

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

Minutes January 22, 2016

A meeting of the Planning Commission of the City of Saint Paul was held Friday, January 22, 2016, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. DeJoy, McMahon, Padilla, Reveal, Shively, Thao, Underwood, Wang, Wencl; and Messrs. Edgerton, Gelgelu, Lindeke, Nelson, Ochs, Oliver, Ward, and Wickiser.

Commissioners Absent: Ms. *Merrigan, and Mr. *Makarios.
*Excused

Also Present: Donna Drummond, Planning Director; Bill Dermody, Jake Reilly, Tony Johnson and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes December 18, 2015.

MOTION: *Commissioner Thao moved approval of the minutes of December 18, 2015. Commissioner Ward seconded the motion. The motion carried unanimously on a voice vote.*

II. Chair's Announcements

Report of the Nominating Committee and Election of Officers.

Commissioner Wickiser reported on behalf of the Nominating Committee. The committee offered the following slate of officers: Barbara A. Wencl for Chair, Elizabeth Reveal for First Vice-Chair, Paula Merrigan for Second Vice-Chair, and Daniel Ward II for Secretary.

Chair Wencl called for nominations from the floor. There were none.

MOTION: *Commissioner Wickiser moved to approve the slate of candidates. The motion carried unanimously on a voice vote.*

III. Planning Director's Announcements

Donna Drummond announced that the Communications Committee will be meeting immediately after the Planning Commission meeting to review the annual report which should be ready by the next meeting. The City Council denied a rezoning at 805 Hudson Road after the Planning Commission had recommended denial. The conditional use permit application for the CVS Pharmacy drive through at Grand and Fairview that was denied by the Planning Commission has been appealed to City Council and the public hearing date has not yet been set. Lastly the City is doing an extensive outreach process to identify desired qualifications for the next Police Chief.

Input is being taken through February 18, 2016.

IV. PUBLIC HEARING: Congregate Living Zoning Study – Item from the Comprehensive Planning Committee. (*Bill Dermody, 651/266-6617*)

Chair Wencil announced that the Saint Paul Planning Commission was holding a public hearing on the Congregate Living Zoning Study. Notice of the public hearing was published in the Legal Ledger on November 19, 2015, and was sent to the citywide Early Notification System list and other interested parties.

Bill Dermody, PED staff gave a few introductory words. There was a need identified several years ago to address the congregate living section of the Zoning Code to provide better clarity and consistency. The zoning study was released in November and a longer time for review was scheduled to account for the holiday and to account for the complexity of the issues. Some of the major changes that are proposed are that 18 categories of congregate living in the zoning code are to be consolidated into 11 categories. Also, there is an elimination of the 1% maximum – that certain categories of congregate living may constitute a maximum 1% of the population in the planning district. There are also many smaller changes. In addition to the standard notice that goes out to the public in general and to the district councils, he reached out to Ramsey County, the State of Minnesota and to several major congregate living providers making sure that they were aware of what was going on.

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

Chair Wencil announced that the five people signed up to speak are all part of the Merriam Park Housing Mixed Working Group. They will be giving a power point presentation and each person will have a section to speak about which can be viewed on the web page at: <http://www.stpaul.gov/planningcommission>.

The following people spoke.

1. Kevin Anderson, 1892 Dayton Avenue, Saint Paul, MN. He is part of the Merriam Park Housing Mixed Working Group which developed recommendations for the zoning study. Five of them are neighborhood group members who will present today. Their primary recommendation for consideration is to change the distance requirement of sober houses from 330 feet to 1320 feet. Their presentation findings and recommendations will demonstrate how this will lead to a balance of mixed housing in Merriam Park and maintain quality for all. The impact and pressure of mixed housing is additive. Merriam Park is like no other neighborhood in Saint Paul. In addition to sober houses and congregate living facilities, they are the college neighborhood of Saint Paul. They have reached the tipping point of over-concentration and they need the stability factor to help ensure balance. In terms of background, they are interested neighbors who began meeting last fall and became a working group of the Union Park District Council Land Use Committee. Their main interest is mixed housing, but today they are talking about sober housing. They have some principles that the group lives by and first of all they welcome the changes in Merriam Park – that is the reason they live there. They are not objecting to density – they are objecting to over concentration.

They believe in mixed housing. What they are trying to do is find a workable solution for all and find a balance between single family homes and sober houses. There are three areas where they have their findings: first of all, residential has value; second, sober houses have an adverse impact on residential neighborhood character; and third, they created a grid from what it is like to live next to a sober house versus single family. There were some real different impacts, like when you live next to a sober house you live next to a business with 15 customers as opposed to a single family. In Merriam Park they have large homes that are reasonably priced, so they are a main place to put sober houses and they have hit a tipping point of over-concentration. They have all these types of mixed houses. They are a unique neighborhood with student houses and other types of mixed houses so they want the Planning Commission to consider their recommendations.

2. Margaret Ryther, 1878 Dayton Avenue, Saint Paul, MN. They have conducted a lot of research on sober houses over the past several months, which directly support their recommendations. There is a key case of Family-Style Homes Incorporated versus the City of Saint Paul - this is a foundational case which is referenced nationally. In 1991, the United States Eighth Circuit Court of Appeals ruled that separation requirements continue to be appropriate in order to ensure that residents of a type of supportive congregate living facility (group homes for the mentally ill) are placed in neighborhood environments. This rule establishes the importance of separation with the benefit of individuals with disabilities who are protected against discrimination by the American Disabilities Act and the Fair Housing Act. Headlined "Judge sides with city and dismisses sober living home lawsuit" that is a new ruling and doing a lot of research they found in Costa Mesa, CA there is a distance requirement of 650 feet between sober houses. The federal judge ruled in late 2015 in the city's favor on the first case to be adjudicated. The courts are moving in a new direction and are now establishing that it is legally allowable for cities to regulate distance requirements between sober houses. In towns like Mesa, Tempe and Surprise Arizona distance requirements range from 1,200 feet to 1,320 feet between sober houses.
3. Gretchen Robertson, 1562 Laurel Avenue, Saint Paul, MN stated they have developed some maps to illustrate their findings. Today there are about 70 sober houses on Saint Paul's official list and 13 of them are in Merriam Park. Their heat map shows the areas of highest concentration of sober houses in Saint Paul. Merriam Park and West 7th Street host more than 50% of the total number of sober houses in Saint Paul. Merriam Park has a high concentration of sober houses in addition to a number of other types of congregate living facilities. Their map shows some of those Minnesota Department of Health facilities, Minnesota Human Services, Correctional sites and child foster care. Merriam Park has a high overall density of non-single family homes, sober houses, congregate living facilities and student housing. So there is a high concentration of mixed housing like no other neighborhood.
4. Eugene Pelsynski, 1890 Dayton Avenue, Saint Paul, MN stated they are asking that the distance requirement between sober houses be changed from 330 feet to 1,320 feet. The impact and pressure of various mixed housing on Merriam Park is cumulative and it compounds. And their unique neighborhood is the home to the largest concentration of sober houses, congregate living facilities and student rentals. Over time all of these different types have been looked at separately. The 1320 ft. separation would go a long way to helping avoid overconcentration. What is the advantage to a 1320 ft. requirement? It does introduce the concept of balance as well as it avoids concentration, and it provides ample opportunity for additional sober houses to move into the neighborhood. Right now there are 173 blocks

in Merriam Park - under City regulations they could have 173 sober houses. With their proposal the 1320 ft. separation there would still be room for them to increase their ratio by 3 times, instead of the 12 times which is what they would see if they went to 173. And of course all of the existing sober houses would be grandfathered in and that the separation requirement would not be enforced for them. Also they came up with sub-recommendations, asking that the City study sober house impact on neighborhoods and use Merriam Park as a case study. Next, they would like the city to comprehensively register, track and forecast all housing types. Another thing they ask is that the City institute a notification requirement. And, lastly, consider instituting licenses and fees that sustain tracking and oversight of Sober Houses. Their records show that there are many more sober houses than on current City records.

5. John Syverud, 1882 Dayton Avenue, Saint Paul, MN stated that their working groups' next steps are to request that the Planning Commission institute their recommendations and include them in the zoning study. They intend to promote their recommendations for adoption to the Saint Paul City Council and the Mayor's Office. They also intend on getting more input from the community and partner with groups wanting to further explore these issues and they hope to replicate this study as a "best practice" across the city. In conclusion their first recommendation is that the City of Saint Paul • require 1320 feet between sober houses.

Sub-recommendations: • Study sober houses' neighborhood impact, using Merriam Park as a case study; • Holistically register, track and forecast all housing types; • Institute a notification requirement, so citizens are aware of incoming sober houses; • Consider instituting licenses and fees that sustain tracking and oversight of sober houses. • Avoid overconcentration, ensuring balance while allowing ample opportunity for additional congregate living facilities to move into Merriam Park (3X increase vs. a 12X increase). This would maintain the residential character of Merriam Park as it relates to the quality of live for all neighbors.

Commissioner Ward said that there was a statement made that this particular concentration of student housing, congregate living, and sober houses has an impact on property values. He did not hear any substantial data or anything that supports that hypothesis. So how does a sober house or foster home or congregate living facility or anything mentioned in your report have a derogatory impact on property values?

Mr. Syverud said that they have not actually studied specifically in a quantitative manner. There are studies about property marketability and values – "if a neighborhood is viewed as less desirable for permanent residents because of the over-concentration of group homes, residential property values may decline." That is footnote [3] in the appendix, which came from Dinky Town in Minneapolis as an example.

Commissioner Ward said so this is all conjecture.

Mr. Syverud replied yes, he just said that they have not done that study; they have not looked at data specifically.

Commissioner Ward made a personal observation saying that usually when groups come and do a presentation it's like the little red hen saying the sky is falling, the sky is falling, property values are falling, property values are falling. They are not because property values

are not set just by sober homes – property values are determined by appraisal and appraisers use three qualitative methods for coming up with value. And the value is based on what the market will support in that area. One of those approaches is what we call an income approach. In determining value by the income approach, if the house is considered a business and is generating income that's one form of appraisal that could be used to come up with value of a home. Income approach is typically more than market. If students are there, if there are tenants that are there and those tenants are generating an income in excess of what the mortgage is, the value is rising rather than the value going down.

Mr. Syverud asked if he was talking about that specific property.

Commissioner Ward replied for the whole area, because that particular property isn't by itself, it's part of the whole.

Mr. Syverud said so you are saying that the adjacent properties are enhanced by businesses that are next door to them?

Commissioner Ward said absolutely.

Mr. Suverud said that he would like to study that further, because he does not know that.

Commissioner Wickiser commented that perception that is given with group homes can often times color the neighborhood and that can be negative. He does know that other parts of Saint Paul, the group homes and sober houses are really welcomed. As a Zoning Committee member, they hear a lot of instances where they are bumping up against distance requirements and they are dealing with people that are in abusive relationships that have children and things of that nature. He would like Mr. Syverud to consider that aspect, that they are being tugged in both directions as Planning Commission members and it is not all the same throughout Saint Paul. There are neighbors that come in that have elderly neighbors that have their walks shoveled as a result of sober houses and things of that nature that are asking us to keep the sober house in their neighborhood. In the process of this, try to keep an open mind that not all neighborhoods are the same and the issues in your neighborhood are not necessarily spread out.

Mr. Syverud said he understands that and one of the things that they are looking at is that it looked to him like the other 7 or 8 of the congregate living facilities already have a 1320 foot distance requirement on them so they are asking that maybe sober houses be considered in the same manner.

Commissioner Padilla said that they do hear a lot about the need and one of the things that she consistently struggles with is the fact that she does not want to leave community members behind or in a situation where they have no other housing options because we are being too restrictive in our boundaries and distance requirements. She asked them to comment on the Union Park District Council letter and why they did not endorse the working group's recommendation to mandate a distance of 1320 feet.

Mr. Syverud said there was a lot of discussion and the committee was split 50/50 and initially there was about an 80% endorsement and then with more discussion they were very concerned about the potential for lawsuits against the City because of the protected class

nature of chemically dependent individuals. There was more discussion and there was a motion for that particular primary 1320 foot requirement, which was not accepted, but the other four were passed.

Mr. Anderson added that they had presented to them a larger proposal that involved congregate living facilities and so they were voting on something completely different. And through talking to them we realized that what really is being talked about is sober houses. Another thing is they did not include their research on the latest court cases where now across the country courts are ruling that you can have a distance requirement such as 1320 feet. So they are going back to the Union Park Committee in the next two months and they expect that the Union Park Committee will vote for this proposal seen today.

Commissioner Lindeke thanked everyone who came out and for sharing this informative, well put together presentation.

Commissioner Oliver asked if they had looked into the reasons why sober houses in particular chose Merriam Park and West 7th versus other areas of the city. Beyond the marketing, have you reached out to the operators or discussed what they are looking for to see, whether what we are doing is going to have any impact on what they are looking for, or is it strictly the fact that there are older houses? Is there anything else that you found out about what the motivations are and why Merriam Park has drawn so many of these?

Mr. Syverud said they speculate based on primarily the marketing that the housing stock in their neighborhood is desirable because it's relatively large and relatively inexpensive. But no, they have not reached out yet, but one of their plans is to reach out more to groups like Minnesota Association of Sober Housing (MASH). There is a member of MASH that sat in on the Union Park District Council and had some opinions about that, but they haven't really had extensive interaction with them yet.

Commissioner Wang would like to know about the history of the numbers, the distance numbers in City Code particularly why the 330, 600 and 1320. Also, boarding and rooming houses –which are not offering services, but in terms of the physical layout of a building – how are they different from sober houses?

Mr. Dermody said that back in the late 80's early 90's there was a major study of all congregate living by the City, and at that time there was a change in the Zoning Code to institute generally a 1320 separation requirement between certain categories, which is 600 in downtown. The sober house regulation did not occur at that time. We had a sober house zoning study in 2008 through 2010 and they addressed that issue. Sober houses had fallen through the cracks and were not regulated in any way in the City of Saint Paul. It is not clear from the record why 330 feet was chosen, but talking to people who were involved at that time it seems that it had something to do with a fear of lawsuits against the City and it was felt that 1320 feet was too restrictive and that would be difficult to uphold in court. But the 330 feet would be something that the sober house people could live with and they could probably stand legally behind that. Also there were many maps that featured Merriam Park at the time and looked at where sober houses were located. So maybe the existing situation might have influenced the number that they ended up with.

Commissioner Wang asked how 330, 600 and the 1320 ft. are related to the average size of a city block.

Mr. Dermody said the average size of a city block is 330 feet, so that's one per block.

Commissioner Wang asked how boarding and rooming houses are different from a sober house.

Mr. Dermody said in the code there is no reference provided for boarding houses or rooming houses. In practice they have had at least one, possibly more, rooming houses that operated very much like a congregate living facilities and did provide services on site, but because of where the services were funded they were treated differently. So this is actually the confusion of where to draw the line that is part of the reason they are doing this study. If this study were approved as it is proposed right now, rooming and boarding houses would be combined into one and they would not have services like the other types of facilities.

Commissioner Wang asked if there was anything that said how long the minimum amount of time someone might be living in a boarding or rooming house?

Mr. Dermody replied that there is no information in the definition about how long they stay in a boarding or rooming house.

Commissioner Wang wondered why the working group did not look at the lack of distance requirement particularly with boarding and rooming houses.

Mr. Syverud said they are focused on sober houses.

Commissioner Edgerton asked about why the focus on sober houses. Within the congregate living category, there are supportive housing facilities where persons with mental illness, chemical dependency or physical handicap are allowed, and you're specifically focusing on sober houses among the group – he is wondering why.

Mr. Syverud said if he understands the rules at this point, there is one every approximately four block requirement for most of the other congregate living facilities, while sober houses is a quarter of that. So the density of sober houses could be considerably higher and there is a considerable growth in the Merriam Park neighborhoods, that's why they focused on sober houses.

Commissioner Ward said that sober homes do include those that are chemically dependent, alcohol is a chemical and it is labeled as an addictive disease. So those individuals that are staying in sober homes are also protected under the ADA. Also, sober homes could be someone that may or may not be on a chemical but suffering from a condition where they are being treated for something. There is no time limit, but if he recalls correctly there is a limit to the number of people that could reside in that particular unit and there was a number spoken of about 15 customers and as he remembers it was nowhere near 15, because when you get over 7 the requirements for the County kick in and those conditions change from a sober home to a facility that has to be regulated by the County because there is up to 7 people there. Based on what he remembers he believes there were some size limitations.

Mr. Syverud said that he's sure that's correct, the property that he is talking about on his block is a main family home and a mother-in-law apartment in the back where the garage might be and they are putting 8 people in the back and 7 people in the front – and this is a sober home.

Mr. Anderson said that the limit of 4 unrelated people in a structure does not apply to sober homes, so on his block for example the sober home has 14 customers and that includes 1 manager. And there are 15 individuals living in a home on his block in a sober house.

Commissioner Ward said that this is one particular incidence that one is isolated but the other ones are different – they are not 15, 15, 15.

Mr. Anderson said no, there are 12, 9. The whole limit of 4 people per house does not apply when you get to sober houses.

Mr. Pelsynski said that you have to hit 17 before there is any County oversight in a sober house.

Commissioner Ward replied I knew there was a number. Also you talked about the structure of a fee based situation. You all put a lot of work and effort into this and when we were going over this before there were a total of 34 sober homes in the city that the City could identify. Thirty-four in Merriam Park and a few online that were not accounted for so now you're saying it's up to...

Mr. Syverud replied 70 on the records but then there's a delta between that and the actual number of homes that we have been able to identify doing internet research. Margaret Ryther has been very thorough in going through and looking for promotions and things like that so there appears to be another half dozen to three quarters of a dozen that the City is not aware of.

Commissioner Ward said let's say we're considering a fee base deal. What stops the rooming houses and the other congregate living facilities from crying foul, because that is somewhat discriminatory because it is singling out just sober homes and we didn't get charged a fee but the sober home owners are saying now we're being charged a fee and nobody else is. So why is that? And why not just charge a fee across the board if it is going to help the community with limiting the density as you discussed in those areas of overconcentration of these types of facilities?

Mr. Syverud said that is a great recommendation.

Commissioner Ward said because he would think that if it is a fee just for one type that is very similar to all the other ones, if it were him he would say that it was somewhat unfair.

MOTION: *Commissioner Thao moved to close the public hearing, leave the record open for written testimony until 4:30 p.m. on Monday, January 25, 2016, and to refer the matter back to the Comprehensive Planning Committee for review and recommendation. Commissioner Ward seconded the motion. The motion carried unanimously on a voice vote.*

V. Zoning Committee

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

One item to come before the Site Plan Review Committee on Tuesday, January 26, 2016:

- 150 space expansion of a large existing parking serving the DNR Building Landlocked parcel at 0 Kittson (behind 520 Lafayette Road)

Two items to come before the Site Plan Review Committee on Wednesday, February 3, 2016:

- Achieve Language Academy – Office addition to an existing school building at 2169 Stillwater Avenue. (*Tom Beach*)
- McMurray Field Area Transportation Improvements – Add parking spaces and modify existing street alignments at 1151 Wynne. (This is part of Como Park located southwest of Lexington and Como)

NO ZONING BUSINESS

Commissioner Nelson announced the item on the agenda at the next Zoning Committee meeting on January 28, 2016.

VI. 2015 Fall Market Watch Update – Informational presentation by Jake Reilly, 651/266-6618)

Jake Reilly gave a brief power point presentation which can be seen on the web page at:
<http://www.stpaul.gov/planningcommission>

Commissioner Thao asked to what extent data in Market Watch is disaggregated by race, gender, and age. She said that disparities between communities are well known, so this report will show positives for some communities and negatives for others.

Mr. Reilly said that current iterations of Market Watch have examined age as related to employment and population numbers, but not in relationship to jobs, because the data about individuals is easily accessible, but the data about firms, which comes from DEED, is not. Part of Planning & Economic Development's racial equity plan involves evaluating five specific data points disaggregated by race, age, and gender that PED has the ability to affect and figuring out how to affect them by closing gaps. That plan looks at the data points that PED has the power to change. One of the reasons this information is important is because Minnesota is an in-migration state, which means that more people are moving here than in other places, and many of those new residents were not born in the United States.

Commissioner Thao enquired if they are disaggregating rental market data by segments of the city.

Mr. Reilly said the rental market data is disaggregated by neighborhood and evaluated based on each of the 17 District Councils. On the whole, while there are rental rates that are increasing by as much as 50 percent, when compared with rents in the rest of the region, Saint Paul's rental rates are still lower than average.

Commissioner Lindeke said that it would be really interesting to him to see how investment or disparities play out across the city. He would like to see some maps or visuals showing whether all the new construction is downtown or spread throughout the city, where are foreclosures, or any maps of any data sets.

Mr. Reilly said maps and tables were included in the full report.

Commissioner Lindeke said that he would be interested in seeing one or two graphics or visuals in the presentation to the commission.

Commissioner Thao asked Mr. Reilly if a recent presentation from the state demographer and an economist would be available to the public.

Mr. Reilly is not sure if it is available to the public but they did send the link and he will go and see what he can get and if he can download it, he will make it available.

VII. Comprehensive Planning Committee

Commissioner Thao reported that their last meeting on Tuesday, January 19, 2016 was canceled. At their next meeting on February 2, 2016 they will review and make recommendation from today's public hearing on Congregate Living Zoning Study.

VIII. Neighborhood Planning Committee

Commissioner Oliver had no report and announced that the next Neighborhood Planning Committee meeting on Wednesday, January 27, 2016 has been cancelled.

IX. Transportation Committee

Commissioner Lindeke said at their last meeting they welcomed two new members and heard from MnDOT about large scale plans for how to spend transportation dollars at the state level. They also got an update from the Ramsey County Regional Rail Authority about the Riverview Corridor, which is still considering many modes and alignments. Commissioner Lindeke also announced the items on the agenda for the next Transportation Committee meeting on Monday, January 25, 2016.

Commissioner Wickiser commented that the Riverview Corridor is only vague to the public at this point. There is a decisive action on behalf of the county as far as the direction that it is going.

X. Communications Committee

Commissioner Thao announced that the Communications Committee will meet directly after the Planning Commission meeting today to go over the annual report.

XI. Task Force/Liaison Reports

Commissioner Padilla announced that the Snelling-Midway Community Advisory Committee was canceled last night. Also, there will be a community meeting on Tuesday, January 26, 2016

at Concordia University, Buenger Education Center from 7 to 8:30 p.m.

Commissioner Thao reported that the Grand Round Advisory Committee had their public open house on plans for the Grand Round North Segment which will be under construction this year including the following parkways: Johnson Parkway, Phalen Regional Park, Wheelock Parkway, Como Regional Park, Como Avenue-Como Regional Park to Raymond Avenue, Raymond Avenue and Pelham Boulevard.

XII. Old Business

None.

XIII. New Business

None.

XIV. Adjournment

Meeting adjourned at 9:50 a.m.

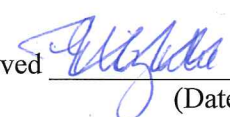
Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

Respectfully submitted,



Donna Drummond
Planning Director

Approved

 2/19/16
(Date)



Daniel Ward II
Secretary of the Planning Commission

