

**Saint Paul Planning Commission
City Hall Conference Center
15 Kellogg Boulevard West**

Minutes November 1, 2019

A meeting of the Planning Commission of the City of Saint Paul was held Friday, November 1, 2019, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. Anderson, DeJoy, Grill, Lee, Mouacheupao, Reveal; and Messrs. Baker, Edgerton, Khaled, Lindeke, Ochs, Perryman, Rangel Morales, Rodriguez, and Vang.

Commissioners Absent: Ms. *Underwood and Messrs. *Hood, *Oliver, and *Risberg.
*Excused

Also Present: Allan Torstenson, Acting Planning Director; Peter Warner, City Attorney's Office; Yaya Diatta and Wes Saunders-Pearce, Department of Safety and Inspections; Bob Spaulding, Kady Dadlez, Michael Wade and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes October 4, 2019.

Chair Reveal announced that the minutes are not available at this time. However, they will be ready for approval at the next Planning Commission meeting.

II. Chair's Announcements

Chair Reveal had no announcements.

III. Planning Director's Announcements

Acting Planning Director Allan Torstenson had no announcements.

IV. Resolution Posthumously Honoring Richard J. F. Kramer

Bob Spaulding read the resolution honoring Richard Kramer. He noted that Mr. Kramer had been a good friend and mentor to him when he started on the Planning Commission. Mr. Kramer modeled civic commitment, love for the city, and good humor that often carried the day.

Commissioner Reveal made a motion to approve the resolution. Commissioner DeJoy seconded the motion, and it passed unanimously on a voice vote.

V. Zoning Committee

SITE PLAN REVIEW – List of current applications. (*Tia Anderson, 651/266-9086*)

One item to come before the Site Plan Review Committee on Tuesday, November 5, 2019:

- Conway Park – Turf field improvements, seasonal dome, accessory structure at 2090 Conway Street. David Ronzani, Saint Paul Parks and Recreation. SPR #19-097173

NEW BUSINESS

#19-084-455 160 WABASHA – Conditional use permit for a reception hall. 160 Wabasha Street South, NE corner at Plato Blvd. (*Michael Wade, 651/266-8703*)

MOTION: Commissioner Edgerton moved the Zoning Committee’s recommendation to approve the conditional use permit subject to additional conditions. The motion carried unanimously on a voice vote.

#19-088-143 Rohn Industries Trailer Parking – Appeal of Zoning Administrator decision on a site plan review application for a semi-trailer staging area. 2495 Kasota Avenue. (*Amanda Smith, 651/266-6507*)

Commissioner Edgerton reported that staff recommended denial of the appeal and upholding the Zoning Administrator’s conditional approval of the site plan. A motion to grant the appeal failed on a 3-3 vote. Commissioner Lindeke made the motion based on disagreement with staff findings #3 regarding preservation of environmentally sensitive areas and #4 regarding protection of neighboring properties. Commissioner Rangel Morales and Ochs voted in favor of the motion based on inconsistency with required finding #4. Commissioner Edgerton, Grill and Reveal voted against the motion. Because of the deadline for action, the committee voted to send matter to the Planning Commission with no committee recommendation.

Commissioner Lindeke made a motion to approve the appeal and deny the site plan. Commissioner Rangel Morales seconded the motion.

Commissioner Lindeke explained his concerns with findings 3 and 4, the historic wetland in the area, testimony about historic use of the property as an ash dump, and whether there was enough soil testing to know what is in the former dump site. Testimony from the community was about the soil sampling and whether the Minnesota Pollution Control Agency (MPCA) review and the testing regime was for regular land or sensitive enough to pick up all the different kinds of materials that would be in a toxic site. That is the concern it hinged on. He wants to know more to be careful about how a former dump is excavated to avoid potential release of contaminants such as lead. To him that was the biggest issue of concern at the Zoning Committee.

Commissioner Rangel Morales asked about getting more information from the MPCA about their review and analysis of this site under their Brownfield program.

Allan Torstenson, PED staff, said that Department of Safety and Inspections staff present may know more, but he thinks we have received all of the clear information from the PCA we will get.

Commissioner Rangel Morales explained his concern that additional soil testing is necessary. Under #4 it says that the applicant enrolled in the MPCA’s Brownfield’s Program and the MPCA issued a No Association Determination letter. What they heard from knowledgeable community

members was that the amount of testing may have not been sufficient to determine whether more soil remediation is needed before excavation on the site. They testified that contamination uncovered in soil testing would have been missed if the testing had been a couple of feet away. His question was whether the MPCA has a standard that takes into consideration that a site is contaminated. If it is just a general standard to determine whether a plot of land is contaminated, the standard may be good for that, but that is very different than knowing you have a polluted site and measuring at the same intervals. That is the question that did not get answered at the committee and that is why he voted no.

Commissioner Ochs said he voted in support of the appeal, although he needed to take his time on the vote and weigh things considerably. He is for business that wants to grow in the city, and it is a very positive thing to have an industrial site that is going to be used, but he didn't think there had been sufficient testing for the MPCA to warrant the site to be clean enough for this development, and it goes against the concerns of the citizens.

Commissioner Grill said she voted against the appeal for a variety of reasons. It seems that the business has done everything possible to alleviate the concerns. They did two phases of environmental reviews, voluntarily enrolled the site in the MPCA's Brownfield Program, and have a Construction Contingency Plan approved by the PCA. The Minnesota Department of Health also said the proposed development does not pose a health hazard. As it is now, rainwater infiltrates into contaminated soil, a problem that capping the contaminated soil with the proposed pavement will alleviate. This has gone through site plan review and was conditionally approved at the staff level because it can meet all of the all of the conditions and requirements.

Commissioner Edgerton explained his vote against the appeal and support for site plan approval. The site plan meets all city and state requirements. There are special requirements because it's a brownfield and the Minnesota Pollution Control Agency (MPCA) signed off on it because those requirements are met. The MPCA review and sign-off was because it is a contaminated site, and would not be necessary if it were not a brownfield. The soil testing would not have been required if it were not a brownfield, and was specifically done because the site is known to be contaminated. This type of testing for contamination is not done for a typical site that is not a brownfield and where research does not indicate potential for contamination. The amount of soil testing done here meets MPCA requirements or they would not have signed off on it. Commissioner Edgerton also noted the Minnesota Department of Health letter that the proposed development does not pose a health hazard, and the confirmation from the Minnesota Board of Water and Soil Resources that the incidental wetland determination was done properly. Commissioner Edgerton said he is very comfortable that they are following the rules, and he thinks site plan denial is not justified.

Commissioner Lindeke said lack of clarity is the reason he voted to support appeal, and he hoped for more information.

Commissioner Rangel Morales said that his concern is also lack of clarity, and he was hoping to get more information. Community members who testified were concerned for their health. Regarding the contingency plan, one said that a lot of the contaminants in the soil are things that would not be seen during construction. The fact that the MPCA approved it is a huge factor in denying the appeal, but he still has a lot of questions. Regarding required finding #4, he thinks there is a possibility that the development could have a substantial effect on neighboring property.

Commissioner Ochs asked about the adequacy of the location and spacing of the soil borings given the historical use of the site as an ash dump. He also noted that a person said train cars were hauling materials that are contaminating the environment and that was a great concern too.

Chair Reveal clarified that the train tracks were adjacent to the site, not on the site.

Commissioner Ochs agreed but said that neighboring communities and this site could be contaminated with materials from the rail cars as well.

Commissioner Khaled said his background is in environmental health. He would acknowledge the potential of inadequacy of studies like this. It's hard to track seepage and movement of contaminants over time, and sometimes digging into them makes things worst. As an epidemiologist, sometimes these things don't get proven until the people are dead. He noted his personal experience of living in a former brownfield area off East Hennepin while it was secondarily remediated and finding sediment on his windows.

Commissioner Edgerton said from experience in working on storm water there's always going to be uncertainty. You can't know where everything is or what's under the ground. That's one of the uncertainties about construction projects. That could be said about any brownfield. We could use that same argument to deny every brownfield redevelopment in the city because there's always missing information, assumptions being made, uncertainty about certain things. He noted that there must be a rational basis for site plan denial, and that the Planning Commission has the ability to add conditions to site plan approval to address outstanding issues.

Allan Torstenson, PED staff, said that Zoning Code § 61.107 provides that the Planning Commission may impose reasonable conditions in approving site plans as are determined to be necessary to fulfill the intent and purpose of the Zoning Code, to ensure compliance, and to protect adjacent properties. This is something that is commonly done. Generally, there is nothing particularly unique about this project regarding how we deal with brownfield development. Brownfield development happens all the time, and reasonable conditions are imposed to protect adjacent properties and ensure compliance with city codes and requirements.

Vote on Commissioner Lindeke's motion to approve the appeal and deny the site plan.

Chair Reveal clarified that a yes vote to approve the appeal is a vote to deny the site plan, which then can be appealed by the applicant to City Council. She noted that this is a quasi-judicial decision, and therefore she cannot vote except in the event of a tie of the Commissioners present. She also said that there must be a rational basis for approval of the appeal, and Commissioners must concur with Commissioner Lindeke's reasons or state their own reason.

Commissioner Rangel Morales voted yes based on inconsistency with required finding #4, with questions that have not been answered.

Commissioner Lindeke voted yes for the reasons he stated earlier when he made the motion.

Commissioner Perryman voted yes, concurring with Commissioner Lindeke.

Commissioner Anderson voted yes, and said she believes that further communication and information should be provided.

Commissioner Khaled voted yes for the reasons expressed by Commissioners Lindeke, Rangel Morales, and Anderson.

Commissioner Mouacheupao voted yes for the same reasons.

Commissioner DeJoy voted yes, based on inconsistency with finding #4 and previous comments by Commissioner Lindeke.

The vote was 7-7 a tie. Chair Reveal voted to deny the appeal, making the vote 7-8, and the motion failed.

Commissioner Edgerton made a motion to deny the appeal and approve the site plan with six conditions. Commissioner Ochs seconded the motion.

Commissioner Rangel Morales suggested adding a requirement for weekly updates to the Planning Commission in condition #3, which was accepted as a friendly amendment.

Commissioner Ochs asked about the requirement in condition #3 for collection of soil samples as needed, and how that would be determined. He agrees with condition #4 for the stormwater pond to have an engineered liner to prevent infiltration into contaminated soil, but disagrees with #5 for ivy on the fences. He proposed a friendly amendment to condition #3 to change the requirement for additional soil samples from “as needed” to double the sampling size.

Chair Reveal said the requirement for additional soil samples is linked to the Construction Contingency Plan and the Response Action Plan, which have been approved by the MPCA and require a trained environmental professional to be on site during excavation and earth moving to perform field screening as necessary.

Commissioner Ochs said he wouldn't know what might be contaminated.

Chair Reveal said that is why a trained environmental professional would be required.

Commissioner Baker added that he does not have the technical expertise to be comfortable with requiring the soil sample size to be doubled. That should be left to technical experts.

Chair Reveal added that having a trained environmental professional on site is required by the Response Action Plan and the Construction Contingency Plan. We would be adding weekly updates and reports that were not otherwise required under that contingency plan. Having an independent third party who is trained on site during the construction process is mandatory under the brownfield contingency plan and action plan approved by the MPCA.

Commissioner Edgerton said that he would not want to change the language for additional soil samples. The MPCA's letter says “as needed,” and he not comfortable saying something different.

Commissioner Lindeke asked for clarification regarding ivy on fences in condition #5.

Commissioner Ochs said he brought it up because he thought the evergreens were acting as a

screen, but that's only on one side of the site.

Commissioner DeJoy spoke in favor of keeping the ivy requirement. The ivy is replacing the slats, so the chain-link fence with ivy on it would be a green buffer.

Commissioner Rangel Morales said it is possible to build on the site and clean it, it's just expensive.

Commissioner Edgerton read from the MPCA's Response Action Plan requirements regarding additional soil testing and remediation. They must do additional testing as they excavate and if soil exceeds contamination limits they must remove it and continue until it no longer exceeds the limits.

Commissioner Lindeke said this would just be facility to park trucks that could go a mile in any direction. This site is just conveniently on an industrial road. There are enough questions in his mind that he would like more information.

Commissioner Grill suggested inviting MPCA brownfield staff to make an informational presentation to the Planning Commission on their brownfield program sometime in the future.

Chair Reveal said that she is comfortable with that, but we have to make a decision one way or the other on this case today. In response to a question, Commissioner Edgerton said that no decision would mean site plan approval because the deadline for action would be missed.

MOTION: Commissioner Edgerton moved to deny the appeal and uphold the conditional approval of the site plan subject to additional conditions. The motion carried 8-7 (Lindeke, Mouacheuapo, Perryman, Anderson, Khaled, DeJoy, Rangel Morales) on a roll call vote.

Commissioner Edgerton announced the item on the agenda at the next Zoning Committee meeting on Thursday, November 7, 2019.

VI. Comprehensive and Neighborhood Planning Committee

Amendment to West Side Community Plan – Equitable Development Scorecard and proposed linking language – Recommend release for public review and set a public hearing for December 6, 2019. (Michael Wade, 651.266-8703)

Michael Wade, PED staff, said that the West Side Community Organization has adopted this equitable development scorecard for District 3 specifically. Mr. Wade gave a brief summary of this and at the public hearing he will give a full presentation. Reading from the summary report, the scorecard will be amended as an appendix to the West Side District 3 Community Plan. Some language will be introduced into that community plan stating that this is WSCO's tool. That language reads: "Appendix A to this Plan is the West Side Community Organization's (WSCO) Equitable Development Scorecard which can be submitted to the City WSCO as its evaluation of development proposals within District 3. The Scorecard's criteria assess the extent to which WSCO finds that principles and practices of local community empowerment, fair and just project operations, environmental justice, and housing affordability are demonstrated by a development proposal. WSCO uses the resultant score to inform its recommendations to the City regarding the development proposals."

In conversation with WSCO they have encouraged the City to use a scorecard mechanism like this. Different options are being considered by the Planning Director, Luis Pereira. This is a first step, which informs WSCO's decision. They will score a development or project and submit that score and other explanatory materials with their letter of recommendation to the Planning Commission and City Council, but it is only an explanation of their recommendation.

Chair Reveal said that they could choose as a staff matter or as a commission or committee matter to use this.

Mr. Wade replied that that is not what this is proposing. He has been in conversation with City Attorney Peter Warner about what is appropriate and now this is a step that staff is comfortable with. It is also a first step in considering what other documents they have seen in City staff processes that can further the same principles. This is not happening in isolation but it is a first step for District 3.

Commissioner Lindeke has concern with engagement and equitable engagement. He would be interested if the conversation moves forward to know more specifics about who the "they" are in each particular case. In this case, it seems like it's the district council that is elected but he is always interested because there is such radically different engagement approaches for the different neighborhood groups around the City and there is no measurement of that. Who goes to elections, how do they work, and who's represented in these groups? We do not have a way of knowing at the City level whether the groups before us actually represent the community on important things like income, race, renters versus homeowner's and things that are really unequitable in our city. WSCO is good on this but in other neighborhoods it's not necessarily the case. As the conversation moves forward he wants to know more specifics about how we are going to measure that, how are we going to evaluate whether the neighborhood group is doing equitable engagement or not, before we give credibility to a document or an evaluation from them.

Commissioner Baker was thinking through the practical application of this document. When the district council comes before them at the Zoning Committee and they present information from the scorecard in their rational basis to approve or deny something, he is trying to weigh in on how they take that information and how they use it, because they still need to have a rational basis when they approve or deny something. How do they as the Zoning committee and Planning Commission use that information to make a determination.

Chair Reveal said that is clearly something that will need further discussion, which in the Zoning Committee retreat they agreed to have. All they need on this motion today is to bring this forward to a public hearing.

Commissioner Baker said what this does, if they move forward with this process, is make the scorecard legitimate. He wants to make sure that they have a conversation on what do they do with that information.

Commissioner Khaled said that he would welcome WSCO sharing their methodology with the Commission because this has been done in some other locations.

Chair Reveal hopes that Commissioner Khaled and staff will urge them to do that at the public hearing.

Commissioner Khaled said that they will and there will be a lot of interesting things to learn, but the really important thing that this is kind of the missing link of CPED's [sic] as an institution. You can have a comp plan and a zoning code, apply them perfectly, and still build a perfectly inequitable community.

Chair Reveal clarified that all they are doing today is moving it forward for a public hearing. There will be a chance to have a more detailed discussion at the public hearing.

Mr. Wade said that staff is expecting to give a full presentation and can work with WSCO to incorporate their own piece into the introductory presentation.

MOTION: Commissioner Grill moved on behalf of the Comprehensive and Neighborhood Planning Committee to release the draft for public review and set a public hearing on December 6, 2019. The motion carried unanimously on a voice vote.

Hotel Zoning Study & Proposed Zoning Code Amendments – Recommend proposed Zoning Study and proposed Zoning Code amendments for approval and forward to the Mayor and City Council for adoption. (Kady Dadlez, 651/266-6619)

MOTION: Commissioner Grill moved to approve the resolution recommending that the hotel zoning study and zoning code amendments be adopted by the Mayor and City Council. The motion carried unanimously on a voice vote.

VII. River Balcony/Riversedge Projects Update: Informational presentation by Josh Olson, Ramsey County, Alice Messer, Parks & Recreation, Mary deLaitre, Great River Passage Conservancy.

Mary deLaitre, Executive Director of the Great River Passage Conservancy, and Josh Olson, Deputy Director of Community Economic Development for Ramsey County, gave a power point presentation which is posted on the web page at: <http://www.stpaul.gov/planningcommission>

Commissioner Lindeke would like them to consider goals in the Comprehensive Plan and the Downtown Plan around parking as they move forward with this project. There are 2,100 parking spaces in the middle of downtown, with a lot of underutilized space, and also a lot of transit investments. He encourages them to talk to the developer and think about how to utilize transit.

Josh Olson said that they are in complete alignment on this. One of the reasons is that Ramsey County is a major sponsor and contributor to the transit projects here in downtown Saint Paul and the region, and wants to make those projects successful. There are 1,600 proposed spaces, which is a very sizable number. One thing that is a challenge for this project is that Kellogg Boulevard at this location is seven stories above the river. In many ways they are utilizing parking to build the proposed terracing that goes from Kellogg Boulevard down to the river. That 1,600 parking spaces is the maximum number that, through programing and studies, they determined can fit there, but is not what they are targeting. They are taking a different approach than most developments where they are using what they need to drive the program and drive the parking size. That's what they know can fit underneath that structure.

Commissioner Perryman asked about the distance between the building and the river.

Mr. Olson referred to slide #14 and said building edge to the river is somewhere in the neighborhood of 250-300 feet in some in places, and narrower by tower 1 and tower 2.

Commissioner Perryman asked if the space by the river is just parks and trails or if there any development of businesses in those spaces.

Mr. Olson said that the maintaining of the public access and public realm was a primary focus here on the river.

Commissioner Perryman has heard an interest in more places where you can sit, eat and enjoy the river, to be able to sit close to see the river. City House is there. Are there other possibilities.

Mr. Olson said that the public realm is about being public and accessible to all. There will be invitations to bring vendors close to the river and encourage excitement and activity along the river as well. One thing they are balancing is how they weave in the other transportation network, parks, and trails. It is a complicated site. They are still in conceptional stages.

In response to a question from Commissioner Rangel Morales, Mr. Olson said that in 2016 Ramsey County went out for development interest that resulted in a response from a firm based in Arizona. The vision was interesting but it rested on public participation solely in parking. The Ramsey County Board said that is not where they are going on this project. The public request is narrowly focused in this project on the public realm, and the addition of going from 5 acres to 12 acres and the creation of 9 acres in new public realm here in downtown.

VIII. Transportation Committee

Commissioner Lindeke reported that their last meeting was canceled, but they will be meeting on Monday, November 4th about Como Avenue reconstruction. Public Works is going to talk about that and Tedesco Street construction. Then PED will report on the Parking Zoning Study.

IX. Communications-Nominations Committee

Commissioner Anderson the the City and District 1 will have a Community Planning 101 session at Battle Creek Recreation Center on Thursday, November 7th at 6:30 p.m. The objective is to talk about what city planning is, what the Planning Commission is, the purpose of detailed city and neighborhood plans, and how plans get implemented. All Commissioners are invited.

X. Task Force/Liaison Reports

Commissioner DeJoy reported that the Hillcrest Redevelopment Master Plan Community Advisory Committee met for the first time on October 15th. It has a lot of different expertise, and community involvement is very diverse. There was a project overview and they talked about timeline, the process, and the components of a master plan. The Saint Paul Port Authority owns the land and Kathryn Sarnecki from the Port Authority was in attendance. She talked about what the Port Authority does and their goals for the Hillcrest site. Ultimately, they want to create 1,000 jobs and a combination of housing and businesses. The next meeting will be at the

Hillcrest Library on the third Tuesday of the month, which is November 19th.

XI. Old Business

None.

XII. New Business

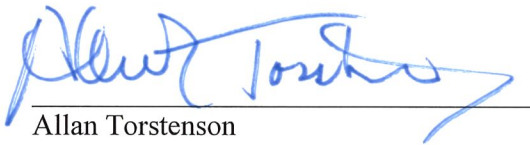
None.

XIII. Adjournment

Meeting adjourned at 10:27a.m.

Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

Respectfully submitted,



Allan Torstenson
Acting Planning Director

Approved 11/15/19
(Date)



Lue Vang
Secretary of the Planning Commission