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

Minutes November 13, 2015

A meeting of the Planning Commission of the City of Saint Paul was held Friday, November 13, 2015, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present:	Mmes. DeJoy, McMahon, Merrigan, Noecker, Padilla, Shively, Underwood, Wang, Wencl; and Messrs. Nelson, and Ochs.
Commissioners Absent:	Mmes. *Reveal, *Thao, and Messrs. *Edgerton, *Gelgelu, Lindeke, *Makarios, Oliver, *Ward and *Wickiser. *Excused
Also Present:	Donna Drummond, Planning Director; Lucy Thompson, Bill Dermody and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes October 30, 2015.

Chair Wencl announced that the minutes are not available at this time.

II. Chair's Announcements

Chair Wencl congratulated Commissioner Noecker on her election to the City Council seat and wished her well.

III. Planning Director's Announcements

Donna Drummond announced a tentative date for a public meeting on the Snelling Midway redevelopment site, Monday, November 30, 2015, with exact time to be determined. An announcement will be sent out early next week. This meeting will be a chance for the community to provide input on the whole redevelopment area including the soccer stadium. There is also a Ford Site community meeting on Tuesday, December 1, 2015 from 7-8:30 p.m. at the Gloria Dei Lutheran Church. This meeting will include a summary presentation of all of the input that was received at the various public meetings that have been held on Ford on a variety of topics.

IV. PUBLIC HEARING: District 10 Como Community Plan – Item from the Neighborhood Planning Committee. *(Josh Williams, 651/266-6659)*

Chair Wencl announced that the Saint Paul Planning Commission was holding a public hearing on the District 10 Como Community Plan. Notice of the public hearing was sent to the citywide Early Notification System list and other interested parties.

Chair Wencl read the rules of procedure for the public hearing.

The following person spoke.

1. Mr. Ted Blank, 1576 Grotto Street North, Saint Paul, MN, 55117, is a member of the District 10 Planning Committee. Over the past 3 ½ years hundreds of Como Park neighbors have contributed to the drafting of the district plan before the Planning Commission today. It reflects the neighborhood priorities in areas of housing, land use, transportation, parks and recreation, the environment and business. As a neighborhood they have wrestled with some challenging issues and they have done something even more challenging which is to envision their future. The plan has been unanimously approved by the District 10 Como Community Council and he encouraged the Planning Commission to support the plan.

MOTION: ***Commissioner Shively moved to close the public hearing, leave the record open for written testimony until 4:30 p.m. on Monday, November 16, 2015, and to refer the matter back to the Neighborhood Planning Committee for review and recommendation. Commissioner Padilla seconded the motion. The motion carried unanimously on a voice vote.***

V. Zoning Committee

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

One item to come before the Site Plan Review Committee on Tuesday, November 17, 2015:

- Highland Bank – 2,000 square foot addition and remodel at 2100 Ford Parkway. *(Larry Zangs)*

NEW BUSINESS

#15-168-310 Archdiocese of Saint Paul and Minneapolis – Rezone from RM2 Multiple Family to T1 Traditional Neighborhood. 328 Kellogg Blvd. West between College Avenue and Mulberry Street. *(Lucy Thompson, 651/266-6578)*

MOTION: ***Commissioner Nelson moved the Zoning Committee's recommendation to approve the rezoning. The motion carried unanimously on a voice vote.***

#15-170-503 Michaelene Spence – Conditional use permit for a transitional housing facility serving 6 residents and their minor children with modification for minimum distance from another congregate living facility. 975 Wakefield Avenue between Forest and Cypress. *(Bill Dermody, 651/266-6617)*

Commissioner Nelson reported that the Committee voted to recommend to the Planning Commission that the conditional use permit be granted for 5 adults and their minor children within the existing building with 3 conditions placed on that. One involves final approval from the Zoning Administrator, the second that no expansion to the building is allowed, and third that the facility is limited to no more than 5 adults. Commissioner Nelson moved the Committee's recommendation.

Commissioner Padilla said that if they make the zoning code amendments that are going before

them for public hearing in January does this mean that they could have 6 residents without a conditional use permit?

Mr. Dermody replied that is correct, both of these Michaelene Spence applications are for transitional housing that under the proposed code changes would be considered single family.

Commissioner Noecker wanted to know more about the choice to limit to 5 rather than 6. If they are requesting 6 it seems like an addition of 2 versus an addition of 1, if we are going to get rid of the separation requirement, doesn't seem to be that much more of an increase. Was that discussed?

Commissioner Merrigan said the district council approved the use but wanted to increase it to 5 instead of 6 to see how it went. And, given that there are 5 bedrooms in the house, the applicant was willing to accept that, so that is why this is recommended.

Commissioner Padilla added that they did not know about the pending code amendments. And there was an attempt to balance out the requirements of code with the reality that there are 5 bedrooms on the site and they should be allowed to be used for those purposes, while knowing that we were modifying the distance requirement and meeting the community concerns as well.

Commissioner Nelson said that this came to mind as he watched the presentation, that they used the justification that it was below the 1% concentration area in the district to help them guide the fact that they could increase, even though the distance requirement wasn't quite met but they are working with code as it is today as opposed to what might happen.

Commissioner Ochs asked how many children are allowed.

Commissioner Padilla said that as far as she knows there is no limitation on number of children. There are size requirements for occupancy and for units themselves and bedroom sizes but there is not a separate requirement that limits somehow how many children can be on a site.

Commissioner Nelson said that this is not a zoning issue in regard to the children but it is a housing issue. So this deals with the actual structure itself as opposed to the zoning of the parcel.

Commissioner Ochs said that daycare facilities have a limitation on the number of children that they can have in the household per number of adults as well as space.

Commissioner Padilla said that that is also a licensing issue not a zoning issue. But here these are parents living with their children. It is not a daycare facility, it is not a facility to care for children, but it is a transitional housing facility to allow single mothers and their children to stay together and not in a homeless shelter.

Commissioner Ochs said that he brought up daycare because there is a limit on the amount of care that can be provided, so if old Mother Hubbard had to have transitional housing for all of her 6 children plus 5 adults, the household would be cramped and difficult.

Commissioner Padilla said that they did have testimony from a few current and previous residents about the structure and how it felt.

Commissioner Noecker wanted to know if any communication has been had with Ms. Spence about the fact that after today's meeting that there are these possible zoning code changes coming along and would she want to do anything different. Ms. Spence should be informed.

Commissioner Padilla said that it is really problematic to try and tell someone that something may or may not happen politically. And this will go through quite a process still before it is approved and we have not even heard district council feedback. If these changes that are recommended stay in their current form and move through then she has some different options and may make some different decisions. Technically she could relinquish the conditional use permit and have 6 people there because that would be allowed under the new code requirements, but she would be cautious about doing anything now because if the code does not change she would be out.

Commissioner Merrigan added that this is one of only 2 facilities in the state that allow women and children.

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

#15-171-359 Michaelene Spence – Conditional use permit for a transitional housing facility for 5 adults. 453 White Bear Avenue North, NW corner at Euclid. *(Bill Dermody, 651/266-6617)*

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

VI. Comprehensive Planning Committee

Congregate Living Zoning Study – Release draft zoning code amendments for public review and set public hearing for January 22, 2016. *(Bill Dermody, 651/266-6617)*

Bill Dermody, PED staff person gave a power point presentation which can be viewed on the web page at: http://www.stpaul.gov/planningcommission

Chair Wencl asked if there are some supportive housing facilities that are not licensed, that maybe we don't know about.

Mr. Dermody replied that they would not fall under this category; they would fall under a different category. Many facilities would fall under transitional housing if you were not licensed by the Department of Human Services.

Commissioner Padilla said that if there is no conditional use permit then is there a separate application, if they are not licensed through something else that will help with this 1320 foot separation requirement.

Mr. Dermody said that they would need to apply to the City for approval for the site. We would consider a supportive housing facility to be allowed in all the single family districts if it were 6 or fewer. The separation would only apply for 7 or more residents.

Commissioner Padilla asked how handicap is defined.

Mr. Dermody said "handicap" is defined by the federal law. It involves mentally ill persons, people with physical handicaps, those recovering from substance abuse, etc.

Commissioner Padilla said how do we ensure this? Are we just asking for documentation, program documentation, or are going to collect personal data on individuals and their particular handicap?

Mr. Dermody said that we would simply ask for something in writing that they are all handicapped residents at the facility based on the program.

Commissioner Nelson asked if the term "handicap" is part of the federal law or do we use the word "disabled"?

Mr. Dermody said the federal law uses the terms "handicapped" and "disabled" in the Americans with Disabilities Act and the Fair Housing Act. "Handicapped" would be the appropriate term.

Chair Wencl said that these are the only ones that we have tracked at this point if there are 4 or fewer or 6 or fewer people in what we now call congregate living facilities, and these are not listed.

Mr. Dermody said that is correct, it only applies above a certain number of people. So if you are a single family home with only 4 residents that acts like a transitional housing facility you are allowed anywhere in the city that single family uses are allowed. There could be an entire block full of these uses, but that is because we have limitations under federal law. We cannot discriminate against one type of family versus another type of family. We have to have an objective standard in our code based on numbers.

Chair Wencl said that looking at the concentration maps we get one impression, but it may not be totally accurate.

Mr. Dermody said that is right. For example we have heard that in District 4 with the Freedom Works case on 6th Street recently, where people talked about all the smaller facilities in the neighborhood – that issue can be taken into account as a subjective consideration under the conditional use permit findings regarding neighborhood impact. If you had a large facility come in, you could say although this meets the minimum separation requirement, it would create an institutional environment because of the number of small facilities on the block already. That type of separation with the smaller facilities is not something we can write into the code, however.

Commissioner Underwood asked for an explanation about why the sober houses are on a different map. Neighbors doesn't know the difference between a Department of Health licensed facility and a sober house.

Mr. Dermody said that we have had congregate living in the code since 1980 and largely in its current form since 1991. Sober houses were a new definition that was studied between 2005 and 2010 and eventually adopted in 2010. Sober houses are the unfunded unlicensed facilities for 4

or fewer people who are in substance abuse recovery that do not have services provided on the site. Sober houses have a very specific definition that came in later which is why they are on a separate map from everything else. We always had the other separation requirements, but then sober houses requirements came in, especially in response to concentrations in District 9, 16, 8 and 13. So we have that one 330 foot separation for sober houses that is mapped by itself and then we have all the others, and it may be something to consider to somehow combine those and require separations between the different types of facilities. It was discussed at the Comprehensive Planning Committee meeting but decided to go forward without creating that new type of separation.

Commissioner Nelson added that there were no regulations at all with regard to sober houses prior to the 1980 study period and it was a civil rights discussion that went along with that. With the family nature and disabilities involved the sober houses had quite an advocacy group and there have been federal cases around the country in regard to potential regulations on those. And they wanted to craft a document that could stand up to legal scrutiny.

Chair Wencl asked Mr. Dermody to comment overall how does he see this changing the way we deal with community congregate facilities?

Mr. Dermody said that the biggest change will be in how staff deals with them. Every time somebody comes in and wants to do something the Department of Safety and Inspections (DSI) has a series of meetings to decide what category the facility gets slotted into. When we have items that come before the Planning Commission it would reduce the confusion. Hopefully it would provide clarity for the neighbors, as well. And there would be some differences in the standards in order to move this number of categories into somewhat fewer categories.

Commissioner Padilla thanked Mr. Dermody and the Comprehensive Planning Committee for their work on this. As a Zoning Committee member they do have a lot of issues related to this and continually struggle with the definitions in code, so any change that would help them really assess these in a more consistent way is really appreciated.

MOTION: ***Commissioner Merrigan moved on behalf of the Comprehensive Planning Committee to release the draft for public review and set a public hearing on January 22, 2016. The motion carried unanimously on a voice vote.***

VII. Neighborhood Planning Committee

Campus Boundaries Zoning Study – Approve resolution recommending Zoning Code amendments to the Mayor and City Council. *(Josh Williams, 651/266-6659)*

Commissioner Shively gave the report, announcing that this was an item that was referred to the Neighborhood Planning Committee, came to the Planning Commission, was referred back to the Neighborhood Planning Committee and now it is back again in front of the Planning Commission. When it was referred back there was discussion about changing the language to require some sort of community benefit on the parcels where structures were demolished. That language was reviewed by the City Attorney's Office and it was determined that while this would be a nice effort in that direction it would constitute a taking, subject to compensation, so that is not something that can be required. Basically the amendment comes back to the Planning Commission as originally proposed.

Chair Wencl said that the resolution in front of the Planning Commission says that they are forwarding it to the City Council without recommendation. With that being said Chair Wencl will speak for the members on the Neighborhood Planning Committee that felt that this was really kind of a heavy handed approach and they were hoping to find other language that might work but could not come up with anything that really spoke to the issue. And that is why there is no recommendation.

Commissioner Underwood said that she feels like this is really heavy handed and she is voting no.

Commissioner Noecker does not feel like this amendment is there yet. It seems like the City would be placing institutions in the position that if they're tearing down the house and there is a reason for doing that and if we are requiring them to leave a structure on that property it doesn't seem to bode well for what's going to happen in that space. She also does not understand in the report the contention that this would provide an incentive to engage in a public process. She also worries that they could be creating vacant lots for more than 10 years, if it had the unintended consequence of an institution deciding to plan out 10 years ahead of time, buy everything, demolish it quickly, leave it for 10 years and then add it to the boundaries.

Commissioner McMahon will vote for this to go forward without a recommendation, particularly because they had a public hearing, they flushed it out as much as they could and they are at the point of this is where we are and we're moving it forward and if council chooses to do something or not do something then it is up to them. Part of why she is comfortable with this is that it is a condition that can be waived.

Commissioner Padilla said she is not thrilled with this language. She doubts that this is such a large problem that they need to come up with this type of a solution. She appreciates Commissioner McMahon's comments and understands those points but she doesn't get how it is going too functionally work and how they are going to leave properties vacant. It feels like this is not finished, like there should be something else to talk about or some other way to present this if this is a significant issue that requires a code change.

Commissioner McMahon asked what happens next if they chose not to forward this to City Council. Do they end up continually discussing it, and that is why she was leaning in the direction of moving this on and being done.

Donna Drummond, Planning Director, clarified that the way the resolution was drafted it was sort of a place holder. The intent today was to have the discussion, yes or no, and then the resolution would be amended to reflect that decision here. So, no, we think this is not a good idea or yes, we think this is a good idea to move forward to Mayor and City Council. The recommendation will go forward regardless either way.

Chair Wencl stated that if they vote no on this, then they don't like it the way that it is. If they vote yes they're saying yes this is a good solution.

Commissioner Merrigan said that if they are going to bring something forward, it could be something that they should get behind because they think it's necessary or because the language is appropriate not just because it is in front of them. And she does not know what the mechanism

is for what that would be, but it doesn't feel vetted as much as it should be to get to what it might need to be.

Commissioner Ochs said that in his ideal world this would be stripped down and the question should be reframed and approached with a new set of eyes or at least a new approach. So that they don't have this kind of confused out put that they currently have. Reframe the question and perhaps start it new that they might get where they want, not what they have today. So if they vote no they don't support this moving onto the council, he'd hope that the council would reject this as well and then maybe a new approach would be taken.

Chair Wencl said the history behind this is that they had a request by City Councilmember Stark and it was based on the situation at Hamline University. She thought that the committee felt this was somewhat subjective. Of what people knew about the changes that were happening at Hamline and how things might be different in the future that this resolution the way it was worded seemed very heavy handed in terms of dealing a situation at one college rather than as an overview of all of them.

Commissioner Wang said the she will be voting no because first of all they are trying to solve a singular problem and she does not think that is the right way to do it. Also the solution that they have doesn't actually feel like a solution even for that one particular site.

Commissioner DeJoy was not at the last committee meeting but she was at the one before that and they did ask the question about what started this whole conversation. And there wasn't an instrument or process or a way to just hold the one institution accountable, so then they had to look at policy across the board and that is why it evolved the way it did.

Commissioner McMahon asked whether something can be forwarded without a recommendation from this body to the City Council?

Donna Drummond, Planning Director, said that is a third option. There was no recommendation from the Neighborhood Committee so there has to be a motion from someone here to either recommend this amendment, recommend against the amendment, or forward it without recommendation.

Commissioner Noecker appreciates Commissioner McMahon's comments but she also does not want to create something with an exit clause, if it's mediocre policy the fact that they can get out of it by making an exception doesn't make it better policy.

Commissioner Noecker made a motion recommending against the amendment and to forward on to the Mayor and City Council. Commissioner Underwood seconded the motion.

Commissioner Ochs said that the first two options for that were different, if we voted yes we were supporting moving it on to council and the other one was moving it to council without support, that's his understanding.

Donna Drummond, Planning Director clarified that regardless it would move forward but the Planning Commission's recommendation would be that this is a bad idea or this is a good idea or they could not decide what they wanted to recommend.

Chair Wencl at this point the motion is that the resolution should say that this is not the correct solution and it goes to council.

Commissioner DeJoy said that the Neighborhood Planning Committee is not making this recommendation, correct or is it?

Ms. Drummond noted that the Neighborhood Committee did not forward it with any recommendation; they sent it on and said we have not recommendation. So this recommendation here is from the Planning Commission.

MOTION: ***Commissioner Noecker moved to recommend against the amendment and forward to the Mayor and City Council. The motion carried 8-3 (McMahon, Nelson, Shively) on a voice vote.***

VIII. Transportation Committee

Commissioner Wang reported that at their last meeting they had a presentation about the Jackson Street Bikeway, which is part of the Capital City Bikeway or the downtown loop. There will be a few more community conversations but work will begin on Jackson Street in 2016. Wabasha is no longer under consideration, St. Peter is the other street that there is not design for yet but they probably will be adding bike facilities to that. There still is discussion between Kellogg and Fourth.

Bill Dermody, PED staff, announced the items on the agenda at the next Transportation Committee meeting on Monday, November 16, 2015.

Commissioner Merrigan said regarding St. Peter Street as a possible option, there are a tremendous number of intersections by the Landmark Center and Saint Paul Hotel and it is already somewhat confusing there.

Commissioner Wang said that is why it hasn't advanced as far as Jackson Street and she totally agrees with Commissioner Merrigan.

IX. Communications Committee

No report.

X. Task Force/Liaison Reports

No reports.

XI. Old Business

None.

XII. New Business

None.

XIII. Adjournment

Meeting adjourned at 10:00 a.m.

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

Respectfully submitted,

Donna Drummond

Donna Drummond
Planning Director

Approved December 18, 2015
(Date)

Daniel Ward II
Secretary of the Planning Commission

Planning Team Files\planning commission\minutes\November 13, 2015