

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, May 23, 2019 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: Baker, DeJoy, Edgerton, Grill, Lindeke, Rangel Morales, and Reveal  
EXCUSED: Ochs  
STAFF: Tony Johnson, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Edgerton.

**Kevin Greenlee - 19-035-381 - Conditional use permit for a carriage house dwelling, 479 Ashland Avenue, between Arundel Street and Mackubin Street**

Tony Johnson presented the staff report with a recommendation of approval for the conditional use permit. He stated District 8 made no recommendation, and there was 1 letter in support, and 0 letters in opposition.

Upon inquiry from the Commissioner Edgerton, Mr. Johnson stated that the parking required for the bed and breakfast and carriage house is 4.5. A bed and breakfast requires 3 spaces and the carriage house requires 1.5 spaces. The zoning code states that if at any time a parking requirement ends on a .5 fraction it gets rounded down so in this case the parking requirement is met.

In response to Commissioner Edgerton, Mr. Johnson confirmed that Finding 2(a) stating that the building planned for use as a carriage house dwelling had originally been built to house domestic employees is a requirement for a carriage house dwelling.

Commissioner Rangel Morales said that the Finding 2(a) appears to provide a different ability to some members of our community than it does for others because you wouldn't have staff if you were living in other areas of the City. Under an Accessory Dwelling Unit (ADU) provision, the ADU is considered part of the household, that would only allow a maximum of four unrelated adults, whereas if you have what is defined as a carriage house, you could have two separate families.

Mr. Johnson confirmed that this was correct.

Commissioner Edgerton stated that the recent Planning Commission retreat focused on equity and trying to find ways to build equity into all City processes. He would suggest that you think about this zoning requirement in that context, and decide if there is an equity issue, and if it should be addressed in a future zoning change.

In response to Commissioner Reveal, Mr. Johnson said that a carriage house is considered a separate principal structure. There can be four unrelated adults in the main structure and four unrelated adults in the carriage house. He said an ADU is capped to the definition of family which is four unrelated adults in both structures.

In response to Commissioner Rangel Morales, Mr. Johnson said that the CUP for the bed and breakfast is for four rooms. They are only using three rooms. He is exploring options with the carriage house, but it may be used as a short-term rental.

The applicant, Kevin Greenlee, 483 Ashland Avenue, Saint Paul, MN, said they moved in to the house over a year ago and they love the neighborhood. The neighbors were happy to sign their petition and some of them wrote letters of support. Mr. Greenlee said that the garage was used for carriages. There is a big disc on the floor that would turn the carriages around.

In response to Commissioner Reveal, Mr. Greenlee said they don't want to rule out short or long-term rental on the carriage house, and they have a few more hoops to jump through with other regulatory agencies. He said there is only one unit in the carriage house. It has two small bedrooms and a small kitchenette. He believes it is 800 square feet.

No one spoke in support or opposition. The public hearing was closed.

Commissioner Anne DeJoy moved approval of the conditional use permit. Commissioner Elizabeth Reveal seconded the motion.

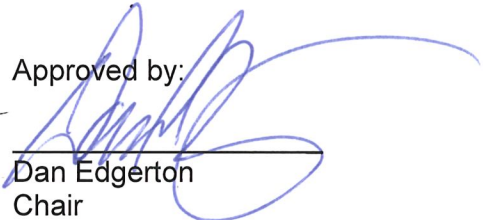
Commissioner Baker said we need to change the inequities that we see based on where you live in the City.

The motion passed by a vote of 7-0-0.

Adopted                      Yeas - 7              Nays - 0              Abstained - 0

Drafted by:  
  
Samantha Langer  
Recording Secretary

Submitted by:  
  
Tony Johnson  
City Planner

Approved by:  
  
Dan Edgerton  
Chair

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

The meeting was chaired by Commissioner Edgerton.

**Waterford Bay - 19-037-931 - Conditional use permit for a building height of 45' and for construction of a fire access road and storm sewers in the FW floodway. Variances for front yard setback >25', primary entrance location not in third of building closest to Randolph, and rehabilitation slopes >18% at 380 Randolph Avenue, Island Station Site**

Josh Williams presented the staff report with a recommendation of approval with conditions for the conditional use permit & variances. He said District 9 submitted a letter recommending approval, and there were no other letters in support, and 1 letter in opposition.

In response to Commissioner Edgerton, Mr. Williams said that the building itself is not in the floodway. A portion will be in the flood fringe, but will be elevated on fill which is allowed and does not require a conditional use permit.

Mr. Williams stated that the applicant has expressed a willingness to help provide public access to the river. They would need to work with Xcel Energy to provide access all the way to the river. The advice of the City Attorney, to ensure that the application is consistent with the Comprehensive Plan, is to add a condition of approval stating that the applicant provide necessary easements.

In response to Commissioner Grill, Mr. Williams stated that if Xcel Energy denied access, there could potentially be access to the river through land owned by Saint Paul Parks Department.

In response to Commissioner Rangel Morales, Mr. Williams described what could be built if this application wasn't approved. The site has several constraints and he said without the CUP for height they would have to build a shorter building that might not be feasible from an economic perspective. He further added that without the variances they would have to redesign, and he doesn't know if there is a practical way to meet the setback and front door location requirements in T2 traditional neighborhood zoning.

In response to Commissioner Baker, Mr. Williams said he doesn't believe there is any type of affordable housing proposed. He said he noted the issue in the staff report because it was an issue that was raised by the Fort Road Federation Land Use Committee. There is nothing in the zoning code that requires affordable housing be included in a development.

Commissioner Baker and Commissioner Rangel Morales both stated they want further discussion regarding affordable housing as it relates to this project. Commissioner Rangel Morales said that he would like to know their ability to condition approvals regarding affordable housing requirements.

Commissioner Reveal said the Zoning Committee needs to have a conversation about equity issues and how they relate to the zoning code. She believes many of the issues would require changes to the zoning code and would like to see a retreat for the Commissioners to discuss these issues.

Jeremiah Smith, BKV Group, 4008 Cedar Avenue S, Minneapolis, MN, said that this is a great site along the Mississippi River. They have met with Friends of the Mississippi River, the Saint Paul Department of Parks and Recreation, and the Fort Road Federation (District 9) to understand what the different stakeholders have in this property. There are many different constraints on this site, including existing easements. While developing this plan, they have considered the vision of the Great River Passage Master Plan, while still working around the existing site constraints to accommodate all stakeholders. They intend to connect to the existing trails in the area. He said there is a small piece of property that is owned by Xcel Energy. During a high-water condition, the river would be accessible from their property, but on a low water condition, as the water recedes beyond the property line, they would need to work with Xcel Energy on access to the river via the Xcel property. They have met with Xcel Energy, and company representatives have expressed interested in working with the development team. They have stated that they are willing to provide access to the trails on the peninsula, and that their biggest concern is if they do any excavation on the site that they could potentially expose contaminants that remain from the power plant. He said they would like to invigorate this under-utilized site and give people a chance to get to the river. They are excited to have Xcel Energy on board with that idea to extend the connection to the river beyond their physical property limits.

In response to Commissioner Edgerton, Mr. Smith described the that they will be connecting to the Sam Morgan Regional Trail and showed where that would be located on a map. They would have signage stating that the public is welcome and there would be five parking stalls dedicated to the public.

Ryan Swingruber, Stoneleigh Companies, 228 Raymond Avenue, Barrington, IL, said there has been a significant history behind this site and they have inherited that work product. Prior to them entering into a contract on the property, they cured a lien with Braun Intertec for previous environmental and geotechnical work. A considerable amount has been done, so much so that they are able to make application to the City for environmental and development grants to help them clean up the site. Unfortunately, they have missed the first deadline and the next deadline for application is November 1, 2019. It is estimated to be 1.6 million to remove soil from the site, remediate, and then bring in fill. Given their timeframe, they would like to start construction before the winter, and it is going to be difficult to realize the grant monies. Originally when they came into this they were trying to realize those monies, but as of now they have not made application. He is confident that if they were to get approved, and to purchase the land, they have adequate information for a contractor to be able to remediate the site in a manner acceptable to the State governing body. Mr. Swingruber said that regarding affordable housing there were no guidelines. What they have tried to do is design a unit mix that is more accessible to a wider range of people. Their research shows that the average rental for new construction downtown Saint Paul is steadily approaching \$1700 per month. They have attempted to design a unit mix that is heavily geared towards studios and microunits. They are trying to provide an average monthly rent that is more accessible to a wider range of people. The site plan application is very clear on the unit mix. The goal would be to allow more access to this type of living and the river; a class A apartment at a lower rate than their competitors. They wouldn't be opposed to affordable housing so long as they could make the economics work, but due to some of the complexities of the site including; the cost of the land, environmental remediation and construction being so close to the river and existing easements have made that difficult.

Commissioner Baker said that he is glad to hear that they are open to affordable housing. He understands that there aren't any hard guidelines, but he would encourage them to consider thinking about a few affordable housing units. Affordable housing is needed in this area.

Mr. Swingruber said he doesn't think a small number of affordable units would be a detriment to the deal, financially underwriting it, but they would need to know the specific expectation of the City so that they could move forward. He said they have worked with many stakeholders to accommodate concerns. He said that the issue of height came up and that the river corridor is very important to many stakeholders. They tried to be very conscientious to everyone's concerns. They originally had a setback of 50 feet and they moved to 100 feet to accommodate the 2040 Comprehensive Plan. Height was an issue for National Parks Department so they reduced the elevation closest to the river to three stories. They can't make the numbers work if they go to three stories across the development. If there weren't so many hardships due to the typography, easements, gas line location and being in the floodway that would afford them the ability to do three stories because there would be more buildable land to add units They have done to the best of their ability to minimize the impact of this project. Current zoning affords them 375 units and they are at 240. They have moved the building farther away from the river and that has also added to the complexities. He said along the lines of affordable housing they would not be saying no. They have worked for the last eight months with all the stakeholders to design something that is representative of everybody's comments, concerns, wants and needs.

In response to Commissioner Baker, Mr. Smith said the concern that Xcel Energy has is with excavation anywhere on the site. They are very open to providing access and open to them filling on the site, but excavation they are concerned with what they might encounter.

Mr. Swingruber said they have proposed to improve a bike and walking path that extends from Randolph. They will designate public parking wherever it would be in the best interest. Xcel Energy is willing to work with them, but they want more detailed drawings on exactly how they are going to accomplish this goal. He said with regards to their property, they are willing to work with the City and any language that is required to secure these easements so that there is comfortability that they are going to deliver on it because it will also be a benefit to our project. They want to create a private and public realm where people are invited to see the benefits to the site. The more traffic the better because those are potential renters. Promoting access to the peninsula is something that can be accomplished it has just taken a lot of time to make proper connections with the people at Xcel Energy. The design they are presenting today is one that they are bound to because of the easements and other issues. There really is no other place to put the sidewalk and said they are comfortable with a condition that commits them to delivery on that promise.

In response to Commissioner Rangel Morales regarding affordable housing, Mr. Swingruber said that they reduced the size of units and shrunk the unit mix. The average size of a unit in the building is 652 square feet. While this isn't defined as affordable, 20% of the unit mix is studios and that rental rates range from \$1100 to \$1280, considerably lower than average rates for Class A, new-construction multifamily living in the downtown area. From a business plan standpoint, our objective was to try and make it more accessible to a larger group of people. Mr. Swingruber explained why they were applying for a CUP of 45 feet. He said that the site constraints are putting them into a smaller buildable area. If they fall below 240 total units on the project it would not be feasible to build the project based on cost of the land, cost of remediation, and where the market is in terms of construction today. As the buildable area shrinks there are less apartments they can build. If it was only three floors they could only build 190 units. 70% of the footprint needs a fourth floor. Instead of asking for a 4<sup>th</sup> floor across the board they

lowered to three stories at the section closest to the river to be responsive of concerns raised. In response to Commissioner Rangel Morales regarding laying over the decision to allow time to see if affordable housing would be feasible, Mr. Swingruber said it would be concerned with the duration of the possible lay over. He said it would also be helpful to know how many affordable units they are looking for and at what rate. Another component with timing is that the site resides in an opportunity zone. The federal tax legislation act that was passed recently designated opportunity zones in urban areas with lower incomes to incentivize developers to invest long term in these areas. There is a tax benefit afforded to their group only if they were to designate capital gains from the previous year at this site and they would need to hold the site for 10 years. They are not an out of town developer looking to build and sell quickly. Any time you invest in something for 10+ years, and become part of the community, you are going to do something that is quality and well received. His concern in tabling this is that he is bound by the tax legislation to invest their capital gains from last year by the end of July. Otherwise they will lose the tax benefit of the site.

Commissioner Lindeke said that the letter from the Fort Road Federation asks us to ask the City to incentivize affordable housing, not for the developer to do it. We need to ask ourselves if we can set up inclusionary zoning or other alternatives.

Commissioner Reveal said she completely agrees. Progress on the possibility of inclusionary zoning or other alternatives would not be in time to be applicable to this project. She was only wondering what the applicant may be willing to do.

Commissioner Rangel Morales said he would respectfully disagree with those comments. He said at the Planning Commission retreat they talked about ways in which the Commission can operate to start enacting change. He isn't sure if they have the capacity to do it, but if they do they should. He said that "we can do it later" is not a respectable response. He added that it is nothing against the presenter or the project, it's more about what we are trying to do to reach the goals that we have said that we were trying to reach.

Commissioner Lindeke said he agrees with the goals, but it is a much larger conversation to have, and this isn't the time to have that conversation.

Commissioner Baker said that to his understanding they cannot force the applicant to move forward with ensuring that there is affordable housing, but he requests that the applicant look to see if there are opportunities for them to insert affordable housing that will still allow the numbers to work for the project.

Commissioner Reveal added that they could reference the Housing Chapter in the Comprehensive Plan that discusses the different levels of affordability and what is encouraged as the overall goals of the City. Commissioner Edgerton encouraged staff to work with the developer to provide some guidance.

Dana DeMaster, President of the Board of the Fort Road Federation, 882 West 7<sup>th</sup> St, Suite 6, Saint Paul, MN, spoke in support. She feels the Committee has already voiced what she has come to say. They support the CUP for the height and it is very important that they have more units in the City. They are fully in support of making this a project that is doable financially as well as making more housing for people. They recognize this is a very unique spot and poses certain challenges to developing it and it is under-utilized. Right now, there is no public access to the river and they are supportive to the project overall. She noted in their Comprehensive Plan and in the Great River Access Plan, they would really like to increase public access to the river. This is one of the last remaining sites where that is really a

possibility. They appreciate that it is part of the plan and it is important that it remains part of the plan. She said they didn't want to pick on this project alone regarding affordability, but in their discussion, they were asked to look at these variances in insulation, and it's hard then to judge one project and look at the cumulative impact of the neighborhood. The Minnesota Housing Partnership recent rent report shows that the West End has the highest average rents in Saint Paul and the rental prices have increased faster than almost any other neighborhood since 2010. They are very concerned about having affordable housing for the residents that currently live there and would like to continue living there. They are developing their own framework that will look at their values and needs.

No one spoke in opposition. The public hearing was closed.

Commissioner Elizabeth Reveal moved approval with conditions of the conditional use permit and variances subject to the additional condition; provision of easements to allow for public access to and use of the proposed emergency access road/trail, public parking and trail connection to the adjacent Xcel Energy property. Commissioner William Lindeke seconded the motion.

Mr. Williams stated he would suggest that the relevant finding in the staff report, which is Finding 6(a), be revised to indicate that the application can be consistent with the Comprehensive Plan if they ensure access to the river.

Commissioner DeJoy said that there is a desperate need for affordable housing, but the developer faces many challenges on this site, and it would be very difficult to develop this property with many affordable housing units.

Commissioner Rangel Morales stated his concerns about pricing out members of the Saint Paul community from certain areas and regions. He would like to have a discussion with the City Attorney to find out what the conditions are that the Zoning Committee can impose.

Commissioner Edgerton said agrees. He is unconvinced that you can build your way to affordability, and believes you need to go other ways in order to get there. They need to discuss what ability the Committee would have create a means to do something more to ensure affordable housing units.

Commissioner Baker stated we don't have a mechanism to allow for affordable housing. He would like options to be able to deal with issues that are consistently before the Zoning Committee. He would like staff to facilitate a meeting for the Zoning Committee to specifically address these topics.

After more discussion regarding affordable housing issues in the City, the motion passed by a vote of 6-1-0. Commissioner Rangel Morales stated he will vote in opposition because the applicant appeared to be open to revising the project and making some form of verbal commitment to affordable housing.

Adopted                      Yeas - 6              Nays - 1 (Rangel Morales)              Abstained - 0

Drafted by:

  
Samantha Langer  
Recording Secretary

Submitted by:

  
Josh Williams  
City Planner

Approved by:

  
Dan Edgerton  
Chair