

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, July 19, 2018 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: Baker, Edgerton, Lindeke, and Ochs  
EXCUSED: DeJoy, Fredson, and Reveal  
STAFF: Josh Williams, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Edgerton.

**Starbucks - 18-026-074 - Modification of site plan for existing coffee shop with drive-through sales, 234 Snelling Ave N, SE corner at Marshall**

Josh Williams presented the staff report with a recommendation of approval with conditions for the modification of site plan for existing coffee shop with drive-through sales. Josh Williams stated District 13 recommended denial, and there were no letters in support, and 43 letters in opposition.

Commissioner Edgerton clarified that what is not before the Committee today is discussion of the conditional use permit itself. The hearing is on the amended Site Plan. The conditional use permit will be in place either with a new, amended site plan or the existing one, depending on the Zoning Committee decision today and ultimately the approval by the Planning Commission.

At questions from the Commissioners regarding the traffic officers, Mr. Williams explained where the officers were located to control the traffic and trying to make efficient use of the queuing space. He explained that when the parking officer isn't on site you could expect to see people making less efficient use of that space. Also, 30% of the time when an officer isn't on site people will make an illegal left turn onto Marshall. This data is made available by video that Public Works has collected. There is an impact to the functionality of the site and also safety concerns for vehicles and bicyclists.

Commissioner Edgerton brought attention to Finding 8 and noted that the date listed should be Friday, August 25, 2017, not 2018. Upon further questions, Mr. Williams referred to page 4 and 5 of the Kimley-Horn report for detailed field observations of Scenario 1 and Scenario 2.

In response to a question by Commissioner Lindeke, Mr. Williams said that Public Works took video on two different occasions for multiple full days. Kimley-Horn also collected video data in spring of 2018 for five full days.

Mr. Williams stated that there has been a lot of community input and all the letters received are in opposition of this modification as well as revocation of the conditional use permit. The Union Park District Council Transportation Committee, as well as their board, has also submitted letters to recommend denial of the modification and revocation of the conditional use permit.

Upon questions from Commissioner Baker and Commissioner Reveal, Mr. Williams stated that the general sentiment from all of the opposition letters is that the site plan is inadequate. He believes that this modified site plan is a marginal improvement over the current situation. He noted the letter received from Union Park District Council Land Use Committee, dated November 21, 2017, recommends denial of the site plan that was submitted at the time and that the City should think carefully about whether this long-term plan really solves anything and the City should withdraw the conditional use permit. The second letter from the full board in

December 2017 recommended denial and the stated that the interim and long-term plans do not address the concerns of the community. It also stated, "I urge the City to hold Starbucks to its obligation to avoid right-of-way obstruction as outlined in its Conditional Use Permit. If the conditions cannot be met, the permit for operation of the drive-through should be withdrawn."

In response to Commissioner Reveal, Mr. Williams stated that by approving the site plan the City was stating that was an adequate site plan, and that the decision was never appealed. However, he noted, the site has not performed as the traffic study submitted at the time of approval suggested. He stated again that the question before the Committee at this time is if the proposed amended site plan is an improvement on the existing plan, not if a conditional use permit has been violated. He stated that it is the staff opinion that the proposed amended site plan is an improvement because it provides additional queuing space.

In response to Commissioner Ochs, Mr. Williams stated that he can't offer an opinion if this site plan will solve the spillback issue, but it will improve it. There will be additional queuing space for one more vehicle, a median to prevent left turns out of the site (provided the median is approved by the road authority), and someone on the actual site to direct traffic.

At inquiry from Commissioner Reveal, Mr. Williams stated that the traffic control officer would be on site during the AM peak period. Commissioner Edgerton suggested that the recommendation provide specific times. Mr. Williams suggested that 7AM to 9:30AM would cover the bulk of the peak time.

In response to Commissioner Reveal, Mr. Williams stated that with regard to condition two of the staff recommendation, Ramsey County and/or MnDot had been consulted and agreed to the initial test in spring of 2018, and he expects that they will agree to a median on an interim basis.

The applicant's representative, Bill Griffin, 80 Western Avenue North, Saint Paul, wants to stress that Starbucks is committed to solving circulation and access issues. We are presenting an improved site plan with more queuing spaces to have less conflict. Obviously they are requesting that the site plan be approved and they will continue to work with City staff to make sure that it functions as well as it can. The main point that he wants to make is that this work has been done over the last 9 months. There has been a lot of work and effort by many people to get to this point. He appreciates both the planning staff and attorney's office helping to frame this issue and asking if the proposed amended site plan represents an improvement over the existing plan. Mr. Griffin stated with regard to the conditions, they have worked with City staff and agree that they are workable. They suggest that there is an opportunity to look back in the months to come and see if issues have improved or if more needs to be done. He wants to emphasize that this store has performed better than anyone expected, partly because it's a relocation from the corner of Selby and Snelling and partly due to the convenience of the drive-through. There aren't many drive-through locations in the City and many residents find it to be a nice convenience. The queuing changes in the proposed site plan are essentially a 20% to 30% increase in the amount of stacking area. He said that will allow for more than one car, but he will let Trish Sieh go into more detail. Mr. Griffin said that the site is improved not only in terms of stacking, and angle parking and reduction of conflicts, but Starbucks would support an ultimate solution if City, County and State can come up with a median. That would be the best solution, but it is out of their control.

Upon inquiry from the Commissioners, Mr. Griffin stated they would agree to have officers at peak hours directing traffic on site. Currently the peak hours have been 7AM to 8AM, but the officers have been on site from 7AM to 9AM. He stated that the best solution would be the revised site plan combined with a permanent median. It will prohibit the illegal move out of the site. He stated it is important that this move forward. They have worked on this for the past 9 months and there is a short window of time to get the improvements done to optimize the function of the site.

Trish Sieh, General Civil Engineer, Kimley-Horn, 2550 University Avenue W, Saint Paul, stated she has been involved in the technical side from the beginning. She noted that Doug Arnold, a Traffic Engineer is also available for questions. She provided what has been done over the past year from the original site plan to the interim site plan to what is now the proposed site plan. The original approved site plan allowed 8 to 9 cars to queue on site. After a traffic study, after operation of the store, they observed an average of 7 cars during the morning peak period with a maximum of 12 cars. There was spillback into Marshall. The issues are mainly with the store not performing their original expectations. They began working with the City to come up with a solution and came up with an interim site plan which is currently in place. This allows 10 to 11 cars, 11 being the maximum, to queue on site. They did a couple of different site observations at which time there was still 12 cars that were trying to queue. During the Scenario 2 study, having a simulated median on Marshall, a maximum of 11 vehicles showed to be queuing on site. The proposed amended site plan would allow 11 to 12 cars to queue on site, a total of three additional queuing spaces from the original site plan. The last study done on site with the simulated median on Marshall had a maximum queue of 11 vehicles. If you can store 11 to 12 cars on site, you are eliminating spillback onto Marshall. One thing to note is they have tried to test what they can, the marginal improvements on the interim site plan. They still have what is proposed which is the next step. They still have other improvements that they want to make. So the numbers that they have from many observations, the max queue of eleven cars, six on average, will safely fit on site. Once we can get those cars on site, the issue shifts more from queuing to the illegal left hand turns people are making onto Marshall which is where the median comes in. The applicants strongly believe that a combination of incrementally increasing the queue and preventing the left-hand turns will solve the issue.

Upon questions from the Commissioners, Ms. Sieh stated that with the Commission's approval of the site plan she believes it would eliminate spillback into Marshall. Strictly based on the numbers collected by all of their observations they believe that they will have ability to stack 11 to 12 cars on site.

Commissioner Ochs stated that he respectfully disagrees on the interim plan because the 11<sup>th</sup> vehicle has to wait for the vehicle to leave before it can move ahead. He believes it is only ten that can queue.

At questions from Commissioner Ochs, Ms. Sieh stated that the original site plan had 14 parking stalls. The interim plan, the one in place now, has 12 parking stalls, and the proposed would have 10 parking spaces. The City requires six parking stalls.

Upon inquiry from the Commissioners, Ms. Sieh stated that a car will be able to go out of the site and take a right turn with the twelfth vehicle in the queuing area. Twelve cars can fit on site, but the reality is it will be eleven to twelve because people won't always stack their vehicles

efficiently. She confirms that eleven cars was the maximum observed on their busiest day during peak hours. The median isn't shown on their permanent design because it is outside of their site. They are working with the County and the City and will have input on the issue.

No one spoke in support.

Roger Meyer, 1692 Dayton Avenue, Saint Paul, spoke in opposition. He disagrees with the way the question was framed. He believes the question isn't whether the proposed amended site plan is an improvement on the current site plan, but if it is an adequate site plan. He would ask the Committee to consider this site plan amendment as adequate or not adequate to meet the challenges it presents. He showed pictures on this phone demonstrating spillback. He said cars block the Marshall Avenue bike lane, traffic in both directions, and sidewalks. He finds great concern with the comments from Starbucks saying the issue will be solved. This area is very busy and will become a higher and higher trafficked area with bikes, pedestrians, and cars with the other developments in the area. They have already proven it is an over-performing store and they have shown that past estimates have been wrong. He does not believe this plan is adequate and it won't solve the issues on the site. He does not believe it is a right-of-way issue either. He doesn't think the inadequacy of the site development should require that public tax payer dollars be put into improving the intersection with medians and bollards in order to make it safe for residents to bike, walk, and drive safely. Metro Transit has sunk a lot of money into the A-Line that goes by this property too. This is meant to be a transit oriented area. This is not a transit oriented use. This proposed amended site plan is inadequate. He encourages the Committee to vote against it. He also stated he is clear that this isn't about the Conditional Use Permit (CUP), but he would like to know the process the City does use to call into question a CUP.

At questions from the Commissioners, Mr. Meyer described the photos on his phone. It showed a Sunday at 10:50 a.m. There were two cars queuing, one in the bike path and one blocking the traffic. It shows a very tight site where the queuing of cars isn't working. Chair Edgerton asked that he submit the photos into record.

The applicant responded to testimony. Mr. Griffin stated that on behalf of Starbucks they appreciate the frustration that the public has recorded both in their comments in writing and stated this evening. Their client is also frustrated that they could not get to a resolution more quickly. The reason it has taken this long is because they want to make sure that it's the right resolution. You have heard from the consultant at Kimley-Horn, who has done studies that have been vetted by the Public Works staff, that they believe strongly that this site will function even before there are bollards placed in the median or a median is constructed. It will function better and meet the queuing needs to prevent spillback. That is a projection based up on study that they hope will come to be. If it doesn't come to be they will continue to work on how to address the issue. It is not a situation that residents should have to encounter on a day to day basis. All of this work is to come up with the best amended site plan. This was submitted on a voluntary basis by Starbucks after City staff raised concerns. They take the concerns of their neighbors and customers very seriously. They are always willing to work with City staff to limit any issues now or in the future.

The public hearing was closed.

At the request of Chair Edgerton, Mr. Torstenson explained the process of revocation of a CUP. The Zoning Administrator needs to notify the Planning Commission if conditions of a CUP are violated. The Commission can then schedule a public hearing and consider revocation of a permit.

Upon inquiry from Commissioner Lindeke about the original CUP, Mr. Torstenson said that on a CUP there are general conditions that apply to all CUPs that are listed in Section 61.501 of the Zoning Code and that includes that the use will provide adequate ingress and egress to minimize traffic congestion in the public street. Also, in many cases there are also special conditions in the Zoning Code that apply to each use. The Planning Commission can also add additional conditions to the permit. The Zoning Administrator can challenge the conditions after getting public complaints or requests about violations. They will then contact the Planning Commission to conduct a hearing and the Planning Commission would have the ability to modify or revoke the permit at that time.

Commissioner Baker moved to approve the staff recommendation with conditions. The motion failed due to no second motion.

Commissioner Baker said that the Committee is not dealing with the CUP in this instance. He is basing his vote off of the site plan improvements. He understands that there are a lot of frustrated neighbors dealing with spillback, but as of right now, even given all of the letters received, they can only vote on what is before them. He also stated that Starbucks seems to be a willing party to work with the City and before we start talking about revocation he would like to exhaust all options in hopes all parties are able to come to an agreement.

Commissioner Ochs said for clarification he is not even thinking of the CUP or revocation. He is thinking of the site plan only, and it is his opinion that it will not resolve in full the issue of spillback. It also reduces parking from 14 spaces to 10 which will further exacerbate the need for a drive-through in order to get coffee. The site plan does not improve the site adequately.

Commissioner Baker stated his concern is that if nothing happens with the proposed amended site plan we are left with the existing site plan and we still haven't dealt with the issues. The proposed amended site plan would allow the applicant a chance to address the problems and move forward.

Upon inquiry from Commissioner Lindeke, Mr. Williams stated that a very large number of city staff hours have gone into trying to resolve this issue. Commissioner Lindeke said that since so many hours have already been dedicated to solving the issues, and this site plan still isn't adequate, he is convinced that it isn't possible to come up with an adequate site plan. No matter what they do in this small footprint it will not be adequate to create safe conditions and fulfill the goals of the City to have thriving businesses, but also protect the residents of the City. He doesn't consider the added cost of adding a median an adequate solution either.

Chair Edgerton stated it's possible this isn't adequate, but he feels it is an improvement. With approval, Starbucks would be given the opportunity to see how much of an improvement the proposed amended site plan would be or if it was adequate or not. Unless it is tried, we are stuck with the current site plan. Starbucks has an existing CUP and voting against this almost looks forward to considering the CUP overall and forcing them to remain with a plan that isn't

working. He would support allowing them to make the improvements and see where that leads them. It could be that it isn't adequate. It is unfortunate that it does take a lot of staff time and ours, but that is why we are here. He asked for an alternative motion.

City Attorney, Peter Warner, supplied information for the Commissioners. He said that based on law with respect to CUPs, case law suggests that the government has an obligation to work with applicants to find solutions on CUP matters. When the CUP was approved one of the conditions was that they needed to provide a site plan to deal with ingress and egress. No one is disputing the fact that it hasn't worked well at the site. Starbucks wants to continue to find a solution and it may not be that this site plan is a solution. It is a conditional use and it is improvement by the testimony given today. You can balance and apply some kind of scale to how much of an improvement it is, but it is an improvement. Also, keep in mind that if this isn't approved the current site plan that everyone acknowledges doesn't work well, will remain in place.

Upon inquiry from the Commissioners there was discussion on voting procedures for the case before them and Mr. Warner laid out all of the options. Mr. Williams stated that the applicant has extended the 15.99 deadline to August 16, 2018. Mr. Warner added that in addition to all the time staff has put into this matter, Starbucks has also been in contact with the Mayor's Office and City Attorney's office, and they have been very cooperative with finding a solution.

Commissioner Lindeke stated his main concerns are stacking and spillback issues, illegal U-turns even if a median is installed, and people parking in bike lanes. One condition he might support would be to have security staff available during the hours of operations, but that seems a little excessive.

Commissioner Lindeke moved to lay over of the modification of site plan for existing coffee shop with drive-through sales to August 2, 2018. Commissioner Baker seconded the motion.

Commissioner Baker stated he has a hard time knowing that the end result could possibly be the existing plan that everyone agrees is not working.

Commissioner Edgerton stated they would like to continue the bike lane parking conversation and Commissioner Lindeke would like more information on the video data.

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

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

Drafted by:

  
Samantha Langer  
Recording Secretary

Submitted by:

  
Josh Williams  
City Planner

Approved by:

  
Dan Edgerton  
Chair

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PRESENT: Baker, Eckman, Edgerton, Lindeke, Ochs, and Reveal  
EXCUSED: DeJoy and Fredson  
STAFF: Anton Jerve, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Edgerton.

**2239 Como - 17-224-759 - Rezone from T1 traditional neighborhood to RT2 townhouse residential, 2239 Como Avenue**

Anton Jerve presented the staff report with a recommendation of approval for the rezoning. Anton Jerve also stated District 12 made no recommendation, and there were no letters in support or opposition.

Brian Alton, 951 Grand Avenue, Saint Paul, stated he was present on behalf of the applicants and available for questions.

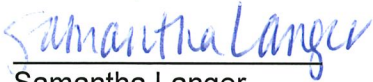
No one spoke in support or opposition. The public hearing was closed.

Commissioner Elizabeth Reveal moved approval of the rezoning. Commissioner Cedrick Baker seconded the motion.

The motion passed by a vote of 5-0-0.

Adopted                      Yeas - 5              Nays - 0              Abstained - 0

Drafted by:



Samantha Langer  
Recording Secretary

Submitted by:

  
Anton Jerve  
City Planner

Approved by:

  
Dan Edgerton  
Chair

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PRESENT: Baker, Eckman, Edgerton, Lindeke, Ochs, and Reveal  
EXCUSED: DeJoy and Fredson  
STAFF: Bill Dermody, Cherie Englund, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Edgerton.

**Village on Rivoli - 18-075-276 - Conditional use permit for a 26-home cluster development with variances of minimum building width (22 ft. required, 7 homes with 16 ft. width), garages exceeding 60% of building width and placed in front of the homes, and primary entrances not in front third of the homes., at 660 Rivoli Street, et al., terminus of Rivoli Street south of Mt. Ida and west of Otsego**

Bill Dermody presented the staff report with a recommendation of approval with a condition for the conditional use permit & variance. He stated District 5 made no recommendation, and there were no letters in support or opposition.

Upon inquiry from Commissioner Lindeke, Mr. Dermody said he does not know how the bike path will be funded.

At questions from Commissioner Reveal, Mr. Dermody said it would need to be confirmed with the applicant whether all the homes will have income restrictions.

At the request of Commissioner Ochs, Mr. Dermody explained that the site meets the Zoning Code's minimum size requirement, which is that the total lot area plus the open space, but minus the streets, comes out to average at least the zoning district's minimum lot size of 5,000 square feet.

Commissioner Edgerton questioned the location of homes and the bluff and how that would affect the development. He also stated that typically Saint Paul does not want a garage dominated fronts for developments. He questioned if this would be setting precedent and asked why this approach is appropriate for this site.

Mr. Dermody explained that about four houses would seem to be down the bluff. The development will be moving some dirt around, but he will refer to the applicant for details. In regards to the layout of the development, Mr. Dermody stated that there are findings that must be met with regards to variances which would not make this precedent for other locations. One of them being that there are unique circumstances of the topography. Also, the general purposes and intent of the zoning code states that we encourage a pedestrian oriented environment, not an auto oriented environment. In this case it is only the people who reside there that will use the garage dominated street. It is very pedestrian oriented on the other side with the greenspace. Normally people would be on sidewalks along the street, but here they will be walking through the middle of the development. Staff believes the variance findings are met.



Jim Erchul, Executive Director, Dayton's Bluff Neighborhood Housing Services (DBNHS), 823 East 7<sup>th</sup> St, Saint Paul, said that page six of their application provides an idea of what they would like to accomplish on this site. He said that they have been in contact numerous times with District 5 over the years regarding this site. They will provide an update on the project with them next week. Mr. Erchul addressed the question of income restrictions. The reality is that in this part of the city it can cost up to \$100,000.00 more to build a house than what the house will sell for. In part because of the cost of construction materials and because of what appraisals say a house is worth in that part of the city. They had to raise money in order to build on this site. Money was raised from a variety of different sources and each of the sources has their own rules. A big investor was the City. This was a contaminated site and the City and DBNHS spent over two million dollars cleaning the site. It was contaminated primarily by the City that used it as the street sweep dump. There was also contamination due to railroad activities. They cleaned it up by hauling in 100,000 yards of dirt when they built Regions Hospital. The part of the site they are talking about today is almost all engineered fill. The slope that Bill was referring to as the bluff is more of a slope than a bluff at that point because it's tapering down towards the Urban Roots Ag area. It will be a privately owned green space that the residents of this development and Railroad Island can utilize. The trail and the infrastructure for this project are being funded by the Metropolitan Council Livable Communities Program. Prior to the Great Recession they received a grant to build here and the recession took such a toll on the neighborhood they actually had to give it back. They reapplied a few years ago and costs have gone up considerably since then. The Metropolitan Council awarded them \$975,000, most of which will be going into the trail amenities and sewer that will go down the middle of the greenspace. They were awarded the funding in part because they were demonstrating a way of increasing density within a single-family zoning district. This is really not that unique of a development. On the west coast they have been building these types of neighborhoods and they are called pocket neighborhoods. The best examples we have of these types of neighborhoods in the Twin Cities are in Northeast Minneapolis and on the West Bank. The most famous one is Milwaukee Avenue off of Franklin, and most likely the best example of what they are trying to achieve on this site. They don't think of the ring road as a street, it's more of a lane and the purpose is for the residents to utilize it to get to their homes. There is also guest parking on the lane. The sociology is what he is most interested in. The idea is to create a space where everyone can see what's going on in it. Everyone can have their kids playing outside safely. There will be three clusters. One unit is in the back with a unit to the east and one to the west.

In regards to the income, Mr. Erchul said that the twelve houses built already had an income limit based on what they received from the Minnesota Housing Finance Agency which would be about \$105,000 for the household income. Of the total twelve that they sold, five were sold to families under 80% of the median. A family of four would be about \$55,000 to \$60,000 right now. The others were above that income level, but no one can be under \$115,000. Right now the only thing they have money for are small houses in the back that are 16 foot wide. Because of the sources they will be at \$115,000. They are trying to shoot for a price point that is below \$200,000 on those so they would be affordable to much lesser income families, which is why they want to do the 16 foot wide instead of 22 foot wide homes.

Upon inquiry from Commissioner Reveal of income limits on B and C units, Mr. Erchul said there very likely will be because of they have to get money from some place to build them

beyond what they can sell them for. This last round they had a family interested that offered \$260,000 and the appraiser wouldn't appraise it for that amount. They appraised it for \$250,000. Those particular houses, not including the 2.5 million that went into the land cleanup, probably cost about \$320,000 to build. That's the mathematics of that part of the east side. This will probably be the last single family development the City will see because of the cost of doing it and the amount of money you can make. In terms concerns about the slope, the Watershed District has someone monitoring every week. When it rains more than a half an inch they have to have an engineer do a report. The slope where they already built was actually steeper than this slope. When they were working on cleaning the site they were told they flooded the tracks, which they didn't do. They are conscientious of activity at the site.

Commissioner Edgerton raised concerns about steep slopes and Mr. Erchul said that all of those issues are being addressed in Site Plan Review. This development has been laid out and under review for about 15 years.

Upon inquiry from Commissioner Edgerton, Mr. Erchul stated that the private drive around the development will not be City maintained. There will be a homeowner association.

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

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

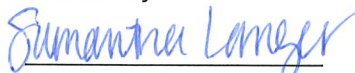
Commissioner Baker stated his excitement about this opportunity and the community aspect of what this will bring to Saint Paul.

Commissioner Lindeke added that the driveways are not the front entrances and having the green collective space in the middle is something that has been tried multiple times in various success rates. This is a chance where it could work really well. He is excited to see what happens.

The motion passed by a vote of 5-0-0.

Adopted                      Yeas - 5              Nays - 0              Abstained - 0


Drafted by:

  
Samantha Langer  
Recording Secretary

Submitted by:

  
Bill Dermody  
City Planner

Approved by:

  
Dan Edgerton  
Chair