

city of saint paul
planning commission resolution
file number
date

WHEREAS, Viet Tran, File # 17-031-406, has applied for a conditional use permit for an auto repair garage with an existing auto body shop under the provisions of § 65.705 and § 61.501 of the Saint Paul Legislative Code, on property located at 584 Stryker Ave., Parcel Identification Number (PIN) 07.28.22.14.0110, legally described as West St Paul Blks 100 Thru171, Lots 3 and 4, Blk 104; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 11, 2017, 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. The applicant, Viet Xuan Tran, is a certified automotive mechanic and is purchasing the existing auto body repair shop out of foreclosure with the intent to open an auto body repair and auto repair shop. The purchase is contingent upon license and permit approvals. The applicant states that fifty percent of the work will be auto body repair and fifty percent will be auto repair. The applicant states he is not renewing the auto sales license
2. § 65.705 lists the standards and conditions that must be met for auto repair stations:
 - a) *The minimum lot area shall be fifteen thousand (15,000) square feet.* This condition is met. The lot area is 15,100 square feet.
 - b) *A ten-foot landscaped buffer with screen planting and an obscuring fence shall be required along any property line adjoining an existing residence or adjoining land zoned residential.* This condition is met. The property is surrounded by screen planting and an obscuring fence.
 - c) *All repair work shall be done within an enclosed building.* This condition is met. The applicant states that all repair work will be conducted within the existing garage on site. The applicant states that there is sufficient space for the auto body work and the auto repair work to be done in different portions of the structures on the property.
 - d) *There shall be no outside storage.* This condition is met. The applicant has stated there will be no outside storage.

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seconded by _____
in favor _____
against _____

3. § 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. Stryker is defined as a mixed-use corridor in the Saint Paul Comprehensive Plan (2010). This use is an existing use in the corridor and provides services to the neighborhood. The Stryker George Precinct Plan has as an objective, "Promote the reuse and rehabilitation of vacant structures" which the applicant intends to do with this property.
 - (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The way the business is located on the site there is ample room in the driveway and with the existing curb cut to allow vehicles to access the work areas from the street, without disrupting street traffic and without using the street for vehicle storage or maneuvering.
 - (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 auto repair use is considered less intense than the previous auto body shop, and the applicant has proposed business hours of 8 a.m. to 7 p.m.
 - (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 auto repair use will not preclude other uses allowed in the B3 zoning district.
 - (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. The use complies with the requirements listed in the B3 zoning district.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Viet Tran for a conditional use permit for an auto repair garage with an existing auto body shop at 584 Stryker Ave. is hereby approved subject to the following conditions:

1. 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; and
2. The hours of operation of the business shall be no earlier than 7 a.m. and no later than 7 p.m.

Reilly, Jake (CI-StPaul)

From: Krysten Lynn Ryba-Tures <krystenlynnryba@gmail.com>
Sent: Thursday, May 11, 2017 10:49 AM
To: Reilly, Jake (CI-StPaul)
Subject: 584 Stryker CUP

Hi Jake,

I don't know if it's too late to submit comments on the Conditional Use Permit request headed into the Zoning Committee today at 3:30pm, but if so, I have comments for consideration. To be very clear, I'm writing this as a resident of the West Side (not in my capacity as a WSCO board member). I also happen to live on the same block as 584 Stryker (my address is 543 Hall Ave).

I would like to voice my opposition to this CUP. Another auto-oriented service shop (body, repair or otherwise) is redundant for the West Side. Just a few hundred feet away (at George St. & Stryker Avenue) there is autobody shop. I can name seven auto body & repair shops all within 55107 that offer a variety of services, including those proposed in this CUP. One could argue that despite abundant auto repair service shops, unmet demand remains. Yet, in 2016, over 100 residents that live near Stryker Avenue were surveyed about their retail/service desires for vacant spaces along Stryker in a study by the West Side's District Council (WSCO): garage/repair/oil changes didn't make the list. At what point can we simply acknowledge that this is not "adding" to the range of retail and commercial needs of West Siders?

Vacant commercial spaces are an issue on Stryker Avenue, and it certainly my desire to see them filled with viable businesses. The building on this site is well-suited for the intended business --- I (& anyone else) can see that. But as the only commercial site on the north side of Stryker Avenue on that block, nested between multifamily buildings, on the 75 bus route, other redevelopment opportunities would better serve the West Side than an auto-oriented business. At the request of the West Side Community Organization, the Planning and Economic Development department will undertake a zoning study of Stryker Avenue later this year. This

may encourage the private market toward mixed-use redevelopment at 584 Stryker.

These may not be the kinds arguments the Zoning Committee uses to evaluate such decisions but I really encourage the members to take a holistic approach to this decision.

Thank you for your consideration.

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Krysten Lynn Ryba-Tures

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WHEREAS, ResCare Minnesota Inc, File # 17-031-496, has applied for a conditional use permit for a supportive housing facility with 16 residents under the provisions of §61.501 of the Saint Paul Legislative Code, on property located at 700 Transfer Road, Parcel Identification Number (PIN) 332923220009, legally described as Section 33 Town 29 Range 23 Beg On E Line Of Transfer Road & 145 Ft S From N Line Of Nw 1/4; Th E 125 Ft; Th S 218 Ft; Th W To E Line Of Sd Road; Th Nly Thereon To Beg In Sec 33 Tn 29 Rn 23; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 11, 2017, 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. ResCare Minnesota, Inc. is proposing to operate a residential treatment facility at 700 Transfer Road. The facility will provide mental health services to up to 16 individuals at any time, helping to prepare individuals for transition to long-term accommodation elsewhere in community-based settings. The proposed use is a "supportive housing facility" as defined under §65.161 of the Saint Paul zoning code.
2. §65.161 lists standards and conditions for supportive housing facilities:
 - (a) *The facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than four (4) adult residents, except in B5-B5 business districts where it shall be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons, or overnight shelter. This condition is met. The nearest congregate living facility is approximately 2,400 feet away.*
 - (b) *In RL-RT1 residential districts, the facility shall serve six (6) or fewer facility residents. In RT2 residential, traditional neighborhood, OS-B3 business and IT-I2 industrial districts, the facility shall serve sixteen (16) or fewer facility residents. This condition is met. The applicant has proposed to accommodate a maximum of sixteen (16) residents at any time.*
3. §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*

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Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council. On balance, this condition is met. The future land use map identifies the area where the subject property is located as the transition from a mixed-use corridor along University Avenue to an industrial zone to the north. It is also within the area covered by the West Midway Industrial Area Plan. Both the Land Use Chapter of the Comprehensive Plan and the West Midway Industrial Area Plan emphasize retention of industrial land for job-creating uses. The Comprehensive Plan also identified the need for a zoning study to examine the range of allowed uses in industrial districts to ensure that they are being used in a way that achieves this goal. The study resulted in all uses which would include more than 6 dwelling units requiring a conditional use permit for location in an I2 general industrial district, but did not prohibit them in the district. While the subject property is located in an I2 district and an area guided for industrial use, it is located near the junction with a mixed-use corridor. The property, at under an acre, is likely too small to support most industrial uses without combination with another parcel. Finally, the underlying zoning of the property will not change with the granting of a conditional use permit, nor will the existing building form change. On balance, the proposed use is in substantial compliance with comprehensive plan.

- (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The applicant is not proposing any site alterations. The subject property is located on Transfer Road, which provides one southbound and two northbound vehicular travel lanes and a dedicated center turn lane. Ingress and egress to the site is via two curb cuts on the east side of Transfer Road, one for ingress and one for egress. Based on a comparison of the current and proposed uses, it is anticipated that the new use will generate similar or reduced amounts of vehicular 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 character of the neighborhood is industrial/commercial in nature, characterized by uses equally or more intense in nature to the proposed use, which is allowed in a range of residential and mixed-use districts.
- (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 consistent with allowed uses in the district, and will not impede investment in surrounding properties.
- (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 ResCare Minnesota, Inc. for a conditional use permit for a supportive housing facility with 16 residents at 700 Transfer Road is hereby approved.

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WHEREAS, Saint Paul Parks and Recreation, File # 17-032-384, has applied for a conditional use permit for location of an accessory recreational structure not elevated on fill in the FF Flood Fringe under the provisions of §72.73 of the Saint Paul Legislative Code, in Harriet Island Regional Park, Parcel Identification Number (PIN) 062822340013, legally described as Harriet Island Subj To Sts, Esmts & Flood Control & Ry R/ws & Ex The Sely 25 Ft Of Lots 1 Thru 3 Blk D; Vac Sts & Alleys Accruing & Fol Lots 1 Thru 6 Blk C & All Of Blks D,e,f,g,h & Part Of Lot 188 Nly Of Ry R/w & Part Of Sd Ry R/w In Lot 1 Sd Blk 188 Lot; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 11, 2017, 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. In conjunction with the National Park Service, Saint Paul Parks and Recreation is proposing seasonal placement of paddle share stations in Hidden Falls and Harriet Island Regional Parks. The paddle share stations consist of a freestanding storage structure with multiple, secured compartments and/or external storage racks. The stations provide rental canoes, kayaks, paddles, and personal flotation devices. Rental can be done through online reservation or on a first-come, first-served basis. The location of the station in the FF flood fringe without elevation on fill to the regulatory flood protection elevation (RFPE) requires a conditional use permit.
2. §72.74 lists standards for conditional uses in the FF flood fringe district.
 - (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 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*

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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 or 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.*

The intent of these standards are met. The intent of the standards is to ensure that when structures--particularly permanent, habitable structures--are constructed in the flood fringe, they need to be protected by elevation to the Regulatory Flood Protection Elevation (RFPE, 2 feet above the 100-year regional flood) or represent a minimal investment, be of minimal size, and be floodproofed to standards found in the building code. The standards also require that the structures or use of structures does not create a risk of the conveyance of harmful or flammable substances via floodwater. The proposed use is not typical of a structure in that it is intended to be moved on a seasonal basis, and is easily removed in times of anticipated flooding, thereby avoiding any of the negative impacts the standards are intended to prevent. The structure also represents a minimal investment, and is constructed primarily of floodproof materials, with the exception of a solar panel and communications and payment equipment. Under §61.502, the Planning Commission has the ability to modify required conditions, subject to the findings contained therein.

3. §72.32 lists thirteen (13) factors to be considered in evaluating applications for conditional use permits in the FF flood fringe or FW floodway district:

- (a) The relationship of the proposed use to the comprehensive plan and floodplain management program for the city. The proposed use is in compliance with the Saint Paul Comprehensive Plan and the city's floodplain management program. Strategy 3.5 of the*

Parks and Recreation Chapter of the Comprehensive Plan is to *"provide programming and recreational opportunities that encourage people to participate in ecologically sound outdoor activities."*

- (b) *The importance of the services provided by the proposed facility to the community.* The proposed facilities provide expanded recreational opportunities, consistent with the goals of the *Great River Passage* master plan.
- (c) *The ability of the existing topography, soils, and geology to support and accommodate the proposed use.* The area proposed for location of the proposed use is flat, and the soils and underlying geology in the area already support and accommodate accessory structures to the park, such as parking areas, roads, and boat ramps.
- (d) *The compatibility of the proposed use with existing characteristics of biologic and other natural communities.* The immediate area of the proposed use is characterized by pavement, turf, bare ground, and canopy trees. Sensitive, terrestrial, natural communities are not found in the immediate area.
- (e) *The proposed water supply and sanitation systems and the ability of those to prevent disease, contamination, and unsanitary conditions.* The proposed use does not include nor requires water or sanitary service.
- (f) *The requirements of the facility for a river-dependent location, if applicable.* The proposed use requires close location to the river.
- (g) *The safety of access to the property for ordinary vehicles.* Safe access to the site is available via existing roads and trails.
- (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 facility will be removed in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (i) *The dangers to life and property due to increased flood heights or velocities caused by encroachments.* The proposed encroachment will not be present in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (j) *The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.* The proposed facility will not be present in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (k) *The danger that materials may be swept onto other lands or downstream to the injury of others.* The proposed facility will not be present in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (l) *The availability of alternative locations or configurations for the proposed use.* The proposed use is best located close to river, to minimize the distance users must portage boats and equipment.
- (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.

4. §61.501 lists five standards that all conditional uses must satisfy:

1. *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. Strategy 3.5 of the Parks and Recreation Chapter of the Comprehensive Plan is to *"provide programming and recreational opportunities that encourage people to participate in ecologically sound outdoor activities."*

2. *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The existing facility is adequately served by existing roads, and the potential number of additional park patrons related to the proposed use is small relative to the number of existing users.
 3. *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 use is consistent with the purpose of the existing park as a recreational hub, and is well removed from adjacent non-park uses.
 4. *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 accessory to the existing park, and well removed from any non-park adjacent uses.
 5. *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The use conforms to all other applicable regulations of the R1 single family residential district.
5. §61.502 provides for modification of special conditions: *The planning commission, after public hearing, may modify any or all special conditions, when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.*

The proposed use is an otherwise lawful accessory use of the property. As described in Findings 2, 3, and 4, the proposed use is consistent with the intent of applicable sections of Chapters 68 and 72 of the Saint Paul Legislative Code. Complying with all standards of those sections would not meaningfully improve the public health, safety, or general welfare, but would result in an undue, exceptional hardship to the applicant, as complying would require construction of custom paddle share stations. There would also be a practical difficulty in waterproofing the solar power system and electronics used for communications and payment.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Saint Paul Parks and Recreation for a conditional use permit for location of an accessory recreational structure not elevated on fill in the FF Flood Fringe at Harriet Island Regional Park is hereby approved, subject to the following additional condition:

1. Approval of a flood response plan to be kept on file by the Department of Safety and Inspections, and full compliance with said plan.

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WHEREAS, Saint Paul Parks and Recreation, file # 17-032-223, has applied for a conditional use permit for location of an accessory recreational structure in the FW Floodway under the provisions of §72.63 of the Saint Paul Legislative Code, in Hidden Falls Regional Park, Parcel Identification Number (PIN) 212823320024, legally described as Section 21 Town 28 Range 23 Ex Part In Lots 3 And Lot 4 Of Auditors Sub No 87; The Fol; Govt Lots 3 And 7 And Minnehaha Island And Part Of S 211.6 Ft Of Govt Lot 4 Lying Wly Of Misisisippi River Blvd R/w (subj To Rd) In Sec 17 Tn 28 Rn 23, Together With L; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 11, 2017, 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. In conjunction with the National Park Service, Saint Paul Parks and Recreation is proposing seasonal placement of paddle share stations in Hidden Falls and Harriet Island Regional Parks. The paddle share stations consist of a freestanding storage structure with multiple, secured compartments and/or external storage racks. The stations provide rental canoes, kayaks, paddles, and personal flotation devices. Rental can be done through online reservation or on a first-come, first-served basis. A conditional use permit is required for location of a structure accessory to an allowed use (parks are an allowed use) in the FW floodway district.
2. §72.64 lists standards for conditional uses in the FW floodway district.
 - (a) *No structure (temporary or permanent), fill deposit (including fill for roads and levees), obstruction, storage of materials or equipment, or other use may be allowed that will cause an increase in the height of the regional flood or cause an increase in flood damages in the reach or reaches affected. The use shall not adversely affect the hydraulic capacity of the channel or floodway or any tributary to the main stream or of any ditch or other drainage facility or system. For Lake Phalen and Beaver Lake, compensating flood water storage volume shall be provided below the 100-year flood elevation for any obstruction placed in the floodplain.*
 - (b) *Fill shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.*
 - (c) *Accessory structures shall not be designed for human habitation.*
 - (d) *Accessory structures shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters:
 - (1) *Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and**

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- (2) *So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.*
- (e) *Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classification in the Minnesota State Building Code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the Minnesota State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards:*
- (1) *The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;*
- (2) *Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and*
- (3) *To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.*
- (f) *The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited. Storage of 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.*
- (g) *Structural works for flood control that will change the course, current or cross-section of protected wetlands, or public waters shall be subject to the provisions of Minnesota Statutes, chapter 103.G. Structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.*
- (h) *A levee, dike or floodwall constructed in the floodway shall not cause an increase to the regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.*
- (i) *No use shall be permitted which is likely to cause pollution of waters, as defined in Minnesota Statutes, § 115.01, unless adequate safeguards, approved by the state pollution-control agency, are provided.*

The intent of these standards is met. The intent of the standards is to ensure that any construction in the FW floodway does not result in an increase in the height of floodwaters, impede conveyance of floodwaters, increase the potential for flood damage (either to the structure itself or downstream), or the introduction into floodwaters of hazardous or flammable substances. The proposed use is not typical of a structure in that it is intended to be moved on a seasonal basis, and is easily removed in times of anticipated flooding, therefore avoiding any of the impacts the standards are intended to protect against. The structure also represents a minimal investment, and is constructed primarily of floodproof materials, with the exception of a solar panel and communications and payment equipment. Under §61.502, the Planning Commission has the ability to modify required conditions, subject to the findings contained therein.

3. §72.32 lists thirteen (13) factors to be considered in evaluating applications for conditional use permits in the FF flood fringe or FW floodway district:

- (a) *The relationship of the proposed use to the comprehensive plan and floodplain management program for the city.* The proposed use is in compliance with the Saint Paul Comprehensive Plan and the city's floodplain management program. Strategy 3.5 of the Parks and Recreation Chapter of the Comprehensive Plan is to "provide programming and recreational opportunities that encourage people to participate in ecologically sound outdoor activities."
- (b) *The importance of the services provided by the proposed facility to the community.* The proposed facilities provide expanded recreational opportunities, consistent with the goals of the *Great River Passage* master plan.
- (c) *The ability of the existing topography, soils, and geology to support and accommodate the proposed use.* The area proposed for location of the proposed use is flat, and the soils and underlying geology in the area already support and accommodate accessory structures to the park, such as parking areas, roads, and boat ramps.
- (d) *The compatibility of the proposed use with existing characteristics of biologic and other natural communities.* The immediate area of the proposed use is characterized by pavement, turf, bare ground, and canopy trees. Sensitive, terrestrial, natural communities are not found in the immediate area.
- (e) *The proposed water supply and sanitation systems and the ability of those to prevent disease, contamination, and unsanitary conditions.* The proposed use does not include nor requires water or sanitary service..
- (f) *The requirements of the facility for a river-dependent location, if applicable.* The proposed use requires close location to the river.
- (g) *The safety of access to the property for ordinary vehicles.* Safe access to the site is available via existing roads and trails.
- (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 facility will be removed in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (i) *The dangers to life and property due to increased flood heights or velocities caused by encroachments.* The proposed encroachment will not be present in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (j) *The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.* The proposed facility will not be present in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (k) *The danger that materials may be swept onto other lands or downstream to the injury of others.* The proposed facility will not be present in times of flooding. Submission and approval of a flood response plan specifying removal criteria and actions should be a required condition of approval.
- (l) *The availability of alternative locations or configurations for the proposed use.* The proposed use is best located close to river, to minimize the distance users must portage boats and equipment.

(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.

4. §61.501 lists five standards that all conditional uses must satisfy:

1. *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. Strategy 3.5 of the Parks and Recreation Chapter of the Comprehensive Plan is to *"provide programming and recreational opportunities that encourage people to participate in ecologically sound outdoor activities."*
2. *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The existing facility is adequately served by existing roads, and the potential number of additional park patrons related to the proposed use is small relative to the number of existing users.
3. *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 use is consistent with the purpose of the existing park as a recreational hub, and is well removed from adjacent non-park uses.
4. *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 accessory to the existing park, and well removed from any non-park adjacent uses.
5. *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The use conforms to all other applicable regulations of the R1 single family residential district.

5. §61.502 provides for modification of special conditions: *The planning commission, after public hearing, may modify any or all special conditions, when strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.*

The proposed use is an otherwise lawful accessory use of the property. As described in Findings 2, 3, and 4, the proposed use is consistent with the intent of applicable sections of Chapters 68 and 72 of the Saint Paul Legislative Code. Complying with all standards of those sections would not meaningfully improve the public health, safety, or general welfare, but would result in an undue, exceptional hardship to the applicant, as complying would require construction of custom paddle share stations and installation and permanent installation of anchoring hardware. There would also be a practical difficulty in waterproofing the solar power system and electronics used for communications and payment.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Saint Paul Parks and Recreation for a conditional use permit for location of an accessory recreational structure in the FW Floodway at Hidden Falls Regional Park is hereby approved.

1. Approval of a flood response plan to be kept on file with the Department of Safety and Inspections, and full compliance with said plan.