

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

Minutes May 4, 2018

A meeting of the Planning Commission of the City of Saint Paul was held Friday, May 4, 2018, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. DeJoy, Mouacheupao; and Messrs. Baker, Edgerton, Khaled, Ochs, Oliver, Perryman, Risberg, Vang, and Wojchik.

Commissioners Absent: Mmes. *Anderson, *Eckman, Lee, *Reveal, *Underwood, and Messrs. *Fredson, Lindeke, *Rangel Morales, and *Reich.

Absent: *Excused

Also Present: Donna Drummond, Planning Director; Bill Dermody, Kady Dadlez, Jamie Radel, and Laura Eckert, Department of Planning and Economic Development staff.

I. Approval of minutes March 9, 2018.

MOTION: *Commissioner Mouacheupao moved approval of the minutes of March 9, 2018. Commissioner Oliver seconded the motion. The motion carried unanimously on a voice vote.*

II. Chair's Announcements

Commissioner DeJoy, the Commission's First Vice-Chair, chaired the meeting. She announced the Cinco de Mayo annual parade on Saturday, May 5, 2018 at 10:00 a.m. on the West Side, and the Festival of Nations at RiverCentre today through Sunday.

III. Planning Director's Announcements

Interim Planning Director Lucy Thompson announced that the Mayor's State of Our City has been rescheduled Saturday, May 19, 2018 at 9:00 a.m. at Johnson High School. There will be some remarks from the Mayor and then round table discussions to hear back from citizens. In her first week as Interim Planning Director, she received four requests for new zoning studies, including the Macalester Park Overlay Study and the Ford Design Standards. Staff is preparing an RFP for the Ford Design Standards. Representatives from Wards 4 and 5 would like a study related to charter schools, conduit bonds and industrial land that may or may not involve the Planning Commission. Councilmember Prince requested design guidelines for ADUs (Accessory Dwelling Units). Ms. Thompson responded to CM Prince that we would like to wait on this study until the ordinance allowing ADUs city-wide is adopted. There is very good, positive momentum on ADUs right now, so we'd like to get the ordinance adopted and then possibly consider design guidelines. The Planning Team is down three planners, which makes it hard to accept new work.

The lead Ford Planner candidate is visiting Saint Paul today to meet City staff and see the Ford site. Commissioner Edgerton and Commissioner Dejoy are meeting us for lunch to provide a city-wide perspective of the Planning Commission's work. The first Design Advisory Committee for Pedro Park was held last night. It was a very meeting with great representation from residents, businesses and stakeholders around Pedro Park. Parks and Recreation is leading the park design process, but it is very intertwined with the tentative developer status work that we are doing for the Public Safety Annex. There will be two more meetings; staff will keep the Planning Commission apprised as it relates to the Planning Commission's work.

IV. Zoning Committee

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

Three items to come before the Site Plan Review Committee on Tuesday, May 8, 2018:

- Ebenezer St Paul Parking Lot – Parking lot development at 1891 Norfolk Avenue. Shannon Rusk-Oppidan SPR# 18-054899
- Wax Lot Parking – Parking lot redevelopment at 177 Exchange Street. David Cossetta-PZAI SPR# 18-054805
- 2222 Stewart Apartments – New Multi-family residential at 2222 Stewart Avenue. Tom Distad-Developer SPR# 18-054652

OLD BUSINESS

#18-024-155 2103 Wabash – Withdrawal of conditional use permit. *(Bill Dermody, 651/266-6617)*

Bill Dermody, PED staff, stated that the original applicant has decided to withdraw their application, which had been appealed to the City Council. The City Council acted to remove it from their agenda in light of that withdrawal request, but the Planning Commission has already approved the application. In order to finalize the withdrawal, the Planning Commission needs to grant the withdrawal and cancel the previous approval of the conditional use permit. The staff recommendation is to cancel the approval and grant the withdrawal to finalize the applicant's request.

Commissioner Perryman asked if the applicant is no longer interested in building anything or is just not using this method.

Mr. Dermody said that the applicant does not want to go forward with the proposal for 64 apartments. They want to explore other options, and may or may not come back with a different application in the future.

MOTION: Commissioner Edgerton moved the Zoning Committee's recommendation to cancel the previous February 23, 2018 action approving the conditional use permit, and that the application be considered formally withdrawn. The motion carried unanimously on a voice vote.

NEW BUSINESS

#18-035-742 Dearing Mansion Bed and Breakfast – Revocation of a conditional use permit for a bed and breakfast due to noncompliance with conditions of the permit. 241 George Street West, between Ohio Avenue and Waseca Street. (*Kady Dadlez, 651/266-6619*)

Commissioner Edgerton said there was a lot of discussion at the Zoning Committee meeting. Several people spoke against revocation, stating that the bed and breakfast residence has no major impacts on the neighborhood. Many spoke or wrote in support of the permittee, who has invested a lot of time and money restoring the historic house. The house is an asset to the neighborhood. It appears only one neighbor complained anonymously about the use. The permittee acknowledged violations of the permit. Some Zoning Committee members felt that revocation is a major punishment and looked for other options from Peter Warner, the City Attorney. Mr. Warner informed the Committee that fines are not allowed under the municipal code. As part of the discussion, several Commissioners spoke in favor of revocation, feeling that the permittee knew what he was doing and that he knowingly violated the permit conditions multiple times. There is an equity consideration here as well. If the applicant loses the conditional use permit, he can still operate as a short-term rental but not as a bed and breakfast with six guest rooms.

MOTION: Commissioner Edgerton said it is resolved by the Saint Paul Planning Commission under the authority of the City's Legislative Code, that the Dearing Mansion Bed and Breakfast conditional use permit (Zoning File #17-000-688, this is a correction from what is in the packet which referred to the 2014 conditional use permit that was originally granted, then modified in 2017, just a technical change) at 241 George Street West is hereby revoked.

Commissioner Ochs asked Commissioner Edgerton to discuss the two options provided to the Zoning Committee. The reason for the layover was that the Commission did not feel like there was enough information from staff on our options.

Commissioner Edgerton said that the Zoning Committee originally discussed the case five weeks ago. However, City Attorney Peter Warner was not present, so the Committee did not understand what our legal abilities were to place conditions or impose some sort of penalty other than revocation of the permit. The Zoning Committee met last week with Mr. Warner present. During the layover period, staff crafted two options. One was for revocation. The other was to say conditions of the permit were violated, the permittee acknowledges this, and at this time we are choosing not to take action but we're letting the permittee know that if another violation comes before us, revocation is a likely option.

Commissioner Ochs said that he was the driving force in trying to delay the initial decision on this case for a number of reasons. One reason is that the conditions regarding who can do what with their property when it is a bed and breakfast residence or short-term rental is a gray area. When it got down to it, the permittee was found to be in violation of the conditions of the permit, but the Zoning Committee didn't feel like there was a clear and precise method of how to handle this. It was either revoke the permit or ignore the violation again. So, when we talk about second or third chances, it is not a single violation that's being discussed here. Commissioner Ochs stated that he feels the property is an asset in the community, and the permittee has a reputation for hosting an annual New Year's Eve party that seems to be

more of a personal use than a business one. As for the complaint, we know nothing about the complaint, we don't know if it was a neighbor. As far as we know, it's an anonymous complaint made directly to DSI. He does not think the New Year's Eve party the permittee held is an issue with the neighborhood, and with all of the ambiguity and gray area around what is allowed, he finds it hard to say that we should vote to revoke the conditional use permit.

Commissioner Mouacheupao raised the issue of equity and questioned whether the Commission would be giving more chances to a permittee if this type of violation happened in another neighborhood. She asked Commissioners to use the same kind of logic and analysis when this happens in other neighborhoods or to other people in the future. Ms. Mouacheupao asked whether the Commission has information about the financial impact losing the bed and breakfast permit will have on the business.

Commissioner Edgerton said the Commission does not have that information.

Commissioner Ochs said that we could speculate that a bed and breakfast residence in that neighborhood probably is not going to have a strong chance of being very successful. We know the permittee tried to expand the number of rooms to make it work, but was caught advertising for six guest rooms before six guest rooms were allowed. He operates a bed and breakfast business from the house and is trying to do whatever he can to keep it there; presumably, without it, the property will probably fall back to something that the neighbors don't want, which is to be a rental property. Also, it is difficult to talk about equity without other similar cases to compare this one to.

Commissioner DeJoy stated that we do not have the financial information to know how revocation would affect the permittee. Commissioner Ochs' comments about what might happen if the permit is revoked are speculative.

Commissioner Mouacheupao said the Commission needs to be aware that it is setting a precedent one way or the other.

Commissioner Baker said it sounds like revocation would be a financial hit to the permittee. That is why a part of the discussion was what other options or avenues exist besides revocation. Potential options were talked about at the Zoning Committee. Regarding equity, he agrees with Commissioner Mouacheupao that it seems like we are doing a lot of conversing and comforting to try and make this fit; this concerns him because of the precedent that is potentially being set on this with the permittee having been given several chances. The permittee acknowledges and admits that he did not follow the conditions of the permit. However, he wonders whether, in other situations, the Commission would be working this hard to find an out. To him, this is an equity issue.

Commissioner Perryman said that it was mentioned that we could not impose a fine on the permittee, but for other examples like a St. Thomas rental property, they had their approval rescinded because they were over-occupied. There are plenty of examples where people have had their licenses revoked, and it did not go to the City Council. If the permit is revoked, it is hard to know what will happen to the property, but it could revert to being a rental property.

Commissioner Khaled said that what concerns him is that the permit violations are all separate instances. It may not be in any way malicious negligence on the part of the permittee; it just may be that the permittee is not taking the conditions of the permit seriously. He said that equity comparisons are very challenging to make.

Commissioner DeJoy said that these are all very thoughtful, deep-thinking expressions about this particular case and not unlike the discussion that happened at Zoning Committee, which was why it was a long and hard decision that the Committee brings forward today.

Commissioner Oliver said that it is not a deficiency in the City of Saint Paul that there are few options; it is just the way conditional use permits work as created by State Statute. This is within the Commission's purview of authority. The Commission often sit as a quasi-judicial body that has to judge applications against the criteria for granting the permit and then consider any complaints about violations against the conditions we set. He does not want that to be taken too far and make it seem like this is something unique to the City of Saint Paul's procedures. Conditional use permits exist, and if they are violated, we look at the conditions and decide either to revoke or not. He does not want anyone to get the impression that when you say precedent, it means that at some later point an applicant is going to say, in that case you did that, therefore you have to do this on my case. Every case is unique, every property is unique, and every permit is unique. No one is going to come and win a case against the City of Saint Paul based on the decision we make today.

Commissioner DeJoy commented that City Attorney Warner also mentioned how every case is unique. Mr. Warner advised that suspension or a fine is not within the Commission's purview because we were not looking at it as a licensing authority. We were looking at it simply for our responsibility under the conditional use permit.

Commissioner Edgerton said that originally the permittee was allowed four guest rooms and at some point he advertised for six guest rooms and events, which were violations of the permit. The Zoning Administrator contacted the permittee and gave him a warning. Several months later he advertised again for six guest rooms and events, and these violations of the permit came before the Zoning Committee and Planning Commission. There were two violations. At that time, The Planning Commission agreed to modify the permit to allow the permittee to have six guest rooms but no events. Now it has come before us again that the permittee advertised for a commercial event. So essentially, there were three violations. There has been a process. There was a warning, and a second warning, and now this is the third violation.

Commissioner DeJoy said that the nature of all the complaints on this property were about the events.

Commissioner Edgerton concurred.

Commissioner DeJoy moved to call the question. There being no objection, the Commission proceeded to the vote on the main motion.

MOTION: *Commissioner Edgerton moved the Zoning Committee's recommendation to revoke the conditional use permit. The motion carried 10-1 (Ochs) on a voice vote.*

#18-050-373 Brett Ripley – Reestablishment of a nonconforming use as a 4-family dwelling. 1685 Taylor Avenue between Aldine and Charlotte. (Josh Williams, 651/266-6659)

Commissioner Edgerton announced that this case has been continued to the May 24, 2018 Zoning Committee meeting.

Commissioner Edgerton announced the items on the agenda at the next Zoning Committee meeting on Thursday, May 10, 2018.

V. Comprehensive and Neighborhood Planning Committee

Neighborhood STAR Comprehensive Plan Consistency – Approve resolution providing comments to the Neighborhood STAR Board regarding 2018 applications. (Jamie Radel, 651/266-6614)

Commissioner Mouacheupao reported that the Planning Commission’s role is to determine whether the proposals are consistent with the Comprehensive Plan. Staff prepared a matrix that shows how each proposal is (or is not) consistent with the Comprehensive Plan. The Commission’s comments will be sent to the Neighborhood STAR Board.

MOTION: Commissioner Mouacheupao moved on behalf of the Comprehensive and Neighborhood Planning Committee to recommend approval of the resolution and forward to the Neighborhood STAR Board. The motion carried 10-0 with 1 abstention (DeJoy) on a voice vote.

VI. Transportation Committee

Residential Permit Parking Program – Approve resolution recommending changes to the Mayor and City Council. (Elizabeth Stiffler, Public Works, 651/266-6210)

Elizabeth Stiffler, Traffic Engineering/Public Works Department, gave a Power Point presentation, which can be viewed on the web page at:
<http://www.stpaul.gov/planningcommission>

Commissioner Edgerton asked about the basis for setting up permit parking areas.

Ms. Stiffler said the program is resident-driven and -requested. There is a process outlined in Chapter 164. First, you have to have a significant size for the permit parking area – to create a new area you have to have at least 8 block faces. If there is sufficient area, Public Works staff do a simple parking study to determine if there is a genuine parking problem. Then, a petition is prepared that shows the proposed area, its size, the boundary streets and the time restrictions. The petition is then routed to affected property owners.

Commissioner Edgerton said that he wants to make sure that there is rigorous review from a traffic standpoint, whether not there is a parking issue. Otherwise, there is the risk that people who are more active and assertive of their rights will get permit parking areas, while others will not because they are not used to speaking up even if they have a similar need.

Ms. Stiffler agreed that that is a valid concern.

Commissioner Baker said his question is dealing with enforcement and the proposed ongoing work with Police to make enforcement easier.

Ms. Stiffler said the top comment in the survey was to have more and better enforcement. Right now it is difficult, and she does not get the sense that License Plate Recognition (LPR) is a priority at this time. The Police Department is aware of LPR, but they do not have a lot of resources to do it.

Commissioner Baker asked how we move forward for it to become a priority so enforcement can start.

Ms. Stiffler said that it has to be driven through the Police Department. She is having a conversation with one of the Councilmembers to discuss LPR.

Commissioner Ochs said that it should probably be more of a citizen-driven issue, with citizens making a call to parking enforcement. A number of calls will drive some attention to the problem. He thinks there may be enough resources there, but it may take some citizen involvement. Also we see more and more cases where off-street parking requirements for businesses are less or not required. More permit parking areas and less off-street business parking sets up a potential conflict. We need to understand where there is a demand, why there's a demand and how can we balance that.

Ms. Stiffler said that it has been interesting to think about the Zoning Code impact, but permit parking was set up only thinking about residents, not about supply and demand. She sees that permit parking may be phased out over time.

Commissioner Vang asked whether the permit parking areas have metered parking.

Ms. Stiffler replied that none of the areas have metered parking. Metered parking is a good solution when trying to create turnover. The compromise near commercial businesses is to do something like 2-hour parking except by permit. The dilemma is that it is more flexible for everyone, but it is harder for enforcement.

Commissioner Perryman asked how much permits cost in the City of Saint Paul.

Ms. Stiffler said that, by code, they are only allowed to charge what the administrative process costs. Right now, permits are \$15.00 apiece; in some cities they range from \$25.00-\$75.00.

Commissioner Risberg asked if that amount is sustaining the administrative costs.

Ms. Stiffler said that it appears to be, but enforcement costs are not included in that amount.

MOTION: Commissioner Ochs moved on behalf of the Transportation Committee to recommend approval of the resolution and forward to the Mayor and City Council. The motion carried unanimously on a voice vote.

Commissioner Ochs announced that the next Transportation Committee meeting scheduled for

Monday, May 7, 2018 has been canceled.

VII. Communications Committee

None.

VIII. Task Force/Liaison Reports

None.

IX. Old Business

None.

X. New Business

None.

XI. Adjournment

Meeting adjourned at 10:00 a.m.

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

Respectfully submitted,



Lucy Thompson
Interim Planning Director

Approved 6/15/18
(Date)



Luis Rangel Morales
Secretary of the Planning Commission