

city of saint paul
planning commission resolution
file number 24-12
date May 10, 2024

WHEREAS, Daniel Kennedy on behalf of Advocates for Responsible Development, File # 24-029-110, has applied for an appeal of a Zoning Administrator decision to approve a Site Plan for a new multipurpose arena on the University of St. Thomas campus under the provisions of § 61.701 and § 61.402(c) of the Saint Paul Legislative Code on property located at 2260 Summit Avenue, Parcel Identification Number (PIN) 05.28.23.42.0005, legally described as St. Paul Seminary Addition Ex Part Desc as Beg on WI of Lot 2, Block 1 &SD Lots 1 & 2; Lot 2 Block 1; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 2, 2024, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of § 61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

Zoning Code § 61.701 provides that the Planning Commission shall have the power to hear and decide appeals of zoning administrator decisions where it is alleged by the appellant that there is an error in any fact, procedure or finding made by the Zoning Administrator. In their appeal, the appellant contends that the approved site plan must be denied because:

1. University of St. Thomas is out of compliance with its 2004 Special Conditional Use Permit
2. Development is within the setback area from the Mississippi River bluff
3. The site plan includes transportation routes, utility and other transmission service facilities and corridors on soils susceptible to erosion, areas of unstable soils, and areas with high water tables
4. The arena building is too tall
5. The arena building interferes with public river corridor views
6. The proposed arena is likely to cause pollution
7. The Environmental Assessment Worksheet (EAW) was inadequate
8. The Traffic Demand Management Plan is inadequate

The City of Saint Paul, as the designated Responsible Governmental Unit (RGU) received many comments on the EAW, including many of the comments raised in this appeal of the site plan approval. The environmental concerns raised in this appeal of the site plan have been litigated at the Minnesota Court of Appeals and will be resolved by the appellate courts.

Zoning Code § 61.402(c) states that in "order to approve the site plan, the planning commission shall consider and find that the site plan is consistent with" the eleven findings listed below. As a delegated

moved by Taghioff
seconded by _____
in favor 11
against 2 (Ortega, Risberg – abstained)

function of the Planning Commission, the Zoning Administrator in consultation with the cross-department Site Plan Review Committee found that the proposed site plan is consistent with the findings. The concerns raised in the appeal and staff's evaluation of the site plan are addressed in the findings.

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

The approved site plan meets this finding. Development of a multipurpose arena within University of St Thomas' south campus is an allowed land use and consistent with the *2040 Comprehensive Plan* (Comp Plan). As the City's blueprint for guiding development, the Comp Plan includes City-wide policy including:

- LU-14. Reduce the amount of land devoted to off-street parking in order to use land more efficiently, accommodate increases in density on valuable urban land, and promote the use of transit and other non-car mobility modes.

Regarding civic and institutional uses, the Comp Plan states that it is important to cultivate conditions that allow these uses to thrive, connect to neighborhoods and feed into the local economy. Related policies include:

- LU-54 Ensure institutional campuses are compatible with surrounding neighborhoods by managing parking demand and supply, maintaining institution-owned housing stock, minimizing traffic congestion, and providing for safe pedestrian and bicycle access.

Transportation system safety and accessibility policy:

- T-7. Implement intersection safety improvements such as traffic signal confirmation lights, pedestrian countdown timers, and leading pedestrian signal intervals. Reduce pedestrian roadway exposure via median refuge islands, curb extensions, narrowed travel lanes and other elements designed to lower motor vehicle speeds.

The Mississippi River Corridor Critical Area (MRCCA) chapter of the Comp Plan includes Policy:

- CA-1. Guide land use and development activities consistent with the management purpose of each of the MRCCA districts.

The proposed multipurpose arena on UST's campus is consistent with the City's *Climate Action and Resiliency Plan*. Having destinations close to where people who access those destinations live, reduces emissions and vehicle miles traveled. Decreasing greenhouse gas emissions can be achieved by ensuring that venues are safe and easy to access by alternative modes. The arena is conducive to walking, biking, and using public transit as alternatives to driving.

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

The approved site plan meets this finding. The proposed multipurpose arena is an allowed use within a university campus and complies with Zoning Code requirements including general building design standards as well as off-street parking design, density and dimensional standards.

A College, university, seminary, or similar institution of higher learning is a conditional use in an H2 Residential Zoning District. A new CUP is not required when a university or seminary adds a school building or an off-street parking facility within its approved campus boundary. The original 1990 CUP was "a combination permit for both a special conditional use in the R-2 district [now H2]

and a conditional use in the RC-3 district.” UST’s CUP issued by the Planning Commission in 1990 established heights and setbacks and approved a modification to the height otherwise allowed within the RC3 River Corridor Overlay which is a maximum of 40 feet.

The proposed arena is in compliance with the CUP’s minimum setbacks and building height maximums. For the proposed arena location, the minimum setback from Summit Ave is 100’, 70’ setback from Cretin Ave, and 65’ setback from Goodrich Ave, with greater setbacks prescribed for building height limits of 75’ for the western portion of the arena building and 60’ for the eastern portion of the building.

The appellant raised an objection that UST is out of compliance with its 2004 CUP relative to the existing Goodrich Ave driveway due to building permits issued in 2022 for interior renovation of the Binz Refectory building. The arena site plan scope does not include the Binz building nor Goodrich Ave driveway. The compliance status of the 2004 CUP for the Goodrich Ave driveway is not germane to the site plan.

The RGU arranged an independent Transportation Study that accurately assessed the traffic impact of the arena, as part of its environmental review of the project. In addition, per Zoning Code Sec. 63.122, a Travel Demand Management Plan (TDMP) is required for developments with 20,000 square feet gross floor area or more of new construction of non-residential uses. The TDM Program Standards Guide applies a point-system based on land use. The TDM Guide encourages projects to minimize off-street parking and shift transportation options to biking, walking and transit. The City has no minimum requirement for off-street parking spaces. For the multipurpose arena development, based on the land use and no increase in off-street parking, no additional TDM strategies are required per the Program Standards Guide. The TDMP was approved by MoveMN, the City’s designated Transportation Management Organization.

The RGU received many comments on the EAW, including many of the comments raised in this appeal of the site plan approval. The environmental concerns raised in this appeal of the site plan have been litigated at the Minnesota Court of Appeals and will be resolved by the appellate courts.

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

The approved site plan meets this finding. The proposed multipurpose arena is consistent with the character of the University’s campus. The northern facade of the proposed arena is located within the Summit Avenue West Heritage Preservation District; HPC reviewed and approved the building’s north facade on November 9, 2023.

Summit Ave is a parkway under the joint jurisdiction of Public Works and Parks and Recreation. Any impacts to the parkway must be approved by both departments. Any damage to parkway from construction must be restored to pre-construction condition following construction.

Per the Zoning Code’s River Corridor standards and criteria Sec. 68.402(b) *Placement of structures*. (4) Bluff development shall take place at least forty (40) feet landward of all blufflines. DNR GIS data for bluffline and Bluff Impact Zone (20 feet from the bluff line) include an area in UST’s south campus known as the Grotto. The west façade of the proposed arena building is more

than 40 feet from the bluffline based on DNR GIS data.

The Grotto, a linear feature located west of the project site that conveys stormwater run-off from existing impervious surfaces to a natural drainage channel towards the Mississippi River, was considered for possible impacts in the EAW. The Grotto area includes an existing network of walkways, steps, and retaining walls that provide pedestrian access through the area. The Grotto remains outside of the arena project's construction limits, though adjoining sidewalk connections will be replaced, retaining Grotto access. An existing driveway from Summit Ave will be extended southward in the campus and around the back of the arena building, providing both service and required fire access. Stormwater utility will collect and convey run-off underneath the driveway. A replacement storm utility connection into the Grotto's existing storm sewer pipe will occur upstream of the Grotto outlet to avoid disturbing the outlet connection and vegetation within the channel. The intent of the site design is to allow hydrology to be maintained as it exists today to the Grotto.

The Zoning Code's River Corridor standards consider erosion during and after development. The Zoning Code doesn't prohibit site improvements such as the proposed replacement sidewalk, extended driveway, and underground utilities to be located between the arena building and the Grotto. Rather Leg. Code Sec. 68.402(5) indicates that *Transportation, utility and other transmission service facilities and corridors shall avoid... soils susceptible to erosion, which would create sedimentation and pollution problems... and areas with high water tables.* As part of the EAW, American Engineering Testing prepared a draft Report of Geotechnical Exploration for the project site. Even where soils may be susceptible to erosion or the water table is high, those issues can be mitigated through a development's Stormwater Pollution Prevention Plan (SWPPP). The arena project's approved SWPPP is in accordance with the National Pollutant Discharge Elimination System (NPDES) permit administered by the Minnesota Pollution Control Agency (MPCA). The proposed development is in compliance with the Capitol Region Watershed District's (CRWD) and the City of Saint Paul's erosion and sediment control standards. As part of a SWPPP, dewatering activities include discharging into temporary sedimentation basins; any construction dewatering will require a separate DNR Permit.

Concerns in the appeal addressing chemicals used for the ice in the hockey facility are outside the scope of Site Plan review but will be addressed through the related permits. Glycol and ammonia are proposed to be used on this project. Both are highly regulated. These chemicals are to be placed in the basement of the facility, which would contain any spillage. The room housing the chemicals are in a secured, fire-rated design assembly. The Department of Safety and Inspections oversees the handling, installation, and maintenance of these chemicals and equipment with regulations from local, state and national codes, including Minnesota State Building Code, Minnesota Mechanical Code, ICC national code, standards including NFPA, ANSI and IIAR, Occupational Safety and Health Administration, Minnesota Pollution Control Agency, and many other regulatory organizations to ensure safe handling and operations of the equipment and materials used for chilling the ice rinks.

The RGU already determined that the EAW adequately identified and addressed the potential environmental concerns, and then concluded that further environmental review is unnecessary. The RGU received many comments on the EAW, including many of the comments raised in this appeal of the site plan approval including possible impacts on the Grotto, soils and erosion, and water levels. The environmental concerns raised in this appeal of the site plan have been litigated at the Minnesota Court of Appeals and will be resolved by the appellate courts.

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

The approved site plan meets this finding. Current and proposed land use is within a university campus with existing buildings of similar massing. The effect of the proposed building on adjacent and neighboring properties is reasonable. Specific to the finding:

- The building's proposed setbacks meet the CUP requirements, buffering abutting properties from the development.
- The proposed building height varies by building section, remaining below the maximum building heights allowed by the CUP.
- The approved site plan adheres to building aesthetics approved by the HPC and zoning code's building design standards, including delineation of a primary entrance, pedestrian connection to the street, building materials, minimum window and door openings, and reducing visual impact of rooftop equipment.
- Stormwater runoff from the project site will be improved by best management practices (BMPs) to meet MPCA and CRWD water quality treatment requirements and City's stormwater run-off rate control.

Views from the surrounding area will be similar to those experienced currently. The City's Comp Plan does not identify any "Significant Public Views" near the UST campus. The Comp Plan includes Policy CA-12. *Consider designated Public River Corridor Views from other communities in developing dimensional standards, view impact evaluation procedures, and mitigation identification procedures.* However, the preservation and enhancement of Significant Public Views is not intended to limit the allowed height or density of a parcel more than the underlying zoning. The CUP established in 1990 stated that for the area in the center of the campus "a 75 foot height limit will allow buildings which will be less intrusive to views from the river and because this area is at least 300 feet from the nearest residential use, will not adversely affect the surrounding residential neighborhood."

The RGU received many comments on the EAW, including many of the comments raised in this appeal of the site plan approval. The environmental concerns raised in this appeal of the site plan have been litigated at the Minnesota Court of Appeals and will be resolved by the appellate courts.

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

The approved site plan meets this finding. The effect of this specific proposed building on neighboring properties is reasonable. The proposed arena is located interior to UST's south campus, providing a visual buffer to abutting residential properties and the Mississippi River. The building is in compliance with the CUP's minimum setbacks and building height limits. Landscaping is proposed around the perimeter of the property. Existing boulevard trees will be protected where possible and new boulevard trees planted as required.

MN Environmental Quality Board (EQB) Rules do not require the RGU to consider alternative sites for a project. The RGU conducted an EAW based upon the project that was presented by the

University of Saint Thomas and determined that additional environmental review was not necessary. The sufficiency of the EAW was litigated in the Court of Appeals as part of the EAW appeal and will be resolved by the appellate courts.

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

The approved site plan meets this finding. The new facility is designed to meet a LEED Silver rating, which will use less energy and water and supports the City's Climate Action and Resilience Plan. The project includes sustainable landscaping and irrigation. Turf lawn areas are limited. The proposed plantings consist of native shrubs and low-impact pollinating perennials and grasses commonly found in Minnesota that will vary in height, shape, color and texture.

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

The approved site plan meets this finding. The proposed development is located interior to UST's south campus accessed off a collector street. Multi-modal transportation is supported with off-street and on-street parking, public sidewalk access to the campus, adjoining public transit, and bicycle facilities on adjacent streets. The arena is conducive to walking, biking, and using public transit as alternatives to driving. A service-access only driveway for loading, buses, emergency services will be added on Cretin Avenue. Vehicle turning movements for emergency vehicles, trash/recycling, deliveries, and buses for all driveway accesses were reviewed by the Public Works Traffic Engineering Division and DSI's Fire Safety Division.

A pedestrian plaza will front the arena to serve as the primary event entrance and enhance pedestrian facilities and safety. Sidewalks will be replaced and added within the south campus, including those that serve buildings west of the Arena and campus grounds including the grotto area.

An independent Transportation Study, including parking demand analysis and intersection capacity analysis, was conducted by SRF Consulting as part of the EAW and provided potential traffic mitigation strategies. The main objectives of the study were to evaluate the existing operations and parking within the study area, identify any transportation/ parking impacts associated with the proposed arena during event and non-event conditions, and recommend potential mitigation to address any issues.

Operational mitigation measures identified in the EAW's Transportation Study include creation of an Event Traffic Management Plan to tie specific strategies to event size and timing for sporting and other large events. UST agreed to comply with the EAW mitigation recommendations including operational improvements to mitigate transportation-related impacts. The Event Traffic Management Plan will be developed by UST in coordination with Public Works and the Saint Paul Police Department prior to the issuance of certificate of occupancy for the arena.

Site Plan review is focused on the physical, exterior aspects of a development, including off-street parking design, pedestrian connections, and infrastructure improvements. Through the Site Plan

review, site improvements to enhance pedestrian safety and traffic movement were required by Public Works Traffic Engineering. The development includes construction of bumpouts in the northeast and southeast corner at the Cretin Ave and Goodrich Ave intersection as depicted in the site plan. UST is responsible for traffic signal improvements at the Cretin Ave / Grand Ave intersection in coordination with the site improvements.

The RGU considered the previously constructed Schoenecker Center in its traffic study and analyzed the cumulative potential effects of other projects within a half-mile of campus. The RGU received many comments on the EAW, including many of the comments raised in this appeal of the site plan approval about the traffic study. The environmental concerns raised in this appeal of the site plan have been litigated at the Minnesota Court of Appeals and will be resolved by the appellate courts.

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

The approved site plan meets this finding. Water and sanitary services as shown on the Utility Plans will be connected into existing infrastructure in Cretin and Summit Avenues.

Stormwater runoff from the project site will be improved by best management practices (BMPs) to meet MPCA and Capital Region Watershed District treatment requirements. The City's stormwater run-off rate control requirements are met. Some stormwater from the arena project will utilize of the capacity of the existing underground stormwater treatment systems on the south campus. While some stormwater from the site will be piped to two new arena treatment system which includes underground cisterns with filter cartridges. These stormwater detention systems drain to existing public storm sewer infrastructure. The planned stormwater connection to the existing Grotto drainage system will improve the rate of stormwater drainage and water quality.

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

The approved site plan meets this finding. The Landscape Plan, as signed-off by the City Forester and DSI Zoning, complies with applicable landscaping requirements. Landscaping is proposed around the perimeter of the property. Existing boulevard trees will be protected where possible and new boulevard trees planted as required.

Bicycle parking will be provided in safe and secure areas near the building on the south campus. No off-street parking is required per the Zoning Code. Existing surface parking to the south and west of the multipurpose arena will be reconfigured in relation to the driveways and arena building. The adjoining Anderson Parking Facility and other existing off-street parking facilities are available for arena users.

As part of its EAW, and based upon the analysis made in the independent traffic study, the RGU determined that there will be 4-6 events per year at the arena that will create a parking deficit. The RGU determined in its findings that this does not create a significant environmental impact. The issue of mitigation was litigated in the Court of Appeals as part of the EAW appeal and will be resolved by the appellate courts.

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

The approved site plan meets this finding. Accessible parking will be provided to meet ADA standards. Required accessible entrances and routes shall be provided per accessibility code.

11. Provision for erosion and sediment control as specified in the Minnesota Pollution Control Agency's "Manual for Protecting Water Quality in Urban Areas."

The approved site plan meets this finding. The development's approved Stormwater Pollution Prevention Plan (SWPPP) is in accordance with the National Pollutant Discharge Elimination System (NPDES) permit administered by the MPCA. The proposed development is in compliance with the Capitol Region Watershed District's and the City of Saint Paul's erosion and sediment control standards.

The environmental concerns raised in this appeal of the site plan have been litigated at the Minnesota Court of Appeals and will be resolved by the appellate courts. The Court of Appeals has taken all the environmental issues raised in the EAW appeal under advisement and will issue an order on the need for further environmental review by July 10, 2024.

The approved site plan for a multipurpose arena on the University of St Thomas south campus complies with zoning code standards and conditions and the land use is consistent with H2 zoning and the campus CUP. As part of the Site Plan Review, all City staff reviewers signed-off on the site plan, including department representatives from Safety and Inspections (including Fire Safety, Plumbing, Water Resources and Zoning), Planning and Economic Development, Parks Forestry, St. Paul Regional Water, Public Works Transportation Planning and Safety, Public Works Traffic Engineering, and Public Works Sewers.

There has not been an error in any fact, procedure or finding made by the zoning administrator pertaining to this site plan.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Daniel Kennedy on behalf of the Advocates for Responsible Development for an appeal of a Zoning Administrator decision to approve a Site Plan for a new multipurpose arena on the University of St. Thomas campus at 2260 Summit Avenue is hereby denied.