



The City Council of the City of St. Charles welcomes you to its
Regular Meeting of Tuesday, July 23, 2019 at 6:00 p.m.
at 830 Whitewater Avenue, City Council Chambers, St. Charles, Minnesota.

ITEM	ACTION REQUESTED
1. Call to Order	
2. Pledge of Allegiance	
3. Approval of the Agenda	
4. Notices and Communications –	
5. Review of Financials	
6. Ordinance #609 Veterans Memorial (2 nd Reading)	APPROVE
7. Resolution #27-2019 Legal Nonconforming Structure-Amish Market	APPROVE

UNSCHEDULED PUBLIC APPEARANCES: Members of the audience may address any item not on the agenda. State Statute prohibits the City Council from discussing an item that is not on the agenda, but the City Council does listen to your concerns and has staff follow up on any questions you raise.

ADJOURNMENT



MEMORANDUM for the CITY COUNCIL of St. Charles for
Tuesday, July 23, 2019

6. Ordinance #609 Veterans Memorial (2nd Reading). Enclosed is a copy of the proposed ordinance and is recommended for approval of the second reading.

7. Resolution #27-2019 Legal Nonconforming Structure-Whitewater Travel Center (former Amish Market Square). Enclosed is the resolution for consideration as well as background information. The P&Z Commission reviewed the request last Thursday and recommended approval.

CITY OF ST. CHARLES

ORDINANCE #609

**AN ORDINANCE OF THE CITY OF ST. CHARLES, MINNESOTA,
ESTABLISHING A VETERANS MEMORIAL.**

THE CITY OF ST. CHARLES DOES ORDAIN:

SECTION 1. Table I: Streets, Easements and Public Ways, of the City Code of St.

Charles, Minnesota, be amended as follows:

VETERANS MEMORIAL.

(A) *Findings and Purpose.* The City Council finds that there should be an area within the City's park and open space system set aside as a memorial for and to honor our Nation's, State's and City's men and women currently serving in or who have served in the Armed Forces of the United States (the "Veterans Memorial").

(B) *Establishment.* Pursuant to Minnesota Statutes, Section 416.01, a Veterans Memorial is hereby established and designated upon that certain portion of City-owned land located at northwest corner of 11th Street and Whitewater Avenue within the City and respectively described and depicted on Exhibits A and B, which are attached hereto and incorporated herein by reference. The Veterans Memorial hereby designated is set aside for purposes of the public honoring and remembering the service and sacrifice of our Nation's veterans.

(C) *Licenses.* In carrying out the purposes hereof, the City may license(s) local veterans organizations, or other agents or contractors for purposes, including but not limited to the following: supervising, managing, controlling, obtaining monuments, placing of monuments, operating, and maintaining the Veterans Memorial, and such other services or responsibilities as the City Council shall designate or require in its judgment and discretion in the public interest.

(D) *City Management and Funding.* This ordinance does not require or establish any obligations upon the City to operate, manage, maintain or fund the Veterans Memorial, or and City approved monuments or improvements thereto. The City may rely entirely on the licensing and contracting authority established herein for the Veterans Memorial whereby the Veterans Memorial will be funded along with such other obligations or responsibilities as the City may require, by licensed organizations and/or private individuals or contractors, with or without City funding. Any City funding for the Veterans Memorial shall be approved by the City Council in its discretion.

(E) *Rules of Conduct.* In carrying out the purposes hereof, the City recognizes that activities inconsistent with purposes of the Veterans Memorial occurring at the Veterans Memorial inherently contravene, interfere with and are injurious to such purpose of the Veterans Memorial and that there are other areas of the City where such legal activities may otherwise

freely occur. Accordingly, the City has a compelling interest in imposing time, place and manner restrictions on those activities inconsistent with the purpose for which the Veterans Memorial is designated on a content neutral basis and in a manner that does not unreasonably infringe upon the rights of the City's inhabitants and visitors to engage in free speech or the free exercise of religion. Therefore, the rules of this section define the standards of conduct required of all the City's inhabitants and visitors to the Veterans Memorial, which is a shrine to honor present and past members of the Armed Forces of the United States and may contain monuments for the Civil War, World War I, World War II, Korea, Vietnam, Desert Storm and an All Wars Monument. In addition, POWs, MIAs, Gold Star Spouses and Parents, and Purple Heart holders may also be honored.

- (1) All visitors, including those attending or taking part in a military memorial service or ceremony, shall observe proper standards of conduct, decorum and decency. Military memorial service or ceremony means a formal group activity conducted by an established military service group or organization intended to honor the active service or memory of members of the Armed Forces.
- (2) Specifically, no person shall within the designated grounds of Veterans Memorial:
 - (a) deface, climb on, sit on, stand on or otherwise damage any monuments;
 - (b) use the grounds for playing sports or participating in athletics;
 - (c) use the grounds for grilling or other cooking activities;
 - (d) erect a tent, hammock or other structure unless the use of the same is part of a military memorial service or ceremony authorized by this ordinance;
 - (e) deposit or throw litter or other debris;
 - (f) drive any motor vehicle other than in a parking lot or street;
 - (g) engage in any disorderly conduct as defined in State Statute or City Code;
 - (h) display or distribute commercial advertising for the purpose of soliciting business or otherwise solicit business; or
 - (i) be within the boundaries of the Veterans Memorial between the hours of 10:00 p.m. and 4:00 a.m. of the following day, unless the use of the same is part of a military memorial service or ceremony authorized by this ordinance.
- (3) *Exceptions.* This Section E shall not apply to the following:
 - (a) *Public safety.* The operations of authorized public safety or other City personnel or emergency or City vehicles, including without limitation police vehicles, fire vehicles, ambulances and City, county or state snowplowing vehicles, the use of

sirens, warning devices, sound amplification devices or other equipment by public safety personnel or other City personnel in emergency situations or otherwise.

(b) *Emergency or other City work.* Activities or work by City personnel in the performance of emergency work to preserve the public health, safety, or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard or such other work as the City Administrator or City Council deems necessary or appropriate in the public interest.

(c) *Government sponsored or permitted or licensed activities.* Those certain City, and/or government permitted or licensed activities shall be exempt from the provisions of this Section.

(4) *Penalty.* Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor.

SECTION 2: This Ordinance shall take effect thirty days after its publication.

Adopted this ____ day of _____, 2019 by the City Council of the City of St. Charles, Minnesota.

John Schaber, Mayor

Attest:

Janell Dahl, Deputy City Clerk

First Reading:

Date: _____

Ayes: _____

Nays: _____

Absent: _____

Abstain _____

Second Reading:

Date: _____

Ayes: _____

Nays: _____

Absent: _____

Abstain _____

Published:

Date: _____

**CITY OF ST. CHARLES
RESOLUTION #27-2019**

A Resolution Approving a Legal Nonconforming Structure (Mixed) for the relocation of a 55-foot sign in a C-2 Service Commercial District as Described in the St. Charles Zoning Ordinance of the City of St. Charles

WHEREAS, an application for a Mixed Nonconforming Structure relocation has been duly filed; and

WHEREAS, the Planning Commission, after review, recommends granting the Legal Nonconforming Structure relocation to Jason Elsing, owner of Interstate Holdings, LLC (Whitewater Travel Plaza formerly Amish Market Square), from the provisions of Section 152.42 of the St. Charles Zoning Ordinance; and

WHEREAS, a condition of approval by the Planning Commission is that all applicable building and State permits will be applied for and received prior to relocation; and

WHEREAS, as a condition of approval by the Planning Commission is that parcels 29.001.0050 and 29.001.0060 either will be combined through the Winona County Auditor Treasurer's Office to locate the structure as an accessory structure to the principal use, or the structure will be located on parcel 29.001.0060.

FINDINGS OF FACT:

1. A rezoning of the property would be inappropriate.
2. The relocation will be compatible with adjacent property and the neighborhood.
3. The relocation will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors, and parking congestion.
4. The relocation will improve the appearance of the neighborhood because one sign will be eliminated.
5. The relocation will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located.
6. The relocation will not be located in the floodway district.

NOW THEREFORE, BASED ON THE FINDINGS OF FACT ABOVE, IT IS RESOLVED BY THE CITY OF ST. CHARLES, MINNESOTA:

A Legal Nonconforming Structure relocation is hereby granted to Jason Elsing, owner of Parcel 29.001.0060, to relocate a 55-foot sign structure within a C-2 District to be located at 2850 Whitewater Avenue, St. Charles, MN 55972.

Adopted this 23rd day of July, 2019 by the Council of the City of St. Charles, Minnesota.

John Schaber, Mayor

Attest: _____
Janell Dahl, Deputy City Clerk



Memorandum

To: St. Charles Planning and Zoning Commission

From: Nick Koverman, City Administrator

Date: July 5, 2019

Subject: Jason Elsing, Whitewater Travel Plaza (formerly Amish Market Square), Legal Nonconforming Structure (Mixed)

REQUEST SUMMARY

Jason Elsing, owner of Whitewater Travel Plaza (formerly Amish Market Square), has requested a building permit to construct a 55-foot advertising sign on his property located at 2850 Whitewater Avenue within a C-2 Service Commercial District property. The property (Parcel ID#29.001.0060) is currently used as a gas station/convenience store/restaurant located on 4.25 acres adjacent to Interstate 90. He also owns a 6.24 acre property (Parcel ID#29.001.0050) which abuts the commercial operation. Both properties are zoned in the C-2 Service Commercial District property which is the same as the northwest corner of Interstate 90 by the water tower. Mr. Elsing is requesting to reuse an existing 60-foot structure, reduce the size, and relocate it to the front of the property.

REVIEW

In working with Andy Masterpole of SEH Engineers, we reviewed the site and request. Currently, two free standing advertising signs exist on the property; one 60-foot structure and one 40-foot structure. Mr. Elsing's proposal would eliminate the existing 40-foot sign at the entrance and relocate the 60-foot structure to a new location near his entrance and reduce the height to 55-feet. At the time when the property was annexed into the City, the most appropriate district to designate the property as, which would have been in line with the comprehensive plan at the time, was a C-2 Service Commercial District. This district is primarily used along Highway 14 as well as Highway 74.

In the current signage Code of the General Regulations 152.41(K), the district stipulates the following: *No sign shall project higher than 6 feet above the height of the building, or 32 feet above the average grade at the building line, whichever is greater.*

In reviewing Section 152.42 Nonconforming Uses, Mixed conformities (B2), it states the following:

*Structure (conforming or nonconforming) Containing a Legal Nonconforming Use.
Structures containing 1 or more legal nonconforming uses shall not be moved to a new*

location on the zoning lot, expanded, enlarged in any way, nor shall such use be intensified, except that the city planning commission may permit the relocation, expansion, enlargement, or intensification of such use or structure or any accessory structure, if it makes the following findings; and the relocation, expansion, enlargement, or intensification meets all the other applicable regulations of this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

Andy Masterpole and I reviewed the zoning and made the following staff recommendations/comments.

(a) A rezoning of the property would be inappropriate. *In reviewing the request from the petitioner, initially we discussed rezoning the property C-3 Regional Commercial as a possible option. Bringing it in line with the C-3 district that is caddy corner to the petitioner's property, made sense. However, in further discussion with Mr. Elsing, he would like to utilize his adjacent 6.24 acre property as possible overnight for campers/trailers. This request and use is a permitted use within the C-2 District that he is in currently. Therefore, it would be inappropriate to rezone the property and eliminate a desired option. In addition, it has been discussed that if other potential businesses in the C-3 needed greater heights for signage, more than likely the City would accommodate a request for an amendment to the code that currently proposes a 45-foot tall restriction.*

(b) The enlargement, expansion, relocation or intensification will be compatible with adjacent property and the neighborhood. *Staff discussed that the signage request reduced the number of signs overall and was not an intensification, but rather a reduction. The relocation would be compatible with adjacent properties and the neighborhood.*

(c) The enlargement, expansion, relocation, or intensification will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors, and parking congestion. *The proposed request to relocate the sign and reduce the size would not result in any above mentioned impacts.*

(d) The enlargement, expansion, relocation or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood. *The proposed request will eliminate one sign totally and improve the appearance of the property.*

(e) In districts in which residential uses are allowed, the enlargement, expansion, relocation or intensification will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located. *No residential uses are located near the property in question.*

(f) The enlargement, expansion, relocation or intensification will not be located in the floodway district. *The relocation will not be located in the floodway district.*

RECOMMENDATION

In conclusion, staff recommend the relocation of the existing 60-foot sign that will be reduced to a 55-foot structure with the condition of the removal of the 40 foot sign and a joining of the parcels so that the accessory structure is secondary to the principal use, unless the proposed location is on the same parcel as the gas station/convenience store/restaurant.

FINDINGS AND CONCLUSIONS

WHEREAS, the Planning Commission after review, made a favorable recommendation to the St. Charles City Council for a favorable recommendation for the relocation of the nonconforming use based on the testimony and information submitted; and

WHEREAS, a condition of approval by the Planning Commission is that all applicable building and State permits will be applied for and received prior to relocation; and

WHEREAS, as a condition of approval by the Planning Commission is that parcels 29.001.0050 and 29.001.0060 either will be combined through the Winona County Auditor Treasurer's Office to locate the structure as an accessory structure to the principal use, or the structure will be located on parcel 29.001.0060.

NOW, THEREFORE, the St. Charles Planning and Zoning Commission, based upon the evidence presented at said hearing, make the following:

FINDINGS

1. A rezoning of the property would be inappropriate based on the proposed use of the petitioner's full property.
2. The relocation will be compatible with adjacent property and the neighborhood.
3. The relocation will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors, and parking congestion.
4. The relocation will improve the appearance or stability of the neighborhood.
5. The relocation will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located.
6. The relocation or intensification will not be located in the floodway district.

7/2/2019

City of St Charles

Whitewater Travel Plaza, Inc (formerly Amish Market Square, Inc) is in the process of changing fuel branding and imaging to a different distributor. This change is being pursued in efforts to prepare for potential competition in the I-90/ Hwy 74 intersection area. This will require a change to both existing high rise signs to a new standard as well. Currently, the two existing high rise signs face east toward Hwy 74. This is ineffective for advertising our business to the I-90 traffic which is to the north. The new plan requires re-imaging of the existing forty (40) foot tall fuel sign which would stay in the current location. The existing sixty (60) foot fuel sign will be moved to a new location on the property and re-imaged. It will face north and will be only fifty-five (55) feet in height. This fifty-five (55) foot height will allow I-90 traffic stopping on the west bound off ramp to see the sign under the bridge. Any higher or lower height would make the sign unviewable to potential and existing customers.

Whitewater Travel Plaza, Inc is located within the St Charles commercial district "C2" which has a maximum sign height of thirty-two (32) feet. The current two existing high rise signs are out of compliance and are believed to have been "grandfathered-in". We ask if a compromise can be made. We will eliminate the forty (40) foot out of compliance sign from the project in exchange for the allowance of the sixty (60) foot sign to be moved to a new location along Hwy 74 and be made to only fifty-five (55) feet in height.

This action would bring our signage closer to the C2 guidelines, help clean-up sign clutter, and help Whitewater Travel Plaza, Inc maintain a presence at the I-90 / Hwy 74 intersection.

Thank you for your consideration of this request!

Jason Elsing, CEO
Whitewater Travel Plaza, Inc