

MINUTES OF THE ZONING COMMITTEE
Thursday, October 20, 2016 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Edgerton, Reveal, Wencel, and, McMahon
EXCUSED: Makarios, Merrigan, Nelson, and Wickiser
STAFF: Jake Reilly, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Wencel.

Schurmeier Lofts LLC - 16-085-721 - Rezone from I1 industrial to B5 central business-service district, 328 9th St E, SW corner at Pine.

Jake Reilly presented the staff report with a recommendation of approval for the rezoning. He noted that District 4 had not yet responded, and there were no letters in support or opposition.

Commissioner Reveal noted that the property has been zoned I1 since 1975 and asked how the previous apartment and condominium uses were allowed.

Mr. Reilly said that it was a legal nonconforming use that was vacant for more than one year. Allan Torstenson added that the building had been used for a variety of residential uses since the 1950s, established when they were permitted in light industrial zoning districts. Commissioner Wencel noted that in 2006 it was converted into 30 condominium units and in 2013-2014 all units were condemned.

The applicant, Ed Conley, 1599 Selby Ave., Ste. 201, said DSI zoning staff had indicated residential use was permitted in the 1970s. The building had 30 condominium units and was condemned on December 6, 2013. He would like to convert the building back into 36 to 42 market-rate rental units, would like to have one or two commercial spaces for businesses such as yoga studio or a coffee shop. He said the Dayton's Bluff District 4 Community Council had voted to support the rezoning.

Commissioner Wencel noted language in finding 1 about 28 ownership condominiums. Mr. Connolly said he is planning to have 36 to 42 rental units.

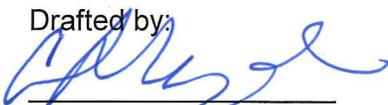
Commissioner Reveal asked about pedestrian access from downtown. Mr. Connolly said the most direct pedestrian access is via 7th Street. He added that there will be 44 to 50 parking spots.

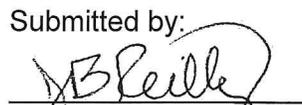
No one spoke in favor or opposition, and the public hearing was closed.

Commissioner Edgerton moved approval of the rezoning. Commissioner Reveal seconded the motion.

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

Adopted Yeas - 4 Nays - 0 Abstained - 0

Drafted by:

Cherie Englund
Recording Secretary

Submitted by:

Jake Reilly
Zoning Section

Approved by:

Gaius Nelson
Chair

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PRESENT: Edgerton, Reveal, Wencl, and McMahon
EXCUSED: Makarios, Merrigan, Nelson, and Wickiser
STAFF: Lucy Thompson, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Wencl.

Residence Inn - Grand Avenue - 16-085-666 - Conditional use permit for building height of 45 ft., providing for a 55 ft. height for portions of the building set back more than 10 ft. from setback lines, 200 Grand Ave, between Smith and Leech.

Lucy Thompson presented the staff report with a recommendation of approval with conditions. She noted that District 9 made no recommendation, and there were no letters in support or opposition.

Chuck Repke, 1321 White Bear Ave., said he is representing Kelly and Brooks, the developers for this project. He stated that he contacted the District 9 Community Council and they have no concerns with the application. Other applicant representatives present were Brody Nordland, 7900 International Dr., Bloomington; Jim Timm, 500 S. Washington Ave., Ste. 1080, Minneapolis, project architect with ESG Architects; and Mark Kronbeck, 233 Park Ave. S., Ste. 300, Minneapolis, Alliant Engineering, civil engineers and landscape architects.

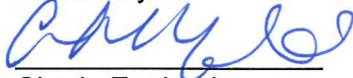
No one spoke in favor or opposition and the public hearing was closed.

Commissioner Reveal moved approval of the conditional use permit with conditions. Commissioner McMahon seconded the motion.

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

Adopted Yeas - 4 Nays - 0 Abstained - 0

Drafted by:



Cherie Englund
Recording Secretary

Submitted by:



Lucy Thompson
Zoning Section

Approved by:



Gaius Nelson
Chair

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PRESENT: Edgerton, Makarios, Merrigan, Nelson, Reveal, Wencil, Wickiser and, McMahon
EXCUSED:
STAFF: Jamie Radel, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

St. Paul Tennis Club - 16-064-562 - Conditional use permit for replacement of existing clubhouse and pool facilities., 1055 Osceola Ave, between Oxford and Lexington Pkwy.

Jamie Radel presented the staff report with a recommendation of approval with conditions. She noted that District 16 recommended approval with three conditions, and there was one letter in support, and one letter in opposition.

Commissioner McMahon asked if condition 3 in the staff recommendation stating “visually open fence that conforms to the height limit for fences in required front yards” means 4 feet in height, and if the front yard is the part that faces the garages on Osceola. Ms. Radel said that is correct.

Commissioner Edgerton asked if there are proposed hours for the rooftop deck. Ms. Radel said there is nothing specific to the deck. It would be used with the rest of the facility.

Commissioner McMahon said that many of the houses on Osceola are 2 story houses. She asked how many of those houses have 2nd story decks. Ms. Radel said she was not sure.

Commissioner Wencil noted that there is no parking lot for people who use the tennis club. She asked if there is any regulation for parking.

Ms. Radel said that the standard is one parking space per 1,000 sq. ft. of floor area. The club has legal nonconforming status for parking, and the Zoning Administrator determined that they are not required to provide any additional parking.

The applicant, Eduardo Barrera, 1083 Osceola Ave., Vice-Chair of the St. Paul Tennis Club Board of Directors, said this conditional use permit is being sought to improve and bring this facility up to code. The two proposed buildings provide space equal to the current building. It will not expand the building, but splitting the buildings will make better use of the property. He said they disagree with the interpretation of the code regarding fence height, noting code language that permits fences for nonresidential uses in residential zoning districts to be up to 8 feet in height, and allows fences around tennis courts to be up to 12 feet in height. He said this is a seasonal facility. The pool is open from Memorial Day to Labor Day and, weather permitting, the tennis courts are open from May to mid-October.

Commissioner Edgerton asked about use of the rooftop deck. Mr. Barrera said the rooftop deck would operate during the pool season. They are sensitive to concerns about noise and will have a policy to control its use. The hours will be 8:00 a.m. to 7:30 p.m. or 8:00 p.m.

Commissioner Wencil noted a letter received that club members may be planning for future parties on the deck, with a capacity to hold 49 people. Mr. Barrera said they will have control of the rooftop occupancy, and will prevent children from being there. He added that they will meet fire safety codes for capacity that will be dictated by the Department of Safety and Inspections.

Commissioner Wencil asked what the pool dimensions and capacity will be and Mr. Barrera responded that it will be 25 yards in length, and this is competition size.

Commissioner McMahon asked if their intent is to set a policy where members can reserve the roof top space. Mr. Barrera said that the policy will be if a member has a party of more than seven to nine people, they have to ask permission to reserve the space.

Daniel Kennedy, 1494 Fairmount Ave., President of the St. Paul Tennis Club said that the parties that occur at the club are mostly children's parties and there are three other gatherings for everyone during the season. Children's parties would take place at the ground level. He said that membership consists of 191 families and 55 singles.

Mr. Kennedy said their current fence has been 8 ft. in height along Osceola and part of the pool since the 1960s, and they would like to keep an 8 ft. fence. If they had a 4 ft. fence along with a 6 ft. interior fence people may climb over it, so for safety and liability they would like to maintain an 8 ft. fence. The hours of operation have always been until sundown. Regarding parking, he said this is a neighborhood club and most people walk or bike to the club, so parking needs are minimal. He also said that the grade from Osceola is direct to the garages with four steps to the backyard and the backyard is higher than the garages. Mr. Kennedy added that they open the club to nonmembers for swimming and tennis lessons.

Theresa Nix, 860 St. Clair Ave., Community Organizer for the Summit Hill Neighborhood Association, spoke in favor. Ms. Nix noted they submitted a letter in support. She said she had received a note from Ms. Radel that based upon the City Attorney's recommendation the first condition proposed in their letter to require 60% approval by neighbors could not be supported. Ms. Nix said the second condition would encourage the 8-foot fence around the proposed portion of the property. She added that a resident west of the property has a concern about putting a fence along the top of the retaining wall being too high, creating issues for snow removal and access. She said the third condition is for the tennis club to continue to engage in good faith efforts with adjoining property owners to resolve issues with fencing located along those shared property lines.

Molly Smaby Kleven, 1128 Fairmount Ave., spoke in opposition. She said she is not an immediate neighbor and is speaking out of concern for the immediate neighbors. She is a 20-year member of the tennis club, and is concerned with new construction in the neighborhood she has lived in for 46 years. She said the idea of the deck is a new add-on. She is concerned about noise and would like the club to have a dialogue with the neighbors on this issue.

Ellen Eichten, 1067 Linwood Ave., spoke in opposition. Ms. Eichten said she has been a member of the club for 43 years and is fully supportive of every aspect of this application except for the rooftop deck. She and a neighbor wrote letter, and two to three others wrote emails, to voice their concerns. She said the proposed deck threatens to become a detriment to the

historical character of the club blending into the immediate neighborhood. She said the noise from the pool and tennis courts is manageable, but the addition of the rooftop deck will add a considerable amount of noise projecting out over the neighborhood. She added that the view from the proposed deck will be into the neighbor's homes and yards to the north, west and south of the tennis club, and neighbors are concerned with the invasion of privacy. At the Summit Hill meeting it was stated that they could have 49 people on the deck and bridge crossing from the stairway to the deck. The rooftop deck is not a necessity. Ms. Eichten suggested that they bring in a sound engineer to assess the level of noise from the deck.

In response to the testimony, Mr. Barrera noted that Ms. Eichten is a tennis club board member involved with this project. Mark Wentzell, 3533 East Lake St., architect at 292Design Group, said the parapet edge of the new clubhouse and the second floor deck will be at the approximate height of the current building. The current building is raised about three feet off of the ground and is about 11 feet tall to its roof edge. The new buildings will be on grade for ADA access and they are about 14 feet to the edge of the parapet or second floor deck railing. He said that the second floor deck capacity based on fire code is 49 people, but with tables and chairs the deck will have a capacity of about 20 to 25 people. The main source of sound generated by the club is around the pool deck. The roof deck was designed for people who want a quieter place to sit. Mr. Wentzell said there was a sound study done and he showed a board illustrating the direction sound would travel.

The public hearing was closed.

Commissioner Wencil asked if they could have a visually open eight-foot high fence in the front yard.

Ms. Radel read from St. Paul Legislative Code § 33.07(b), *height of fences*, which states that "all fences erected between the front property line and the front setback line as defined in section 60.207 of the St. Paul Legislative Code shall be no more than four feet in height."

Commissioner Reveal said that this is an allowable nonresidential use in a residential area, and the higher opaque fence maintains neighborhood quality while a lower fence may raise insurance issues.

Ms. Radel said § 33.07(b) provides that nonresidential uses in residential zoning districts may have taller fences elsewhere on the property, while limiting fences in a required front yard to no more than four feet in height.

Mr. Warner, Assistant City Attorney, agreed advising that the fence height limits under § 33.07(b) were "caps." He further advised that although though the applicant is not proposing any change to the front yard fence height, the Commission could, as a condition of approving the conditional use permit, require the applicant to bring the front yard fence into compliance with § 33.07(b) or the Commission could allow the fence to remain at its current height. It is up to the Commission to decide.

Commissioner Reveal moved approval of the conditional use permit with the recommended conditions, and to delete the first part of the third condition regarding replacement of the front-

yard fence with a visually open fence that conforms to the height limit for fences in required front yards. Commissioner Edgerton seconded the motion.

Commissioner Edgerton said he would like the club and their neighbors to work out issues pertaining to the rooftop deck.

In response, Mr. Warner advised that while the Commission can "strongly encourage" the applicant to meet with the neighbors, it cannot delegate its regulatory authority over permit approvals to the neighbors.

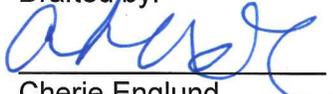
Commissioner Edgerton asked about a layover to provide time for the club and their neighbors to work out the issues. Mr. Warner noted the deadline for action under the requirements of MN Stat. § 15.99.

Commissioner Elizabeth Reveal moved approval with conditions of the CUP. Commissioner Dan Edgerton seconded the motion.

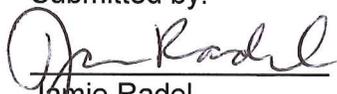
The motion passed failed by a vote of 3-0-0.

Adopted Yeas - 3 Nays - 0 Abstained - 0

Drafted by:


Cherie Englund
Recording Secretary

Submitted by:


Jamie Radel
Zoning Section

Approved by:


Gaius Nelson
Chair

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STAFF: Josh Williams, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Wencil.

Jim Seabold - 16-085-577 - Appeal of a planning administrator denial of a proposed lot split at 661 Orange Ave. W., between Maywood and St. Albans.

Josh Williams presented the staff report with a recommendation of denial. He noted that District 10 had not commented, there were no letters in support, and 7 letters in opposition.

Commissioner Edgerton noted that the lot is 140 feet by 118 feet. The applicant wishes to divide the lot into 2 lots measuring 55 ft. by 118 ft. and 85 ft. by 118 ft., and the issue is that dedicating the alley would make the proposed new 55 ft. wide lot too narrow.

Mr. Williams said the R3 district requires a minimum lot width of 50 feet. The lot is large enough to split and dedicate the alley if it could split down the middle, but the existing house is in the middle of the lot.

Commissioner Edgerton discussed the purposes of an alley and noted that this has been a dead end alley for a long time.

Mr. Torstenson noted that staff report findings 1 and 2 discuss the need for the alley and history of the alley on this block. He also noted the zoning code requirement for access to residential parking to be from an alley where possible.

Commissioner Wencil asked why the alley was not completed during the reconstruction of the street. Mr. Torstenson said the street project didn't include the alley, and alley right-of-way at the south end of this block was not available.

The appellant, Jim Seabold, 871 Ivy Ave. W., said that if the lot split does not go through there will still be a dead end alley. He said that many of the lots in the neighborhood are small and some do not meet the current zoning minimum lot width standard. They are proposing a 25' set back from the alley, which would provide room for cars to turn around, thereby improving the current situation. He said it was not economically feasible to buy the house, tear it down and divide the property into 2 lots. The house was \$175,000.00 and the lots are worth about \$70,000.00 each. The house was an eyesore but in good enough condition for rehabilitation. They about break even if they can't do the lot split. A new house would add to the tax base. They have rehabbed the existing house, and it is now for sale.

Philippe Gallandat, 1266 St. Albans St. N., spoke in opposition and submitted a letter in opposition. He lives west of the property and asked who would pay for the alley. He said the current owner of 661 W. Orange has painted and reroofed the house, which has been added to over the years and does not have much architectural merit.

Sarah Hustad, 1242 St. Albans St. N., spoke in opposition and also submitted a letter in opposition. She said she is opposed to the proposed lot split and anything that alters the character of her neighborhood, and that they do not need more density. She said that this proposal would not add value to the neighborhood and that the house was an eyesore, but is a little less of an eyesore now. She said she thinks the market would not support a \$350,000 house.

In response to the testimony, Mr. Seabold said he lives about 4 blocks away from this property, has been in the real estate business for 29 years, knows the housing market extremely well, and that the market could support a new \$350,000 house at this location.

The public hearing was closed.

In discussion, Commissioner Edgerton noted that while the proposed new lot would add property value and tax base to the city, and provide for profit for the property owner, the new lot as proposed would preclude the alley going all the way through.

Commissioner Reveal said she is ambivalent on this situation, but inclined to support the original decision. The benefits that Commissioner Edgerton brought up are fair things, but are not zoning standards.

Mr. Warner said that in an appeal, the standard is whether there is an error in the facts, findings, or procedures.

Commissioner Reveal moved denial of the appeal. Commissioner Edgerton seconded the motion.

The motion passed by a vote of 3-0-0.

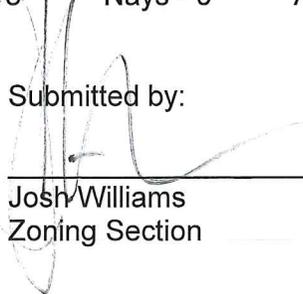
Adopted Yeas - 3 Nays - 0 Abstained - 0

Drafted by:



Cherie Englund
Recording Secretary

Submitted by:



Josh Williams
Zoning Section

Approved by:



Gaius Nelson
Chair