

city of saint paul
planning commission resolution
file number
date

[Appeal Approval / Site Plan Denial Option]

WHEREAS, the St. Anthony Park Community Council, File # 19-088-143, under the provisions of Zoning Code § 61.701, appealed the conditional approval by the Zoning Administrator of a site plan for a semi-trailer storage and staging facility at 2495 Kasota Avenue, Parcel Identification Number (PIN) 20.29.23.33.0007, legally described as that part of Lot 2, Auditors Subdivision No. 64 according to the plat recorded, which lies north of the north line of Kasota Avenue, as established by final order in condemnation proceedings filed January 4, 1956, as Document No. 1387677, in Book 71 of Plans, page 19; and

WHEREAS, the Zoning Committee of the Planning Commission, on October 24, 2019, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said appeal in accordance with the requirements of Zoning Code § 61.303; and

WHEREAS, Zoning Code § 61.701 provides for the appeal of site plan approval by the Zoning Administrator where it is alleged that there is an error in the decision, and states that the appeal shall specify the grounds of the appeal; and

WHEREAS, a September 25, 2019, St. Anthony Park Community Council letter attached to their appeal outlines the grounds of the appeal and alleged errors, including the following:

- Process error in review of a site plan for a brownfield;
- Stormwater design standards not followed and infiltration testing needed;
- Identification of the wetland on the site as an incidental wetland/stormwater pond rather than as a historic remnant wetland;
- Identification of the nearest residential zoning district as to the west rather than to the east;
- Visual screening should be in the form of evergreen vegetation rather than a fence, and should be around the entire property rather than just on the Kasota Avenue side;
- Safe site access is not possible due to the location of the nearby TH280 ramp, so the proposed use of the site should not be permitted, and at least a traffic study should be required; and

WHEREAS, Zoning Code § 61.402(c) requires that in order to approve a site plan the Planning Commission shall consider and find that the site plan is consistent with the following, and based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, the Saint Paul Planning Commission made the following findings of fact:

1. *The city's adopted comprehensive plan and development or project plans for sub-areas of the city.*

moved by _____
seconded by _____
in favor _____
against _____

The site plan is consistent with the goal in the Saint Anthony Park Community Plan (WSA3) to reduce the input of contaminants to surface waters from Saint Anthony Park. Capping this site with a bituminous surface will limit the amount of water percolating through contaminants underground on the site.

The site plan proposes tree planting that exceeds requirements and lighting that is aimed downward and does not spill onto adjacent properties, consistent with St. Anthony Park development guidelines.

The site plan is consistent with comprehensive plan economic development policies to grow Saint Paul's tax base to maintain and expand City services, amenities and infrastructure. Developing this lot as a semi-trailer storage and staging facility will allow Rohn Industries to continue to operate and grow in Saint Paul. Improvements on this parcel will add to Saint Paul's tax base. The parcel has not been identified in the comprehensive plan as a public water basin, park, wetland, river source or other public watercourse or green infrastructure.

2. *Applicable ordinances of the City of Saint Paul.*

The site plan is consistent with all applicable City ordinances, including required conditions in § 66.541 for outdoor industrial uses. The site is located approximately 375 feet from the closest residentially zoned parcel, which is located to the east of the site and separated by an elevated four-lane highway (TH280). It is proposed to be enclosed with a six-foot-high chain link fence with slat inserts to screen it from Kasota Avenue. There is no servicing, processing, or manufacturing proposed for the site.

3. *Preservation of unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.*

An incidental wetland determination application was submitted to the City on 7/30/19. (Reference Minnesota Wetland Conservation Act (WCA) Notice of Decision). The application asserted that the wetland area in the southwest corner of the site reflects wetland characteristics but is an incidental wetland created in an upland for a purpose other than creating a wetland, based on a site visit, historic aerials, soil information, and previously approved development plans.

In 1986 a stormwater pond was designed, approved by the City, and constructed in the southwest corner of the site. The state Wetland Conservation Act (WCA) was passed in 1991. The WCA does not regulate impacts on incidental wetlands, defined as wetland areas that the landowner can demonstrate, to the satisfaction of the local government unit (LGU), were created in non-wetland areas solely by actions, the purpose of which was not to create the wetland. This includes stormwater retention improvements that over time may take on wetland characteristics. City staff reviewed the information, found the area in question to be adequately demonstrated as historically upland, and on 8/23/19 noticed a decision that it is an incidental wetland. The WCA provides a specific process for appeal of an LGU decision pursuant to MN Rule 8420.0905. Information about this was provided to the St. Anthony Park Community Council on 9/6/19 after a 9/5/19 letter from the district council requesting information related to the wetland delineation.

A Minnesota Board of Water and Soil Resources (BWSR) response to an inquiry about the incidental wetland determination for 2495 Kasota Avenue, sent on 10/23/19, concurred with the review and noticing protocol that was followed and with the City staff findings based on the information provided by the consultants. BWSR is the oversight agency for the Minnesota Wetland Conservation Act.

The St. Anthony Park Community Council provided information that wetlands near Kasota Avenue and TH280 are the last remaining wetlands of a much larger historic wetland

system that was largely drained and filled over the last 150 years. The community council also provided testimony that the remaining wetlands are environmentally sensitive and asserting that the proposed site plan is inconsistent with preservation of the nearby remaining wetlands.

4. *Protection of adjacent and neighboring properties through reasonable provision for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design which may have substantial effects on neighboring land uses.*

The applicant voluntarily enrolled in the MPCA's Brownfield Program on 7/2/19. The Minnesota Pollution Control Agency (MPCA) issued a No Association Determination letter on 9/10/19 based on the following documents prepared by Landmark Environmental.

- Landmark Environmental Phase I Environmental Site Assessment (4/30/19)
- Landmark Environmental Phase II Investigation (6/25/19)
- Proposed/Past Action Letter (6/28/19)

A Minnesota Pollution Control Agency No Association Determination letter is a legal determination that the developer is not responsible for the contamination detected at the site (described in the letter) and that the actions proposed by the developer (construction of a surface parking lot and related stormwater management infrastructure at the site in accordance with an MPCA-approved Response Action Plan/Construction Contingency Plan, and storage/parking of semi-trailers at the site), subject to several conditions specified in the letter, will not associate the parties involved with the proposed actions with the release or threatened release of hazardous substances, pollutants, or contaminants at the site for the purpose of Minn. Stat. § 115B.03, Subd. 3(4).

On 7/2/19 the developer submitted a Response Action Plan (RAP) and a Construction Contingency Plan (CCP) to the MPCA for review and approval. The RAP and CCP detail how environmental issues will be addressed and release of hazardous substances will be avoided during construction.

On 10/17/19 MPCA Brownfields staff issued an approval letter for both the RAP and the CCP, subject to a number of conditions and clarifications. It notes that standard stormwater runoff and dust control procedures will be implemented during the project, and that a trained environmental professional will be on site during excavation and earthmoving activities to perform field screening and collect soil samples as needed.

The MPCA's Brownfield Program does not have regulatory authority relative to land-use decisions. The role of the Brownfield Program is to make sure that environmental issues are appropriately addressed during construction and redevelopment, for those projects that voluntarily enroll in the Brownfield Program. MPCA staff were provided three letters submitted by the St. Anthony Park Community Council to the city outlining their environmental concerns, which were considered during their review of the project.

The Minnesota Department of Health (MDH) issued a Letter Health Consultation (LHC) on 10-7-19, addressed to Kathryn Murray and the St. Anthony Park Community Council, stating that MDH believes the proposed development at 2495 Kasota does not pose a public health hazard, based on review of environmental reports and comparing site contaminant levels to environmental criteria.

The Planning Commission is concerned that the Response Action Plan and Construction Contingency Plan approved by the Minnesota Pollution Control Agency may not ensure that neighboring properties will be adequately protected from the release of hazardous substances during construction.

5. *The arrangement of buildings, uses and facilities of the proposed development in order to assure abutting property and/or its occupants will not be unreasonably affected.*

The site plan is consistent with this. It is consistent with the requirements in Zoning Code § 63.114 that required visual screens shall be of sufficient height and density to visually separate the screened activity from adjacent property; a six foot minimum height for a required visual screen for outdoor storage; and that the screen may consist of various fence materials, masonry walls, earth berms, plant materials or a combination thereof.

6. *Creation of energy-conserving design through landscaping and location, orientation and elevation of structures.*

The site plan proposes landscaping that is consistent with this, including planting 16 new shade trees and using a MnDOT seed mix for all undeveloped space.

7. *Safety and convenience of both vehicular and pedestrian traffic both within the site in relation to access streets, including traffic circulation features, the locations and design of entrances and exits and parking areas within the site.*

The site plan is consistent with this subject to final approval of the driveway location by the Department of Public Works Transportation Planning and Safety Division, and to a Minnesota Department of Transportation (MnDOT) access permit for the driveway.

The site plan was sent to MnDOT for review in August because of proximity to TH280 ramps, and on 8/30/19 MNDOT staff responded with a letter recommending a traffic study and requiring the applicant to obtain a MnDOT Drainage Permit.

The applicant provided a traffic narrative to the City, dated 9/26/19, that identified a defined traffic pattern between the main Rohn Industries site at 862 Hersey Street and 2495 Kasota Avenue. Ingress to the site will be from the east via Energy Park Drive, egress from the site will be towards the east via Energy Park Drive, and there is no proposed use of TH280. Turning movement exhibits for a 53-foot trailer (WB 67) and a fire truck were required and provided. The driveway entrance allows adequate space for trucks entering and exiting the site to queue on private property and not on public right-of-way. The site plan shows space for 25 trailers, with a projection of 20 truck movements per day.

The applicant noted that they employ their own drivers, and that the travel route in the traffic narrative will become the standard operating procedure and added to the driver's instructions. The applicant worked with City Public Works staff to design an entrance location based on the proposed traffic pattern. A best practice in the Public Works street design guidelines is to locate driveway entrances 100 feet away from an intersection, but based on site specific considerations this was not required.

On 10/17/19 City staff were notified in writing by MnDOT staff that the proposed driveway location at Energy Park Drive is MnDOT right of way, and therefore will require a MnDOT access permit. Ramsey County data available to city staff does not show this area to be MnDOT right-of-way. MnDOT staff additionally indicated they are currently evaluating the intersection of Energy Park Drive and MNTH 280 ramps. There is likely to be a traffic signal installed there in the future, but because they are still completing their evaluation, MnDOT could not provide information on precisely where and how the equipment will be located and configured. Based on this new information, City and MnDOT staff have agreed that the access driveway should line up directly opposite the TH 280 ramps. City Public Works staff will work with the applicant to review an updated design of the driveway entrance. The site plan will not be approved until it receives City Public Works approval, as well as a MnDOT Access Permit if required for the new driveway location.

Based on recent MnDOT staff review of the Rohn Industries Traffic Narrative,

conversations with City Public Works, and the requirement that Public Works review any future change in operations or use that will affect trip volumes to and from the site, MnDOT is no longer recommending that the City require a traffic impact study for this development.

8. *The satisfactory availability and capacity of storm and sanitary sewers, including solutions to any drainage problems in the area of the development.*

The site plan is consistent with this. The stormwater system meets City standards for runoff rate control. Changes in stormwater runoff rate are a result of changes in land use and land cover. The city's stormwater rate control standard restricts a site's discharge rate to 1.64 cubic feet per second per acre of disturbed area. This standard is based on mitigating changes in land cover that accelerate the rate of runoff. The modeling appropriately reflected proposed land cover and land use drainage patterns, and proposed stormwater practices to control changes in runoff rate.

The applicant's stormwater engineering report dated 8/9/19 states that "the soils on-site are largely contaminated." A geotechnical report dated 6/21/19 was included as an appendix. The geotechnical report describes test pit and soil boring results.

The stormwater engineering report and site plan indicates that alternative (non-infiltration) methods to manage stormwater will be employed. This is consistent with the Minnesota Construction Stormwater Permit, which prohibits permittees from constructing infiltrating systems where infiltrating stormwater may mobilize high levels of contaminants in soil or groundwater. The infiltration test method, as well as other infiltration requirements including a three-foot buffer, are not relevant to this site given the extent of documented contamination, which precludes infiltration as a stormwater management method.

Final site plan approval will not be granted until the project shows conformance with Mississippi Watershed Management Organization (MWMO) standards. This approval includes calculations and/or device sizing information showing that 60% total phosphorus removal is provided by the proposed design. The report and plans must also indicate the specific type of filtration device and include an operation and maintenance plan.

9. *Sufficient landscaping, fences, walls and parking necessary to meet the above objectives.*

The site plan is consistent with this. See findings 5 and 6 above.

10. *Site accessibility in accordance with the provisions of the Americans with Disabilities Act (ADA), including parking spaces, passenger loading zones and accessible routes.*

Not applicable.

11. *Provision for erosion and sediment control as specified in the ``Ramsey Erosion Sediment and Control Handbook.*

The site plan includes an erosion and sediment control plan that is consistent with this.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, based on findings 3 and 4 above, that the appeal by the St. Anthony Park Community Council of the conditional approval by the Zoning Administrator of a site plan for a semi-trailer storage and staging facility at 2495 Kasota Avenue is hereby approved.