

**Saint Paul Planning Commission
City Hall Conference Center
15 Kellogg Boulevard West**

Minutes October 31, 2014

A meeting of the Planning Commission of the City of Saint Paul was held Friday, October 31, 2014, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. DeJoy, McMahon, Merrigan, Noecker, Padilla, Reveal, Shively, Thao Wang, and Wenc; Messrs. Connolly, Edgerton, Gelgelu, Makarios, Nelson, and Wickiser.

Commissioners Absent: Mmes. *Underwood, and Messrs. Lindeke, *Ochs, Oliver, and *Ward.
*Excused

Also Present: Donna Drummond, Planning Director; Allan Torstenson, Josh Williams, Jake Reilly, and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes October 3, 2014.

MOTION: *Commissioner Thao moved approval of the minutes of October 3, 2014. Commissioner Gelgelu seconded the motion. The motion carried unanimously on a voice vote.*

II. Chair's Announcements

Chair Wenc had no announcements.

III. Planning Director's Announcements

Donna Drummond announced that the City Council passed a resolution requesting the Planning Commission and the Heritage Preservation Commission to study the possibility of adding a historic use variance to the City's codes. The study will get underway quickly as they are looking for recommendations by the early part of 2015. The City Council also approved the sale of \$42 million in bonds that will be funded with half-cent sales tax proceeds to go towards the 8-80 Vitality Fund Program of projects. These projects include the Palace Theater, Jackson Street reconstruction and the downtown bike loop, improvements on the Grand Round, Dickerment Park development, optical fiber infrastructure for City buildings and an additional \$9.5 million that will be used for neighborhood projects around the city that are related to the 8-80 theme.

IV. PUBLIC HEARING: Department of Natural Resources (DNR) Draft Mississippi River Corridor Critical Area Rules - Item from the Comprehensive Planning Committee. (Allan Torstenson, 651/266-6579 and Josh Williams, 651/266-6659).

Chair Wenc announced that the Saint Paul Planning Commission was holding a public hearing

on the Department of Natural Resources (DNR) Draft Mississippi River Corridor Critical Area Rules. Notice of the public hearing was sent on October 8, 2014, to the citywide Early Notification System list and other interested parties.

Allan Torstenson, PED staff, made some introductory remarks about the draft Mississippi River Corridor Critical Area Rules.

Chair Wencil read the rules of procedure for the public hearing.

The following people spoke.

1. Tom Dimond, 2119 Skyway Drive, said his comments are formatted on the DNR's draft rules, which he had submitted, and that the river corridor is a wonderful resource. He held up the Metropolitan Council's 1975 "*Recommendations for Critical Area Designation of the Mississippi River*," noting that it is a valuable document to read because it explains the rationale and thinking that went into the subsequent Critical Area designation and protections currently in place for the river corridor. Mr. Dimond said he is concerned that the new draft rules would reduce protection of the river corridor that has been in place for nearly 40 years, and encourages retention of current protection.
2. Michael Belaen, Director of Public Affairs for the St. Paul Area Chamber of Commerce, said they had submitted written comments and concerns about the proposed rules to the DNR on August 11, 2014, and these had been shared with the Planning Commission. He highlighted four of the Chamber's major concerns:
 1. The DNR has not conducted a sufficient study of how the proposed rules will affect existing commercial, residential and industrial development. The DNR has indicated, for example, that they did not study how many buildings would become nonconforming structures under the proposed rules prior to releasing them in June. The Chamber believes that without additional analysis it will be difficult for the DNR to satisfy statement of need and reasonableness requirements for the rules under the administrative procedures act.
 2. New land use districts and their dimensional standards in the draft rules, as they are proposed to be used in St. Paul, in some cases do not adequately reflect existing and planned development.
 3. The proposed rules would make a lot of existing structures nonconforming. This may negatively affect property values, reduce the strength of Saint Paul's tax base, and prevent some businesses from expanding their physical presence in Saint Paul.
 4. The Chamber has concerns about the proposed set aside requirements in the draft rules. While not the same as parkland dedication requirements, they would be subject to the same takings clause in the U.S. and Minnesota constitutions. If cities like Saint Paul are forced to implement rules that require a large percentage of private property to be set aside as a condition of development approval they will be subject to takings and inverse condemnation law suits which will cost significant amounts of money. The proposed rules would require some land owners to set aside as much as 50% of their property in order to obtain development approval, which is on its face unreasonable.

3. Michael Schmidt, 3229 46th Ave. S., Minneapolis, said he is employed in downtown Saint Paul, travels through the river corridor daily, and appreciates the natural areas along the river. He said that the proposed rules will help preserve the existing open space, provide consistency throughout the corridor, and allow reasonable development consistent with the multiple goals for the corridor. Landslides in Mendota Heights and Minneapolis are why limitations are needed.
4. Karen Reid, Executive Director of Neighborhood Development Alliance (NeDA), said that applying zoning changes to existing built up areas that make up their neighborhood should be done carefully. Many of the structures on the West Side that would be nonconforming under the proposed rules have been part of the urban fabric of the city for generations. They are concerned that implementation of these zoning changes would slowly destroy the residential and commercial fabric of the neighborhood by removing individual properties from the neighborhood like taking out random puzzle pieces. Over time, this could pick apart and threaten the vitality and livability of their neighborhood. The proposed zoning negatively impacts a large portion of the West Side's affordable rental housing and may discourage investment. Buildings affected include a portion of Torre de San Miguel, all of Vista village, and all of Bluff Park Homes. Equally disturbing is the large area east of Highway 52 that would become nonconforming, including Guadalupe Alternative Programs and the surrounding single family ownership and rental housing that is home primarily to low-income families. A variety of long-established and new businesses where owners have and are currently investing would also be nonconforming. NeDA would like the Planning Commission to reflect not only on the environmental goals of the proposed zoning, but also on the social and community impacts zoning enforcement will have on the West Side's low-income neighborhoods.
5. Valerie Ware, 499 Snelling Ave. S., said that the proposed rules threaten our ability to continue enjoying the resources and scenery that make Saint Paul an iconic place. She said the rules must limit building heights to protect unique views, and require setbacks for structures to protect the health of the river from excessive erosion of both the bluff and the shoreline. She thinks the rules provide the minimum protection needed, and Saint Paul can set stronger standards.
6. Whitney Clark, Executive Director of Friends of the Mississippi River (FMR), said that he assumes that everyone is in agreement that a healthy, clean vital Mississippi River studded with open space, parks and trails, scenic vistas and historic sites is vital to the city's well-being. As a Saint Paul resident he is disappointed by City comments that do not represent his views and values with respect to the paramount importance of setting strong and protective standards to ensure the long term health of the river. Our city should be a strong voice in support of smart common sense rules that would protect the scenic and natural character of the river. City comments should also be consistent with City-adopted policies and plans. FMR has many St. Paul members who believe we should be doing more to protect and restore the greatness of the river. No one at a DNR public information meeting in St. Paul spoke against open space set asides or height regulations.
7. Irene Jones, River Corridor Director with Friends of the Mississippi River, noted that Saint Paul's 2002 Mississippi River Corridor Plan lays out a lot of the same policies and goals as the executive order [that designated the Critical Area]. In their close study of the rules the nonconforming use issue has come up a lot. The DNR has bent over backwards to make

sure that it's clear that existing uses will be able to continue. The goal of these rules is focused on new development and redevelopment. That applies specifically to the open space dedication requirements, which do not apply to smaller development or the average thing that might happen on a neighborhood lot. The open space dedication it is designed to protect primary conservation areas as they're called, bluffs and steep slopes and the kinds of things that are along the river that we all value, and a lot of properties that don't have a lot of these features won't be required to set aside or protect as much.

8. Shirley Erstad, Executive Director of Friends of the Parks and Trails of Saint Paul and Ramsey County, said Executive Order 7919 [that designated the Critical Area] repeatedly states the goal is to protect and enhance the natural resource. How well we protect this natural resource has a direct correlation to the economic value of the land adjacent to it. When there was raw sewage in the river we built a correction facility there. Now that we have taken better care of our river the land surrounding it has become more valuable. By protecting and enhancing the natural resource we in turn protect and enhance our local economy. Ms. Erstad noted the statement in Saint Paul's Great River Passage Master Plan that new development should be oriented toward the river, preserving access and views while respecting neighborhood scale and protecting natural resources. Other stated goals include preservation and enhancement of natural areas, redevelopment that enhances neighborhood livability, and the image and the accessibility of the river. To achieve these goals we need critical area regulations that support them.
9. Catherine Zimmer, Executive Director of a nonprofit called Women Observing Wildlife Minnesota, said she appreciates St. Paul's leadership and support in protecting the Mississippi River as a source of drinking water and as habitat for many animals. It also serves as a major migratory route for millions of birds. When she paddles on the river she wants to see natural things, not buildings and signs. She said that the proposed rules will weaken protections for the river, diminish habitat for plants and animals she wants to see, increase erosion, and diminish water quality. As a public health scientist, she said great strides have been made in cleaning up some major sources of pollution for the Mississippi River, but others such as stormwater runoff and effluent from waste water plants are ongoing threats, and said protections should not be weakened.
10. Brian Tourtelotte, a landscape architect with Saint Paul Parks and Recreation made comments from the department on behalf of Director Mike Hahm. Saint Paul Parks and Recreation has a core value of excellence in delivering programs and managing resources entrusted to them. They maintain a staff of well-trained, certified, and licensed design, programming, and environmental professionals. Their work focuses on youth development and enhancement, protection and preservation of our resources.

For over 40 years Saint Paul Parks and Recreation has managed regional parks in the river corridor under the authority of the Metropolitan Council. They are required to follow approved master plans developed with an emphasis on natural resource enhancement and preservation, based on public needs, with extensive public involvement by citizens and local, state and national agencies. The 10 implementing agencies of the regional parks have met with the DNR staff to provide them with information about the regional park requirements and processes, and to request changes to the draft rules to reflect this.

The urban parks of the regional parks system within the river corridor are already being managed to achieve goals of the Critical Area through the guidelines required by the Metropolitan Council. Environmental goals contained within the Parks Chapter of the Saint Paul Comprehensive Plan, the Metropolitan Council Regional Park Environmental Guidelines, and Critical Area goals are parallel goals. Saint Paul Parks and Recreation will continue to strive to be a leader in meeting these goals. It is their desire that the rules allow them to continue to design and manage these intensely used urban parks, to meet public needs, responding to environmental challenges and incorporating evolving technology to meet performance based guidelines applied to unique urban park needs. Urban parks are different from rural open space in use and intensity. The 10 implementing agencies of the regional parks hope that a cooperative atmosphere can be built with the DNR to develop performance-based language in the rules to provide guidance for achieving shared goals of enhancing, protecting, preserving the unique and fragile resources that we all value. Mr. Tourtelotte submitted written testimony from the Director Mike Hahm.

Commissioner Wickiser asked about the different perspectives of St. Paul Parks and Recreation, Friends of the Parks, Friends of the Mississippi, and the DNR about management of parks in the critical area, particularly using the example of whether there should be a soccer field at Victoria Park or if needs for soccer fields should be met outside of the Critical Area.

Mr. Tourtelotte said St. Paul Parks has regular dialog with Friends of the Parks and Friends of the Mississippi, and frequently works with them. Professional parks staff approach protection of environmental resources as a primary directive in all of their projects. He doesn't see any disagreement on that.

Commissioner Shively responded to Commissioner Wickiser's questions about Victoria Park, saying she co-chaired the task force for a recent 18 month community planning process with Saint Paul Parks and Recreation to create a master plan for Victoria Park, accounting for the Critical Area and consistent with the Great River Passage master plan for Saint Paul's river parklands.

11. Julian Sellers said that when he and his wife came to live in Saint Paul in 1978 they were smitten by the Mississippi River and parks along it. We are fortunate that people had the foresight to preserve and enhance areas along the river, and it would be a mistake to weaken the protection now in place for the bluffs, scenic views, and recreational opportunities provided by the river.
12. Rory Steeler with the National Park Service, 111 Kellogg Blvd., said he was on the Victoria Park Task Force, and the Critical Area doesn't preclude soccer fields in that area. He provided some background on the Mississippi National River and Recreation Area (MNRRA), which shares a boundary with the Mississippi River Corridor Critical Area, and the MNRRA Comprehensive Management Plan. Major complaints that they have heard about the critical area program is that it's vague, and the standards are difficult to implement and hard to follow. Their primary desire for the rules is to establish a minimum base line of standards that can be consistently applied throughout the corridor to adequately protect the river into the future. He noted that City staff had raised numerous issues with the current draft of the rules and said Planning Commission comments should be consistent with adopted City plans and policies.

13. Jerry Berquist, 46 Prospect Blvd., said he goes up and down the river in his houseboat and is able to see how beautiful the river is. Protections in place today should be strengthened to preserve the river as it exists and so our children's children can still see what the Mississippi River was like years ago.
14. Lorrie Louder, from the Saint Paul Port Authority, 380 St. Peter St., said the Port Authority had submitted written comments and suggested edits to the rules, and she highlighted a few things. The Port Authority believes in sound river stewardship along with business and economic development activities that generate jobs. We should be able to have a beautiful river and wildlife living together with jobs and business activities. They are concerned that the draft rules would usurp local control over zoning, and are particularly concerned about the rule that would force cities to require private property to be set aside for open space conservation. This is a huge risk that raises the specter of regulatory taking. Before the DNR promulgates the rules this should be fully vetted and all of the potential impacts thoroughly considered. The proposed urban core district should reflect the urban setting, the downtown area should be exempt from steep slope locational requirements, and the creation of nonconforming uses should be avoided. Making existing development nonconforming is a big shout out to the business community that they are not welcome, and the result would be disinvestment in properties.
15. Joanna Eckles, Bird Friendly Manager for the National Audubon Society, said the Mississippi River is an important migratory bird flyway that up to 40% of all North American water fowl use. They have designated 57 areas in Minnesota as Important Bird Areas (IBAs). The entire Critical Area is part of the IBA system where it is important not only to ensure the health of the natural environment and habitat, but also to consider the built environment in terms of how glass is used, how tall structures are, communication towers, wires, and all kinds of things that come with the built environment.
16. Representative Sheldon Johnson, Chair of the Mississippi Parkway Commission, said the Parkway Commission had submitted comments to the DNR calling for protection of river corridor views, historic and cultural assets, public access to and along the river, bluffs, very steep slopes, flood plains, and bluff and shoreline habitat. As a state representative he has heard from many constituents about protecting our river corridor. He encouraged strong rules for protection and enhancement of the river corridor.
17. John Traxler, President of Captain Ken's Foods, 344 S. Robert, said Captain Ken's would be a nonconforming structure under the proposed rules, which would limit future business opportunities and the value of his property. This would be the case for hundreds of residential and commercial buildings that would become nonconforming under the DNR's proposed rules. This matters because they want to expand their building someday just like other current and potential business owners in Saint Paul. Captain Ken's and other businesses would like to have the capability to grow and not be limited by the building deemed as a nonconforming structure. Every community grows one business at a time and one job at a time. Saint Paul is not different. Mr. Traxler said that serious consideration needs to be given to the impact of the proposed rules on current businesses and potential development in Saint Paul. They will affect businesses.

18. Eric Myers, Government Affairs Director for the Saint Paul Area Association of Realtors, said they have been following this issue since 2009 and understand the value and importance of the river corridor for many uses, and its scenic, natural and ecological value. In reauthorizing rulemaking for the Critical Area in 2013, the Minnesota Legislature was careful to include language specifically stating that when establishing districts the DNR shall consider management of the river corridor consistent with its natural characteristics and its existing development, and in consideration of potential new commercial, industrial and residential development. It has been said today that nonconforming uses has been a major concern, and that is their primary concern. Blanket rules for a 72 mile stretch of the river corridor that would make thousands of commercial, industrial and residential properties nonconforming is probably not in the best interest of the city. The city should take a close look at nonconformities. Once a property becomes nonconforming it can be very difficult to get financing for it, sell it, or develop it. Some groups are underplaying the significance of this. Mr. Myers said he had submitted written comments.
19. Edna Brazaitis, a Minneapolis resident, said she believes we need strong rules to protect this asset. She said she lives in an 1876 house and historic properties are exempt from nonconforming uses.
20. Paul Sawyer, District 1 Community Council Chair, said the District 1 Community Council appreciates the careful review of the draft rules and the ability to comment on them. The draft rules need to provide a balance. Amongst the natural resources in our neighborhoods are hundreds of residents and numerous businesses. The rules can and should be implemented in a way that both protects resources and allows residents and businesses to thrive. The rules cannot be overly restrictive to the residential development of the area nor place too much of a burden on businesses looking to expand. Overly cumbersome requirements would result in stagnation of our neighborhoods, ultimately leading to decline.

The most significant concern District 1 has is with the districts that have been proposed for their portion of the Critical Area. Much of the area is currently in the Urban Open Space District. With the new set of districts proposed in the rules, the Rural & Open Space District designation across a broad area in District 1 is not an appropriate successor to the Urban Open Space District. The area east of Highway 61 does not meet any of the characteristics described in the draft rules for the Rural & Open Space District.

While the District 1 Community Council supports a requirement for a permit for certain vegetation removal activities as currently required in Saint Paul's Tree Preservation Overlay District, they would like clarity in how it would be applied to invasive species removal, would like to know if replacement with native species would be required, and want to ensure that removal does not endanger soil stability on the slopes in their area. There are many areas in our forests that are dominated by buckthorn, Tartarian honeysuckle, white mulberry, and other invasive woody plants. Written comments from the District 1 Community Council were submitted.

21. Peggy Lynch, 1621 Beechwood Ave., said she was on a Citizens League Committee 40 years ago that made the original recommendation to the Metropolitan Council for designation of the Mississippi River as a critical area. She is concerned that the draft rules would change the protection of bluffs, especially after seeing what happened last spring and a couple years ago at Lilydale Park. Many of the bluffs are fragile. New protections are

needed not only for scenic beauty but also for the safety of buildings and people. She is also concerned that the rules would eliminate the parkland dedication requirement that has been in effect for 40 years. This has not caused a problem the City of Saint Paul, which is now in the process of updating their parkland dedication ordinance.

MOTION: *Commissioner Merrigan moved to close the public hearing, leave the record open for written testimony until 4:30 p.m. on Monday, November 3, 2014, and to refer the matter back to the Comprehensive Planning Committee for review and recommendation. The motion carried unanimously on a voice vote.*

V. Zoning Committee

SITE PLAN REVIEW – List of current applications. *(Tom Beach, 651/266-9086)*

Two items came before the Site Plan Review Committee on Tuesday, October 28, 2014:

- Repave school bus parking lot for Saint Paul Public Schools at 261 Chester Street.
- Shepard Road Development, preliminary meeting on the Master Plan and Phase 1 for a mixed-use development at 2751 Davern (at Shepard Road).

NO BUSINESS

Commissioner Padilla announced the items on the agenda at the next Zoning Committee meeting on Thursday, November 6, 2014.

VI. Neighborhood Planning Committee

Minor Zoning Text Amendments to Chapters 60-62 and portions of Chapters 63 & 65 – Release for public review and set a public hearing for December 5, 2014. *(Jake Reilly, 651.266-6618)*

Jake Reilly, PED staff, was available if Commissioners had any questions.

MOTION: *Commissioner Shively moved on behalf of the Neighborhood Planning Committee to release the draft for public review and set a public hearing on December 5, 2014. The motion carried unanimously on a voice vote.*

VII. Comprehensive Planning Committee

Commissioner Merrigan announced that because of the Veteran's Day Holiday the Comprehensive Planning Committee's meeting on Tuesday, November 11th has been moved to November 18th.

VIII. Transportation Committee

Commissioner Wang announced the items on the agenda at the next Transportation Committee meeting on Monday, November 3, 2014.

IX. Communications Committee

Commissioner Thao had no report.

X. Task Force/Liaison Reports

No report.

XI. Old Business

None.

XII. New Business

None.

XIII. Adjournment

Meeting adjourned at 10:01 a.m.

Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

Respectfully submitted,



Donna Drummond
Planning Director

Approved December 5, 2014

(Date)



Daniel Ward II
Secretary of the Planning Commission