB 1004 Street and landscape elements. All exterior structural elements such as benches, transit shelters, vending equipment, and similar elements in the public right-of-way or in the G-2 zone, shall be approved by the board for both design and location.

Chapter Eleven: Sign Regulations

CAAPB 1101 Intent. The purpose of this section is to regulate outdoor advertising and outdoor signs of all types in the capitol area. The intent is to control signs, to reduce hazards and traffic accidents, to relieve pedestrian and traffic congestion, to protect and provide more open space, to preserve and enhance the dignity, beauty, and architectural integrity of the capitol area, and to insure that all signs are suitably integrated with the architectural design of any structure in the capitol area on which they are mounted or to which they relate.

CAAPB 1102 Required conditions. No sign shall be permitted in the capitol area except as provided in CAAPB 1103 and without first obtaining the requisite permit for such sign. All signs permitted by CAAPB 1103 shall satisfy the following conditions:

A. All signs shall conform to all applicable provisions of the building code of the city of Saint Paul.

B. No sign, unless specifically permitted in a zoning district and except those projecting business signs permitted in business districts that do not violate Minn. Stat. S 160.27, and those established by the city of Saint Paul, Ramsey County, the State of Minnesota, or the United States, shall be located in, project into, or overhang a public right-of-way or dedicated public easement in any district.

C. Signs of the city of Saint Paul, county of Ramsey, state, and federal governments and subdivisions and agencies thereof which give orientation, direction, or traffic control information shall be permitted in all zoning districts.

[Reletter d.-f. as D.-F.]

G. No sign or sign structure shall be erected or maintained at any location where by reason of its position, size, shape, content, color or illumination, it may interfere with the view of, or be confused with, any traffic control sign, signal or device, or where it may interfere with, mislead or confuse traffic.

H. All signs which are unsafe and/or unsightly shall be repaired or removed. Unsafe signs must be repaired or removed within twenty-four (24) hours after notification. Unsightly signs must be repaired or removed within fifteen (15) days of notification. The term "unsightly" shall mean a condition in which the sign has deteriorated to the point where at least one-fourth (1/4) of the surface area of the name, identification, description, display, illustration or other symbol is no longer clearly recognizable at a distance of twenty (20) feet; or where paint is peeling, chipping, or flaking from the structure surface, or where the sign has developed significant rust, corrosion, rotting, or other deterioration in the physical appearance, or is so faded that it is not clearly recognizable at a distance of twenty (20) feet; or where an illuminated electrical sign is no longer in proper working order. Removal, in the case of painted wall signs, shall mean a complete repainting of the background on which the sign was painted, or a sandblasting of the surface to reveal an exterior finish compatible with surrounding surfaces, so that no part of the sign is any longer visible.

I. No sign shall be painted directly on or affixed to any tree, rock or utility pole.

J. Lots on which signs are located shall be kept neat, orderly, and free of debris by the owner.

K. When specifically permitted in a zoning district, signs projecting over a public right-of-way may project up to four (4) feet from the property line, but in no case shall come closer than two (2) feet from the curb line, or be less than ten (10)

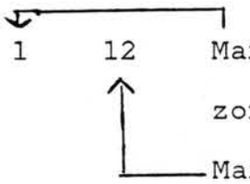
feet above ground level. Such signs shall not violate Minn. Stat. S 160.27.

L. For parking lot areas, one (1) identification sign not to exceed a total of fifteen (15) square feet in area is permitted per parking lot entrance. An identification sign up to twenty-five (25) square feet in area, however, shall be permitted if such sign incorporates the following uniform parking symbol: Fifty (50) percent of the total sign area of the parking identification sign must bear thereon a blue rectangle with a white letter "P" with the letter "P" being not less than forty (40) percent of the area of the blue rectangle. The remaining portion of the sign incorporating such a parking symbol may be used for other pertinent information. In addition to the one (1) identification sign per parking lot entrance, however, one (1) directional sign not to exceed a total of four (4) square feet is permitted per entrance or exit. Such directional signs may be up to ten (10) square feet in area if they also incorporate the above-prescribed parking symbol. These parking identification and directional signs are in addition to other signs permitted in each zoning district.

CAAPB 1103 Permitted signs. In addition to the aforementioned parking identification and directional signs the following signs are permitted in the districts indicated on the following chart.

Permitted by District	Use District				
	RM-2 Multiple Family	OS-1 Office Service	B-2 Community Business	PD Planned Development	G-1 & G-2 Governmental
1. Permitted non-accessory signs					
a. Advertising sign	0	0	0	0	0
b. Billboard	0	0	0	0	0
c. Vehicle business					

sign	0	0	0	0	0
d. Political sign	X	X	X	X	0
2. Permitted accessory signs					
a. Business signs	0	1 50	1 100	1 200	0
b. Bulletin board	1 12	0	0	0	1 12
c. Festoon sign	0	0	0	0	0
d. Identification & name plate	1 7	1 21	1 21	1 21	1 21
e. Marquee	0	0	2 100	0	0
f. Real estate	2 12	2 12	2 12	2 12	0
g. Real estate development	2 50	2 50	0	2 50	0
h. Temporary	0	1 12	1 12	1 12	0
i. Vehicle business sign	0	0	0	0	0
3. Structure types					
a. Free standing	X	X	X	X	X
b. Flashing, animated or moving	0	0	0	0	0
c. Projecting	0	X	X	X	0
d. Roof	0	0	0	0	0
e. Wall	X	X	X	X	X



1 12 Maximum number of signs per building or per vacant zoning lot.

Maximum square feet area each sign per building or vacant zoning lot.

Note: "0" indicates that no sign of the type in the left column is permitted.

"X" indicates permitted structure type.

CAAPB 1104 Nonconforming signs. When a lawful sign exists ~~at~~ on the effective date of these rules or amendments thereto and -- which is made non-conforming by reason of these rules, such sign

may continue until January 1, 1986, as long as it remains otherwise safe, not unsightly (as defined in CAAPB 1102 H.), or not abandoned (as defined in CAAPB ~~1107~~ 1108), subject to the following provisions:

A. No sign shall be enlarged or altered in a way which increases its nonconformity.

B. Should such sign or sign structure be destroyed by any means to any extent of more than fifty-one (51) percent of its replacement cost, it shall not be reconstructed except in conformity with the provisions of these rules.

C. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the rules for the zoning district in which it is located after it is moved.

D. No existing sign devoted to a use not permitted by these rules in the zoning district in which it is located shall be enlarged, extended, or moved except in changing the sign to a sign permitted in the zoning district in which it is located.

E. When a structure loses its nonconforming status, as set forth in Chapter Thirteen of these rules, all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

F. Signs may be repainted, reposted, or replaced when there is a change of tenancy, ownership, or management of any nonconforming use.

CAAPB 1105 Administration and enforcement. In the administration and enforcement of the sign rules contained in this chapter the board shall designate a zoning administrator who is hereby authorized and directed to enforce all the provisions of these sign rules.

The zoning administrator shall enforce the provisions of these sign rules and amendments thereto and shall have the power to certify compliance and issue sign permits, and to make inspections of buildings or premises necessary to carry out his

duties in the enforcement of these sign rules.

No permit shall be issued by the zoning administrator until he has reviewed all plans in detail and found them to conform to these rules.

The zoning administrator shall not grant any variances with respect to these rules in carrying out his or her duties as zoning administrator. Variances shall be granted by the board. The zoning administrator shall grant a permit upon a finding of compliance with the conditions imposed by these rules.

CAAPB 1106 Sign permit; application. Applications for sign permits shall be submitted in writing to the zoning administrator. Each application shall contain the following information:

A. The name and addresses of the display structure and property;

B. The address at which any signs are to be erected;

C. The lot, block, and addition at which ~~billboards~~ signs are to be erected and the street on which they are to front, and

D. A complete set of plans showing the necessary elevations, distances, size and other details to fully and clearly represent the construction and placing of the display structure.

CAAPB 1107 Exemptions. The following signs shall not require a permit. These exemptions shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of these rules or any other law or ordinance regulating the same.

A. The changing of the display surface on a painted or printed sign only. However, this exemption shall apply only to onsite changes involving sign repainting and/or poster replacement.

B. Signs six (6) square feet or less in size.

C. Lettering on motor vehicles when not utilized as a parked or stationary outdoor display sign.

D. Political signs.

CAAPB 1108 Abandoned signs. Any sign which advertises, identifies, or pertains to an activity no longer in existence shall be removed by the owner of the property within thirty (30) days from the time the activity ceases existence. This provision does not apply to seasonal activities during the regular periods in which they are closed.

CAAPB 1109 Variances. The board shall have the authority to grant variances from the strict applications of these rules for unique signs or unusual conditions pertaining to sign needs for a specific building or lot pursuant to the provisions of Chapter Sixteen of these rules.

Chapter Twelve: Exceptions

[In rules 1203-1208 the only changes are: CAAPC to CAAPB, commission to board, and regulations to rules.]

CAAPB 1201 Application. Except as otherwise provided in CAAPB 1101-~~1105~~ 1109, the rules for all zoning districts, except the governmental district, shall be subject to the following interpretations and exceptions.

CAAPB ~~202~~ 1202 Essential services. Essential services shall be permitted as authorized and regulated by law and rule. Essential services are exempt from the application of these rules.

Chapter Thirteen: Nonconformities

[In rule 1307 the only change is CAAPC to CAAPB]

[CAAPC 1301 (1)-(3) Reletter to CAAPB 1301 A.-C.]

[CAAPC 1302 (1) and (2) Reletter as CAAPB 1302 A. and B.]

[CAAPC 1303 a.-c. Reletter as CAAPB 1303 A.-C.]

[CAAPC 1304 Reletter as CAAPB 1304; strike "(1)" and incorporate that paragraph into 1304; Reletter a.-c. as A.-C.]

[CAAPC 1305 Reletter to CAAPB 1305; strike (1) and incorporate that paragraph into 1305; Reletter a.-e. as A.-E.]

[CAAPC 1306 (1) and (2) Releter to CAAPB 1306 A. and B.]

Chapter Fourteen: Administration

CAAPB 1401 Duties of board. The board shall accept applications for, and issue, any certificate or permit which is required by these rules, keep and maintain all plans, files, and records pertaining thereto, and perform all other functions necessary for the orderly administration of these rules. The board may delegate any or all of these duties to any subcommittee or authorized representative. Said subcommittee or authorized representative shall be known as the board's zoning administrator.

CAAPB 1402 Zoning permit required. Except as otherwise provided in CAAPB ~~411-415~~ 412-416 and CAAPB 1101-~~1107~~ 1109, no land, building or structure, in any district, shall hereafter be changed to a different use, and no building, structure or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until the board has issued a zoning permit, certifying that the plans and intended use, including any conditional use, of land, buildings, and structures are in conformity with all provisions of these rules.

CAAPB 1403 Zoning permit; application. Except as otherwise provided in CAAPB ~~411-415~~ 412-416 and CAAPB 1101-~~1107~~ 1109, all applications for zoning permits shall be submitted in writing and shall contain the following information:

A. The legal description of the property in question;

B. The fee owner of such property; and, in all cases where the applicant is not the fee owner of the property, the application shall state the nature of the applicant's interest in the property;

C. A concise description of the proposed use, including accessory and conditional uses, if any;

D. Three copies of a site plan which clearly illustrates the following:

[(i)-(v) Reletter as 1.-5.]

E. Such other information as may be reasonably necessary to permit the board to determine whether the proposed use, including accessory and conditional uses, satisfies the requirements of these rules. This includes, but is not limited to, floor plans, elevations, and landscape plans or schemes.

Nothing herein shall be construed to prohibit an applicant from presenting such additional information, in such form as the board may permit, which is relevant to the nature of the proposed use and its relation to and effect upon adjacent uses and the beauty, dignity, and architectural integrity of the capitol area.

CAAPB 1404 Consideration of site plan. In reviewing the site plan the board shall consider:

A. The location and design of driveways providing vehicular ingress to and egress from the site, in relation to streets giving access to the site, and in relation to pedestrian traffic.

B. The traffic circulation features within the site and location of automobile parking areas, and may make such requirements with respect to any matters as will assure:

1. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets.

2. Satisfactory and harmonious relations between the development on the site and the existing and prospective development of abutting land and adjacent neighborhoods.

C. The arrangement of buildings, uses and facilities of the proposed development in order to assure abutting property and/or its occupants will not be reasonably affected.

[CAAPC 1405 is repealed.]

CAAPB 1405 Additional site requirements. In conjunction with approving the site plan, the board may require the following:

A. Landscaping, fences, and walls in pursuance of the objectives of these rules and same shall be provided and

maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant;

B. Marginal access drives where such marginal access drives are necessary for safety.

CAAPB 1406 Certificate of design compliance. Subject to the provisions of Chapter Fifteen no building, structure, or any part thereof shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until it has been issued, in addition to a zoning permit issued by the board and a building permit by the city of St. Paul, a certificate of design compliance by the board certifying that the plans of the building or structure are in conformity with all provisions of the design rules as provided in CAAPB 1502-~~1610~~ 1510.

CAAPB 1407 Certificate of design compliance; application. In addition to the requirements for a zoning permit, all applications for a certificate of design compliance shall be submitted in writing and shall include three copies of the following:

A. Plans, sections, and all elevations of the proposed structure drawn to scale, showing the overall dimensions of the exterior faces of the structure, the proposed type and location of any sign or other appurtenances such as overhangs, housing for utilities, and television or radio antennas, and also showing in outline form other adjacent buildings and structures, and landscape features within a reasonable distance that will be seen when looking at any of the elevations of the structure.

B. Landscape plans or schemes, including any landscaping required for off-street parking.

C. Such other information as may be reasonably necessary to permit the board to determine whether the proposed construction or reconstruction satisfies the requirements of these rules.

CAAPB 1408 Consideration of applications. Applications in the form prescribed in CAAPB 1403 and CAAPB 1407 shall be submitted to the zoning administrator and shall be considered and acted

upon not later than seventy-five (75) days following submission of the application; provided, however, that the board may in order to permit additional study of a proposal, postpone approval or denial of an application for an additional forty-five (45) days where it finds that the proposed use may significantly affect the beauty, dignity, and architectural integrity of the capitol area. Applications shall be approved if they meet all applicable requirements of these rules.

CAAPB 1409 Building permits required. No building structure, or part thereof, shall hereafter be erected, constructed, reconstructed, altered, enlarged, or moved until it also has been issued, in addition to a zoning permit issued by the board, a building permit by the city of Saint Paul, certifying that the plans of the building or structure are in conformity with all provisions of the city of Saint Paul building code.

[CAAPC 1407 (1)-(4) Reletter and renumber as CAAPB 1410 A.-D.]

E. The board may issue a temporary certificate of occupancy for the principal building on a project before full completion of fencing, landscaping, and parking, if, in its judgment, such items cannot be completed at the same time as the building. In all such instances, the certificate of occupancy shall be marked "Temporary -- For One (1) Year Only" and shall not be renewable. As soon as the fencing, parking and landscaping is fully completed and inspected and approved by the board, the "Temporary" certificate shall be cancelled and a permanent certificate of occupancy issued. If any portion of the required fencing, parking or landscaping is not fully completed within one year following the date of the temporary certificate, the certificate shall automatically become null and void, and the use of any portion of the premises thereafter shall cease until a certificate of occupancy is issued.

CAAPB 1411 St. Paul certificate of occupancy. No building, structure, or part thereof, in any district which is hereafter erected, constructed, reconstructed, altered, enlarged, or moved

shall be occupied or used unless it also has been issued, in addition to a certificate of occupancy issued by the board, a certificate of occupancy by the city of Saint Paul, certifying that such building or structure is in conformity with the provisions of the applicable building code.

CAAPB 1412 Final inspection. The holder of every zoning permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the board immediately upon the completion of the work authorized by such permit, for a final inspection prior to issuance of a certificate of occupancy.

CAAPB 1413 Permit expiration. No zoning permit or certificate of design compliance permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building ~~permit~~ permitted for ~~such~~ erection or alteration is started and is proceeding with the terms of ~~such~~ a its permit or certificate.

CAAPB 1414 Fees. Fees for inspection and the issuance of permits or certificates or copies thereof, required or issued under the provisions of these rules, shall be collected by the zoning administrator in advance of issuance. The amount of such fees shall be established by resolution of the board and shall cover the cost of notification, inspection and supervision resulting from enforcement of these rules.

When any fees are not paid within six (6) months of authorization of any permit or certificate said authorization shall be null and void.

[Chapter Fifteen: Notice and Amendment and CAAPC 1501-1502 are repealed.]

Chapter Fifteen: Design Rules for Visual Corridors

CAAPB 1501 Designation. That part of University Avenue and adjacent land, Aurora Street and adjacent land, Cedar Street and adjacent land, John Ireland Boulevard and adjacent land, Park

Avenue and adjacent land, Sherburne Avenue and adjacent land, and Rice Street and adjacent land as identified on the attached map entitled Visual Corridors are hereby designated as visual corridors in the capitol area.

CAAPB 1502 Application. The rules set forth in this chapter shall apply to the following activities if they are undertaken within the visual corridors designated in CAAPB 1501.

A. The construction of a new building or structure.

B. The moving or reconstruction of an existing building or structure.

C. The repair or alteration of an existing building or structure if the cost of the repairs or alterations ~~exceed~~ exceeds sixty (60) percent of the replacement value of the building or structure, exclusive of its foundation.

CAAPB 1503 Building height. Buildings other than those in the G-2 zone shall be of a minimum height of two stories above grade, and a maximum height of elevation 944 feet as defined in CAAPB 503.

Land in the G-2 zone adjacent to visual corridors shall remain landscaped open space. Underground construction, as defined in CAAPB 405, is permitted as a conditional use provided it does not interrupt views and vistas from street level.

CAAPB 1504 Setback. Buildings in the visual corridors shall be sited close to the street; specifically facades facing the corridor shall be located in a setback zone, defined by lines 6 feet and 15 feet from the front property line, except as noted below:

A. Where a new building is adjacent to existing buildings, these buildings shall maintain the average setback alignment of existing buildings on the same block.

B. State buildings along Cedar ~~Avenue~~ Street and John Ireland Boulevard shall be setback a distance no more than 40 feet from the front property line in order to visually expand the open space corridor.

C. Residential buildings in the RM-2 zone shall conform to the setbacks for that zone.

CAAPB 1505 Parking. Off-street parking will not be permitted between the building and streets designated visual corridors.

A. Off-street parking shall be behind buildings on the interior of the block.

B. Off-street parking shall be adequately lighted with cut-off type fixtures that will not allow excessive light intrusion onto adjacent property.

CAAPB 1506 Landscaping. Required setbacks and parking areas shall be landscaped.

A six feet minimum planting area shall be provided between parking and adjacent properties. Off-street and unenclosed parking areas of more than fifty (50) spaces shall be divided by planting islands.

Plant material shall conform to high-quality nursery standards and the following minimum sizes at planting:

Shade trees -- 2 1/2" cal. BB

Small trees -- 8'-10' height

Shrubs -- 15"-18" height

CAAPB 1507 Access/egress. Vehicular access from streets designated important visual corridors is prohibited. Access and egress shall be from streets other than the designated visual corridor street.

CAAPB 1508 Signage. In addition to the sign provisions of CAAPB 1103, freestanding signs are prohibited in the area designated in CAAPB 1501.

CAAPB 1509 Mechanical and electrical equipment. All mechanical and electrical equipment, such as transformers, air conditioning and heating units, television and other antennae, and similar exposed mechanical and electrical elements shall be completely concealed from public view. Concealed from public view is defined as not visible from any point within the visual corridor

at ground level to an elevation equal to the roof level.

CAAPB 1510 Additional design criteria. In order to further achieve harmony of design, visual compatibility and protect and enhance the dignity, beauty and architectural integrity of the capitol area, the following additional requirements shall be applied to construction, reconstruction, repair or alteration activities subject to this chapter. In the event that any of the following requirements conflicts or is inconsistent with the design requirements set forth in CAAPB 1503 through 1509, those contained in CAAPB 1503 through 1509 shall supersede and govern in all cases.

A. Continuity of walls. Appurtenances of a building such as building facades, fences, and landscape masses, shall visually contribute to the spatial definition of the visual corridor and form cohesive walls of enclosure along those streets designated visual corridors to ensure visual continuity of the building with those buildings, squares, and places conforming with these design rules to which it is visually related.

B. Proportion and dimension of building's front facade. The relationship of the width of building to height of the front elevation shall be visually compatible to those buildings, squares and places conforming with these design rules to which it is visually related.

C. Proportion of openings within the facility. The relationship of the width of the windows to height of windows in a building shall be visually compatible with those buildings, squares and places conforming with these design rules to which the building is visually related.

D. Rhythm of solids to voids in front facades. The relationship of solids to voids in the front facade of a building shall be visually compatible with those buildings, squares and places conforming with these design rules to which it is visually related.

E. Rhythm of spacing of buildings on streets. The relationship of a building to the open space between it and

adjoining buildings shall be visually compatible to those buildings, squares and places conforming with these design rules to which it is visually related.

F. Rhythm of entrance and/or porch projection. The relationship of entrances and porch projections to sidewalks of a building shall be visually compatible to those buildings, squares and places conforming with these design rules to which it is visually related.

G. Relationship of materials, texture and color. The relationship of the materials, texture and color of the facade of a building shall be visually compatible with the predominant materials used in those buildings conforming with these design rules to which it is visually related. Masonry, concrete and glass materials are generally appropriate.

H. Roof shapes. The roof shape of a building shall be visually compatible with those buildings conforming with these design rules to which it is visually related.

I. Scale of a building. The size of a building, the building mass of a building in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with those buildings, squares and places conforming with these design rules to which it is visually related.

J. The place and orientation of the front elevation of a building, including the shape and composition of its architectural elements shall be visually compatible with those buildings, squares, and places conforming with these design rules to which it is visually related.

K. All the elements of the landscape design of a building, such as planted areas, plant materials, grading, and pedestrian walks and areas, shall be visually compatible with the corresponding elements of those buildings, squares and places conforming with these design rules to which it is visually related.

CAAPB 1511 Variances. The board shall have the authority to grant variances from the strict application of these rules

pursuant to the provisions of CAAPB ~~1504~~ 1604.

Chapter Sixteen: Variances

CAAPB 1601 Purpose. The procedures and standards contained herein shall govern the consideration and disposition of all variance requests submitted to the board.

CAAPB 1602 Requests for a variance. A person desirous of obtaining a variance from the application of one or more of these rules shall initiate the variance process by submitting to the board four copies of the following information and documents:

A. A statement setting forth the precise nature and extent of the proposed variance and the reasons the variance is being requested.

B. Any supporting documentation necessary to provide a complete description of the proposal including, but not limited to, architectural plans and drawings, topographical information and project cost data.

C. A detailed statement addressing each of the applicable variance criteria contained in this chapter and setting forth the reasons as to why the variance request is in conformance with these criteria.

CAAPB 1603 Disposition of variance requests. The board shall grant or deny a variance request pursuant to the following procedures and standards:

A. Upon receipt of a variance request, the board shall send written notice thereof to all persons who have registered their names with the board for the purpose of being notified of rulemaking proceedings or variance requests and the board shall not act upon the variance request for 30 calendar days after it has issued the notice.

The notice shall contain a brief description of the variance request, a statement that any person wishing to comment on the request may do so in writing and a statement that the board will not act on the variance request until interested persons have been afforded at least 30 calendar days after the board's

issuance of the notice to submit their comments.

B. If, after receiving the variance request, the board determines that additional information must be submitted by the requesting person, it may direct the person seeking the variance to:

1. Submit additional data regarding the variance request to the board or ~~its executive secretary~~ the zoning administrator, or

2. Appear before the board or ~~its executive secretary~~ the zoning administrator to provide additional information thereon.

C. To facilitate full consideration of a variance request the board may, in its discretion, request that the person seeking the variance and other persons who have submitted written comments regarding the variance appear before the board and make arguments to the board. In such event, the board shall provide the aforementioned persons notice of the request appearance at least seven days before the board meeting at which the variance request is to be considered. This procedure shall not constitute a contested case as defined in Minn. Stat. S 15.0411, subd. 4.

D. If a person requesting a variance fails to follow the variance procedures specified in these rules, the variance shall be denied.

E. The CAAPB shall set forth in writing and submit to the person requesting the variance and other persons who have submitted written comments thereon the reasons why it has granted or denied the variance request within 30 days after its disposition of the request.

CAAPB 1604 Standards for granting and denying variance requests.

A. The board shall grant a variance to the application of any of its rules, excepting its design standards and sign rules, only if it determines that all of the following criteria have been met:

1. Strict application of the rule to which a variance is being requested would cause undue and substantial hardship to

the owner of the property by reason of the unusual topography or other exceptional aspect of the property in question.

2. The granting of the variance does not confer a benefit on the person requesting the variance which is not enjoyed by other persons similarly situated.

3. The granting of the variance does not substantially impair the intent and purposes of these rules.

4. The variance may be granted without substantial detriment to another person or the public good.

B. The board shall grant a variance to the application of its design standards if it determines that:

1. Strict application of the design rules would prevent implementation of a design which, in terms of meeting the intent of the rules, is equal to or superior to the design alternatives authorized by the rules, and

2. The criteria set forth in CAAPB 1604 A.2., 3. and 4. have been met.

C. The board shall grant a variance to application of its sign rules if it determines that:

1. Unusual conditions exist with respect to a specific building or lot which require the installation of a unique sign,

2. The granting of the variance does not result in the installation of a sign in a zoning district in which such a sign is not permitted by these rules, and

3. The criteria set forth in CAAPB 1604 A.2., 3. and 4. have been met.

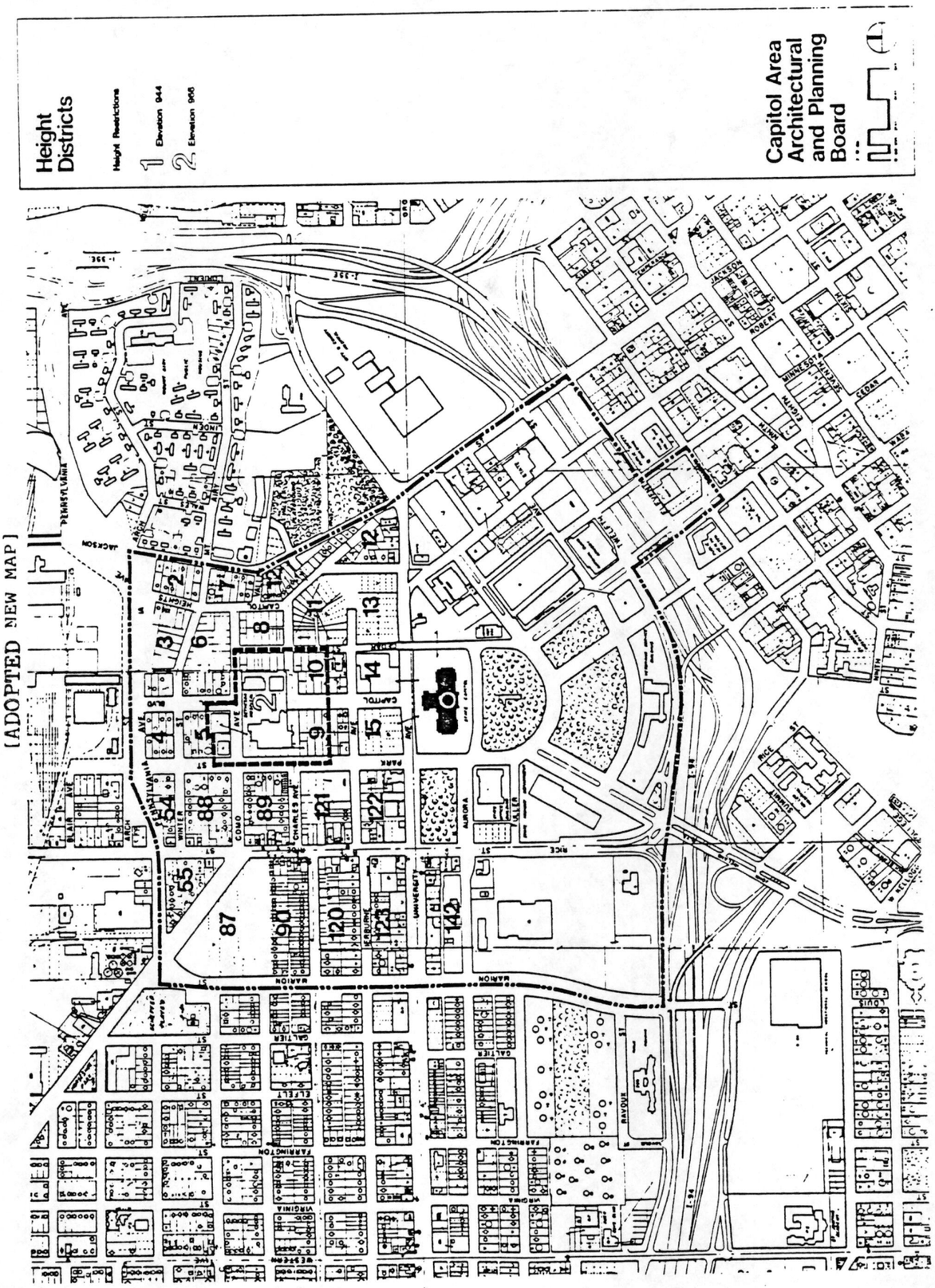
(This chart is the only part of the chart from the ~~Code~~ as proposed. It is adopted without change.)

CHART A: Schedule of Regulations Limiting Height, Bulk, Density, and Area by Zoning Districts.

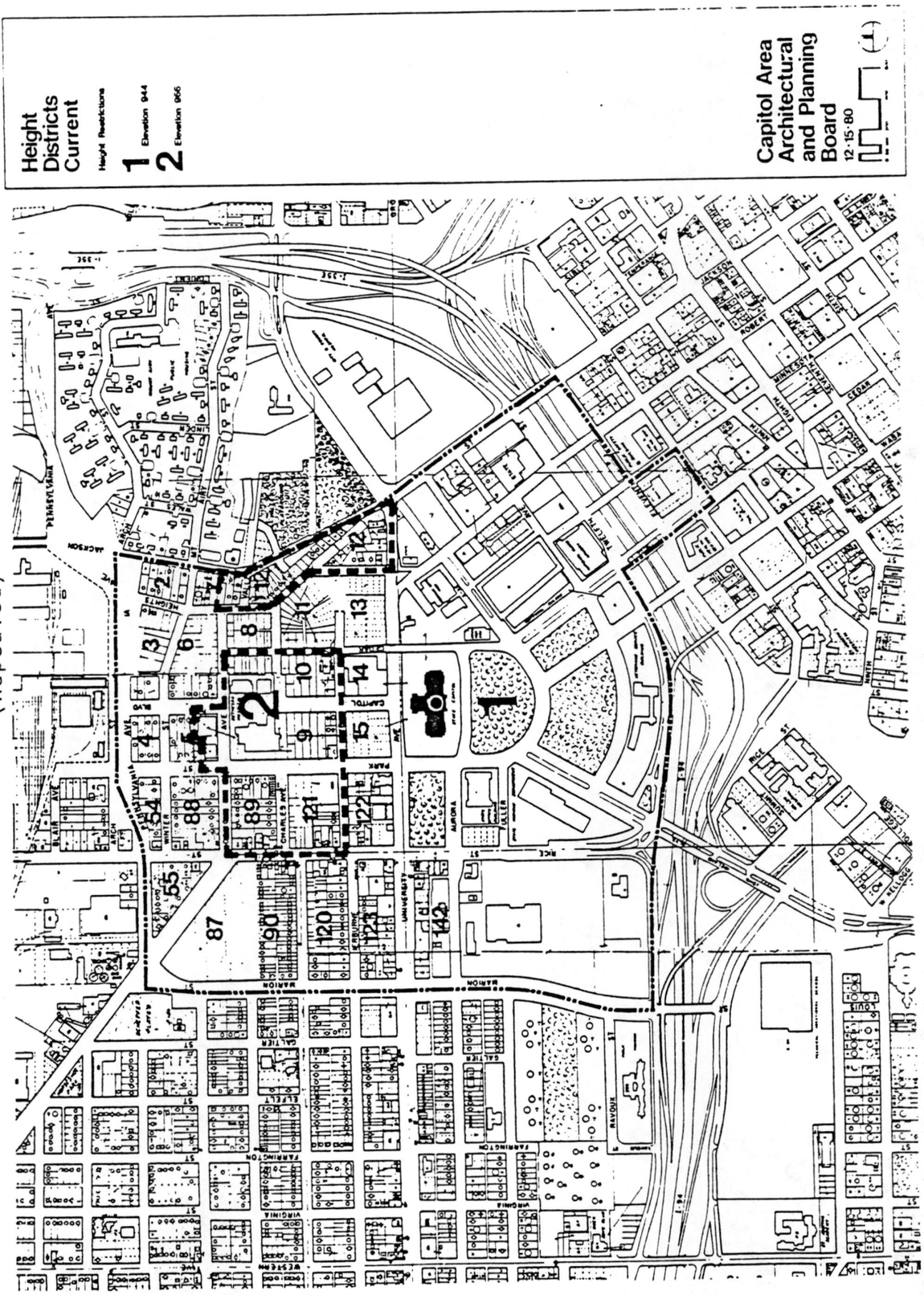
Zoning District	Maximum Floor Area Ratio Permitted	Maximum % of Lot Coverage Permitted (Area of all structures)	Maximum Height of Bldg. or Structure Permitted. (Maximum elevation above sea level given. Specific heights will vary with ground elevation of each site)	Minimum Yard Setback (for lot in feet)				Minimum Size Lot Per Unit	
					SIDES			AREA	
				Front	Least One	Total of Two	Rear	(Sq. Ft.)	(Feet)
Governmental District (G-1)	6.0	None	944.0 feet	0' 5'	0'	0'	0'	None	None
Medium Density, Multiple-Family District (RM-2) ~~A.--Height-District-#1 (See-Attached-Map)~~ 1. One-Family Detached Dwelling	None	30%	944.0 feet	25'	4' (See also Notes A and B)	8'	35'	5,000	40'
2. Two-Family Dwelling	None	30%	944.0 feet	25'	9' (See also Notes A and B)	18'	25'	3,500	30'
3. Multiple-Family Dwelling	None	30%	944.0 feet	25'	½ ht. or 15' whichever is greater.	30' (See also Notes A and B)	25'	(See Note A)	(See Note A)
~~B.--Height-District-#2 (See-Attached-Map)~~ ~~1.--One-Family Detached Dwelling~~	~~None~~	~~30%~~	~~944.0-feet~~	~~25'~~	~~4'~~ ~~-(See-also-Note-B)-~~	~~8'~~	~~35'~~	~~5,000~~	~~40'~~
~~2.--Two-Family Dwelling~~	~~None~~	~~30%~~	~~944.0-feet~~	~~25'~~	~~9'~~ ~~-(See-also-Note-B)-~~	~~18'~~	~~35'~~	~~3,500~~	~~30'~~
~~3.--Multiple-- Family Dwelling~~	~~None~~	~~40%~~	~~966.0-feet (See-also-Note-C)~~	~~0'~~	~~50'~~ ~~(See-also-Note-B)~~	~~100'~~	~~50'~~	~~(See-Note-A)~~	~~(See-Note-A)~~
~~Local~~ Community Business District ~~(B-1)~~(B-2)	4.0	None	944.0 feet	0' 5'	0' (See also Note DC)	0'	0'	None	None
Office-Service District (OS-1)	6.0	None	See Attached Height District Map	0' 5'	0'	0'	0'	None	None
Planned Unit Development District (PD)	(See Note 6D)	(See Note 6D)	(See Note 6D)	(See Note 6D)				(See Note 6D)	(See Note 6D)
Mixed Use District (MX)	2.0	None	944.0 feet	5'	0'	0'	0'	None	None

Note: Special requirements may apply in designated Visual Corridors pursuant to Chapter Fifteen of these rules.

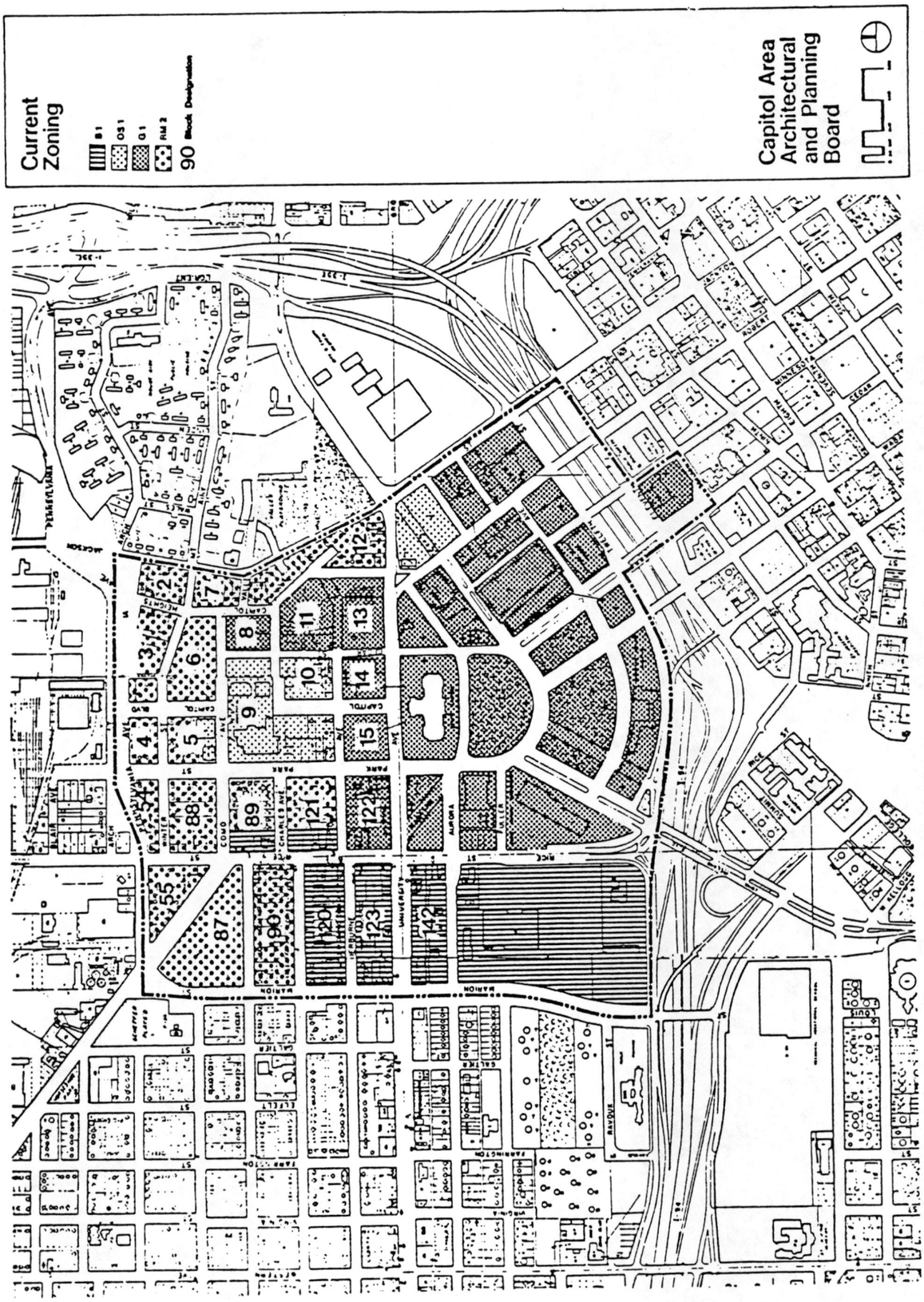
[ADOPTED NEW MAP]



(Repealed)


Height Districts Current
Height Restrictions
1 Elevation 944
2 Elevation 966
Capitol Area Architectural and Planning Board
12-15-80

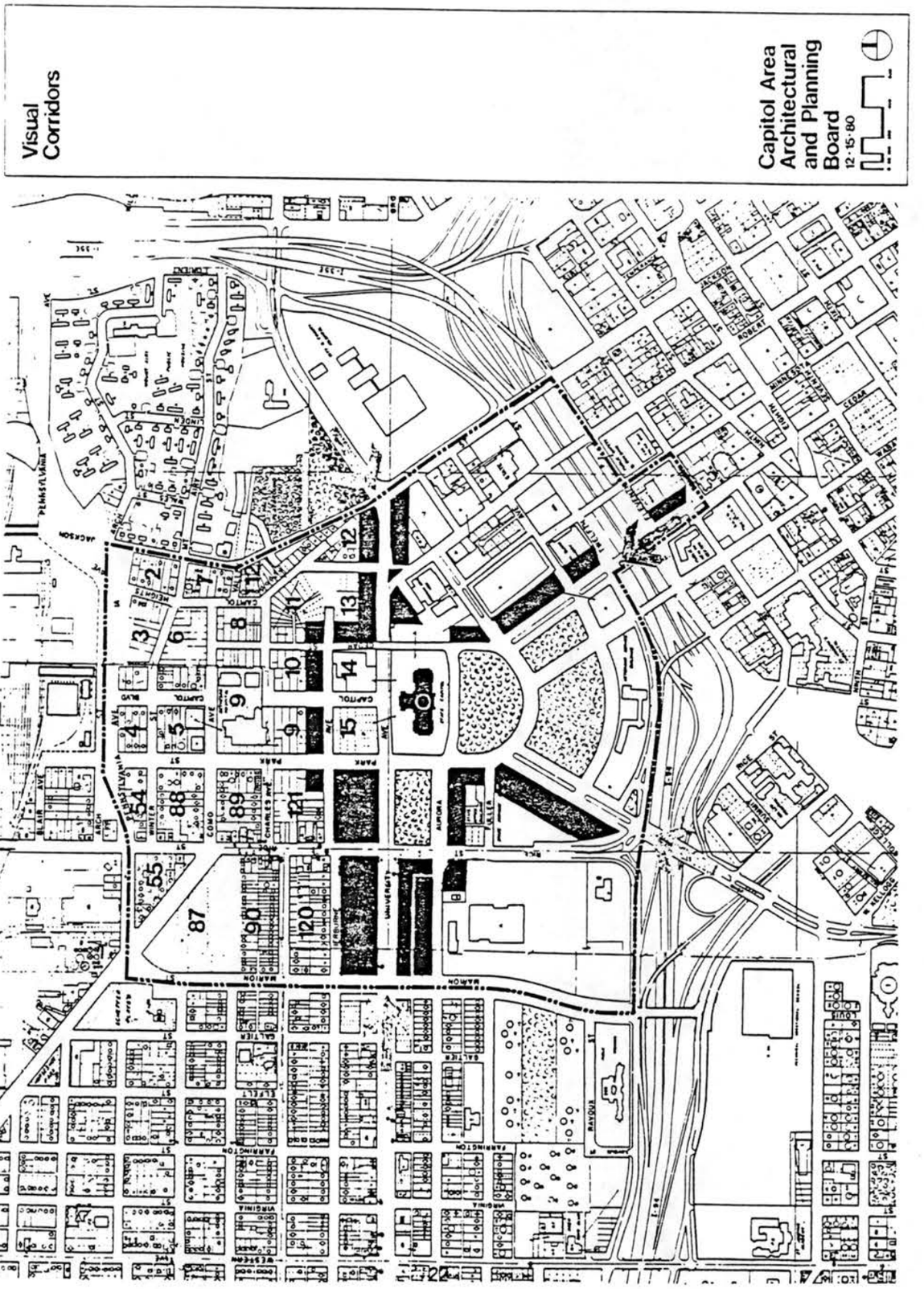
(Repealed)


Current Zoning
B 1
OS 1
O 1
RM 2
90 Block Designation
Capitol Area Architectural and Planning Board

[ADOPTED NEW MAP]

ADOPTED

[~~PROPOSED~~ VISUAL CORRIDORS]



RD81
12-4-81

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Capitol Area Architectural and Planning Board

Rule Numbers:

Various numbers, Chapters 1-16

Rule Title: Adopted Capitol Area Zoning and Design Rules

Type of Rules: Permanent X

Temporary _____

Documents Incorporated by Reference:

Building Code of the City of St. Paul

The attached Rules are approved as to form.

Steven C. Cross
Revisor of Statutes

APPROVED AS TO LEGALITY
Dec 8 19 81
WARREN SPANNAUS, ATTORNEY GENERAL
BY [signature]
SPECIAL ASSISTANT ATTORNEY GENERAL

Name: Ann L. Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC -9 1981
Joan Anderson Growe
Secretary of State
11:20 AM

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : Gary Grefenberg
Executive Secretary
CAAPB
400 State Office Building

DATE: December 9, 1981

FROM : Judith Wehrwein JW
Legal Assistant

PHONE: 7-3471

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Capitol Area Architectural and Planning Board Governing Capitol Area Zoning and Design

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

RD81
12-4-81

OFFICE OF THE REVISOR OF STATUTES
Disapproval of Form of Rules

_____ The form of the adopted rules is not approved. The revisor requests the changes described below before the rules will be approved.

Page 5, line 32, delete "whose" and insert "which" to correct a typographical error in the Revisor's Office

Page 6, line 15, strike "place" and insert "plate" which was in the original rule but printed incorrectly in the State Register

On State Register page 1664 change "Proposed New Map" to "Adopted New Map" and

On State Register page 1682 do the same. Also, delete the word "Proposed" from the map legend.

Steven C. Cross
Revisor of Statutes

Name: Ann L Bateson
Ann L. Bateson

Title: Deputy Revisor

Phone: 296-1536

✓ The changes requested by the revisor are approved by the agency.

_____ The changes requested by the revisor are not approved by the agency

Gary Grefenberg
Agency's Representative

_____ The attorney general agrees that the changes requested by the revisor are form changes, not substantive changes.

_____
Assistant Attorney General

STATE OF MINNESOTA

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of the
Proposed Adoption of Rules of
the Capitol Area Architectural
and Planning Board Governing
Capitol Area Zoning and Design

FINDINGS OF
FACT AND
ORDER ADOPTING
RULES

The above-entitled matter came on for hearing before Hearing Examiner Richard C. Luis on the 28th day of May, 1981, at 9:30 A.M., in the Hearing Room of the Cable Communications Building, 500 Rice Street, St. Paul, Minnesota, after proper notice required by Minnesota Statutes section 15.0412 was served upon all persons, associations, and other interested groups registered with the Capitol Area Architectural and Planning Board for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules, and adopting in their entirety the Findings of Fact contained in the Hearing Examiner's Report,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Capitol Area Zoning and Design Rules are adopted this 20th day of November, 1981, pursuant to authority vested in the Board by Minnesota Statutes section 15.50, subd. 2(a).

STATE OF MINNESOTA

Gary Swefanberg

Executive Secretary

RECEIVED
NOV 2 0 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Agency Exhibit No. C
File No.
Date

RECEIVED
APR 1 0
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of the Proposed Amendment and Adoption of the Board's Zoning Rules for the Capitol Area, Which Area is Defined in Minn. Stat. § 15.50, subd. 2

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned matter be held at Cable Communications Bldg., 500 Rice St., St. Paul, MN, commencing at 9 :30 a.m. on May 28, 1981, and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that the Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Capitol Area Architectural and Planning Board for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Dated: 4-3, 1981.

LOU WANGBERG
CHAIRMAN

RECEIVED
NOV 2 0 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Agency Exhibit No. B

File No.

Date

RECEIVED
APR 13 1981
ADMINISTRATIVE HEARINGS

CERTIFICATE OF BOARD'S AUTHORIZING RESOLUTION

I, Gary Grefenberg, do hereby certifiy that I am Executive Director of the Capitol Area Architectural and Planning Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the Capitol Area Architectural and Planning Board duly and properly called and held on the 3rd day of April, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that the following resolution is set forth in the minutes of said meeting and has not been rescinded or modified:

> "RESOLVED, that Lou Wangberg, Chairman of the Board, be and he hereby is granted the authority and directed to call a hearing for the purpose of promulgating zoning rules of the Board for the Capitol Area, as such Area is defined in Minn. Stat. § 15.50, subd. 2., as well as perform any and all acts incidental thereto, including but not without being limited to signing an order for Hearing and Notice of Hearing."

Attest by Board Member

Gary Grefenberg
Executive Director
April 3, 1981

RECEIVED
NOV 2 0 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Agency Exhibit No. A

File No.

Date

RECEIVED
APR 13
ADMINISTRATIVE HEARINGS

RESOLUTION

RESOLVED, that Lou Wangberg, Chairman of the Board, be and he hereby is granted the authority and directed to call a hearing for the purpose of promulgating zoning rules of the Board for the Capitol Area, as such Area is defined in Minn. Stat. § 15.50, subd. 2., as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing.

April 3, 1981

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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Agency Exhibit No. F

RECEIVED No.

MAY 27 1981 Date

In the Matter of the Proposed Adoption of Rules of the Capitol Area Architectural and Planning Board Governing Capitol Area Zoning and Design

ADMINISTRATIVE HEARINGS

AFFIDAVIT OF MAILING

State of Minnesota)
) ss.
COUNTY OF RAMSEY)

Gary R. Grefenberg, being first duly sworn, deposes and says:

That on the 27th day of April, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the State of Minnesota Central Mail System for first class mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Capitol Area Architectural and Planning Board for the purpose of receiving notice of the proposed adoption of rules by this Board.

Gary Grefenberg

Subscribed and sworn to before me
this 27 day of May, 1981,

Judith V. Wehrwein

JUDITH V. WEHRWEIN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My commission expires Feb. 24, 1988

STATE OF MINNESOTA

RECEIVED
MAY 27 1981
ADMINISTRATIVE HEARINGS

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of the Proposed Amendment and Adoption of the Board's Zoning Rules for the Capitol Area, Which Area is Defined in Minn. Stat. § 15.50, Subd. 2

NOTICE OF HEARING

Notice is hereby given that a public hearing on the abovecaptioned matter will be held at Cable Communications Building, 500 Rice Street, Saint Paul, MN, commencing at 9:30 a.m. on May 28, 1981, and continuing until all persons have had an opportunity to be heard.

Through this proceeding, the Board will comprehensively amend and update its zoning rules for the Capitol Area. Rule changes include amendments to existing rules regarding definitions, zoning districts, permitted uses, building height and setback, parking, signage, accessory building, visual screens, administration and enforcement, and exceptions. Additionally, new rules establishing variance procedures and standards for the review of the design of buildings and structure within defined visual corridors are being proposed.

One free copy of these proposed rules may be obtained by writing the Capitol Area Architectural and Planning Board, Room 400 S.W., State Office Building, St. Paul, Minnesota 55155. Additional copies of these proposed rules will be distributed at the May 28th hearing.

The statutory authority of the Board to adopt these rules is provided in Minn. Stat. § 15.50, subd. 2 (1980).

Notice: The proposed rules may be modified as the result of the hearing process. The Board therefore strongly urges those who are potentially affected in any manner by the proposed rules to participate in the hearing process.

All interested or affected persons will have an opportunity to participate concerning the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearings, written statements or material may be submitted to Hearing Examiner Richard Luis , Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within five (5) working days after the close of the hearing, unless the Hearing Examiner orders at the hearing that the record will remain open for a longer period not to exceed twenty (20) calendar days. All such statements will be entered into and become part of the record. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, in order to save time and avoid duplication, it is suggested that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearings shall be governed by the rules of the Office of Administrative Hearings, Minn. Stat. § 15.0411-15.0417 and 15.052 and by 9 MCAR § 2.101-2.113 (Minnesota Code of Agency Rules). Questions relating to procedures may be directed to Hearing Examiner Richard Luis .

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the Board may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Board. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the Board (in the case of the Board's submission or resubmission to the Attorney General).

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone: (612) 5615.

Dated: April 13, 1981

LOU WANGBERG
Chairman

RULEMAKING NOTICE LIST

Susan P. Robertson
Executive Director/LCRAR
Room 430, State Office Bldg.
St. Paul, MN 55155

Reverend Gary L. Langness
1400 South Robert Street
West St. Paul, MN 55118

Peter S. Popovich
Peterson, Popovich, et al
314 Minnesota Bldg.
St. Paul, MN 55101

Bob Franklin
City Editor
Mpls. Tribune
425 Portland Ave.
Mpls., MN 55488

Richard C. Lockwood
MacArthur Co.
2400 Wycliff Street
St. Paul, MN 55114

Jean Dawson, Editor
The Minnesota Government Report
B-12, Press Room
State Capitol Building

The Minnesota Chapter of
Associated Builders and Contractors, Inc.
6300 Walker Street, Suite 109
Minneapolis, Minnesota 55416

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive-Suite 800
Mpls., MN 55420

EXHIBIT NO. 1

File No.

Date

RECEIVED

MAY 4 1981

ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of the Proposed Amendment and Adoption of the Board's Zoning Rules for the Capitol Area, Which Area is Defined in Minn. Stat. § 15.50, Subd. 2

NOTICE OF HEARING

Notice is hereby given that a public hearing on the abovecaptioned matter will be held at Cable Communications Building, 500 Rice Street, Saint Paul, MN, commencing at 9:30 a.m. on May 28, 1981, and continuing until all persons have had an opportunity to be heard. 1

Through this proceeding, the Board will comprehensively amend and update its zoning rules for the Capitol Area. Rule changes include amendments to existing rules regarding definitions, zoning districts, permitted uses, building height and setback, parking, signage, accessory building, visual screens, administration and enforcement, and exceptions. Additionally, new rules establishing variance procedures and standards for the review of the design of buildings and structure within defined visual corridors are being proposed. 3a

One free copy of these proposed rules may be obtained by writing the Capitol Area Architectural and Planning Board, Room 400 S.W., State Office Building, St. Paul, Minnesota 55155. Additional copies of these proposed rules will be distributed at the May 28th hearing. 3b

The statutory authority of the Board to adopt these rules is provided in Minn. Stat. § 15.50, subd. 2 (1980). 4

Notice: The proposed rules may be modified as the result of the hearing process. The Board therefore strongly urges those who are potentially affected in any manner by the proposed rules to participate in the hearing process. 5b

All interested or affected persons will have an opportunity to participate concerning the proposed rules captioned above. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearings, written statements or material may be submitted to Hearing Examiner Richard Luis , Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within five (5) working days after the close of the hearing, unless the Hearing Examiner orders at the hearing that the record will remain open for a longer period not to exceed twenty (20) calendar days. All such statements will be entered into and become part of the record. For those wishing to submit written statements or exhibits, it is requested that at least three (3) copies be furnished. In addition, in order to save time and avoid duplication, it is suggested that those persons, organizations or associations having a common viewpoint or interest in these proceedings join together where possible and present a single statement in behalf of such interests. The conduct of the hearings shall be governed by the rules of the Office of Administrative Hearings, Minn. Stat. § 15.0411-15.0417 and 15.052 and by 9 MCAR § 2.101-2.113 (Minnesota Code of Agency Rules). Questions relating to procedures may be directed to Hearing Examiner Richard Luis . 2 5a 7a 7b 11

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the Board anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

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Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1979 Supp.) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, Saint Paul, Minnesota 55155, telephone: (612) 5615.

Dated: April 13, 1981

LOU WANGBERG
Chairman

RECEIVED
NOV 2 0 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Agency Exhibit No. 8

File No.

Date

RECEIVED

MAY

ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Capitol Area Architectural and Planning Board Governing Capitol Area Zoning and Design

---

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. § 15.0412, subd. 4, that their names be placed on file with and maintained by the Capitol Area Architectural and Planning Board for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 5:00 P.M., this 27th day of April, 1981.

Gary Svefenberg

Donna M. Scott
May 1, 1981

DONNA M. SCOTT
NOTARY PUBLIC
RAMSEY COUNTY, MN
MY COMMISSION EXPIRES
JUNE 22, 1987

RULEMAKING NOTICE LIST

Susan P. Robertson
Executive Director/LCRAR
Room 430, State Office Bldg.
St. Paul, MN 55155

Reverend Gary L. Langness
1400 South Robert Street
West St. Paul, MN 55118

Peter S. Popovich
Peterson, Popovich, et al
314 Minnesota Bldg.
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Bob Franklin
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6300 Walker Street, Suite 109
Minneapolis, Minnesota 55416

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive-Suite 800
Mpls., MN 55420

RECEIVED
NOV 2 0 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Capitol Area Arch. & Planning Board

JUL 10 1981

STATE OF MINNESOTA

OFFICE OF ADMINISTRATIVE HEARINGS (Files)

ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

July 9, 1981

Mr. Gary Grefenberg
Executive Secretary
Capitol Area Planning Board
400 S. W. State Office Building
St. Paul, Minnesota 55155

RE: In the Matter of Proposed Amendments of and Additions to Capitol Area Zoning andDesign Rules.
CAPB-81-001-RL

Dear Mr. Grefenberg:

I enclose herewith and serve upon you the Report of the Hearing Examiner in the above-entitled matter.

Yours very truly,

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner
(612) 296-8114

RCL/eag
Encs.
CC: Mr. J. Michael Miles, Assistant Attorney General

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA)
(ss.
COUNTY OF RAMSEY)

AFFIDAVIT OF SERVICE

Eileen A. Gaiovnik, being first duly sworn, deposes and says that on the 9th day of July, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Report of the Hearing Examiner, CAPB-81-001-RL

unstamped, by placing in the designated tray to be collected by messenger for delivery to the central mailing station as required by Minn. Stat. § 16.54 (1974), a true and correct copy thereof on the individual named below.

Eileen A. Gaiovnik

Subscribed and sworn to before me this 9th day of July, 1981.

Susan C. Wojcik

SUSAN C. WOJCIK
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1986

Mr. J. Michael Miles
Assistant Attorney General
G-25 Administration Bldg.
St. Paul, Minnesota 55155

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Eileen A. Gaiovnik, being first duly sworn, hereby deposes and says:

That at the City of St. Paul, county and state aforementioned, on the _____ day of _____, 19 , she did serve the Report of the Hearing Examiner CAPB-81-001-RL

upon Gary Grefenberg, Executive Secretary by personally handing to Janis Taramelli,

said Report of the Hearing Examiner.

Eileen A. Gaiovnik

Subscribed and sworn to before me this 9th day of July, 1981.

Susan C. Wojcik

SUSAN C. WOJCIK
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
My Commission Expires April 26, 1986

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of Proposed Amendments of and Additions to Capitol Area Zoning and Design Rules.

REPORT OF THE HEARING EXAMINER

Pursuant to an Order for Hearing dated April 3, 1981, and a Notice of Hearing issued on April 13, 1981 by Lieutenant Governor Lou Wangberg, Chairman of the Capitol Area Architectural and Planning Board, the above-entitled matter came on for hearing before Richard C. Luis, duly appointed as Hearing Examiner by the Chief Hearing Examiner, at 9:30 a.m. on May 28, 1981 in the Hearing Room of the Cable Communications Building, 500 Rice Street, St. Paul, Minnesota.

This Report is part of a rule-making process held pursuant to Minn. Stat. Ch. 15, to determine whether rule changes amending existing rules regarding definitions, zoning districts, permitted uses, parking, signage, accessory buildings, visual screens, administration and enforcement, and exceptions should be adopted by the Capitol Area Architectural and Planning Board (hereinafter "Board"); and whether new rules establishing variance procedures and standards for the review of the design of buildings and structures within defined visual corridors should be adopted by the Board.

J. Michael Miles, Assistant Attorney General, G-25 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, appeared as counsel for the Board. Members of the Board's panel included: Gary Grefenberg, Executive Secretary of the Board; Alfred French and William Sanders, Members of the Board's Architectural Advisory Committee; and Board member Barbara F. L. Penn.

Eight persons signed the hearing register, and one member of the public, Nancy J. Jorgensen of Naegele Advertising, spoke at the hearing. The Board submitted 14 exhibits and the public submitted four exhibits. One additional written comment was submitted to the Hearing Examiner prior to the close of the record, which remained open through June 5, 1981 by Order of the Hearing Examiner. The Hearing Examiner also requested and received from the Board, prior to the close of the record, copies of the Zoning Ordinance, with amendments, of the City of St. Paul, and six large, colored maps used by the Board during its presentation. These documents and maps, though not marked as exhibits, are referred to in the Board's Statement of Need and Reasonableness and aided the Hearing Examiner in the preparation of this Report. They are also to be deemed part of the official record of this proceeding (as ordered by the Hearing Examiner before the hearing closed on May 28, 1981), and are being submitted to the Board along with this Report.

Pursuant to Minn. Stat. § 15.0412, subd. 4d and 4e (1980), this Report shall be available for review to all affected individuals upon request for at least five working days. Thereafter, the Capitol Area Architectural and Planning Board shall, if it proposes to adopt the rules as recommended herein,

submit the rules, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Board makes changes in the rules other than those recommended herein, it shall submit the rules with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the testimony, exhibits, and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On April 13, 1981 and April 14, 1981, the Capitol Area Architectural and Planning Board filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On April 27, 1981, the Notice of Hearing and a copy of the proposed rules were published at 5 State Register 1655.

3. On April 27, 1981, the Board mailed the Notice of Hearing to all persons and associations who had registered their names with the Board for the purpose of receiving such notice.

4. On May 4, 1981, the Board filed the following documents:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.
(d) The Statement of Need and Reasonableness.
(e) The names of Board personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Administrative Hearings from the date of filing to the date of the hearing.

5. The record remained open through June 5, 1981, for the receipt of written comments and statements, by order of the Hearing Examiner announced at the close of the hearing.

6. On May 27, 1981, the Capitol Area Architectural and Planning Board filed an Affidavit of Additional Notice stating that on April 27, 1981, discretionary notice was given to certain persons pursuant to Minn. Stat. § 15.0412, subd. 4. This constitutes a technical violation of 9 MCAR § 2.105 D., which mandates that such an affidavit be filed with the Hearing Examiner at least 25 days prior to the date and time of the hearing. The Hearing Examiner finds that this tardiness did not prejudice any interested party since the Notice was discretionary and was sent more than 30 days before the date and time of the hearing. Therefore, the noncompliance is technical rather than substantial in nature.

7. The filings detailed in Finding of Fact No. 4 above were all made one day after the time required for filing under 9 MCAR § 2.105 G. Although the

25-day deadline fell on a weekend, the May 4, 1981 filings constituted a technical violation of the rule. The Hearing Examiner finds that this tardiness did not prejudice any interested party and therefore, was a technical rather than substantial noncompliance. In this case, the documents have been in the continuous possession of the Hearing Examiner for public inspection from the time they were filed, and he has received no requests from the public to inspect them and no complaints regarding the time of filing.

Statutory Authority:

8. The Board cites the following portion of Minn. Stat. § 15.50, subd. 2(a) as authority for adoption of the proposed amendments and rules:

> . . . 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. . . .

The Hearing Examiner finds that the Board has documented its statutory authority to adopt the proposed amendments and rules.

Discussion of the Proposed Amendments and Rules.

General

9. The proposed amendments and rules contain numerous changes that are not substantive in nature, such as: changes in nomenclature from CAAPC to CAAPB, a reflection of the Commission's having become a Board; replacement of the word(s) "regulation(s)" with "rule(s)"; contraction of the word "Section" to "§"; and a renumbering or relettering of rule subparts to conform to the Rules of the State Register. All such changes are found by the Hearing Examiner to be necessary and reasonable.

10. In many instances, the Board is proposing zoning rule language identical or very similar to that adopted by the City of St. Paul in its zoning ordinance and amendments thereto. Of course, the area of the Board's jurisdiction is entirely within the City of St. Paul. Minn. Stat. § 15.50, subds. 2(a) and 2(f)(4)(1980), require the Board and the City to cooperate with each other in assuring that the area near the Capitol is developed in keeping with the Board's statutory purpose and comprehensive plan, and that the City advise the Board. In order to abet these principles, it is necessary and reasonable that the two zoning codes be compatible to whatever extent practicable. Also, many of the rules "borrowed" from the City zoning ordinance have been through a public hearing process and tested over time. Since the City otherwise has basic jurisdiction over the territory the Board administers for zoning purposes, it is reasonable to have as many requirements as possible correspond with the City requirements in order to avoid undue surprise to builders or architects familiar with the City Code.

11. The Board's Statement of Need of Reasonableness is a detailed, comprehensive document which closely tracks the changes, deletions and additions to the proposed rules. In order to assist the reader, the Hearing Examiner will discuss individual rule amendments or additions on a Chapter-by-Chapter basis throughout the remainder of this Report.

Chapter One: Title and Purpose

12. The old regulations were adopted in 1973, at a time before adoption of either the Administrative Procedure Act or the statutes recodifying the Board's statutory purpose. Necessary and reasonable editorial changes have been made to reflect these new realities.

Chapter Two: Definitions

13. The majority of the changes in the Definitions Chapter are necessary to reflect current conditions, to simplify language and therefore make the entire code more understandable, to define previously undefined terms, and to add explanatory material when necessary for greater public comprehension. The Board's Statement of Need and Reasonableness adequately demonstrates the need for and reasonableness of the proposed changes for this Chapter by an affirmative presentation of facts. That portion of the Statement of Need and Reasonableness is incorporated herein by reference, and the Hearing Examiner specifically finds all the proposed changes in Chapter Two to be needed and reasonable.

Chapter Three: Zoning Districts

14. The highlighted changes in this Chapter include the creation of two new districts. The first, designated as (G-2), is a Governmental District for open space, which was carved out of the present Government Zone (G-1). A new Mixed Use District, (MX), combines the features of the Multiple-Density, Multiple-Family Residential District (RM-2), the Local Business District (B-1), and the Office-Service District (OS-1) out of which it was created. The business zone is proposed for redesignation from Local Business District (B-1) to Community Business District (B-2). Finally, a new Capitol Area Zoning District Map has been inserted showing proposed new boundaries and nomenclature. It is noted here that the proposed new Zoning District Map fails to change the business zone from B-1 (Local) to B-2 (Community), and it is suggested that this clerical error be corrected in order to avoid future confusion and to provide internal consistency with the rest of the rules and the Statement of Need and Reasonableness. This would not constitute a substantial change in the rules.

corrected see attached Map

That portion of the Statement of Need and Reasonableness dealing with this Chapter discusses in great detail the proposed changes in the Official Map with respect to why certain blocks, or portions thereof, are proposed for rezoning. This presentation also explains the rationale for creating the new districts (basically, it is a reflection of current realities). It is the Hearing Examiner's opinion that the presentation in the Statement of Need and Reasonableness adequately demonstrates the need for and reasonableness of the proposals for this chapter by an affirmative presentation of facts which is it unnecessary to repeat in this Report. That portion of the Statement of Need and Reasonableness dealing with Chapter Three is therefore incorporated herein by reference.

Chapter Four: Use Regulations

15. This Chapter describes the activities permitted as principal and conditional uses in the zoning districts established in the previous Chapter. The amendments are for the purpose of clarifying the intent of the original rules by making the permitted uses more specific, by restructuring the rules in a more orderly and consistent manner, and by providing explanatory material to ease public comprehension. In addition, the amendments describe uses permitted in the new zoning districts (G-2 and MX) established in the previous Chapter.

At proposed CAAPB 405C., it is proposed that, in order to get permission to build an underground structure in the open space zone, "proof" must be provided by the developer, presumably the State (which now owns all the land in the zone), that soil conditions will not cause danger to adjacent property. It is suggested that the word "proof" be replaced or modified to avoid future confusion if the intent is that the developer has to demonstrate to the Board that changes in soil conditions as a result of the construction will not likely damage adjacent property. Leaving the language as written may result in not only confusion, but a rejection of the rules because the lack of specificity in the word "proof" may make the standard too vague. The Hearing Examiner cannot conclude that the rule is defective, however, because he concludes that its context and the implication that "proof" means that the Board must be satisfied are fairly obvious to the reader. With respect to subsection 405D., which uses the inherently subjective words "essential", "may", and "detract", it is the Hearing Examiner's opinion that this usage is necessary and reasonable to allow for sufficient use of discretion by the Board in an obviously discretionary area. Because of the variety of factors that could enter into any decision the Board could make in this area, it is the Hearing Examiner's opinion that it is counter-productive and unnecessary to make the rule more specific than has been proposed. See Can Manufacturing Institute v. State, 289 N.W. 2nd 416 (Minn., 1979).

replaced p. 9.

The Board has proposed changes involving renumbering within CAAPC 404 (now designated as CAAPB 406), but has not proposed changing all the internal references in that rule to comply with the new title of this code, that is from CAAPC to CAAPB. This clerical change should be made here and at any other place in the new code where it may be necessary. Such changes are necessary and reasonable and would not consitute substantial changes.

changed p. 9

At proposed CAAPB 408, the redesignation of Business District (B-1) to (B-2) has not been done. It is the Hearing Examiner's opinion that, as in the Zoning District Map, this is a clerical error. Therefore, rectification of that error does not consitute a substantial change. As is explained in the Statement of Need and Reasonableness, the change from designation as a "local" business district to the "community" business district designation is necessary in order to clarify that local businesses in the Capitol area serve not only residents but also private and public employees within the area. This change is one of terminology and not of substance, recognizing that many of the area's businesses are located within the area supervised by the Board solely because 6,000 people work in the area. As a practical matter, the uses allowed in any Community Business District correspond to those allowed in

not changed

Local Business Districts. With respect to the rest of the proposed changes in this chapter, the Board's Statement of Need and Reasonableness adequately demonstrates the need for and reasonableness of the proposed rules and amendments by an affirmative presentation of facts. That portion of the Statement of Need and Reasonableness dealing with this Chapter is incorporated herein by reference.

Chapter Five: Area, Height, Bulk and Setback Regulations

16. The Statement of Need and Reasonableness adequately demonstrates the need for and reasonableness of the proposed amendments to Section 502 by an affirmative presentation of facts, and the portion of the Statement regarding that Section is adopted herein by reference. The major change is a new requirement for five-foot front yard setbacks in zones G-1, B-2, and OS-1, to provide for a continuous greenspace along the streets.

Section 503 changes the Height District Map, as is detailed in the Statement of Need and Reasonableness. The maximum heights of 944.0 feet and 966.0 feet above sea level remain in Districts One and Two respectively, but District Two has been reduced in size. The effect of the proposed change is to further minimize the area in which tall, tower-type buildings are allowed so that the Capitol Building retains its local prominence. The Hearing Examiner finds the changes recommended for Chapter Five to be necessary and reasonable.

Chapter Six: Parking Regulations

17. The Board considers many of the changes for this chapter to be necessary in order to adequately reflect new conditions and to rectify certain omissions in the current regulations. Many of the changes are modeled after the City of St. Paul parking regulations and thus insure compatibility and uniformity of standards with the larger, encircling jurisdiction. The Statement of Need and Reasonableness covers Chapter Six in detail for five single-spaced pages, and makes therein an affirmative presentation of facts demonstrating the need for and reasonableness of each proposed change. Those pages of the Statement of Need and Reasonableness dealing with Chapter Six are adopted herein by reference, and the Hearing Examiner finds the Board's proposed parking regulations to be necessary and reasonable.

The basic policies reflected in the proposed changes for this Chapter are a recognition that the area under the Board's jurisdiction is an inner-city neighborhood and not part of suburbia, where greater use of the automobile is presumed. In short, the present regulations require the provision of too much parking. Many of the people who work or do business in the area come to it on foot, in buses or in pooled vehicles. The use of such valuable land for a low intensity purpose such as parking may be financially prohibitive, and the Board's statutory purpose is to attract development. Therefore, it is reasoned that the requirements for off-street parking should be loosened and the proposed rules are a step in that direction. It is also argued that off-street parking is not required for general office uses in downtown St. Paul, and the Board must accordingly adjust its requirement if it hopes to compete.

The Board also is encouraging the use of small cars by allowing more off-street parking spaces to buildings which designate spots for "compacts". See proposed CAAPB 610C. The Hearing Examiner agrees with the comments of Daniel B. Magraw, Deputy Commissioner of Administration, regarding this subsection,

in that he suggests that the language of the proposal be clarified to specify whether the Board means that a lot can have 50 percent of its spaces or 50 percent of its area for compact car use, and whether this 50 percent must be dedicated for compact use before any spaces can be "shrunken" to the 8' x 16' dimension. It is presumed that any of the suggested clarifications would be just that, and not substantial changes. Any changes which clarify this subsection are found to be needed and reasonable to the extent that they accomplish that purpose.

clarified p.19

Chapter Seven: Loading Regulations

18. The only change in this Chapter is a necessary and reasonable relettering from CAAPC to CAAPB.

Chapter Eight: Accessory Building Regulations

19. The revisions proposed for this Chapter are clerical and editorial, and not substantive in nature. The portion of the Statement of Need and Reasonableness regarding this Chapter is adopted herein by reference, and the proposals are found to be needed and reasonable.

Chapter Nine: Visual Screens

20. The term "visual screen(s)" is substituted for "wall and/or fence" in the title and throughout the body of this proposed Chapter. The rule change specifically allows plant material to be used for visual screening, and designates minimum sizes and time limits for planting to ensure accomplishment of the purpose of screening.

The Board's Statement of Need and Reasonableness adequately demonstrates the need for and reasonableness of the proposed amendments and additions to this Chapter by an affirmative demonstration of facts. That portion of the Statement of Need and Reasonableness respecting Chapter Nine is incorporated herein by reference, and the proposed changes and additions are specifically found to be necessary and reasonable.

Chapter Ten: Exterior Lighting and Structural Regulations

21. Changes advanced for this Chapter are editorial in nature and not substantial, with one exception. Proposed new Rule CAAPB 1004 exercises control over exterior structural elements in the Open Space Zone (G-2), such as benches, transit shelters and vending machines. The Board's Statement of Need and Reasonableness adequately demonstrates the necessity and reasonableness of this new rule by an affimative presentation of facts, and is incorporated herein by reference. The Hearing Examiner specifically finds all proposals made for Chapter Ten to be needed and reasonable.

Chapter Eleven: Sign Regulations

22. The Board has proposed extensive changes in the sign regulations in order to clarify and modernize the rules and administration of rules regarding signage; to achieve, as closely as practicable, compatibility with the sign ordinances of the City of St. Paul; and to modify the rules in order to achieve better implementation of the Board's statutory purposes and the policies of its comprehensive plan. The Board's Statement of Need and Reasonableness devotes four single-spaced typed pages in making an affirmative presentation of facts demonstrating the need for and reasonableness of the proposals for Chapter Eleven. That portion of the Statement of Need and Reasonableness

is incorporated herein by reference. The Hearing Examiner further specifically finds that the proposals advanced for Chapter Eleven are necessary and reasonable.

The most controversial rule change is new CAAPB 1104 (Nonconforming signs), which requires the removal of all such signs by January 1, 1986. Ms. Nancy Jorgensen, Associate Director of Community Relations for Naegele Outdoor Advertising, spoke at the hearing and addressed Naegele's concern that this proposal "singles out" its billboards, which account for most of the nonconforming signs proscribed by CAAPB 1104, as the only non-conforming pre-existent use for which the rules require eradication. All other nonconforming uses are allowed to expire by attrition - in effect, they are "grandfathered in". It is the Hearing Examiner's opinion that the policy reflected in CAAPB 1104 is within the Board's statutory intent and purpose and that the Board has the statutory authority to order nonconforming uses to be removed, so long as there is no violation of due process of law. The four and one-half year warning is more than adequate, and Minn. Stat. § 15.50, subd. 7, requires that the owner be compensated. As for need and reasonableness, the Board has made a discretionary decision that the removal of nonconforming signs is necessary to enhance the aesthetics of the area under its jurisdiction. Since the requirement rationally relates to the Board's statutory purpose to "preserve and enhance the dignity, beauty, and architectural integrity . . . of the Capitol area" (See Minn. Stat. § 15.50, subd. 1(a)(1)), its exercise of discretion in this fashion is not arbitrary or capricious. Even if reasonable minds could differ as to the wisdom of tearing down billboards before removing other nonconforming uses, the Board's decision is entitled to strong consideration, especially since the record reflects that these rules were debated at great length in many forums. Therefore, the proposals for Chapter Eleven will not be disturbed by the Hearing Examiner if they can be shown to have a logical basis. That basis has been demonstrated in this case. See Thomas Brothers, Inc. v. Secretary of State, 90 Mich. App. 179, 282 N.W. 2nd 273 (1979).

For purposes of clarification, it is suggested that CAAPB 1105 specify in its first two paragraphs that the adminstrative scheme contemplated by CAAPB 1105-1109 applies to the area covered by Chapter Eleven only, that is, to signs and nothing else. This change would be clarifying only and not a substantial change. Also, proposed CAAPB 1106C. dealing with sign permits and the application therefor, seems to allow new billboards, an apparent conflict with their designation as nonconforming signs to be removed by January 1, 1986. However, proposed CAAPB 1104B. may allow for reconstruction of damaged billboards under certain conditions, and the Hearing Examiner assumes that if a billboard (as defined at CAAPB 259C.) is erected in accordance with this subsection that it is understood that it will be removed at the deadline date set in CAAPB 1104. If it is the Board's intention to apply 1106C. to all signs, then that intention should be stated. Such a change would be a clarification, not a substantial change. It is found that this subsection is necessary and reasonable whether or not its intent is expanded to include all signs.

so clarified — added see language p. 28, 29

Chapter Twelve: Exceptions

23. The only changes for Chapter Twelve involve the already discussed and approved relettering from CAAPC to CAAPB, "Commission" to "Board" and "regulation(s)" to "rule(s)", as well as minor grammatical and clarifying changes in Sections 1201 and 1202. It is noted that the State Register has printed out "202" under this Chapter, as opposed to the correct "1202". A clerical change rectifying this error would not consitute a substantial change. The Hearing Examiner finds all the changes proposed for Chapter Twelve to be necessary and reasonable.

Chapter Thirteen: Exceptions

24. The only changes proposed in Chapter Thirteen involve relettering. All the changes are specifically found to be needed and reasonable.

Chapter Fourteen: Administration

25. The intent of the changes and additions to this Chapter is to simplify existing procedures, to avoid duplication with the bureacracy of the City of St. Paul wherever feasible, to reflect the intent of the Board's new (since 1973) statutory purposes, and to specify the procedures in applying for a "Certificate of Design Compliance" (a power recently granted to the Board by the Legislature to enhance and protect the dignity, beauty, and architectural integrity of the Capitol area). See Minn. Laws 1980, Chapter 614, Section 48, codified as the fifth and fourth from the last sentences of Minn. Stat. § 15.50, subd. 2(a). The Board's Statement of Need and Reasonableness details the need for and reasonableness of the proposed changes and additions to this Chapter and demonstrates their necessity and reasonablness by an affirmative presentation of facts. That portion of the Statement of Need and Reasonableness dealing with Chapter Fourteen is incorporated herein by reference.

The reader's attention is particularly directed to proposed CAAPB 1404-1407, which set out the standards of review for issuance of Zoning Permits and Certificates of Design Compliance. With respect to CAAPB 1407C., the Hearing Examiner presumes that the Board will inform the applicants on a case-by-case basis of whatever additional information is "reasonably necessary". The Hearing Examiner has found this subsection to be necessary and reasonable because he understands it as a recognition that the Board should have an option to be flexible in exercising its discretion regarding Certificates of Design Compliance. Therefore, the proposed rule is not void for vagueness or illegal in granting an overly-broad discretion. Given the compexity and variety of factors that can enter into a decision on granding a Certificate of Design Compliance, the Hearing Examiner finds that it is impracticable to set specific standards in the rule. It is unlikely that the rule could be significantly more precise in this type of scheme, which establishes extremely broad parameters of professional review and discretion under CAAPB 1501-1511, as discussed at Finding of Fact 27. See Can Manufacturing Institute v. State, Op. cit., at 423.

Newly-proposed CAAPB 1413 is somewhat unclear, as the second clause is written. In order to clarify the intent and meaning of the rule, it is suggested that the word "permit" between "building" and "for" be changed to "permitted". Such a change would be clerical, not substantial, in nature. ✓ changed p.35

Proposed CAAPB 1414 makes a substantive change in that it provides for the voiding of the authority granted in any permit or certificate if the Board's inspection and issuance fees are not paid within six months of the granting of the authorization. Any offenders would presumably be unable to proceed with work until they paid the first fee and then reapplied. This rule has been found to be necessary and reasonable since it is rationally related to the Board's statutory purposes in a very basic way - the Board must be liquid, in a financial sense, if it is to fulfill its mission.

Chapter Fifteen: Notice and Amendment

26. This Chapter, as it is found in the current regulations at CAAPC 1501 and 1502, is being proposed for deletion in its entirety. Many of the Chapter's provisions are now pre-empted by the Minnesota Administrative Procedure Act, which has been enacted at Minn. Stat. §§ 15.0411-15.052 since the regulations were adopted in 1973. Proposed Chapter 16 (Variances) also covers much of this Chapter's provisions. For these reasons, and for the reasons stated in the Board's Statement of Need and Reasonableness, it is found that the Board has documented the need for and reasonableness of deletion of CAAPC 1501-1502 by an affirmative presentation of facts.

Chapter Fifteen: Design Rules for Visual Corridors

27. Perhaps the most comprehensive or radical change in the Board's proposals is embodied in this new Chapter Fifteen. The Chapter, in accordance with the Board's Comprehensive Plan for 1980, has identified and designated certain areas within the Board's jurisdiction as "visual corridors", which corridors are described at CAAPB 1501 and identified on a map entitled "Visual Corridors". The Chapter goes on to specify particular rules regarding building height, setback, parking, landscaping, access and egress, signage, mechanical and electrical equipment, and design criteria within the corridors, which will apply whenever "new" construction is undertaken as specified in CAAPB 1502.

The intent of the scheme is to enhance the view of the Capitol Building by means of ultimately creating a visual "frame" in which the viewer will encounter the structure.

The Hearing Examiner finds the proposed Chapter Fifteen to be needed and reasonable. The reader is referred to the Board's Statement of Need and Reasonableness for a detailed, four-page single-spaced presentation of facts demonstrating the need for and reasonableness of the proposed Chapter Fifteen. That potion of the Statement of Need and Reasonableness is also incorporated by reference herein.

It is suggested that the following clarifying and clerical changes be made, which would not be substantial changes: the phrase "Aurora Street and adjacent land" should be inserted in the serialization of streets designated, in part, as "Visual Corridors" in CAAPB 1501 (to conform with the "Visual Corridors" map); at CAAPB 1504B., Cedar "Avenue" should be changed to Cedar "Street"; at CAAPB 1511, "1504" should be changed to "1604". OK p. 40

OK p. 35

OK p. 36

Chapter Sixteen: Variances

28. This Chapter (CAAPB 1601-1604) is a totally new proposal. The Board argues that variance rules are needed to further the unique nature of its duties to preserve and enhance the dignity, beauty, and architectural integrity

of the Capitol area, to protect and enhance open spaces under its jurisdiction, to develop the approaches to the Capitol area, and establish a framework for growth and further development of the area. Variance procedures are proposed to provide for reasonable exceptions to the code in areas of unique architectural design or building materials, and to avoid having to specially amend the rules each time hardship or design considerations may merit a break from the rules. The Board's Statement of Need and Reasonableness, which is incorporated herein by reference with respect to this Chapter, adequately demonstrates the need for and reasonableness of the proposed Chapter by an affirmative presentation of facts. It is the Hearing Examiner's opinion that the proposals of Chapter Sixteen fairly balance the interests of seeking to avoid undue hardship to individual applicants, protection of the rights of similarly-situated parties, and keeping in sight the statutory mandate to preserve and enhance the Capitol area. Therefore, the proposed Chapter Sixteen is found to be necessary and reasonable.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Capitol Area Architectural and Planning Board gave proper notice of the hearing in this matter.

2. That the Capitol Area Architectural and Planning Board has fulfilled the procedural requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) and all other procedural requirements of law or rule.

3. That the Capitol Area Architectural and Planning Board has documented its statutory authority to adopt the proposed rules, and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 3(4)(i) and (ii) (1980).

4. That the Capitol Area Architectural and Planning Board has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980).

5. That the additions and amendments to the proposed rules which were suggested by the Capitol Area Architectural and Planning Board after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 15.0412, subd. 4d (1980) and 9 MCAR §§ 2.110 A. and 2.111 (1980 Ed.).

6. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

7. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Capitol Area Architectural and Planning Board from further modification of the rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted consistent with the Findings and Conclusions made above.

Dated this 6th of July, 1981.

Richard C. Luis

RICHARD C. LUIS
Hearing Examiner

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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Lieutenant Governor Lou Wangberg, do hereby certify that I am a member and the Chairman of the Capitol Area Architectural and Planning Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Capitol Area Architectural and Planning Board, duly and properly called and held on the 6th day of November, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that the rules governing Capitol Area Zoning and Design, as amended in accordance with the Hearing Examiner's report dated July 6, 1981, be and they hereby are approved and adopted pursuant to authority vested in us by Minnesota Statutes § 15.50, subd. 2(a), and that Gary Grefenberg, the executive secretary of the Capitol Area Architectural and Planning Board, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 19th day of November, 1981.

Lieutenant Governor Lou Wangberg

Gary Grefenberg

(Executive Secretary)

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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of the
Proposed Adoption of Rules of
the Capitol Area Architectural
and Planning Board Governing
Capitol Area Zoning and Design

STATEMENT OF
COMPLIANCE WITH
RULEMAKING PROCEDURES

I, J. Michael Miles, Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Assistant Attorney General

Dated: 11/20/81

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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of the Proposed Adoption of Rules of the Capitol Area Architectural and Planning Board Governing Capitol Area Zoning and Design

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
)ss.
COUNTY OF RAMSEY)

Gary R. Grefenberg, being first duly sworn, deposes and says:

That on the 20th day of November, 1981, in the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Gary Grefenberg

Subscribed and sworn to before me
this 20th day of November, 1981.

Donna M. Scott

DONNA M. SCOTT
NOTARY PUBLIC
RAMSEY COUNTY, MN
MY COMMISSION EXPIRES
JUNE 22, 1987

RECEIVED
NOV 2 0 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

STATE OF MINNESOTA

CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD

In the Matter of the
Proposed Adoption of Rules of
the Capitol Area Architectural
and Planning Board Governing
Capitol Area Zoning and Design

NOTICE OF
SUBMISSION TO THE
ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 15.0412:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, November 20, 1981, for review as to form and legality. Pursuant to 1 MCAR § 1.206 B., the Attorney General will not approve the rules for at least ten (10) calendar days after receipt to allow any person or association time to comment on the review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 580 State Office Building, 435 Park Street, Saint Paul, Minnesota 55155, telephone (612) 296-6196. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after the hearing and before submission to the Attorney General, you may contact Gary Grefenberg, Executive Secretary, Capitol Area Architectural and Planning Board, telephone (612) 296-7138.

Gary Grefenberg

Executive Secretary