

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

Minutes October 3, 2014

A meeting of the Planning Commission of the City of Saint Paul was held Friday, October 3, 2014, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. DeJoy, McMahon, Merrigan, Padilla, Reveal Shively, Thao, Underwood, Wencil; and Messrs. Connolly, Edgerton, Gelgelu, Lindeke, Makarios, Nelson, Ochs, Oliver, and Ward.

Commissioners Absent: Mmes. *Noecker, *Wang, and Mr. *Wickiser.
*Excused

Also Present: Donna Drummond, Planning Director; Bill Dermody, Merritt Clapp-Smith, Jake Reilly, Jamie Radel, Lucy Thompson, Sarah Zorn, and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes September 5, 2014.

MOTION: *Commissioner Reveal moved approval of the minutes of September 5, 2014. Commissioner Thao seconded the motion. The motion carried unanimously on a voice vote.*

II. Chair's Announcements

Chair Wencil had no announcements.

III. Planning Director's Announcements

Donna Drummond announced that the DNR staff will be attending the next Planning Commission meeting to talk about the proposed critical area rules on October 17, 2014, and the Mayor and City Council's comment letter that they sent to DNR is requesting that the Planning Commission hold a public hearing to allow the broader community a chance to weigh in on the comments, they think that the City be making to the DNR on the proposed rules and that will be on October 31, 2014.

IV. Zoning Committee

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

Three items came before the Site Plan Review Committee on Tuesday, September 30, 2014:

- Frattallone Hardware, expand existing parking lot at 215 Eva Street.

- Surly Brewing, new parking lot at 1051 Westgate Drive.
- Island Station, preliminary meeting about development plans for Island Station at 380 Randolph.

One item to come before the Site Plan Review Committee on Tuesday, October 14, 2014:

- East 7th Street Senior Apartments, new apartment building with 113 units at 720 East 7th Street.

OLD BUSINESS

#14-321-546 Pawn America – Conditional use permit for an alternative financial establishment and pawn shop, with modification of special conditions. 1891 Suburban Avenue.
(Bill Dermody, 651/266-6617)

Commissioner Nelson explained that the committee had a split vote (3-3) so this matter comes to the Planning Commission with no recommendation. However with the staff report being for an approval, he made a motion for approval of the staff's recommendation to approve the application but with several modifications, including changes to recommended condition #8 and two new conditions (#s 9 and 10).

MOTION: *Commissioner Nelson moved for approval of the staff's recommendation with modifications. Commissioner Padilla seconded the motion.*

Commissioner Ward inquired about any signage issues that were discussed at Zoning Committee. He recalled previous signage issues in the area.

Commissioner Nelson said that this recommendation would not allow pylon sign and it addresses strict conformance with the Sunray sign requirements. The actual size of the sign itself in terms of square footage was not specifically addressed it was mainly a matter of placement of the signage. So it looked like it was a single establishment more than it looked like there were multiple establishments within the shopping area.

Commissioner Padilla said that the sign would still have to meet the code requirements for the size of the sign, even though it's not set forth so as long as they're not providing a variance for a larger sign it would have to meet the code requirement for the size of the sign.

Commissioner Ward asked if there was any discussion on lighting.

Commissioner Nelson does not recall any discussion on lighting.

Commissioner Reveal voted against this and recalled it was a difference of opinion about how far it was appropriate to go as a zoning decision versus a policy matter. The original Pawn America was in front of the Planning Commission a few years ago and at that time they made a big deal about the distance requirement because there was an alternative financial institution in less distance than the code required and that ended up being closed in order for the Pawn America to open. There was also supposed to be additional development there which has not subsequently

happened. A few others and she felt that eliminating the distance requirement was too significant an action to take and was more appropriate as a legislative decision and an ordinance change. The concern about signage was that if they were side-by-side on the building then they would look like two separate establishments and Commissioner Nelson has suggested a solution that puts that which puts them vertical on the building, but they did not talk about lighting or other issues.

Commissioner Oliver is opposed to this application as well. When this first came to the Planning Commission it was not Pawn America's project - it was Max it Pawn as Red Dog Holdings, which came to the Planning Commission recommended for denial of the pawn shop because of the nearby alternative financial and some community opposition to the pawn shop. District 1 had been in favor of that project, that's the key distinction, the members of the community, members of the neighborhood and the members of this commission supported the project and voted for the conditional use permit. The only reason the pawn shop was found to not impede normal development and to not be detrimental to the existing character of the neighborhood is because it was part of a project as an anchor to a four building development. Standing alone it is detrimental to the character and development in the neighborhood – it has impeded normal an orderly development. This is essentially guaranteeing that the project that the neighborhood was promised and the neighborhood supported will never happen and that this site will never be anything else but a combined pawn shop and payday lending. The earlier conditional use permit was approved for a reason and that reason has never come to pass and for that reason the conditions for Payday America just cannot be met because it will be detrimental to the existing character of the development in the neighborhood and it would impede normal development of the surrounding property.

At this time Chair Wencil and the First Vice Chair Reveal switched places so that Wencil could make a statement not as the chair.

Commissioner Wencil explained that there were two reasons why she was opposed to this. First, from Finding 3) b., §65.511 says that no alternative financial establishment shall be located within 2,640 feet of another alternative financial establishment. The building that the alternative financial establishment is in is not owned by Payday America - they are leasing it. So the use of it goes with the building it does not go with Payday America and if they moved out, then the owner could rent/lease it out to someone else. Given that there is an agreement she feels that the Planning Commission is over stepping it's bound to be deciding an owner who is not here or even a part of this to be making that decision. Second, the finding about co-location of the pawn shop and the alternative establishment says that there has to be a distance and it seems to her that this is something that the City Council should address rather than the Planning Commission – it seems like the Planning Commission is legislating something that is beyond their purview.

First Vice Chair Reveal and Chair Wencil switch back to their original places.

Commissioner Padilla has trouble putting the onus on this applicant of what was promised a few years ago - they are not the developer and it is unfortunate that the site was not developed in a manner that was assumed to be, but it can't be held against the applicant that is before the Planning Commission. The additional development is not the fault of the existing applicant and while we may surmise or opine on what we think might have been there if this had not been there, we cannot make those calls. And to Chair Wencil's first point regarding the existing site that would be vacated, condition 3 addresses that in a way that works. Even though

the owner of the other building is not here it clearly states that the conditional use permit (CUP) is forfeited if that existing site does not lose its legal nonconforming status within one year. So if the current owner leases that property to another alternative financial establishment, then Pawn America will lose their CUP for this application and we are addressing that issue and the signage is addressed. Those two are the biggest issues before the committee. She appreciates the comments about co-location, they do have the authority to approve modifications and they do actually approve unique modifications in certain circumstances that are within their purview and they do make those judgment calls and the City Council if on appeal can make a different decision. She does see the distinction between two store fronts and two separate entrances from what's being opposed here, which is one entrance, one use all combined in one location and she thinks that it reduces impacts by putting them together rather than having two different stores in the same neighborhood and with that she supports Commissioner Nelson's motion for approval.

Commissioner Thao asked if the applicant indicated whether or not, if not for the fact that he had been robbed three times, if they would not have co-located their services.

Bill Dermody, PED staff, said that the Pawn America business model is to combine these two businesses whenever they can regardless of any safety concerns.

Commissioner Thao said that through signage she hears Commissioner Nelson trying to offer the piece about having one door, one entrance, but not sure if the argument about "not wanting to indicate that this neighborhood is going downhill" is a good one to stand on when we have other neighborhoods in Saint Paul who have a higher concentration of these services. She believes this is the only one where the radius is large and she would be okay if the conditions were just saying they had to be adhering to whatever is in the current plan now because that's what currently in the plan right now. Commissioner Thao is for the conditions in the original staff report and not in support of what Commissioner Nelson is proposing.

Commissioner Edgerton voted in favor of this and he believes that the key argument has to do with spacing the 1,320 feet versus co-location. The reason for that spacing was that they did not want these two types of institutions located too closely together, because of the visual impact of having a pawn shop here and a check cashing alternative financial institution here in the same strip mall. In this case it's located at a single place with a single store front with a single door and then with a Commissioner Nelson's condition of the vertical signage together and no pylon signing. Say they are located in the same place but there are two different signs and it might look as if there are two different stores visually and so that created this discussion of let's try to consolidate the signage to reduce that effect. Staff's recommendation was based on the spirit of the law. In this case the letter of the law says that you can't locate within 1,320 and it's based on the visual impact, and in this case by co-locating them together it's almost as though it's a single store front so you wouldn't have that same impact that led to that spacing. It's his opinion that co-locating would address the rationale of the 1,320 feet and that is why he supports it.

Commissioner Ochs said that the visual impact does not refer to the visual impact of the buildings themselves. Regardless of the type of business, they could dress up the façade anyway they feel the need to do. And the term visual impact is probably referring to the type of person who would use these types of services. The issue having the payday loan type of business and a Pawn America was to reduce the type of traffic that might be conducive to criminal activity. Is that not the intent of the spacing of these two types of services or is it something else?

Commissioner Padilla is uncomfortable talking about what we think is the typical user of these stores, because there is a broad spectrum of people who utilize the services of both Pawn America and Payday Lending. She is uncomfortable with the idea that the visual impact is about the user and the visual impact in her mind is about the signage and the way that the building presents itself to the public not about the person who enters the store. Also Commissioner Thao's point the applicant did address the fact that there had been an armed robbery at the site and while not the motivation for the co-location, this would provide additional security on site and they felt that it would be an additional preventative measure to co-locate these businesses.

Commissioner Reveal agrees with Commissioner Padilla and what it is about is what the code currently allows, what was decided earlier and what the conclusions are about the impact that can have on development and others. So from her point of view they are talking about issues of policy matters not issues of zoning matters and she is more comfortable sticking with the current statute. They have made exceptions in the past, but she does not remember one that was this clearly wiping out a standard altogether.

Commissioner Oliver disagrees slightly, saying that this is about the use that it is and is about the fact that it needs its own conditional use permit and has to meet the standards of the conditional use permit and the character of the project that was presented, which is detrimental to the character of the neighborhood at this location, it would impede development if it went in and the use is not appropriate.

Commissioner Makarios supports Commissioner Nelson's motion today and he thinks that co-locating these two businesses will not be detrimental to the character of the neighborhood and he thinks that it will help development in the neighborhood. The fact is that Payday America exists currently and its two blocks away from the existing Pawn America, and he thinks it will actually improve the chances of doing development in the neighborhood to take the two uses and put them in the same store front. The use already exist in the neighborhood – it's not going to be detrimental to the character of the neighborhood to take existing uses and put them in a nicer building in one store front and that could help development, not impede it.

Commissioner Oliver disagrees with the characterization that its two blocks, Suburban Avenue is more of a suburban type development visually, and mentally there's no connection between these two, and you would not walk from one to the other necessarily. One is on Suburban Avenue and the other is far away across White Bear Avenue off of a winding street behind the Target Store. This would be an addition to Suburban Avenue street front and business community, which the businesses on the back end of the Target Store are not considered part of the same thing and that is one of the reasons that area is not doing so well - the traffic does not go from one to the other, people go to Target and that's it. He cannot agree with the opposition that these things already exist, so what's the big deal? - it is a big deal to move them.

Commissioner Ward asked for the position of staff regarding how to clearly define terms in section 5 §61.501 (c) detrimental use and (d) what will not impede the normal and orderly development. He wants to hear what is considered "detrimental" in the city's eyes and what is "normal orderly development".

Bill Dermody, PED staff, said that these are subjective measures that will require planning commission judgment. Rather than trying to define them, he refers to finding #6 regarding what it takes to modify special conditions. The planning commission may approve modifications of

special conditions when specific criteria is met: strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare. So the key terms are “unreasonably limiting” and “exceptional undue hardship” in making their decision.

Commissioner Ward said that it’s not their call to say what’s good and what’s bad for a development, if it fits within the city’s guidelines as outlined. The only purview or jurisdiction is whether it fits the zoning. He agrees 100% with Commissioner Reveals position that it’s a policy position and if policy allows it, whether we want it or not, we have to stick with that. If this is going to present an undue hardship to the owner or the property then, yes, the way the code written it would unreasonably limit or prevent otherwise lawful use. It’s a hardship to the owner to fulfill the requirements as written, and there are some suggestions to make it work by allowing a conditional use permit which is what we do. As noted in finding 5(c), there is not additional negative impact on the health, morals, and general welfare of the community. He votes for this.

Commissioner Reveal moved to call the question. The motion to call the question passed 16-1 (Oliver) on a voice vote.

MAIN MOTION: *Commissioner Nelson moved an amended version of the staff’s recommendation to approve the conditional use permit subject to additional conditions.*

Mr. Dermody notes that the site actually has a pylon sign currently with Pawn America upon it. He suggests amending the condition restricting a pylon sign so that applies only to Payday America in order to avoid having the existing pylon sign taken down. Commissioner Nelson agrees and so amends his motion.

The motion carried 10-7 (Merrigan, Ochs, Oliver, Reveal, Thao, Underwood, Wencil) on a roll call vote.

NEW BUSINESS

#14-325-680 HRA – Rezone from R4 One-family residential to T2 Traditional Neighborhood. 619-627 Wells Street between Edgerton and Payne Avenue. (Bill Dermody, 651/266-6617)

MOTION: *Commissioner Nelson moved the Zoning Committee’s recommendation to approve the rezoning. The motion carried 17-0 with 1 abstention (DeJoy) on a voice vote.*

#14-324-966 John Lenzi – Rezone from B2 Community Business to T2 Traditional Neighborhood. 662 Payne Avenue South of intersection at Beaumont Street. (Bill Dermody, 651/266-6617)

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

#14-326-683 Scott Kramer – Conditional use permit for a bed & breakfast residence with 4 guest rooms. 241 George Street West between Charlton and Waseca Street. (Sarah Zorn, 651/266-6570)

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.*

Commissioner Nelson announced the item on the agenda at the next Zoning Committee meeting on Thursday, October 9, 2014.

V. Comprehensive Planning Committee

Minor Zoning Text Amendments to Driveway Setback Requirements, Land Use Standards, and T District Uses and Standards – Release for public review and set a public hearing for November 14, 2014. (*Jamie Radel, 651/266-6614*)

Jamie Radel, PED staff, talked about the proposed zoning text amendments, they span a wide variety of sections code. The Driveway Setback which is changing the requirement from 25 feet to 6 feet in districts other than RL-RT2. Two Land Use Standards proposed for change, to modify the open space requirements and modify building size standards. Zoning District Uses and Standards, permitting rental storage facility use in B4 – B5 districts, permit reception hall use in T2 districts. Allow for commercial surface parking and increase maximum setback in T1 nonresidential or mixed uses. Also allow for T1, T2, and IT with a master plan.

Ms. Radel had distributed a handout requesting another amendment be made to this zoning language before releasing it for public review.

Commissioner Merrigan said regarding the amendment that was handed out, many mixed-use buildings have fronts and backs; they have a main street/retail area and a back service area. She asked under this propose can people do storage with a conditional use permit if there is a part of that building that doesn't interact with the street and maybe a secluded area because she does not want to limit an appropriate use where there would not be the need for an active main street. If that would help forward getting the building built converted or make use of that space. So as this is written could someone come forward with an application and say in this in particular condition they want to allocate this much to storage because it may be an appropriate placement for storage.

Ms. Radel said that currently it is not written that way, they could add something about a conditional use permit for non-public or non-public interfacing areas on first floors and skyway levels units of the building.

Commissioner Merrigan is more interested in the first floor of the building then the skyway level.

Lucy Thompson, PED staff, said that these conditions can be modified but she would rather leave it as a standard and condition or release it to the public, and see where it ends up. A building owner could request to modify the condition with a specific layout of where the storage would be and where access to the skyway. Commissioner Merrigan is comfortable with releasing the proposed amendment as stated in the revised language that was distributed.

Chair Wencl said that the way this language is written, are we considering mostly basement-level storage, because she understands that the first floor or the skyway level we are mainly talking about downtown but are we talking underground also?

Ms. Radel replied that there are some areas in the downtown where buildings have sub-basements, so basements and sub-basements could be used for storage, or you could use third or fourth floors for storage or anything above the skyway level as storage.

Commissioner Lindeke asked about the surface parking change was this in reference to the attempts in the Selby Snelling area to create a shared surface parking lot for most of the businesses.

Ms. Radel said that it did stem from that discussion.

Commissioner Lindeke said so if someone was trying to build a building and create a surface parking lot; does it have to be shared in this language?

Ms. Radel said it does not have to be shared in this language it could just be someone who wanted to create a parking lot and that is why it was excluded from the area a quarter mile from the Green Line.

Commissioner Ward asked if surface parking is not allowed within a quarter mile of the Green Line, what will happen to the City-owned surface parking facilities that presently exist. If the city were to dispose of that property then would zoning be referred back to what it was rather than VP?

Donna Drummond, Planning Director, said with the rezoning that was done along University Avenue the VP zoning was eliminated and all those properties were rezoned to the T districts.

Commissioner Ward is thinking about a parcel on the corner of Grotto and Edmund, that is within that quarter mile and it is zoned VP, it is a large parking lot and so did that also get rezoned because it still shows as VP.

Ms. Drummond clarified that along University Avenue was rezoned however that far away could still be VP.

Commissioner Ward said so then no one can purchase a parcel and then change it to surface parking.

Ms. Radel said that if something is currently zoned with T zoning you cannot put a surface parking lot for commercial use on that parcel.

Commissioner Ward said even if the commercial use is related to the business.

Ms. Radel said no if it is related to the business then that would be part of the business, but to just make the business a parking lot cannot currently be done.

MOTION: Commissioner Merrigan moved on behalf of the Comprehensive Planning Committee to release the draft for public review and set a public hearing on November 14,

2014. The motion carried unanimously on a voice vote.

Commissioner Nelson announced the items on the agenda for the next Zoning Committee meeting on Thursday, October 9, 2014.

**VI. Ford Site: Rezoning, preliminary master plan, and other project work for 2014-2015 – Informational presentation by Merritt Clapp-Smith, PED.
(Merritt Clapp-Smith, 651/266-6547)**

Merritt Clapp-Smith gave an informational presentation about the Ford Site: Rezoning, preliminary master plan, and other project work for 2014-2015. Ms. Clapp-Smith's presentation is posted on the Planning Commission's web page where the approved minutes are located at: <http://stpaul.gov/index.aspx?NID=3430>.

Commissioner Merrigan said that at one point there was a discussion about form base zoning potentially for the site, so how did that discussion go, how that might work with the T plus idea.

Ms. Clapp-Smith said that they are going to move through the zoning discussion first by focusing on the priorities to be addressed, and then determine in the code drafting phase what the best format is to achieve the priorities.

Commissioner Merrigan is amazed at how much work and how well done and how well thought out this process is and she commends Ms. Clapp-Smith for leading this group for all this time. This is a remarkable undertaking for the city and her work on this has been amazing and should be recognized. Commissioner Merrigan also thinks that this could provide an excellent opportunity for the Port Authority to look at new models for bringing in work, they have a model that they have been using for years and it has worked in many contexts, but the notion of industry and land uses has changed significantly over the years. She hopes that the Ford site is a place to set up some alternative models, which could help throughout the city.

VII. Neighborhood Planning Committee

Commissioner Oliver announced that the next Neighborhood Planning Committee meeting on Wednesday, October 8, 2014 has been cancelled.

VIII. Transportation Committee

Commissioner Lindeke reported that at their last meeting they talked about the Snelling Bus Barn site, they also heard from Reuben Collins and Jessica Treat about their trip to Copenhagen and they had a quick overview of the Downtown Parking Management Strategy. He also announced the item on the agenda at the next Transportation Committee meeting on Monday, October 6, 2014.

IX. Communications Committee

Commissioner Thao had no report.

X. Task Force/Liaison Reports

Commissioner Oliver announced that the Gateway Station Area Planning Task Force will be meeting on Tuesday, October 7, 2014 at the Conway Recreation Center from 5:00 – 6:30 p.m.

Commissioner Reveal reported that the West Side Flats plan has been sent to West Side Community Organization (WSCO) and they voted unanimously to support the plan as it was approved. They also received a significant EPA Grant to evaluate the opportunities for the greenway that's contemplated in the plan which would be a combined stormwater and recreational solution and they should have a draft in the next few weeks.

Commissioner Nelson reminded the commissioners that at the next Planning Commission meeting on October 17, 2014 they will hold the Shepard Davern public hearings.

Commissioner Makarios announced the Ford Site Task Force will have a work session on Monday, October 20, 2014.

XI. Old Business

None.

XII. New Business

None.

XIII. Adjournment

Meeting adjourned at 10:17 a.m.

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

Respectfully submitted,

Approved _____
(Date)

Donna Drummond
Planning Director

Daniel Ward II
Secretary of the Planning Commission

Planning Team Files\planning commission\minutes\October 3, 2014