PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

11-0644R

RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION TO GRANT IN PART THE APPLICATION FOR A VARIANCE FROM SIGN REGULATIONS BY GRANDMA'S SPORTS BAR & GRILL, INC. (PLANNING FILE NO. 11-120).

BY COUNCILOR STAUBER:

RESOLVED, that the city council finds as follows:

1. On September 21, 2011 Grandma's Sports Bar & Grill, Inc. submitted an application for a variance from the city's sign regulations. The applicant's place of business is located in the Canal Park district of Duluth and its address is 425 Lake Avenue South.

2. The applicant seeks to install an illuminated marquee sign, which is an allowable sign in the Canal Park district; however, it seeks a variance from the restrictions applicable to the marquee sign. The type of relief requested is:

(A) A variance to allow installation of a marquee sign with lettering that would project above the marquee's facia; and

(B) A variance to allow lettering height to exceed the ten (10) inch height restriction as follows: (1) the word "Grandmas" in 36 inch letter; (2) the word "Sports" in 24 inch lettering; (3) the word "Garden" in 24 inch lettering, and (4) the phrase "Event Center" in 12 inch lettering.

3. Pursuant to Minnesota Statutes Section 15.99 the deadline for the city's decision is January 19, 2012.

4. A public hearing was held by the planning commission during its November 8, 2011 meeting. The commission considered the recommendation of the city's planning staff. The planning staff recommendation included the following conclusions:

(A) Section 50-27.4C of the City Code provides the standards applicable to a marquee sign and requires that: (1) the sign be structurally integrated into the facia of a marquee and prohibits projection beyond the fascia; and (2) limited lettering height to ten (10) inches.

(B) Section 50-37.9C of the City Code provides the standards that must be satisfied to support the granting of a variance and in relevant part mandates that:

(1) The applicant demonstrate that exceptional conditions related to the property exist, and that strict application of the Code "would result in peculiar and exceptional practical difficulties or exceptional or undue hardship to the property owner;"

(2) "The special circumstances or conditions that create the need for relief were not directly or indirectly created by the action or inaction of the property owner or applicant;"

(3) "The special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity;"

(4) "The relief is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant;"

(5) "The relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city;"

(6) "The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map;"

(7) "The relief does not allow any type of sign that is not allowed in the zone district where the property is located, pursuant to Section 50-27;"

(C) Two other marquees signs are located in the Canal Park district. The Adventure Zone sign contains lettering that is 48 inches in

height, but the lettering does not project beyond the facia. The Waterfront Plaza sign has lettering that projects above the facia, but the lettering is 24 inches in height and is not illuminated.

(D) The applicant's request for illuminated sign lettering height up to 36 inches, which projecting beyond the facia, exceeds the size and exposure of existing marquees signs in the Canal Park district.

(E) Limiting any variance in lettering height to 24 inches and either non-illuminated if projected beyond the facia, or illuminated if not projected would be consistent with the character of the other marquee signs in the district.

(F) Granting the applicant's variance would encourage other businesses in Canal Park to seek larger signs to compete with the applicant's sign.

(G) The applicant's proposed sign, given its size, location and illumination would impact the visibility of other signs in the district and detract from the goal of creating an attractive business environment.

(H) The applicant's proposal does not meet the variance standards provided in Section 50-37.9C because the proposed sign is out of scale with existing marquee signs in the Canal Park district and is not consistent with the intent of the UDC.

(I) The ten inch height restriction for lettering does present an exceptional practical difficulty for the applicant because it would limit the site visibility due to the proximity of other businesses and the applicant's location near the edge of the district.

5. Based upon their conclusions, the planning staff made the following recommendations:

(A) That the applicant be granted an alternative variance that authorizes lettering up to 24 inches in height;

(B) Non-illuminated letters may project beyond the facia;

(C) All letters projecting beyond the facia must be unilluminated.

6. The planning commission granted the applicant a variance from the sign regulations authorizing the installation of a marquee sign with the following restrictions:

(A) Lettering height limited to 24 inches;

(B) Letters may project beyond the facia;

(C) All letters projecting beyond the facia must be unilluminated.

7. On November 17, 2011 the applicant filed an appeal of the planning commission action. The applicant asserts that it has met the standard for a variance as requested for the following reasons:

(A) The Teatro Zuccone and Zinema Theater, located in the adjacent downtown district have similar signage;

(B) The size of the building facade of the Sport's Garden and Event Center requires a strong attention-getting focal point to identify the entrance;

(C) The signage needs to be identifiable from many distant view corridors;

(D) Canal Park is an entertainment district and an appropriate place to locate the proposed sign.

RESOLVED FURTHER, based upon the record before the council, the decision of the planning commission is reversed on the following grounds:

(1) The planning commission's conclusion that a hardship exists is supported by the record.

(2) The sign proposed by the applicant is necessary to preserve the applicant's need for visibility.

(3) The sign proposed by the applicant would not have an adverse impact on the Canal Park district.

RESOLVED FURTHER, the applicant's request for a variance as applied for is granted.

Approved as to form:

M. Alvin Lutto

Attorney

PLNG/ATTY MAL:dma 11/22/2011

STATEMENT OF PURPOSE: This resolution reverses the decision of the planning commission to approve the application for a variance, in part, to construct a marquee sign and grants the variance applied for by the applicant.