

MINUTES OF THE ZONING COMMITTEE
Thursday, December 1, 2022 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Rangel Morales, Reilly, Syed, and Taghioff
EXCUSED: Grill, Hackney, Hood, and Ochoa
STAFF: Kady Dadlez, Ashley Skarda, Samantha Langer, Allan Torstenson, and Trina Chernos

The meeting was chaired by Commissioner Reilly.

0 Madison St. (North of 2319 W. 7th St.) - 22-104-395 - Variance for residential development on a steep slope with significant regrading, tall retaining walls, and creation of trough-shaped yards between a new building and the new retaining wall, 0 Madison St., North of 2319 W. 7th St. at W. 7th St. & St. Paul Ave.

0 Madison St. (North of 2319 W 7th St.) - 22-116-859 - Site plan review for a new multi-family residential development for seniors with 36 dwelling units and 7 structured parking spaces to be accessed via a private street on the adjoining property at 2319 7th St W., Madison St., North of 2319 W. 7th St. at W. 7th St. & St. Paul Ave.

Kady Dadlez presented the staff report with a recommendation of approval with conditions for the variance. She recommended adding an additional condition not included in the staff report stating, Approval of the rezoning of the property from R1 – one-family residential district to RM2 - medium-density multiple-family residential district. She said District 15 submitted a letter recommending approval, and there was 1 letter in support, and 6 letters in opposition (one from 30 residents).

In response to Chair Reilly, Ms. Dadlez said she believes that the Chateau Health and Rehabilitation Center was constructed more than 30 years ago and she is not sure if the bluff contains fill from construction of that property. She said there were soil borings taken from the site and there will be an engineering report submitted that may provide answers. The geotechnical reports should be submitted soon. She noted that the engineering report is required before grading permits can be issued.

In response to Commissioner Rangel Morales, Ms. Dadlez said submittal of the engineering report and the review and acceptance by the Department of Safety and Inspections (DSI) staff is required before grading permits are issued.

Commissioner Rangel Morales requested more information on a steep slope variance. Ms. Dadlez said that zoning code 63.111 deals with residential development on steep slopes and item 63.111(b) talks about how development should occur and that buildings should be built into the slope but not have significant regrading, tall retaining walls, or trough-shaped yards. In this case the building is partially built into the slope and there are tall retaining walls and trough-shaped yards. The variance was requested to permit significant regrading, tall retaining walls, and creation of trough-shaped yards. The plans do not meet the standards for residential development on steep slopes and that is what is being requested with the variance.

Chair Reilly added that the zoning code states that at 12% or less of a slope you don't have to come before anybody to build. This steep slope ranges from 45% to 70%. There are standards that there should not be significant regrading, tall retaining walls and trough-shaped yards. Those are the three standards that are being requested to be varied.

Commissioner Taghioff said isn't the intent behind this requirement to state that if you want to build here there are strict standards for building on a steep slope and if you can't meet these requirements we do not want to you to develop on steep slopes.

Ms. Dadlez said this is the reason for the variance and for the Planning Commission to determine whether the requirements should be varied.

Ashley Skarda presented the staff report with a recommendation of approval with conditions for the site plan review. She added an additional condition for approval stating, the present reciprocal maintenance, use and easement agreement must be reviewed by the Department of Public Works and the City Attorney's Office. This review may result in revisions to the said agreement being required as added conditions to the variance granted here. Revisions resulting from the review must be made to the present reciprocal maintenance, use and easement agreement. The revised reciprocal maintenance, use and easement agreement must be duly recorded with Ramsey County before final site plan approval.

Chair Reilly requested more information on the tree preservation landscaping plan. Ms. Skarda said that fourteen trees that count are being removed and the zoning code requires replacement of one 2.5 caliper tree for a certain size, two for another size and three for a third size. What they have proposed meets the zoning code requirement. Ms. Skarda said the survey sheet has what is on site verified by the person who did the survey and the actual tree type and size are available.

Ms. Skarda confirmed that information on the plan sheet numbered C501 is inaccurate and is being replaced after consultation with City Forestry. The survey has the correct number of trees that are existing and are to be removed. The applicant proposes to replace more trees than they are required to in the plan, but they have shown at least the 14 that they need to show on the plans. The survey will be provided to the Planning Commission before their meeting and posted online.

Dan Walsh, Trellis, 614 N. 1st Street, Suite 100, Minneapolis, MN, Trellis is the developer and owner of the project. Trellis is a nonprofit focused on multi-family affordable housing and has been around for more than 40 years. They are the owner of more than 4,000 affordable housing units in 51 properties, mostly in the metro area.

Carol Lansing, Land Use Attorney at Faegre Drinker, 90 S. 7th Street, Minneapolis, MN, said this is a lot of record and there is a legal right to develop it. The entire parcel is on a very steep slope which is a unique circumstance. There isn't a part of this you could avoid and still do a reasonable development of the property. It is not the ordinance itself that is causing the need for the variance, all variances are saying we can't comply with this ordinance, it's how it applies to the unique circumstances of this lot. This is an unusual standard to have a variance from because there aren't the general dimensions that we usually see, but it is a dimensional variance not a use variance. It does relate to the extent and amount of grading on the land and the height of the retaining wall. It is an area variance, and it can be approved if the requested variance meets the standards for approving a variance. Staff has laid out in its report that there are unique circumstances, it will still meet the intent of that provision related to how much grading and the height of retaining wall because of how they can set it into the hillside and how they can manage stormwater flow, stability of the slope, and screening it visually with the building itself, trees, and other elements.

Commissioner Rangel Morales asked if they are agreeing that there is significant regrading and that the retaining wall is exceptionally tall.

Ms. Lansing said she wouldn't say its excessively tall. She thinks that is a contextual question and that's before the Committee. It is an odd provision to have a variance requirement from. She thinks of it more as a performance standard and could be applied in a site plan context. She thinks they have established that its not an inappropriate amount of grading and it can be managed. The reason for it is because the extent of the steepness of the slope and the fact that it covers the entire parcel. The retaining wall height is reasonable.

In response to Commissioner Rangel Morales, Ms. Lansing said she didn't know of specific projects and their regrading compared to this one. She can speculate that if the slope was not 45% to 70%, but more in the 12% to 18% there would be less grading and less excavation required because of the difference of the slope. If you had a very large lot and you could develop on a part of it that was flatter and allowed for more options of how and where you could develop on the lot, that would involve less grading than you would do on this lot.

Commissioner Rangel Morales asked her to comment about the somewhat circular argument regarding the variance request. He said that the basis for supporting the variance request is that its on a slope, but that seems to be the reason why the City has passed a regulation saying you shouldn't build this to begin with because of the slope.

Ms. Lansing said that the ordinance doesn't prohibit development on a slope. It says where you're going to do residential development there are some considerations to take into account. It's not a prohibition on development it's a look at development on steep slopes with these considerations in mind and apply those considerations in the context of variance findings about practical difficulties, intent of the ordinance, character of the area, and safety.

Commissioner Taghioff asked how they interpret the clause that states the building should be designed to fit into the hillside without significant regrading to protect the stability of the slope, to preserve existing trees and to prevent excessively tall retaining walls. He asked about a distinction between the significant regrading part and the other requirements.

Ms. Lansing said it is not a prohibition and doesn't state that you cannot develop on steep slopes. Staff had alluded to the fact that a project should meet the setback, but if there are factors of why you cannot meet a setback requirement you can apply for a variance and show how these factors meet the standards of a variance.

Chair Reilly asked, based on historical maps, is there any reason to believe that the people who platted the single family lots would have done so if that area was not flat or reasonably flatter than it is now at that time.

Ms. Lansing said she is not sure, but there are areas with steep slopes that have been extensively developed with single family homes or this area could be fill.

Dan Walsh said this project will fill an important need for housing by adding 36 quality affordable units for low income seniors. The site presents unique conditions and practical challenges. Once the challenges are resolved regarding the steep slope this location is a great location for low income

seniors with access to transit, shopping, and other services. It's also good to be next door to the existing transitional care facility, the Highland Chateau. The Treehouse residents will have access to services there including meal prep, laundry, and housekeeping. He highlighted the team's public outreach. They have presented four times at the Highland District Council. They have also door knocked and sent flyers to the neighbors in the vicinity. The residents of the Chateau will be the most affected by the project and Trellis has sought to center their voices throughout the development of the project.

Mr. Walsh responded to written testimony that was received. He said there were concerns expressed about the scale of the building. The roof will be 40 to 50 feet below the first floor of the nearest single-family property and some distance away. Because of the slope, distance and depth of the tree cover the visual impacts on property owners on the hill will be minimal. There is also no site access to Snelling Avenue on the hill. The building and the site are all oriented towards West 7th Street and neither the scale of the building nor the variance related to the grading and the retaining wall alter the essential character of the area. The variance allows the perceived scale of the building both from above and from the street level to be reduced by setting the building into the hillside. The retaining wall itself is also designed to be largely obscured from view by the building, trees, and the vegetation. The development on this private lot will not change the primarily wooded nature of the bluff above and to either side of the site. The character of the building is compatible with the Chateau and other mixed use developments along St. Paul Avenue and West 7th Street.

He addressed concerns about environmental impact, stormwater management and tree loss. The site is not developable without removing trees, but they will comply with the city requirement and provide for the planting for more trees than are minimally required. Currently stormwater is not treated onsite, but post development, through the installation of the detention and treatment structure it will be. The steep slope is a unique condition to the site. The topography provides challenges not typical to a flat site, but concerns have driven the design for the project from the start including the orientation of the residential units, the location and layout of the building, and minimizing the wall height. They will share the engineering report as soon as it is completed. On the steep slope, he would like to reiterate they view getting this part of the project right as critical to the longevity and success of it so they are taking it very seriously with the technical experts.

Mr. Walsh responded to people questioning the compatibility of the site with senior housing. Within the building the common amenities, unit finishes and access to the Chateau services will be best in class. Outside the building they have ensured that the site will be safe for seniors. There will be a new ADA accessible sidewalk up the west side of the Chateau site and an ADA route to the transit stop in front of the site. The building front entrance and access drive will be accommodating to all vehicles including Metro Mobility. They also worked with Public Works to make improvements to the west side of the drive aisle to reduce car speeds and increase safety.

They have designed the project to be totally self-sufficient, but the residents will benefit from the social interaction between the Chateau and the new building decreasing the risk of loneliness which is often an issue with seniors.

Mike Madden, LHB, Project Architect, 701 N Washington Avenue, Minneapolis, spoke about the retaining wall and how it relates to stormwater. The retaining wall is a solution to a problem. They could build the building right up to the hillside and bury it into the hill and avoid the retaining wall altogether, but they chose not to do that. They are trying to reduce the building footprint as much as

possible and reduce pushing into the hillside with a built structure. They are also trying to accommodate stormwater. They have a stormwater retention system between the retraining wall and the building. There is no other place on the site to locate such a structure because of the utility easements along the southern property line and the Chateau property. By locating it there they can achieve a few things. All the water that falls onto the roof, yard, and hill will go into the detention system and that system is designed to retain the water for a certain amount of time and offer rate control. That will benefit the City stormwater system and the Chateau property. They will also be treating the water by taking out sediment and phosphorus. The retaining wall also allows them to create a light well into the third floor of the apartment building so that north-facing units have natural light. The whole project is designed as an insertion into the hill as opposed to regrading and changing the landscape dramatically. The retaining wall is a tool that allows them to do that. There is grading and excavation, but he wouldn't classify it as regrading. Mr. Madden showed a design that illustrated the stormwater flow. He also went over the tree preservation plan that was recently done by an arborist. They are providing 20 new trees and replacing 13 that are required to be replaced. They are providing more than are required. They will work with an arborist at the time of planting.

Rick Johnson, 2112 Lower Saint Dennis Road, Saint Paul, MN, spoke in opposition. He submitted written testimony. He said the 45% to 75% grade at this site is extreme. This project is receiving \$490,000 from Ramsey County and tax credits and he wonders why money would be invested into a spectacular retaining wall when the dollars should be put into building housing for the people that we are trying to house. He has concerns about putting senior housing with limited car access at such a location. He added that the height of the building at 56 feet is out of context with development in the surrounding area.

Jolene Cutshall, 2108 Lower Saint Dennis Road, Saint Paul, MN, spoke in opposition. She submitted written testimony. She said this development will impact her family directly. They will be able to see this from their backyard. The height of buildings in this neighborhood are limited and there are no skyscrapers in this neighborhood only three-story buildings. To build this they must do a lot of excavation and build a retaining wall. They keep going higher to maximize their profits at the sacrifice of her property. This is detrimental to her and the other neighbors. She referred to technical height and setback variances versus use variances and directed the Committee to a letter that was submitted by her counsel that addresses these issues. The ordinance in place is to protect the bluff. This is a natural bluff that extends down West 7th Street. If this is approved it would set a precedent for the bluff. The size of this project is too large. Ms. Cutshall said this will do damage to the neighborhood and referenced a letter (submitted for public record) that she received from the Capitol Region Watershed District that stated they need to access her property to document potential seeps and springs.

In response to Chair Reilly, Ms. Dadlez said the determination to bring the site plan and variance before the Committee was made by the Zoning Administrator and Planning Staff.

Mr. Torstenson said site plans have been delegated to the Zoning Administrator with the provision that the Planning Commission and/or Zoning Administrator can bring them before the Planning Commission if they believe it warrants a public hearing. A variance comes to the Planning Commission if it is related to a rezoning or site plan review that comes before the Planning Commission. No variances are left to the discretion of the Zoning Administrator and they require public hearings either at the Board of Zoning Appeals or the Zoning Committee.

John Curtiss, 2105 Lower Saint Dennis Road, Saint Paul, MN, spoke in opposition. He moved twelve years ago to this neighborhood and it is a unique neighborhood as well as one of the highest taxed neighborhoods. Imagine if you were leveraging all your personal finances to live in a neighborhood surrounded by natural resources only to find out a 5-story building was being built in your backyard. He opposes the proposed rezoning.

Chad Cutshall, 2108 Lower Dennis Road, Saint Paul, MN, spoke in opposition. This is a very extreme site plan. It's baffling to him as to how this can be perceived to be the appropriate place to put this type of structure that they are proposing in this location and then further to have it serve seniors in this location. This location will not have enough parking for the building. It is a unique area and located 100 yards from the nearest road. He referenced the 2015 Shepard Davern Plan; one of the concerns about this area was that this is not a pedestrian friendly environment, and this intersection is dangerous. There is only a one lane road to access a 36 unit apartment building. This is not an appropriate place to put a senior living facility. This is an area of enormous erosion and water runoff. He also referenced the Capitol Region Watershed District letter. The site plan is concerning because we are creating a retaining wall that is designed to capture things that fall between the retaining wall and the building. There is no discussion about what happens to water from a natural seep or spring that encounters this retaining wall and is diverted. Are there any ecological studies that have been done and why are they not presented in the site plan? The 2015 Shepard Davern Plan mentions this bluff line as a part of the natural resources and beauty that they want to preserve.

Dan Walsh responded to testimony regarding the limited onsite parking. He said Trellis owns several low income senior apartment communities and finds very low rates of car ownership among that population. They do have an ADA accessible route, ability for Metro Mobility to access the front door, and they are close to a transit stop. He said they primarily return to whom the development will serve. These will be high quality independent living apartments for low income seniors. They will have seven units reserved for former homeless seniors and they have partnered with Catholic Charities to provide supportive services for those residents. The need for this type of housing in Saint Paul is very strong.

Mike Madden addressed the letter from the Capitol Region Watershed District. They just saw the letter this morning and they are interested to speak with them to see what they find. They don't have the full geotechnical report yet, but they do have the findings from the borings. Those borings found zero water in the two locations they bored which were in the footprint of their building. Preliminary indications are that the spring, if it exists there, does not exist in their footprint. They will investigate further. The retaining wall will be designed with a drain tile behind it to allow water that would be moving through the hill to get daylight into the yard space they are creating and make its way to the catch basin and detention area. The water wouldn't be diverted around the wall it would pass through the wall into the storm system.

In response to Commission Rangel Morales, Mr. Madden said they should be receiving the geotechnical report any day now.

In response to Commissioner Syed, Mr. Walsh said they have met with the District Council on four different occasions and they have also door knocked all the neighbors primarily up on the hill and the neighbors to the east and west. They remain interested in being in contact with neighbors with concerns.

In response to Commissioner Syed, Mr. Walsh said they have not looked at reducing the height of the building. With the rezoning they would be in compliance with the height requirements. This size is the best fit in terms of capacity on the site and the building footprint trying to work with the slope and maximize tree preservation.

In response to Commissioner Taghioff, Mr. Madden said the height of the building is 50 feet from the lowest grade which is the Chateau side. The zoning code takes average grade and it is a lot less on the average grade. On the north side that faces the neighboring residences its about 30 feet above the lower yard.

Commissioner Rangel Morales asked if there was any interest in finding out if the bluff contained fill or is part of the original slope. That seems to be critical to the determination. If the site contains fill and was originally platted for residential development that's very different than whether this was part of the original bluff.

Mr. Madden said they do not know if the site contains fill or not. The preliminary borings have indicated that it is shale. Mr. Walsh said at this time they are not interested in figuring this out.

Mr. Torstenson said he has seen no evidence that this is not the original bluff. The borings found no fill either. The Chateau building cuts into the very bottom of the slope where it is not much of a slope and stops where the slope increases rapidly so he doesn't believe it is fill.

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

Chair Reilly asked if the Shepard Davern Plan was still a certified plan that is attached to the Comprehensive Plan.

Ms. Dadlez said the Shepard Davern Plan was adopted by the City Council and part of the Comprehensive Plan. Technically, the property in question is just outside of the boundary of the Shepard Davern Small Area Plan. The dividing line is the Chateau property.

In response to Commissioner Rangel Morales regarding his questions on variances, Mr. Torstenson said he can't think of another example of residential development on a slope anywhere close to this high and this steep. We have a standard for residential development on steep slopes that are greater than 12% and this is 45% to 70% over the entire site. When we received an application for development that cuts into 40% of the slope it seemed to be significant. The language in Section 63.111(b) states buildings should be designed to fit into the hillside without significant regrading to protect the stability of the slope. The Zoning Administrator, who is charged with interpreting and administering the zoning code, and other staff felt that this application was something that warranted coming to the Planning Commission for a public hearing to allow for more community engagement. The Zoning Administrator was not comfortable with approving it on his own or through Site Plan Review which would require no public hearing. The city notified neighbors within 350' of the location and notified the District Council that these two applications would be considered at the Planning Commission along with the proposed rezoning. The applicant was aware that the Zoning Administrator decided to bring this to the Planning Commission and the applicant could have appealed that decision, but they did not.

In response to Commissioner Syed, Ms. Torstenson said that if there is a desire to have this case laid over the Committee should be clear on what information is missing that they need to make a recommendation. Regarding the 15.99 deadline for action, Ms. Dadlez said the applicant has agreed to an extension to February 20, 2023. Staff has not exercised any extension at this time. Staff could extend an additional 60 days.

There was discussion on Provision 63.111(b) and if granting this variance would counteract the express legislative purpose of the provision. Mr. Torstenson noted Finding 4(a) that a variance must be in harmony with the purpose and intent of the zoning code. If the variance would counteract the intent of the regulation then it may not be granted.

Commissioner Taghiouf said he interprets the zoning code to say you can grant a variance for significant regrading if the stability of the slope is protected, existing trees are preserved, excessively tall retaining walls and the trough shaped yard are not unattractive. If you satisfy all those things then you can significantly regrade because the harm is being avoided. He said the staff report addresses this directly on Finding 4. Staff's opinion is that it is in harmony with the zoning code because the site and the retaining wall are behind the property and that means it is not unattractive because it is not visible from the street.

Trina Chernos, City Attorney, said an option for the Committee is to hear the report on the rezoning for this site before a decision is made.

Mr. Torstenson said the site plan is dependent on the variance so if they don't meet the findings for a variance a site plan couldn't be granted. The zoning currently in place makes sense based on it being an undeveloped bluff. It doesn't make sense to rezone if it is not developable. The zoning applications are all interrelated.

There was discussion about other developments on bluffs and steep slopes. Mr. Torstenson said that most big bluffs are in the Mississippi Critical Area and the standard since 1982 in those areas are that no residential developments are permitted on slopes greater than 18%. Ms. Skarda noted recent non-residential developments including Gillette's Children's Hospital that includes a very large retaining wall. There is also an application for significant regrading at a site that has been recommended to go to the Board of Zoning Appeals because they are proposing to regrade and add a retaining wall to almost the entire site.

Commissioner Omar Syed moved approval with conditions mentioned in the staff report for the variance including the additional condition noted by staff that requires approval of the rezoning of the property from R1- one-family residential district to RM2- medium-density residential. Commissioner Rangel Morales seconded the motion.

After discussion of practical difficulties and unique circumstances pertaining to this property the motion passed by a vote of 4-0-0.

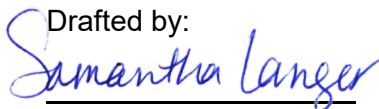
Adopted Yeas - 4 Nays - 0 Abstained - 0

Commissioner Syed moved approval with conditions mentioned in the staff report of the site plan review including an additional condition noted by staff that the present reciprocal maintenance, use and easement agreement must be reviewed by the Department of Public Works and the City

Attorney's Office. This review may result in revisions to the said agreement being required as added conditions to the variance granted here. Revisions resulting from the review must be made to the present reciprocal maintenance, use and easement agreement. The revised reciprocal maintenance, use and easement agreement must be duly recorded with Ramsey County before final site plan approval. Commissioner Taghioff seconded the motion.

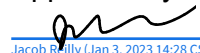
The motion passed by a vote of 4-0-0.

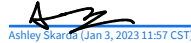
Adopted Yeas - 4 Nays - 0 Abstained - 0

Drafted by:

Samantha Langer
Recording Secretary

Submitted by:

Kady Dadlez (Dec 30, 2022 10:29 CST)
Kady Dadlez
City Planner

Approved by:

Jacob Reilly (Jan 3, 2023 14:28 CST)
Jake Reilly
Chair

Submitted by:

Ashley Skarda (Jan 3, 2023 11:57 CST)
Ashley Skarda
City Planner











0 Madison Variance and Site Plan ZC Minutes KD AT EDITS


Final Audit Report

2023-01-03


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 Signer jake.reilly76@gmail.com entered name at signing as Jacob Reilly

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 Document e-signed by Jacob Reilly (jake.reilly76@gmail.com)

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