MINUTES OF THE ZONING COMMITTEE
Thursday, September 10, 2015 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Nelson, Padilla, Reveal, Wencl, and Wickiser
EXCUSED: Merrigan, Makarios, and Edgerton
STAFF: Anton Jerve, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

Paikka - 15-153-004 - Conditional use permit for a reception hall, 550 Vandalia St, between Wabash and Hwy I-94

Anton Jerve presented the staff report with a recommendation of approval with a condition for the conditional use permit. He stated District 12 made no recommendation, and there were no letter in support or opposition.

Upon questions from the Commissioners, Mr. Jerve said he didn't include the hours of operation in the conditions because he didn't think it would be an issue, in terms of noise, given the industrial land use surrounding the site. He stated that 20 parking spaces would be the minimum required given the square footage for office and a reception hall. There are 208 parking spaces available for the entire complex where the reception hall is located.

The applicant, Angela Trygg, 4912 29th Avenue S, Minneapolis, said they have set their max capacity at 350 for standing receptions which is lower than the allowed capacity. In addition to the event space there is a large hallway and office space with a lounge area. The entire space can be opened to be used as one functioning space. They have a max capacity of 200 for seated events in event space only.

At questions from the Commissioners, Ms. Trygg stated that all the food and liquor would be catered by licensed caterers and bartenders. They will not do any food prep or food service themselves. There will be space for the caterers with a sink, refrigerator, prep surfaces and outlets.

No one spoke in support or opposition. The public hearing was closed.

Commissioner Julie Padilla moved approval with a condition of the conditional use permit. Commissioner Elizabeth Reveal seconded the motion.

The motion passed by a vote of 5-0-0.

Adopted Yeas - 5 Nays - 0 Abstained - 0

Drafted by:	Submitted by:	Approved by:
Samantha Langer		
Samantha Langer	Anton Jerve	Gaius Nelson
Recording Secretary	Zoning Section	Chair

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EXCUSED: Edgerton, Makarios, and Merrigan
STAFF: Josh Williams, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

Starbucks - 15-152-287 - Conditional use permit for drive-through sales (coffee shop) and variance of minimum floor area ratio, 234 Snelling Ave N, SE corner at Marshall Avenue

Josh Williams presented the staff report with a recommendation of approval with conditions for the conditional use permit & variance. He noted that the required FAR is .3 not .5 as indicated in the staff report. He also added there was a modification to condition five and it should state; the hours of operation of the drive-through service shall be no earlier than 5:30 am to no later than 10:00 pm. He stated District 13 recommended denial, and there were 3 letters in support, and 3 letters in opposition.

Mr. Williams noted that he has received additional information from Ramsey County and the MN Department of Transportation regarding the curb cuts. Ramsey County is generally satisfied with the access on Marshall. There were some concerns about the design with the island on the site plan to enforce the right turn only. MN Department of Transportation has purchased access along some State highways and they may hold the rights to where the curb cut is located. If they do hold the rights they would want to see a right out only on Snelling. Their concern is pertaining to stacking in the drive through lane. IN addition, he noted that a suggestion for safety within the bike lane would be to have colored pavement marking the lane.

At questions from the Commissioners, Mr. Williams said he doesn't believe Public Works includes bicycle safety or counts in traffic studies. Understanding what the traffic during peak hours in this location would be helpful and Public Works may ask for that information.

Commissioner Padilla made a note to staff that as we have a bicycle plan in place we need to focus on some of the safety issues. Painting and adding vertical separators on bike lanes would be helpful.

Tony Barranco, Ryan Companies, 4716 Colfax Avenue S, Minneapolis, stated they did not have a plan for this parcel when they were developing the Vintage site. Their priority was looking at the relocation of the Associated Bank branch and the Vintage on Selby project. They have struggled with how to develop this site because it is a very small site at only .43 acres. They have spent three years looking at different options and struggled to find tenant interest because of the balancing act they have needed to do on the site. They looked at trying to do below grade parking, but there is a massive retaining wall on the east and south sides of the site. To do retention and dig a hole and provide a safe slope they found there wasn't enough width from north to south to get traffic down into a lower level without consuming the entire eastern edge of the property. That would leave about 10 parking spaces on a fully excavated site. The high cost to excavate and reinforce the rail bed and columns for such limited parking makes it an

impossible investment. They have met with the Union Park neighborhood group many times since March and they have tried to accommodate some of the comments made by Union Park members. Starbucks will be a LEED Certified building which meets a lot of the sustainability goals that are concurrent with the zoning guides as well as future land use in the City. They will have Union Park bike racks in front of the site. They have extended café areas to liven up the corner. There will be both and indoor café and outdoor patio area. The building is positioned on Snelling Avenue so it takes up a majority of the façade. The location of the drive is a fixed point as far away from the intersection as it can be. They have tried to stretch the building as far as they can so the visual impact of what it looks like is in line with an urban core. The building will be pushed up to the corner and extend all the way back. He showed photographs detailing the site constraints including the embankments and retaining walls. Mr. Barranco addressed traffic and parking concerns. He said people are also struggling with the supply of parking. They have engaged in a program to try and figure out how to manage the supply of the area. Generally speaking the commercial neighbors have been supportive of this plan. The traffic in this corridor is significant. He noted specific traffic data, compiled from the December 2, 2013, traffic study that was approved for the Vintage project (see attached). About twelve new trips would increase peak hour trips from 3,703 to 3,715 and would not have a noticeable impact on the performance of the system. Based on feedback from MN Department of Transportation and Ramsey County they would not be required to have a traffic study. He said they did do bike counts in the TDMP for the Vintage project. He can provide that data at the Commission's request. In terms of distribution of traffic, one of the things they spent a lot of time on is Marshall Avenue because there is more complete access. The smallest leg of the intersection in terms of traffic is the west bound traffic on Marshall going through the intersection. It is only 8% of what is going through the intersection. Mr. Barranco submitted three letters of support they have received on the project. Mr. Barranco provided background on the zoning issues they have faced with the entire development of the site. He also said they have no intention to come back to change the use into a Starbucks that will be potentially able to serve beer and wine.

Upon questions from the Commissioners, Mr. Barranco stated he doesn't know if they will close the Starbucks located at the corner of Selby if this application is approved.

Anne White, 1731 Portland Avenue, Saint Paul, spoke in opposition. She urged that the Committee either recommend denial of the applications or at very least table the decision until concerns can be resolved. The neighborhood has been considering this drive through for six months. In June they considered a site plan which was actually withdrawn at the suggestion of city staff. There were many issues that had not been sufficiently addressed. In August, they considered a slightly revised site plan. Essentially the only real changes made were to add a pork chop type island at the entrance onto Marshall Avenue and to expand the building towards Snelling Avenue. None of the other issues that remain have been addressed. The Zoning Committee is being asked to recommend approval with multiple issues that are still unresolved. That is evidenced by the huge number of conditions that are being suggested to the approval. She is particularly concerned about condition number four. Saint Paul Public Works, the MN Department of Transportation and Ramsey County should review and approve a site plan before this is considered at the Zoning Committee. She also referenced a document submitted named, "Starbucks drive-through Site Plan Concerns re Conflict Zones, Danger to Pedestrians and Traffic Backups" (see attached). The site plan creates multiple conflict points for vehicles, bicyclists, and pedestrians. Ms. White said she could find no other Starbucks with a drive-

through located in Saint Paul or Minneapolis. She showed other photos of Starbucks in the suburbs and they all have a lot more space to navigate. This proposal is an attempt to shoe horn in a drive through in an area with a huge amount of traffic. It is dangerous for pedestrians, bicyclists and will cause congestion. It will also interfere with the new bus line.

Upon questions from the Commissioners, Ms. White said this use will interfere with the BRT line because of the traffic going into and out of Starbucks. She said she is mostly concerned with the drive-through use.

Julie Reiter, 1623 Hauge Avenue, Saint Paul, spoke in opposition. She is speaking as a resident who lives nearby the proposed development. She lives in this neighborhood because of the walkability, the pedestrian friendliness, and bikability. The Comprehensive Plan and intended zoning of this area and the Community Plan reflect the principles that are so important to the residents. She understands that there is room for interpretation in the Comprehensive Plan. There are provisions in the plan that support transit use, walkability, pedestrian friendliness, connections for bicyclists and walkers to adjacent areas and discouragement of auto-oriented uses. She can't think of a more auto oriented use than a drive-through. She is not against a Starbucks, but the drive through use at this location is really antithetical to the direction that they see the neighborhood headed. The T2 zoning is intended to foster compact pedestrian oriented commercial and residential development that supports increased transit use. A car-oriented drive through does not do that. She also noted a document submitted "Land Use and Urban Form in Snelling Avenue Corridor" (see attached). Generally speaking the neighborhood has been really supportive of Ryan Companies in terms of development of the Vintage and Whole Foods. This application feels like they are going backwards. It is disappointing to see something that is a suburban model being brought into an area where they would like to see high density and pedestrian oriented development. The neighbors are also disappointed that this development portion does not support their community; it serves the people coming through the community. She also addressed the variance and the FAR. It is really difficult to understand any hardship that Ryan Companies suffers with this particular parcel. They actually created this parcel in order to accommodate their other client's needs. There may be a use that is better suited and doesn't pose all of the traffic and safety issues. Economic consideration does not justify a variance. There are other alternatives for this site. She also mentioned concerns about the number of conditions placed on the approval of this proposal. She would urge the Committee to either deny the proposal or lay it over to obtain more information about the layout and safety issues of the site.

Whitman Barrett, 602 20th Avenue, S, Minneapolis, spoke in opposition. Mr. Barrett said this development is totally out of keeping with the local area and the broader scope of Union Park. The A-line BRT is going to be running up and down Snelling Avenue. There is a tremendous opportunity to connect the area south of I-94 to University Avenue to the Green Line and the new developments at Midway. This parcel is crucially important to that progress. This proposal has traffic implications and it supports a mode of transportation that the developments around University and Snelling that are actively moving away from, and this development does not support that goal.

Mr. Barranco replied to testimony. He said that they have worked with the neighborhood for years regarding developments. They feel this is the best plan for the site. There are some fixed

points to the site that they cannot change. They have made changes to the site based on neighborhood concerns and they are not only subtle changes. They have eliminated one of the points of access, left hand movements out of the site, which was a big deal. It almost cost them the project. They also had their client increase the building by 18%, from an 1800 square foot building to a 2100 square foot building. In terms of additional time to review the site plan, Mr. Barranco stated they have already spent six months on this site plan. It has been submitted and they are open to working with city staff on the plan. They would appreciate action taken on behalf of the FAR and conditional use request for the drive through to allow them to understand how the site plan will work and to move forward with the project. He appreciates the comments about traffic and congestion. Regardless of what develops on this site the access points will be in the same place. The MN Department of Transportation, Ramsey County, and Public Works have all stated that the safest ingress points should be as far away from the intersection as possible. That is where they have put the ingress and egress points. He stated currently the site with no development is a hazardous one. People will go through the vacant lot to bypass red lights at the intersection. They are proposing to build the curb line out onto Marshall so that if you are queuing to get to or from the site you will have a safer view corridor because you will be able to see the bike traffic. He replied to concerns about timing and stacking in the drive-through. He said the site plan currently allows five cars to be stacked in the drive-through. There is certainly enough capacity based on the expected operation to account for any potential transaction issues. He doesn't believe there will be any BRT interference because the stations are at both of the ends. He also said that the addition of the outdoor patio and indoor seating and bike racks is to accommodate bicyclists and pedestrians. They hope a lot of neighbors and commuters will use this site.

Upon questions from the Commissioners, Mr. Barranco stated he doesn't know if other Starbucks in either Saint Paul or Minneapolis have drive-throughs. He said there is a significant grade change between the Associated Bank drive-through and where the Starbucks drive-through would be located. There isn't a driving interaction between the two. In terms of performance of the Associated Bank drive-through, it's his opinion that they do not fully utilize the four drive-through lanes on the site. They have not had any complaints about the usage of the site.

No one spoke in support. The public hearing was closed.

Commissioner Julie Padilla moved approval with conditions of the conditional use permit & variance. Commissioner Elizabeth Reveal seconded the motion.

Commissioner Padilla stated she understands the concerns raised by the neighborhood, but a drive through with a coffee shop is an allowed use in this site. Traffic in this area is a nightmare and any use on this site will have traffic issues. There will be challenges, but the conditions that have been recommended are appropriate. Hopefully we can get to a place where we are doing things in the implementation of our bike plan that provides more safety for bicyclists. Most challenges bicyclists face are not so much city planning as it is driver awareness and distraction. The egress and ingress of this site are not going to impact whether someone is paying attention or not. The addition of the pork chop shaped island is important to the site for safety. She also noted that there are many other drive-through businesses located in this corridor.

Commissioner Reveal stated she has mixed feeling about the proposal. An auto-intensive use would not be the preferred use in the center of a site that is critical to a transit corridor. She also has a problem having to wait many years with a blighted site in the middle of an area that is trying to be developed. This is a proposal that is an allowable use in this district. She is not persuaded by the argument that there are too many conditions on approval of this proposal.

The motion passed by a vote of 4-1-0.

Adopted Yeas - 4 Nays - 1 (Wencl) Abstained - 0

Drafted by:	Submitted by:	Approved by:
Samantha Langer		
Samantha Langer	Josh Williams	Gaius Nelson
Recording Secretary	Zoning Section	Chair

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STAFF: Wendy Lane, Jake Reilly, Samantha Langer, ~~Allan Torstenson~~ S.L., and Peter Warner

The meeting was chaired by Commissioner Nelson.

Taco Bell – 7545 – Report on standards, conditions, permits and approvals that apply to the existing use at 565 Snelling Avenue N., SW corner at Edmund

Chari Nelson explained the Zoning Committee requested a report on the current operations of Taco Bell at 565 Snelling Avenue N.

Wendy Lane, Department of Safety and Inspections (DSI), Zoning Administrator, presented a report on the status of Taco Bell's compliance with their existing special condition use permit, record of building permits for existing drive-through, and current violations of any city zoning ordinances (see attached).

Commissioner Padilla questioned why the service window is referred to as both a pass-through window and a "walk-up service window" in the report. Those are two very distinctly different things. She questioned if it is being characterized correctly as a drive through or is it an assumption that it is a drive through rather than a pass-through, walk-up window.

Ms. Lane said the original plan referred to a pass-through window and the driveway was right next to the building. As noted in 1975, there was a hearing for Zapata requesting access to Edmund, and a neighbor submitted a letter that referred to a "walk-up service window". There wasn't a sidewalk by the window. She is theorizing that at that time the window was operated as a window where people could either drive or walk up to the window to order food. Ms. Lane stated she can't be certain which one it is. She can only surmise based on the information they have. She confirmed the only evidence stating it was a walk up window was from the letter submitted by the neighbor in 1975.

Commissioner Padilla stated she takes issue with the final paragraph of the report. She is concerned that the report states that they are not in violation of their conditional use permit. The purpose of the hearing is to explore all of the evidence regarding the issues that have been raised over the last few months and she finds it problematic to definitively state that they are not in violation in a public document.

Mr. Reilly noted that this is not a hearing at this point. It is only an examination of the original conditional use from 1975.

Commissioner Nelson questioned the location of the speaker box. When looking at the traffic patterns it seems like the speaker box is in the wrong direction for traffic to be utilized correctly.

Ms. Lane confirmed that the drive through aisle traffic would go against traffic in the two-way drive through aisle in order to access the speaker box.

Commissioner Padilla stated that there have been changes to the site since the 1975 conditional use permit was issued. Clearly we don't know whether this was actually a drive through or pass through window when it was originally established. We have no evidence to state a definitive answer. However, there are still nuisance provisions and standards in the code that they would be required to follow to stay in compliance with their permit.

Mr. Reilly stated that the Department of Planning and Economic Development (PED) writes the zoning code and prepares staff reports for conditional use permits. It is DSI's responsibility to enforce that code. There are other options, but his understanding is that the Planning Commission does not have the ability to request that the Police Department investigate public nuisance issues.

Commissioner Wickiser stated he is confused as to why this is being discussed by the Zoning Committee. DSI has stated that in their opinion there isn't a violation and we know that the Police Department doesn't have an issue with the property. In his opinion, they are overstepping and this body is not supposed to be enforcing these types of issues. He wholeheartedly agrees that there are concerning issues with the way the current restaurant is being operated. As far as he is concerned this body could have approved the application with conditions regardless of whether or not the applicant was going to withdraw or not, and it should have been approved at the Planning Commission, and not sent back to the Zoning Committee to discuss further.

Commissioner Padilla said that the purpose of requesting this report was to discover if there was anything the Zoning Committee could do to address the issues that were raised. It seems that after further investigation into the history of the property they are not able to do anything. She doesn't agree that they could have done something differently. This body and the Planning Commission is supposed to make the best decisions possible for the community and she thinks they tried to do that with the conditions imposed on their application. We cannot control whether an applicant withdraws an application. It is unfortunate that they didn't accept the conditions and move forward with their application. She thinks there was a lot of compromise in what they recommended for approval. The case was referred back to the Zoning Committee at the request of the applicant. The planning commission was being respectful to the applicant because they wanted an additional opportunity to have additional dialogue. The Zoning Committee did make some minor modifications based on input from the applicant and the applicant still withdrew the application.

Chair Nelson stated that there is no evidence that there were building permits issued to install the speaker box. He finds it hard to believe that anyone would approve a site plan where all the traffic lining up to go to that speaker box has to go the wrong direction in the drive aisle.

In response to discussion based on the speaker box, Mr. Reilly stated we don't have a series of site plans for every change that was made to traffic flow at that site. DSI could potentially look into that because if they changed the configuration of the parking spaces they should have had to go through site plan review. He also has documentation going back to the 1950's that refers to the initial use that was a car wash. The car wash was established, but the drive in part of it was never established. They may have been operating under the assumption that they had a permit for a drive-in on a portion of the site, but that was cancelled and that facility was never

built. He confirmed that there is no permit for the footings of the speaker box or any of the other things, but he doesn't know if it is in the purview of the Committee if it is a building permit issue.

Wendy Lane stated that the Department of Safety and Inspections (DSI) would like to be able to enforce some of the issues at the site, but DSI cannot identify anything they can enforce. They are hoping the Police Department can address some of the behavior and quality of life issues that aren't a part of the zoning code. She confirmed that DSI does not have a series of site plans based on the changes that were made to the parking flow. The only site plans they have were the ones submitted in 1975 and 1979 where they wanted access to Edmund Avenue. The site plan in 1979 was basically the same and the access to Edmund Avenue was not approved. She also stated she does not know when the trees were removed from the west property line. She did not have any communication with the applicant, Border Foods, while preparing this report.

After discussion, Commissioner Reveal stated it looks like there is no action that can be taken at this time. She would like staff to stay alert to any issues or complaints regarding this site.

Drafted by:	Submitted by:	Approved by:
Samantha Langer	JB Reilly	Gaius G. Nelson
Samantha Langer Recording Secretary	Jake Reilly OR Wendy Lane Zoning Section	Gaius Nelson Chair