

city of saint paul
planning commission resolution
file number
date

WHEREAS, Aler Logistics, File # 21-236-272, has applied for a conditional use permit to allow internal conveyance pits below the Regulatory Flood Protection Elevation (RFPE) in a new building to be constructed on fill elevated to the RFPE under the provisions of §§ 61.501 and 72.74 of the Saint Paul Legislative Code on property located at 795-801 Barge Channel Road, Parcel Identification Number (PIN) 09.28.22.34.0028, legally described as Lot 2, Block 1, Southport Barge Terminal; and

WHEREAS, the Zoning Committee of the Planning Commission, on February 25, 2021, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of § 61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. Alter Logistics proposes construction of a new fertilizer storage building. The proposed building will be elevated on fill to the regulatory flood plain elevations (RFPE), with the exception of two internal pits the bottom of which will be below the RFPE. Alter had intended to apply to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision for Fill (LOMR-F) which would have removed the area of the proposed building from the flood fringe district and allowed construction of the building, including the proposed pits, without the need for a CUP. However, the time needed to complete that process would have delayed construction which Alter intends to commence spring 2021 pending City approvals. As an alternative, Alter has applied for a CUP to allow for the internal pits to be lower than the RFPE, subject to applicable requirements of Ch. 72 of the Saint Paul code.
2. § 72.74 lists standards for conditional uses in the FF flood fringe district. Subsections (a) through (d) are applicable to the proposed project:
 - (a) *Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls or above grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if: 1) the enclosed area is above grade on at least one (1) side of the structure; 2) is designed to internally flood and is constructed with*

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flood-resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

- (1) Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.*
 - (2) Specific standards for above grade, enclosed areas. Above grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:
 - a. A minimum area of "automatic" openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of intervention.*
 - b. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the Minnesota State Building Code and shall be used solely for building access, parking of vehicles or storage.**
- (b) Basements, as defined in §72.14, shall be subject to the following:*
- (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation except as authorized in subsection (e) of this section.*
 - (2) Nonresidential basements may be allowed below the regulatory flood-protection elevation, provided the basement is protected in accordance with subsection (c) or (e) of this section.*
- (c) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the Minnesota State Building Code. This shall require making the structure watertight, with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.*
- (d) The storage or processing of materials that are, in times of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the planning commission, or if elevated above the regulatory flood*

protection elevation by alternative methods which meet the requirements of subsection (a) above. Storage of bulk materials may be allowed provided an erosion/sedimentation control plan is submitted which clearly specifies methods to be used to stabilize the materials on site for a regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the planning commission.

(e) When the Federal Emergency Management Agency has issued a letter of map revision-fill (LOMR-F) for vacant parcels of land elevated by fill to the one (1) percent chance flood elevation, the area elevated by fill remains subject to the provisions of this chapter. A structure may be placed on the area elevated by fill with the lowest floor below the regulatory flood protection elevation provided the structure meets the following provisions:

(1) No floor level or portion of a structure that is below the regulatory flood protection elevation shall be used as habitable space or for storage of any property, materials, or equipment that might constitute a safety hazard when contacted by floodwaters. Habitable space shall be defined as any space in a structure used for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space, and similar areas are not considered habitable space.

(2) For residential and nonresidential structures, the basement floor may be placed below the regulatory flood protection elevation subject to the following standards:

- a. The top of the immediate floor above any basement area shall be placed at or above the regulatory flood protection elevation.*
- b. Any area of the structure placed below the regulatory flood protection elevation shall meet the "reasonably safe from flooding" standards in the Federal Emergency Management Agency (FEMA) publication entitled "Ensuring that Structures Built on Fill In Near Special Flood Hazard Areas Are Reasonably Safe From Flooding," Technical Bulletin 10-01, a copy of which is hereby adopted by reference and made part of this chapter. In accordance with the provisions of this chapter, and specifically section 72.33(g), the applicant shall submit documentation that the structure is designed and built in accordance with either the "Simplified Approach" or "Engineered Basement Option" found in FEMA Technical Bulletin 10-01.*
- c. If the ground surrounding the lowest adjacent grade to the structure is not at or above the regulatory flood protection elevation, then any portion of the structure that is below the regulatory flood protection elevation must be floodproofed consistent with any of the FP-1 through FP-4 floodproofing classifications found in the Minnesota State Building Code.*

These standards can be met. The building is proposed to be built at the Regulatory Flood Protection Elevation (RFPE), approximately 708 feet above sea level. The proposed internal pits to be located below the RFPE fall under the definition of basement in § 72.14. They are proposed to be constructed to the FP-1 or FP-2 floodproofing standard and meet all other requirements of § 72.74(c). As a condition of approval, the applicant should be required to provide plans and as-built drawings signed by a registered professional engineer or other qualified professional certifying consistency with the requirements of § 72.74(a)(1) and § 72.74(c) and that the pits are floodproofed consistent with the FP-1 or FP-2 floodproofing standard, as well as an elevation certificate.

4. § 72.32 lists thirteen factors to be considered in evaluating applications for conditional use permits in the FF flood fringe district:
 - (a) *The relationship of the proposed use to the comprehensive plan and floodplain management program for the city.* Subject to meeting the standards listed in § 72.74, this proposed use is in compliance with the Saint Paul Comprehensive Plan and the city's floodplain management program. Policy 5.1.3 of the river corridor chapter of the comprehensive plan supports continuation of and additions to industrial uses in the Southport industrial area if said additions will not have significant adverse impacts on air or water quality nor impair river valley views. The proposed additions are to an existing facility located in a large industrial area and will not significantly alter river valley views. The project will not significantly impact air or water quality.
 - (b) *The importance of the services provided by the proposed facility to the community.* The proposed facilities will allow continued use of industrial land. The primary importance of the facility to the community is economic activity and tax base.
 - (c) *The ability of the existing topography, soils, and geology to support and accommodate the proposed use.* The topography, soils, and geology of the site are similar to those of the larger Southport industrial area and are sufficient to support and accommodate the proposed use.
 - (d) *The compatibility of the proposed use with existing characteristics of biologic and other natural communities.* The area of the proposed use is industrial in character and does not contain significant biological communities; impacts of the proposed use will not extend beyond the immediate area.
 - (e) *The proposed water supply and sanitation systems and the ability of those to prevent disease, contamination, and unsanitary conditions.* The area is already served by adequate water supply and sanitation systems. The proposed addition will not create significant additional demand for water supply or sanitation capability.
 - (f) *The requirements of the facility for a river-dependent location, if applicable.* The proposed structure is part of an existing industrial facility that includes intermodal transfer to and from barges.
 - (g) *The safety of access to the property for ordinary vehicles.* Safe access to the site is available via Barge Channel Road.
 - (h) *The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.* The proposed building will be elevated to the RFPE and the proposed internal pits located below the RPFE should be floodproofed to the FP-1 or FP-2 standard as a condition of approval.
 - (i) *The dangers to life and property due to increased flood heights or velocities caused by encroachments.* The proposed encroachments are of limited footprint and located in the flood fringe where impacts on flood flows are negligible.
 - (j) *The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.* The proposed facility is located in the flood fringe, where the velocity of flood flow is generally minimal.
 - (k) *The danger that materials may be swept onto other lands or downstream to the injury of others.* The proposed facility will be located in the flood fringe, where water velocities are generally minimal. As a condition of approval, the portion of the building below the RFPE should be built to applicable floodproofing standards.
 - (l) *The availability of alternative locations or configurations for the proposed use.* The

proposed structure must be located within the existing facility, and the proposed location is no less reasonable than other potential locations within the facility.

(m) *Such other factors as are relevant to the purposes of this chapter.* The factors and findings enumerated and described herein adequately evaluate the proposed use for the purposes of this chapter.

5. § 61.501 lists five standards that all conditional uses must satisfy:

- (a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. Subject to meeting the standards listed in § 72.74, this proposed use is in compliance with the Saint Paul Comprehensive Plan and the city's floodplain management program. Policy 5.1.3 of the river corridor chapter of the comprehensive plan supports continuation of and additions to industrial uses in the Southport industrial area if said additions will not have significant adverse impacts on air or water quality nor impair river valley views. The proposed additions are to an existing facility located in a large industrial area and will not significantly alter river valley views. The project will not significantly impact air or water quality.
- (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The proposed facility will be served by Barge Channel Road. The expansion of fertilizer operations at the site associated with the proposed use is expected to generate an additional 13-16 trucks per day. Longer term, the applicant anticipates that a mode shift toward rail will reduce truck traffic.
- (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The proposed facility is consistent with the existing industrial character of the immediate neighborhood.
- (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use is industrial in nature and will not impede improvement of surrounding properties for allowed uses.
- (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Alter Logistics for a conditional use permit to allow internal conveyance pits below the Regulatory Flood Protection Elevation (RFPE) in a new building to be constructed on fill elevated to the RFPE at 795-801 Barge Channel Road is hereby approved, subject to the following additional conditions:

1. Site plan approval.
2. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
3. The applicant shall submit plans and as-built drawings signed by a registered professional engineer or other qualified professional certifying consistency with the requirements of § 72.74(a)(1) and § 72.74(c) and that the pits are floodproofed consistent with the FP-1 or FP-2 floodproofing standard, as well as an elevation certificate.

