MINUTES OF THE ZONING COMMITTEE
Thursday, March 24, 2016 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Makarios, Nelson, Reveal, and Wickiser
EXCUSED: Merrigan, Padilla, Wencl, Edgerton
STAFF: Jake Reilly, Samantha Langer, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

72 Cesar Chavez - 16-012-584 - Conditional use permit for a maximum building height of 45 ft., and variance for new construction on slopes greater than 12% in the in the river corridor, 88 Cesar Chavez St, SW corner at Congress Street

Jake Reilly presented the revised staff report with a recommendation of approval with a condition for the conditional use permit and variance. He stated District 3 recommended approval, and there was 1 letter in support, and 0 letters in opposition.

The applicant's representative, Karen Reid, 481 Wabasha St. S., St. Paul stated she is the Executive Director of Neighborhood Development Alliance (NeDA) a non-profit developer on the West Side. They were working with REDA on a small area plan when REDA went out of business. NeDA completed the plan with help from the neighborhood. They have a lot of vacant property in the commercial corridor and decided on this site for redevelopment. They determined that a mixed use structure, which was cited in the small area plan, would be appropriate. They have worked with architects for five years, funded through pre-planning grants to see what fits on the site. NeDA has been in constant communication with West Side Citizens Organization (WSCO). Ms. Reid stated they are excited about this project. It is fully-funded and moving forward rapidly. Currently they are looking at where to put the retaining wall and the water management plan. Ms. Reid presented a drawing of the project. She said they are in contact with Serenity, the property owner to the back, regarding a use easement for a public pathway and to discuss water management.

Carol Swenson, 79 Isabel St. W., St. Paul, spoke in support. She stated she is a member of WSCO's Riverfront Development and Land Use Committee (RDLU). Ms. Swenson stated they are very pleased to be here to support the application. She confirmed that NeDA has been in constant communication with WSCO and RDLU about the project regarding the potential for the site and changes it has undergone. They are following the project closely and are excited to see it come to fruition after many years. They feel this will be an asset to the community. The affordable housing is a good mix for the West Side and is needed. It has a unique strategy to activate the ground level with community art during an interim period and that type of activity and use is badly needed on the West Side. She explained it is a building on vacant property and there are a lot of these on the West Side as well as sites that are not easy to build on. They feel fortunate that NeDA has taken an interest to develop a very sensitive project for the site. Ms. Swenson read the letter dated Tuesday, March 15, 2016 from WSCO in support of the application (see attached).

Scott Wilson, 442 Livingston Ave., St. Paul, spoke in opposition. He stated he lives directly across the street from the proposed building. He is concerned about water run-off. Since changing the alignment of the street on Congress and Cesar Chavez, the water comes down into his driveway and he ends up with a lake at the bottom of his driveway which freezes all winter long. Mr. Wilson said he is concerned with parking. If there is an event at Harriet Island or Boca Chica, the neighborhood is overfilled and cars end up blocking his driveway. His last concern is that until receiving this notice no one in the neighborhood has heard about this project. He would like more neighborhood input on this project.

Ms. Reid responded to testimony. She said they will control all water coming down the slope through water management cisterns and that may improve water issues. The District Del Sol planning group has conducted a parking study. Overflow parking will be on Congress Street and not across the street. There are about 40 spots along Congress that is located next door along the south side of Cesar Chavez. They are also concerned about water drainage and constantly working on ways to improve it in the area.

The public hearing was closed.

Commissioner Elizabeth Reveal moved approval with a condition of the conditional use permit & variance. Commissioner Kyle Makarios seconded the motion.

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

Adopted Yeas - 4 Nays - 0 Abstained - 0

Drafted by:	Submitted by:	Approved by:
Cherie Englund Recording Secretary	Jake Reilly Zoning Section	Gaius Nelson for Chair

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PRESENT: Edgerton, Makarios, Nelson, and Reveal,
EXUSED: Merrigan, Padilla, Wencl, and Wickiser

STAFF: Bill Dermody, Samantha Langer, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

Victoria Park Apartments Phase 3 - 16-015-194 - Appeal of Planning Administrator approval of changes to the Victoria Park Master Plan to allow a 49 1/2 ft. high apartment building on Lot 1, Block 6, at 763 Kay Avenue., 763 Kay Ave, SW corner at Mercer Way

Bill Dermody presented the revised staff report with a recommendation of denial for the appeal. Bill Dermody also stated District 9 recommended approval of the appeal, and there were 13 letters in support, and 0 letters in opposition.

Upon questions from the Commissioners, Mr. Dermody, clarified the finding H(1), which states the maximum building height has changed from 40' to 49'6". He also stated that a 49'6" building requires a conditional use permit, unless it is an additional 4 ½ feet from the set-back lines.

Commissioner Makarios asked if there is any consideration for cumulative effects of the minor amendments toward the 10% trigger, stating there was a significant minor amendment made between the last major amendment and today of 840 units in the original master decreasing to 660 units. Mr. Dermody stated there was no explicit mention in our code about cumulative effects and the applicant is applying for a change on one site. Mr. Torstenson clarified the 10% doesn't refer to the number of units; it refers to an area of land in a particular land use category.

Mr. Dermody responded to Commissioner Reveal explaining if a change is minor or not, it is a two-point test: It is a 10% change in land use area, which does not pose a problem, and it maintains consistency with the master plan's intent.

Mr. Dermody clarified to Commissioner Makarios the 10% change in land use would not be affected by building height.

Chair Nelson said the developer proposed 46 parking spaces. The developer could propose 34 parking spaces to meet the zoning requirement, based upon the 12 unused spaces on the street frontage around the property. They are providing more underground parking than necessary in order to meet the code. Mr. Dermody agreed this is correct.

The appellant, Eric Williams Executive Director with Nova Classical Academy, 1455 Victoria Way, spoke in favor of the appeal. Nova is a school of 1,000 students, grades K through 12. The school brings value to the neighborhood. In 2011, Nova planned their design within the rules of the masterplan. 18 classroom windows overlook the proposed apartment. Nova planned the design with the intention that townhomes would be built on this lot. He stated adding a 48-

unit apartment building will not add value to the neighborhood. It will create parking issues and traffic congestion, which will be hazardous throughout the day. 80% of students at Nova participate in after school extracurricular activities. A high-density apartment does not make sense.

Chair Nelson said that according to the letters there are concerns for parking and traffic issues even though the apartment is not yet in place. Mr. Williams responded that they contacted the City of St. Paul and the city engineer evaluated the site, giving signage options.

Mr. Williams explained that the lot north of the school is not a vacant lot. They approached Chase Real Estate regarding a potential land swap, stating this would be beneficial to both parties for privacy reasons. Nova designed their building with the intention of overlooking townhomes of no more than 2 stories high.

Kimberly Dumitrica, 2187 Berkeley Ave., spoke in favor of the appeal. She stated her children attend Nova Classical Academy. Ms. Dumitrica expressed concerns about the deviation by Chase Real Estate in the Victoria Park Apartments master plan and her long term interest in neighborhood. The change from 13 townhomes to a 52 unit apartment building compromises the safety of residents and students. She expressed a significant lack of housing diversity and increased traffic. If the proposed apartment goes through, she is requesting speed restrictions, dedicated crosswalks, parking restrictions and signage for a school zone. The parking garage entrance should be moved from Mercer to Kay. She had submitted a letter, as well.

Theresa Nelson, 1463 Blair Ave. spoke in favor of the appeal. She has two children who attend Nova. Their classroom currently overlooks this field. She is concerned that students will be distracted by people within the apartment building. Reasonable accommodations have been offered to Chase Real Estate, which they have refused. She hopes the Commission sends a message that the students are important, the City of St. Paul supports its schools and reasonable accommodations will be made. She submitted a letter.

Jessica McClary, 1183 Englewood Ave., spoke in favor of the appeal. She seconded the statements of Kimberly and Theresa.

Joe McElwain, Developer and Architect with Chase Real Estate, 740 Victoria Way spoke in opposition to the appeal. He stated he has read all opposition letters. He went on to address five major concerns:
Item 1 – Traffic congestion and traffic study. They have completed two 3rd party parking studies in 2013 and 2015. They have been requested by City traffic staff to update these studies for this project and are in process of doing so. This traffic study shows there will be a minimum increase in traffic.
Item 2 – Parking requirements. They are required to have 52 stalls. 46 of those stalls will be underground and 6 will use on-street parking in front of their property, as allowed by zoning code. The lot frontage can accommodate 18 stalls. The advantage of the site plan is the lack of any on-site surface parking or rear driveways for connecting individual garages behind private townhomes. Parking would not be a problem, since the majority of residents would be at work, while school staff and students are parked during school hours. The school does not have private parking. The parking lot off of Victoria is for the future Victoria Park, a City park owned

by HRA that is being used by the school. The school could alleviate parking by utilizing their existing plot of land to the west.
Item 3 – Change of master plan from townhomes to an apartment. The 2009 Exxon Mobile legal settlement played significant role to change to a high density building. They have withdrawn their request of a Conditional Use Permit for 49' height, and will now be at 45' maximum or less in height.
Item 4 – Vision and proximity of students for viewing tenants smoking or partying. Their properties are 100% smoke and drug free. He stated that tenants are working professionals and not home when school is in session.
Item 5 – The property is zoned for housing since the original 2005 master plan adoption.

Commissioner Reveal asked if consideration was given to the land swap. Mr. McElwain, said it was considered, but the site would be inferior, by creating a lesser view and a negative environmental impact. He said they have owned for the property for four years and have put a lot of planning into this site. The idea was to offer more set back to create breathing room for the school, while offering a great view for residents.

Mr. Williams stated that upon leaving work at Nova, he has seen people standing in the other apartments' parking lot with a glass of wine and smoking, a common occurrence in the warmer months. Placing a 48-unit apartment next to a school does not make sense. Zoning laws are designed to make sense for neighborhood and 13 townhomes makes more sense.

Commissioner Reveal said she was on the commission at the time of approval for the Nova application for a major modification of the master plan. There were concerns from Nova about the adjacent lot, but no discussions for protection. At that time the property was zoned for multi-family use. She said she is very supportive of Nova, but the plan for a high density apartment is not a fatal flaw. She has lived in places all over the country with apartments next to schools.

Mr. Williams said an apartment will detract from the neighborhood and we don't want to be like NYC. The school has grown since 2011 to 1,000 students with 1,000 students on a waiting list. This can work with townhomes; however an apartment would be detrimental. They probably would have purchased the adjacent lot in 2011 if they could have afforded it.

The public hearing was closed.

In response to a question from Commissioner Makarios, Mr. Dermody said that he does not know who owns the baseball diamond shaped lot, but the property is actively marketed as residential. The site is designated for mansion homes and single family detached building types.

Commissioner Edgerton moved to deny the appeal based on the findings in the staff report. Commissioner Reveal seconded the motion.

Commissioner Edgerton said the rationale for the appeal has been addressed by staff for a minor plan modification. He said he understands the concerns of the school. The master plan called for more residential housing. There is usually flexibility within a land use and we are meeting the intent of the master plan.

Commissioner Reveal said that looking at the history it is hard to argue that since its inception the master plan has maintained its integrity from its original intent. She stated she is sympathetic to the issues of the school, but does not feel it is prohibitive to have a school next to residential housing. If townhouses were economically viable they would have been developed on this site, but the market is defining this change.

Commissioner Makarios said the relevant document is the original master plan as amended in 2011 with Nova. This master plan had a school involved and took a large number of residential units off and made open space. The last major master plan included 458 units on the site. The current number of units with this change will be 660. This is significant difference. He stated with this he does not feel that this proposal is in line with the vision of the master plan as amended in 2011.

Commissioner Edgerton said he feels the comparison should be based on the most recent master plan.

Commissioner Reveal stated the debate is not for the number of units within a land use. The intent is for higher density development on this site. Originally, this did not include an institutional use, but now does. Density is what is trying to be achieved everywhere.

Commissioner Makarios is interested in the traffic and parking study and said it may be appropriate for the proposed apartment building to have a public hearing before the Zoning Committee. Commissioner Reveal agreed with bringing the site plan review to the Zoning Committee and said she thinks that gets to the heart of the matter. She asked that it be put on the record that the site plan review for the proposed apartment building come before the Zoning Committee for a public hearing.

The motion passed by a vote of 3-1-0.

Adopted Yeas - 3 Nays - 1 (Makarios) Abstained - 0

Drafted by:	Submitted by:	Approved by:
Cherie Englund	Bill Dermody	Gaius Nelson
Recording Secretary	Zoning Section	Chair