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November 5, 2012

Saint Paul City Council
Council Chambers, 3rd Flr.
City Hall and Court House
15 West Kellogg Blvd.
Saint Paul, MN 55119

Subject: 1200 Rice Street Site Plan 12-090127
Raymond and Susan Cantu Appeal 12-116607

Dear Members of the Saint Paul City Council:

We represent Bilal Alsadi ("Alsadi"), owner of the property located at 1200 Rice Street, in Saint Paul ("Property"). We understand that Raymond and Susan Cantu (the "Cantus") have appealed the decision of the Saint Paul Planning Commission, which denied the Cantus' prior appeal of the decision of the Saint Paul Zoning Administrator. The Saint Paul Zoning Administrator had approved a site plan which Alsadi submitted related to proposed work at the Property. The Cantus object to the Zoning Administrator's approval of the site plan. The appeal is set forth on the agenda for the November 7, 2012 meeting.

As an initial matter, it should be emphasized that Alsadi did not cause the state of affairs which currently exists. The Property has operated as a gas station and convenience store for decades, dating back to the 1960s (or earlier). In 2011, the City of St. Paul, in cooperation with Ramsey County, took (by eminent domain) an easement over a portion of the Property, leaving Alsadi with the remainder. Since well before the taking, and thereafter, Alsadi has been in discussions with representatives of the City and County regarding how he might reconstruct his business on the land remaining after the taking. Alsadi is attempting to make use of that remaining land, for which he was not compensated during the eminent domain proceedings.

Initially, Alsadi applied to substantially renovate the Property, with a tear-down and re-build. Because a re-build triggers the need for a new conditional use permit, Alsadi applied for a new conditional use permit, and that permit was granted, subject to site plan approval. Upon Alsadi's submission of his site plan for approval, however - a site plan that had been in circulation for well over a year - Ramsey County blocked that re-build by objecting to curb cuts that were necessary for the proposed re-build. The District 6 Council, with which the Cantus associate themselves, was also a proponent of not letting Alsadi have the curb cuts which were necessary for his project. Thus, although the City of St. Paul approved a conditional use permit for the re-build, that re-build was blocked during the site plan approval process.

The motivations of the Cantus should be clear. The Cantus and their neighbors, as well as the District 6 Council, were interested in a proposed new development that would take up the block where the Property is located. The Cantus and their neighbors, who joined the Cantus' initial appeal, are believed to have or all had purchase agreements to sell their property to the developer of the proposed project. Those agreements were apparently contingent upon Alsadi agreeing to sell his Property. As is his right as a private citizen, Alsadi did not want to sell his Property. Now, upset, the Cantus have filed two appeals, and taken other actions, to thwart Alsadi's legal use of his property.

After the opponents of Alsadi's plan to rebuild had thwarted Alsadi's efforts during site plan review, Alsadi scaled back his plans so that no new curb cuts would be required. In addition, the new plan did not include a tear-down and rebuild of the building, which was only possible with the new curb cuts. Because no new conditional use permit was required by the City of St. Paul, the City only required that Alsadi submit a site plan for review. Alsadi submitted the site plan, and it was approved. The narrow issue that the Cantus appeal is whether the site plan was properly approved by the Zoning Administrator.

The Cantus' appeal has no merit.

The Cantus suggest that Alsadi has no conditional use permit, but as the City Attorney made clear during the Cantus' last appeal in front of the Zoning Commission, the issue of whether a new conditional use permit is needed is not relevant to this appeal. The City has taken the correct position that Alsadi does not need a new conditional use permit, either because the one that existed before the taking is sufficient, or because the conditional use permit that was granted in 2012 is sufficient. In any event, it is clear that the City's position is that no new conditional use permit is required. Moreover, it is clear that the City is of the position that the site plan conforms with the requirements for a conditional use permit, such that, at best, the Cantus' are simply arguing for and wanting a waste of time and resources by asking that a new conditional use permit be applied for.

The rest of the Cantus' assertions on appeal are more vague. The Cantus claim that the resolution denying their first appeal does not sufficiently show that the most recent site plan review process was sufficiently thorough. However, the Cantus do not identify what ordinance, statute, or rule was violated during that site plan review process. The records produced by the Cantus show that the site plan was adequately and properly circulated for comment, and that it was approved. The Cantus have failed to show that any rule was violated during the process.

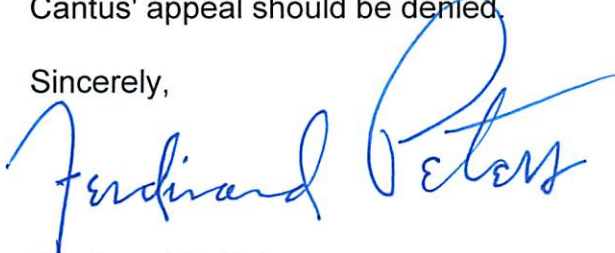
Finally, the Cantus claim that they should have had more time to oppose the most recent site plan, of which they have been aware of for months. Yet, despite months to review it themselves, the Cantus still cannot point out any specific item that was not adequately addressed as required by law. The only partially specific claim by the Cantus, again appearing now for the first time, is that the Americans with Disabilities Act

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requires an "accessible route," and that the approved site plan does not include an "accessible route." That said, the Cantus do not identify any language in the American Disabilities Act which has not been complied with, or even explain how the site plan does not comply with the Americans with Disabilities Act. It is clear that the Cantus are simply trying to make arguments for the sake of delay, which is the definition of frivolous.

In sum, the Cantus have advanced frivolous appeals for the sole purpose of making it difficult for Alsadi to commence implementation of his new site plan improvements. The Cantus' appeal should be denied.

Sincerely,

A handwritten signature in blue ink, reading "Ferdinand Peters". The signature is fluid and cursive, with the first name "Ferdinand" and the last name "Peters" clearly distinguishable.

Ferdinand F. Peters
FFP/bl