

MINUTES OF THE ZONING COMMITTEE
Thursday, December 30, 2021 - 3:30 p.m.

PRESENT: Grill, Hood, Rangel Morales, Reilly, Syed, and Taghioff
EXCUSED: DeJoy
STAFF: Anton Jerve, Ashley Skarda, Samantha Langer

The meeting was chaired by Commissioner Reilly. He stated that the chair of the Planning Commission had determined that due to the COVID-19 pandemic it is neither practical nor prudent for the Zoning Committee to meet in person, and therefore the meeting was being conducted remotely, with all members of the Zoning Committee attending the meeting remotely. The public is also able to join the meeting remotely and can speak during the public hearing portion or submit comments by noon on the day before the meeting.

470 S Lexington (1074-1096 James) CUP & Variances - 21-327-115 - Conditional use permit for a 69' 10" building height. Variances for front yard setback (25' minimum, propose 13' 9" to balconies & 18' to wall), rear yard setback (18' 11" minimum, 0' proposed), north side yard setback (18' 11" minimum, 10' proposed), and south side yard setback (18' 11" minimum, propose 4' 5" to balconies and 10' to wall), 1074 -1096 James Ave, between James Avenue & Randolph Avenue

470 S Lexington – 21-325-815 – Site plan review for a new 5-story multi-family development with 114 dwelling units and two levels of structured parking, 1074-1096 James Avenue, between James Avenue & Randolph Avenue

Anton Jerve presented the conditional use permit and variances staff report with a recommendation of approval with conditions. He said District 14 submitted a letter recommending approval, an additional letter in support, and 10 letters in opposition.

Ashley Skarda presented the site plan review staff report with a recommendation of approval with conditions. She said District 14 did not make a recommendation on the site plan and there were 2 letters in opposition and no letters in support.

In response to Commissioner Syed's question about why the number of units was increased to 114 units from 91 units, Ms. Skarda said that the zoning code changed relating to parking requirements and in their original plan they didn't account for half of the alley in their measurement of the site, per standard practice. Section 63.101 of the zoning code that states you can use half of the alley when you are calculating your floor area ratio (FAR). They realized that when they added half of the alley, they project was undersized.

In response to Chair Reilly, Ms. Skarda said the change in the zoning code had to do with parking and possibly the RM2 zoning study.

In response to Commissioner Hood, Ms. Skarda said including the alley in the measurement of the site is something that has always existed in the zoning code.

Commissioner Taghioff said that the RM2 study was completed at the time of the original application and the RM2 zoning changes made this development possible.

Rob Lubenow, Yellow Tree, 1834 E. 38th Street, Minneapolis, said they are happy to be part of this project. Yellow Tree is an intentionally an "entry point" housing developer. They do not build high end luxury and they do not seek subsidies or government money for low-income housing. They build for the largest segment of renters, for whom housing is not being built. In addition to the 10% income restricted

affordable units that they are providing housing options that start at 60% AMI and most of their units are affordable to 80% AMI. This is inherent to Yellow Tree and it is what they choose to develop and this is an enhancement to the project. Their units are very well received by our tenants and our buildings are over 99% occupied. This is a very tough site and one of the most difficult they have worked on. There are up to seven doors and none of them exit the building at the same elevation. It is in a great location close to grocery and transit and it has great walkability.

He added that if there is any talk or allegations that are irrelevant to these applications, he would like to reserve the right to address those. He said if anyone would like to meet at a separate time, he would like to address any issues. Yellow Tree is a leader in merit based contracting and one of the few companies that is proactively working for workers rights.

Eli Zmira, DJR Architecture, 1675 Ford Parkway, Saint Paul, said they are excited to work with Yellow Tree, a local developer, and they needed the CUP and variances because this site presents major difficulties. He said that Saint Paul has unique way of addressing zoning issues one of them including balconies in the setback and the setbacks being linked to the height of a building which led them to request bigger variances. Mr. Zmira explained the addition of 4 feet of height. He said the building did not change and remains five stories. In the revised design, they decided to elevate the ground floor to the Lexington grade, which added 2 feet and 6 inches. Their average height above grade dropped by 1 foot and 4 inches because of the enlarged footprint. Mr. Zmira shared his screen and walked the Committee through the revised project. He showed the previously approved plan and the current plan and said that the changes are very minimal and the overall building is the same. He said that including the alley area expanded the FAR calculation to 83,064 square feet from 71,629 square feet. With the additional FAR that led them to redesign the footprint of the building. They are proposing the setbacks that were previously approved. Saint Paul calculates setbacks in RM2 districts in a way that is linked to the average height of the building. In this case, because they enlarged their footprint and the lower side of the slope that lowered their average height by a foot and six inches, adding to the overall calculated height of the building. They are asking to remain at the same setbacks they had before and the only thing that changed is a mathematical equation to calculate height (and thus setbacks) that is set by the zoning code. Mr. Zmira addressed the variance request for the balconies. He said the balconies are calculated within the setbacks on multifamily developments, and that is why they are asking for enlarged setbacks to the balconies on the west and south facing sides. Mr. Zmira summarized the differences in the previous layout and the proposed layout. The building height proposed is 69' 10" and the previous height was 65' 8"; proposed building area is 83,064 sq. ft. and previous was 71,457 sq. ft.; proposed units 114 and previous was 91; proposed affordable units 11 at 60% AMI, and previous at 9 units 60% AMI; proposed car stalls at 82 and previous at 88; proposed bike stalls at 114, previous at 93; and the setbacks remain the same due to the increased FAR with the exception of balconies on the west and south side. He noted that with the additional four feet of height to the building they increased the north setback of the 5th floor so they didn't interrupt the sun path to the neighbors. In sum, Mr. Zmira said the extreme slopes at the site present a practical difficulty.

Mr. Lubenow said the increase of units from 91 to 114 is because they miscalculated the FAR and designed a smaller building than what was allowed given the density bonuses for underground parking and affordable housing. The remaining 12 to 15 units have to do with affordability. Making the units that are affordable available to a larger segment and the additional 12 units make the entire 114 units more affordable.

Mr. Zmira said the support in the community has grown. The District Council voted in support by a vote of 12-2.

In response to Commissioner Rangel Morales, Mr. Lubenow said rather than designing a space and pricing the unit they decide what the pricing is that they want for that unit and design it without sacrificing for the user. We don't look at it by square foot we look at the type of housing we want to provide and then it is designed. He said there are very few units that are below 425 square feet. They have alcove one-bedroom units that are in 500 to 600 square feet range that are still close to 60% AMI and less than 80% AMI, it is all in how you design the space.

In response to Commissioner Rangel Morales, Mr. Zmira said the practical difficulty is a fact within the site and the slope exists. The slope of over 24 feet is a huge slope to overcome. No one wants to live in the basement or on the same floor as the parking ramp. They would like to have the lobby on grade and keep the parking below grade.

In response to Commissioner Rangel Morales, Chair Reilly said the slope is related to the height because it is calculated from an average grade versus at grade.

Mr. Jerve said that the conditional use permit for height does not have a practical difficulty finding - that requirement is only for the variances. For a conditional use permit they only need to meet the findings for a CUP.

In response to Commissioner Taghioff, Mr. Lubenow said there are no differences in their affordable units versus the neighboring units except for the three units on the top level that they are trying to capture higher rents to support the other units.

Chair Reilly stated that the only thing to be addressed during public testimony portion are items related to the zoning applications, specifically the conditional use permit, variances, and site plan review. No other items will be addressed during the public hearing portion of the meeting.

Diego Morales spoke about business practices pertaining to Yellow Tree and submitted written testimony.

Kimberly Nelson, Regional Council of Carpenters, spoke about business practices pertaining to Yellow Tree and submitted written testimony.

Kevin Pranis, 1469 Van Buren Avenue, spoke in opposition. He said he is in favor of density and affordable housing in Saint Paul while preserving the character and in this case the applicant has not made the case that the setbacks serve a necessary purpose for this project. The applicant has the burden of showing that the variances are needed and as far as he can tell it is an economic question.

Kyle Makarios, 851 Dayton Avenue, Saint Paul, spoke in opposition and submitted a letter. The project that was approved back in March specifically states that the approvals were contingent on final plans being approved that are in substantial compliance with what was applied for. Those setbacks and conditional use permit were for a 91 unit building and does not apply to any current proposal. The setbacks granted at that time do not apply to a 114 unit building. What they are asking for are significant setbacks on all four sides and a conditional use permit. He referred to his letter (attached) to state specific Findings not being met.

The public hearing was closed.

Commissioner Grill moved to approve with conditions the conditional use permit & variances. Commissioner Syed seconded the motion.

Commissioner Taghioff said he likes the project, but he struggles with the case being made that the variances are necessary due to practical difficulties. They have already seen a plan for a smaller building that would not require such great variances. It is difficult to overcome the necessary increase in overall massing from a purely legal perspective.

Chair Reilly said he shared some of that same struggle. He said that with regards to the variances without the alley the FAR exceeds the scale and massing of the neighborhood and of the zoning district itself. He said the max density for this part of the City as suggested in the Comprehensive Plan is 60 units per acre and this exceeds that. At which point is there a conflict between the Comprehensive Plan and the Zoning Code regarding units per acre versus FAR as your density determination.

In response to Chair Reilly, Mr. Jerve said the density ranges identified in the appendix of the Land Use Chapter and new for the 2040 Comprehensive Plan. But the table also points out that it is an average density for the broader land use category and not a project-by-project density limit. In a situation like this, where it is within an Established Neighborhood, if you look at a single-family home that is about 7 units an acre and if you have blocks and blocks of 7 units per acre, having a building like this helps to bring up the overall density. This density consistent with the locational policies for multifamily and higher density given that it is on two arterials and transit lines. He would need to investigate more overall zoning allowed densities and the Land Use categories to see what is there or if recalibration would make sense. Given that the site was recently rezoned to RM2 and identified as consistent with the Comprehensive Plan by the Planning Commission and City Council this project makes sense in this location.

In response to Commissioner Rangel Morales asking how alley ways can be used for other purposes in the zoning code, Mr. Jerve said it is typically dealing with lot area where it can be considered as part of the overall lot area, and is standard in cases where lot area and lot coverage are being considered (See Zoning Code Section 63.101).

Commissioner Taghioff said we have standards that were very recently studied in the RM2 Zoning Study and if we are looking to depart from those standards there must be a practical difficulty and he is not seeing it being proven by the applicant.

The motion failed by a vote of 2-4-0. Commissioners Hood, Taghioff, Rangel Morales and Chair Reilly voted against.

Commissioner Taghioff stated his reasons for denial are based on Findings 4c and 4d not being met. The applicant has not established that there are practical difficulties in complying with the provisions. Specifically, the slope of the property is a factor, but the applicant has not sufficiently demonstrated why the slope dictates building to the proposed size and height.

Commissioner Rangel Morales agreed with Commissioner Taghioff and added there should be more concrete language regarding the rear yard setbacks and side yard setbacks, if it really is a practical difficulty, because the way he understood it he doesn't think it is.

Commissioner Hood stated he agreed with Commissioner Rangel Morales and Commissioner Taghioff.

Chair Reilly said his reasoning for denial is similar to what Commissioners have already stated.

Specifically, that the applicant has not established practical difficulties in complying with the provision regarding practical difficulties. The height and setbacks are not related to each other and maximizing FAR has nothing to do with the practical difficulties related to the slope.

Commissioner Rangel Morales noted that the height and setbacks are related to each other because the setback is based on the building height.

Chair Reilly confirmed that the motion failed for both the conditional use permit and variances and the site plan review because it was all one application.

After discussion, Commissioner Grill moved lay over of the conditional use permit, variances and site plan review to January 13, 2022, to allow staff time to comment and prepare. Commissioner Rangel Morales seconded the motion.

The motion passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:

Samantha Langer

Samantha Langer
Recording Secretary

Submitted by:

at J
Anton Jerve [Jan 18, 2022 10:07 CST]

Anton Jerve
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Approved by:

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Jacob Reilly [Jan 27, 2022 13:06 CST]

Jake Reilly
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AS
ashley skarda [Jan 26, 2022 13:05 CST]

Ashley Skarda
DSI Inspector III

21-237-115 and 21-325-815 470 Lexington CUP Var site plan minutes AJ AS

Final Audit Report

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