

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

**Minutes June 1, 2012**

A meeting of the Planning Commission of the City of Saint Paul was held Friday, June 1, 2012, at 8:30 a.m. in the Conference Center of City Hall.

**Commissioners Present:** Mmes. Merrigan, Perrus, Shively, Thao, Wang,, Wencil; and Messrs. Edgerton, Gelgelu, Nelson, Ochs, Oliver, Schertler, Spaulding, Ward, Wickiser.

**Commissioners Absent:** Mmes. Halverson, \*Noecker, \*Porter, \*Reveal, and Messrs. \*Connolly, \*Lindeke.

**Absent:** \*Excused

**Also Present:** Donna Drummond, Planning Director; Mike Klassen, Allen Lovejoy, Department of Public Works; Allan Torstenson, Patricia James, Anton Jerve, Josh Williams, Kate Reilly, Sarah Zorn, Christina Morrison, Dan Bayers, Eduardo Barrera, and Sonja Butler, Department of Planning and Economic Development staff.

**I. Approval of minutes May 4, 2012.**

***MOTION:*** *Commissioner Ward moved approval of the minutes of May 4, 2012. Commissioner Edgerton 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 City Council approved reduced requirements for bars and restaurants serving beer, wine and liquor. These were changes recommended by the Planning Commission in 2011.

She also asked commissioners to please save the date for a special workshop being offered by the Urban Land Institute called Navigating the New Normal, which is scheduled for Tuesday, July 17, 2012 from 3:00-5:00 p.m. at City Hall Room 40. It's a workshop ULI is offering to city officials to help them think about new ways of dealing with development in an era of reduced resources and changing demographics. More information will be available as the details are finalized.

**IV. PUBLIC HEARING: PUBLIC HEARING: Urban Agriculture Zoning Study – Item from the Comprehensive Planning Committee. (*Anton Jerve, 651/266-6567*)**

Chair Wencl announced that the Saint Paul Planning Commission is holding a public hearing on the Urban Agriculture Zoning Study. Notice of the public hearing was published in the Legal Ledger May 24, 2012, and was mailed to the citywide Early Notification System list and other interested parties.

Anton Jerve, PED staff, said that the Urban Agriculture Zoning Study recommendations allow for independent agricultural uses such as community gardens, market gardens and personal gardens rather than just as accessory uses on public property or on parcels over five-acres as is currently allowed. The recommendations allow agricultural uses under an acre with a site plan as long as it meets certain standards, which include limited on-site sales of the produce grown on-site. Agricultural uses over an acre would require a conditional use permit and would have to meet some additional standards. The zoning study recommendations establish a definition for farmers markets and allow for markets with five or fewer vendors with an approved site plan and for markets with six or more vendors under a conditional use permit. The recommendations also contain provisions for a new site plan review for the smaller agricultural uses under an acre and all farmers markets of \$30.00, which is lower than current site plan review fees.

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

The following people spoke.

1. Sharon Stokes is an attorney at law and Executive Director of Farmers' Legal Action Group, Inc. (FLAG). Her comments focused on farmers who sell commercially for a living. Ms. Stokes testified that FLAG started an outreach program to represent the Hmong American farming community about seven years ago because the majority of the farmers markets are Hmong American farmers. She advised there are a lot of Hmong Americans in the city of Saint Paul and the majority grow food of some sort, whether for personal consumption or for sale and many sell as a second or third job as a way augment their income. Many of those Hmong farmers represented by FLAG commute back and forth from the growing site to the city, because it's hard to find farmland within a short distance of the city. They welcome the opportunity to farm closer to their homes and look forward to seeing the land inventory that the City undertook recently. They look forward to being able to grow food in the city so they can sell and it can be consumed here. FLAG's biggest concern is that the fee costs for farms over one-acre are prohibitive; to get a conditional use permit for more than an acre could be over \$1,000. These farmers earn between \$2,000 and \$4,000 gross per acre and fees would cut into their profits. She believed the site plan review fee is unclear, but if the commercial fee is applied, the farmers would be farming at a loss which would discourage anyone from farming in the city. FLAG has also submitted their comments in writing to the Planning Commission.
2. Nathan Schrecengost is a farmer with a company that farms about four-acres or more within Minneapolis and Saint Paul. He stated he is very happy to see that Saint Paul is realizing that urban agriculture could be an asset to the communities in the city. However, he would like the fees associated with urban agriculture to be lowered. In the

proposed ordinance, for sites over an acre the fees are more than \$1,000 for a conditional use permit and up to \$2,000 for site plan review. As an urban farmer already struggling to make ends meet, he said these fees would really make it difficult for farmers to have urban agriculture make sense financially. He would also like to change the proposed amendments regarding on-site sales. As it currently states, farmers could only sell produce that is grown on-site, but lots of urban farmers have multiple sites throughout a vast array of city blocks. Growing on multiple lots and being allowed to sell only produce grown on-site would inhibit the sales. Being able to bring all the produce grown from multiple lots to a single site to be sold would make it much easier for them to sell their produce as opposed to having multiple market stands at multiple sites.

3. Amy Sparks, representing St. Anthony Park Community Council District 12, expressed appreciation for the work and supported the proposed changes and the desire to see more urban agriculture in Saint Paul.
4. Paul Sawyer, a resident of the Highwood neighborhood, is currently investigating the feasibility of starting a market garden on his property. He said the proposed zoning language clarifying farmers markets and the sale of farm products will greatly facilitate the distribution of food grown in Saint Paul to its residents: By allowing the flexibility to have markets on both institutional and residential lots and commercial lots over one-acre, different neighborhoods with different distributions of uses will have at least some sites where a market can be held. He also supported removing the licensing requirement fees on large agricultural sites and acknowledging the unique relationship that bees have with vegetables and fruits in an agricultural setting that other animals do not. A market gardener may not wish to include live stock in their operation but may need a hive of bees to produce a successful watermelon crop, for example. He stated the downside of the proposal is the requirement that sellers of home-processed foods at small markets hold a sales license. The Minnesota Constitution provides that farmers selling products of the farm are not required to hold a sales license. He suggests the sales license requirement be removed. Regarding accessory structures, he thought the proposed language does not clearly address what the limitations are for accessory structures on lots greater than an acre. He recommended that any limitation of accessory structures be proportional to the size of the lot and there not be an absolute maximum footprint as there currently exists in code. The language also does not define high tunnels and low tunnels which are used to protect plants from pests or extreme temperatures depending on the season. These structures are often temporary, being removed at the end of the growing season. It is important to not include the footprint of these tunnels in the accessory structure total footprint.

Commissioner Ward asked what type of accessory structures he is referring to in terms of making changes to the text language and what are his suggested minimums and maximums regarding the size of accessory structures.

Mr. Sawyer said that he does not have a particular minimum or maximum size in mind but the proposed changes do address accessory structures in agricultural operations under one-acre; either the same provisions apply as currently exists in code on a residential lot, which is 1,000 square feet as the total maximum, or allow accessory structures proportionally to the size of the lot with a conditional use agriculture permit.

Commissioner Oliver asked Mr. Sawyer to describe what a high tunnel/low tunnel is and what they are made of and used for.

Mr. Sawyer said that high tunnels and low tunnels are temporary structures that do not have a foundation. They are only rooted into the ground with metal poles, and basically they are hoops made of either metal conduit pipe or fence post depending on the size of the structure with plastic sheeting draped over the top and secured. So these are not structures that have wood and nails. Usually they're different from a greenhouse because they don't have a permanent footprint or foundation and they are used primarily to guard against frost temperatures or insects in the summer.

5. Betsy Leach, Executive Director of District 1 Community Council, submitted a letter of support for these proposed changes and stated they are happy to see this because food security has been an issue in District 1 for about four years and the proposed changes are helpful especially as related to farmers markets. There has been some discussion that the proposal may be creating some competition between community gardeners and urban farmers and they urge the Planning Commission to think about giving preference to community gardens and community based gardening for public space that's available on public land. Not that it exclude urban farming in those areas, but preference should be given for residents who are gardening for their own use.
6. Roger Meyer, a resident of Saint Paul, encouraged the Planning Commission and the entire city infrastructure to be supportive of the urban agriculture zoning changes and do more than just ordinances on paper. He stated there is a food justice, food security, food access movement happening in the city and now is a good time for leadership at the city level both elected and staff to provide support to this movement and to do whatever it takes to reduce barriers and give support to these pioneers that have been speaking; the urban farmers, farmers legal action group, and land stewardship project. They're the experts and are leading this movement and they need to be listened to and the recommendations they have need to be accepted.
7. Diane Dodge, a community gardener, encouraged the Planning Commission to make the process for growing food in the community equitable and sustainable. Giving people the opportunity to grow food wherever it's feasible in the city, she wants people to have the right to grow and consume healthy affordable culturally appropriate food grown in a healthy and sustainable manner.

Commissioner Oliver asks Ms. Dodge to describe what she means by community gardening.

Ms. Dodge said when she thinks of community gardening she thinks of communities as a whole, who do things together and it is difficult for her to create a definition because there are many, many different kinds of community gardens. She participates in a community garden, the Midway Green Spirit Community Garden, where there are fifty plots. They have individual plots; they have a communal plot in the garden that is used to grow food for a food shelf. They have a community orchard, for which they received a grant through the Minnesota Project, and this is all on City property which is over an acre.

8. Naja Berneshe, representing the Saint Paul/Ramsey County Food and Nutrition Commission, testified and submitted written comments to the Planning Commission. The commission commended the City for its efforts to amend the zoning code to remove undue barriers and support the production, distribution and consumption of healthy and locally grown food. After reviewing the proposed amendments they would like to enter the following comments for consideration: in defining the term "agriculture," they encourage eliminating the words "harvested" and "donated" to ensure that these changes apply only to those who are selling their harvest. The definition may be interpreted to apply to anyone growing and harvesting edibles, even for personal or donation use. Regarding storage of materials, they need clarification in the code language that a fence would be considered an enclosed structure. Regarding on-site sales limited to products grown on-site, to allow a farmer the flexibility to sell all of their produce at a single location they recommend changing the language to reflect sales of "products grown by the farmer," rather than "products grown on-site." A big concern is the cost for site plan review and conditional use permit review, which is prohibitive for new start up businesses and for nonprofit community gardens. The start-up cost for a community garden on an acre of property would be \$1,300 for a site plan for an acre alone plus the conditional use permit fee of \$800. Nonprofit community gardens are run largely by volunteers and operate on shoestring budgets and such costs would discourage new gardens from beginning. They recommend eliminating the CUP review completely and reducing the fee for site plan review substantially, especially for nonprofit gardens. The commission's Urban Agriculture Task Force also recommends third party review for citations because this is an emerging field and they feel a neutral party could mediate between inspectors and growers. They have further suggestions which are in the letter they submitted.

Commissioner Ward asked about the Commission's position on fertilizers with respect to food safety if there are no regulations listed in the ordinance.

Ms. Berneshe said it depends on the landowner and typically gardening groups come to an agreement about what fertilizers and pesticides they use, if any. She recommends leaving it up to the growers and she would have the same food safety concerns about food in grocery stores.

Commissioner Edgerton asked where the community gardens tend to be located. He knows the one on Pierce Butler which is public land, but they can be on other property that was converted from other uses. Is there is an issue with a previous use in that contaminated soils might be a problem?

Ms. Berneshe said that it varies. There are community gardens on public property, private property, on nonprofit land, faith-based property and some on parkland. Community gardeners look around their community and identify vacant plots of land that seem suitable for a garden and then pursue using that space with the community and land owner. She said on any public land a soil test for lead is done ahead of time; if it's in the city of Saint Paul then the City may conduct that test or the gardeners will conduct it and submit the results to the City to ensure that there is no contamination. Lead contamination is like a gateway indicator in that if it is present in high levels, there are likely other contaminants on site. Soil contamination is a real concern but she hopes that

soil contamination does not become an undue barrier, because there are a lot of agricultural techniques that very easily mitigate soil contamination concerns. They recommend that any soil be tested before any kind of growing goes on.

9. Tate Danielson Castillo with Frogtown Neighborhood Association stated he believes that a lot of what is in this study comes from people who know what they are talking about. In Frogtown they have 18 community gardens, two-thirds are City-owned and they are starting to build a sense of neighborhood identity beyond the foreclosure crisis. It's as much about community cohesiveness and doing something from what before was nothing. And hopefully they can build an economy out of this.

Commissioner Ward said when a farmer who has a major investment and a huge amount of land wants to bring their produce to a facility in the city downtown like the "farmers market", that farmer is paying a fee for a small booth in order to get a sales license to sell at that location. Now what about the community farmers? A lot of people have said let's exempt them from fees. The farmer at the market then says "Well, I'm doing this and I have to pay so why doesn't everybody else pay?" Is there any difference between the person who's at the farmers market and does this create a conflict between those farmers farming at a much larger scale and those doing it on a smaller scale given that the proposal is to wipe away all the fees and allow them to do this without the sales license?

Mr. Danielson Castillo thinks that it's already happening; people aren't paying fees all the time and they're competing with that person who chooses to pay a fee. The question is how you bring these economies to light so that you can regulate them in such a way that the regulation is not a deterrent. The difference is the farmer's market downtown is the place to be. And he hopes that Frogtown is the better place to be at some point, but until that happens they need a chance to build up that economy from a small point to a larger point and see where it goes. One example is the northwest corner of University and Dale Street, it has grand opportunities for economic development and the Neighborhood Development Center is in the midst of that now. That potentially could be a site similar to the Global Market on Lake Street. They could do something similar in Frogtown that opens up a cheaper opportunity, cheaper than downtown Saint Paul, but offers a variety of opportunities for getting booths and doing something on a more regulated and legal way.

10. Elena Gaarder, Executive Director of the West Side Citizens Organization, stated that for the past year they have been updating their District Plan, which will come before the Planning Commission in the next couple of months. It has an urban agriculture section specifically called out, which is not a traditional section of neighborhood plans. They felt that it was important to call that out and look at it as a community economic development tool. What they heard repeatedly is the need and desire for local food. People were saying that they want land for food; they want opportunities for local food. So the proposed zoning changes are really going to help their community work toward those goals that they have established as part of their 10-year plan.

Commissioner Ochs said he envisions urban agriculture community gardening as an opportunity to take advantage of underutilized spaces to foster a sense of community, provide some extra fresh fruits and vegetables for their table or their neighbor's tables,

but not necessarily to create a whole new industry within the city. He asked if Ms. Gaarder foresees that this needs to be an economic development tool and if so should it not be regulated and treated like an industry?

Ms. Gaarder said yes, and she purposely uses the words community economic development over economic development because it's a value statement when thinking about communities, especially those communities that have food security issues, like the West Side. There is only one grocery store on Caesar Chavez and that serves primarily the Latino community and it's not necessarily affordable. They are thinking about community economic development at a level of a household's ability to save money or address their food security issues, such as having access to healthy affordable culturally appropriate food. She stated she thought the fee structure should be less cost prohibitive and that urban farmers competing with larger producers would be a good thing.

11. Stefan Pomrenke, a family physician who volunteers at the Twin Cities Obesity Prevention Coalition through the Twin Cities Medical Society, highlighted one of the principles that the Obesity Prevention Coalition is trying to spread through to the metro area, called H.E.A.L. (healthy eating, active living). The regulations being put forward here seem to be very much to the point of what HEAL is trying to accomplish. This movement of bringing food into the community where it can be regulated by community members around either a community garden or urban agricultural project is great. It would help to provide culturally appropriate food. He advises his patients to eat this type of diet to counteract the common problems he sees that stem from the American diet. If we can create food as a normative thing then we all will be better for it.
12. Jack Gerten, representing the Saint Paul Growers Association, said 50% of their growers are Hmong farmers that have been farming here for almost 20-years and their concern is the retail implication under this proposal. If everybody starts retailing on corners it's going to glut the market that is already glutted. There are over 60 farmers markets in the Twin Cities and if on every corner people are selling produce grown in their backyard its going to hurt the farmers markets, not just financially but it will also encourage the federal government to clamp down making harder laws regulating farmers markets. The farmers markets have been doing a good job with food safety, but who's going to go into that greenhouse in town to see if chickens, dogs, and cats are in there with tomatoes to make sure that the feces is not touching the tomatoes? Who is controlling that? The proposal would make it harder to regulate and could lead to salmonella poisoning. However the Saint Paul Growers Association has checks and balances, including going out to the field to verify that what is being raised there is supposed to be raised there. He also said they have concerns with greenhouses including the side effects of spraying and venting in residential areas and the stability of greenhouses and hoop houses in high winds.

Commissioner Oliver asked if the retail option is not thrown open on the lower end, other than farmers markets, what other options are there for a small producer to sell what they grow?

Mr. Gerten said there is the option to do a CSA (community supported agriculture) and meet with different corporations around the downtown area or larger corporations and

sell your product. That way two problems will be solved, one is that they will invest before you even raise it into your crop, so it helps you with the cash flow of producing the product and you can deliver directly to them. The Growers Association also collects sales tax on flowers and has workers compensation and liability insurance which would not be regulated with the ordinance.

Commissioner Schertler said that this is a land use decision, not a licensing decision, so if anyone has a commercial activity at a garden, if they're conducting business, then the City, state or some entity has a responsibility to require that they have a license for the operation. But this has nothing to do with licensing, it is a land use allowance.

Anton Jerve, PED staff, said that there is a distinction in the State of Minnesota that a farmer cannot be required to have a license to sell produce they have grown, but if it's a business, then there may be business regulations and that would be a licensing issue. This is why they haven't differentiated between community gardens and market gardens in the code, because of that state law.

Commissioner Schertler said that the appropriate place to make sure food safety occurs isn't in land use regulations, it's in licensing regulations and the distinction here is allowing someone to use it, but not to make a distinction whether it's a community garden or market garden. He also thinks that is why the licensing fees should not be adjusted. Because that's covering the cost of staff to review applicants' site plans and related costs. He thinks that they will be going down a slippery slope if they start making distinctions between certain types of applicants and that they should keep the cost of review to what they are and licensing and regulation safety issues in the appropriate venue.

13. Patricia Ohmans one of the co-founders of Frogtown Gardens, said she supports and represents hundreds of people who have showed up at their community meetings to support the idea of a large urban demonstration and education farm in the middle of Frogtown on vacant land that otherwise is unused. Their main mission is to grow a greener healthier neighborhood in Frogtown by having the educational resources available on this urban farm, so that people will be encouraged to grow their own food in their own homes and backyards.

Commissioner Oliver said whether reservations or opposition had been expressed at any of the community meetings.

Ms. Ohmans said they have had four large community meetings around the issue of a 13-acre green space with a 6-acre urban farm in it and she has not heard any opposition expressed to that idea.

14. Erik Riesenbergh who resides on Lexington Parkway South stated he is starting a small urban farm or market garden just over a half acre and with a two-car detached garage and a couple of garden sheds he is almost at the limit for accessory buildings. There is very little space to put up a hoop house or any sort of season-extending structure. An issue that may or may not come up is soil building cover crops in-between production that you plant such as, grasses, clovers and legumes to build the soil and put nutrients back into it. But now the city codes say that he can't have grasses and things over 8 inches tall. Rye



gets to be 5 feet tall and he hopes not to get a letter from the city saying that he has to mow them down. He as a grower welcomes reasonable regulation and he wants to be responsible about how he grows his food. However, his neighbor who is not a gardener or a farmer can spray as much weed killer on his lawn as he wants, so he should not be held to a different standard simply because he is growing food. If he cannot spray pesticides or herbicides, which he does not plan on doing, then keep other people from doing it too. The amount of square footage of compost and mulch that can be stored on a property might be something to look at, because he would probably have a larger need for that space than the average residential lot.

Commissioner Ochs asked what kind of storage areas would he envision needing for compost and mulch.

Mr. Riesenbergs replied he has a pretty standard three-bin compost pile that is 2 ft. by 4 ft. and it falls within the allowed parameters of the current regulations. As far as compost, he might make a larger one similar to the one he already has. For the mulch, he has a section towards the rear of his property where this is piled and he might put some sort of walls up to contain the pile, but with fruit trees you want to promote fungal growth. Letting the mulch sit out and have contact with bacteria and fungus that already exist in the ground is what you want as a grower.

Commissioner Perrus said she likes the idea of small scale retail in people's yards. She thinks this is a terrific opportunity, however she lives on a busy street and if all of her neighbors got together and they were all doing this a couple days a week, she wondered if there had been any discussion about the traffic impact or parking and any other issue that might come up if people did this on a larger scale. She wants to make sure that they're not going to end up with some unintended consequences within a neighborhood.

Anton Jerve, PED staff, said that they estimated that for uses under an acre, sales during a couple of days per week the impact probably wouldn't be too great and for uses over an acre we would require a conditional use permit, so that applicants would go before the Zoning Committee and propose what exactly they wanted to do there, whether or not it included sales at all, and how they would accommodate things like traffic, etc. We proposed using that acre threshold as either more impact or less impact for those kinds of issues.

15. Cherry Flowers stated that with her partner Tim Page they had started an organization called Page and Flowers and they grow food on land in Saint Paul. They grow food on their own lot and they have a hoop house there, they also are at the North End Urban Farm site at the Arundel corner which they have a community garden and a market garden. One of the things that is important to her is to make sure that the upfront cost are not keeping people from getting involved. Her partner Tim has put a lot of energy into encouraging kids to find lots that they can grow on and they can maybe use the aggregation table at the West Broadway farmers market to sell their produce as an alternative to summer jobs, because there are so few summer jobs for kids. Another example: the North End property backs up to a 13-acre nature reserve and last year they had some significant issues with deer. The zoning does not address deer fencing. They have a 3-acre property for which they are applying for a variance to put a deer fence to protect the crops. Regarding hoop houses, she wants there to be an opportunity to do

larger hoop houses and also limited regulations in terms of how long they can be up because a hoop house is used all year long.

16. Eric Larsen, a resident of Minneapolis who farms the Stones Throw farm in Saint Paul, encouraged the Planning Commission to take a closer look at hoop houses and temporary structures. He thinks hoop houses should be defined very clearly and with the realization of how they are used by farmers and perhaps should not necessarily be subject to the same regulations as other temporary use structures. In terms of on-site sales, he thinks that allowing multiple retail sale sites throughout a neighborhood, instead of focusing on one or two main markets throughout the city, will allow residents without vehicles or access to transportation a chance to buy affordable fresh produce close to their homes. He also believes that with respect to the fees and permits that growing food is a basic right and it should have a different fee and be in a different category.

***MOTION: Commissioner Merrigan moved to close the public hearing, leave the record open for written testimony until 4:30 p.m. on Monday, June 4, 2012, and to refer the matter back to the Neighborhood Planning Committee for review and recommendation. Commissioner Nelson seconded the motion. The motion carried unanimously on a voice vote.***

**PUBLIC HEARING: Industrial Zoning Study – Item from the Comprehensive Planning Committee. (Allan Torstenson, 651/266-6579)**

Chair Wencil announced that the Saint Paul Planning Commission is holding a public hearing on the Industrial Zoning Study. Notice of the public hearing was published in the Legal Ledger May 24, 2012, and was mailed to the citywide Early Notification System list and other interested parties.

Allan Torstenson, PED staff, said that on March 23rd the Planning Commission released draft zoning code amendments pertaining to industrial districts and regulation of industrial uses for public review, and scheduled this public hearing. The industrial zoning study is being done now in response to policies in the Land Use Plan adopted in 2010 for consideration of zoning amendments to support the primary intent and purposes of industrial districts for employment and economic activities, and site plan review standards to provide for efficient land use and aesthetic quality. It is also being done as part of regular required review of the zoning code to make sure it is up-to-date, adequately addresses current technology and market conditions, functions efficiently and effectively, and reflects current city policies.

Draft amendments to Table 66.521, Principal Uses in Industrial Districts, on pages 12 – 16 of the study, include: deleting uses that are not primarily for employment and economic activities, such as churches and grades K – 12 schools; deleting out-of-date uses, such as drive-in theaters and rendering plants; adding uses to reflect Planning Commission determinations of similar use in recent years; and providing better cross-references to specific land use definitions and development standards in Chapter 65 of the zoning code.

The draft amendments include tighter standards for residential uses in industrial districts, on page 2 of the study, to provide greater protection for primary commercial and industrial functions and uses in industrial districts, while also providing for mixed residential uses of upper floors. Draft amendments to the IR Light Industrial Restricted District, on page 11 of the study, would change