



**OFFICE OF MAYOR MELVIN CARTER**  
**CITY OF SAINT PAUL**

390 City Hall  
15 Kellogg Boulevard West  
Saint Paul, Minnesota 55102

April 14, 2025

**RE: Veto of Resolution # RES 25-572 – Appeal Regarding 560 Randolph Avenue**

Council President Noecker and Members of the Saint Paul City Council,

Thank you for unanimously adopting Resolution File # [RES 25-559](#) at your April 2 meeting, ensuring our city can meet its legal obligation under Minnesota law to maintain uninterrupted solid waste collection services. Our successful launch of the citywide partnership with FCC Environmental Services has now completed its second week of operations, delivering essential services to Saint Paul households as planned under our seven-year contract agreement.

The Council's subsequent action—adoption of Resolution File # [RES 25-572](#), the memorialization required by City Charter and State Statute, of the appeal of Appeal-Planning Comm File # [APC 25-2](#) which overturned the Planning Commission's decision regarding FCC's use of 560 Randolph Avenue—undermines our legal standing, contractual obligations, and long-term service stability. By reversing a valid zoning clarification without a proper legal basis, the Council risks disrupting trash hauling operations across Saint Paul, exposing taxpayers to litigation, and sending a deeply troubling signal to future investors and developers.

Accordingly, and pursuant to Section 6.08 of the Saint Paul City Charter, I hereby veto Resolution File # RES 25-572, adopted by the Council on April 9, 2025.

**Background**

FCC Environmental Services legally acquired the parcel at 560 Randolph Avenue in a private real estate transaction to serve essential operational requirements for the fulfillment of their waste collection contract with the City. The specific use FCC first articulated to the Zoning Administrator was not listed in the zoning code, and the Department of Safety and Inspections issued a Statement of Clarification under Saint Paul Legislative Code § 61.106, finding the proposed use to be substantially similar in character and impact to a permitted public works yard or maintenance facility.

The West 7th/Fort Road Federation appealed this determination. However, as defined in city code and state case law, the Council was required to evaluate the appeal in a quasi-judicial capacity—a legal framework that demands decisions be grounded in facts, legal precedent, and code. This was detailed in guidance provided to you by the City Attorney prior to the Council's action on this matter as summarized below.

**Council's Quasi-Judicial Role Limits Discretion**

The Council's authority in this appeal was not to weigh in on neighborhood vision, policy preferences or the Planning Commission's process. Under city and state law, this kind of decision was quasi-judicial which, as confirmed in case law, must include:

- fact-finding,
- application of law to those facts, and
- a binding ruling.

In this context, the Council's authority is constrained. Disregarding findings of fact, code provisions, and existing court precedent in favor of personal preferences violates the legal constraints of the quasi-judicial role.

**Law Requires Deference to the Property Owner**

Minnesota courts have repeatedly instructed municipalities to interpret zoning ordinances in favor of property owners where ambiguity exists.

Because FCC's proposed facility is reasonably similar in function to permitted public works operations—such as the City's own facility at 899 Dale Street—it meets the legal threshold for approval. Even when alternative interpretations exist, a reasonable claim by the property owner must prevail.

**FCC's Facility Satisfies All Criteria in § 61.106**

City code lays out a clear, four-part test for when an unlisted use should be treated like a permitted one. The Zoning Administrator's Statement of Clarification was rooted in this four-point test under city code:

- Character: It's similar in purpose and character to other permitted sites.
- Traffic impact: It creates a traffic pattern in line with what's already common in these industrial zones.
- Zoning hierarchy: It doesn't belong in a more restrictive zoning category.
- Consistency with the Comprehensive Plan: The 2040 Plan designates this site for industrial use, aligning directly with FCC's purpose.

FCC's facility fits the test our laws require, and the appeal fails to demonstrate otherwise.

**Neighborhood Node Status Does Not Prohibit Industrial Use**

The 2040 Plan explicitly permits industrial uses within areas designated neighborhood nodes, particularly where those uses predate redevelopment.

In fact, other industrial facilities—including City-owned ones—are already operating in neighborhood nodes all over Saint Paul. Denying FCC's use while allowing nearly identical ones elsewhere puts us in a legally indefensible position, undermines the zoning map's coherence, and raises real concerns about fairness and consistency.

**Comprehensive Plan Supersedes Conflicting Small-Area Plans**

The Minnesota Supreme Court has held that comprehensive plans have control over other planning documents. While small-area plans may suggest a future vision, the legally adopted 2040 Comprehensive Plan explicitly designates the site as industrial. The staff review confirmed this alignment. Small-area preferences cannot lawfully override the governing comp plan.

**Reversal Contradicts Council's Own Record**

This action is inconsistent with the Council's previous actions, decisions, and public statements including:

- In 2024, this City Council (Councilmembers Bowie, Noecker, Jost, Jalali, Kim, Yang, and Johnson) unanimously approved the purchase of the I-1 zoned site at 60 West Sycamore Street to house the Department of Public Works Solid Waste and Recycle Operations:
  - November 6, 2024: Resolution File # [RES 24-1607](#) *Authorizing the City to enter into an Assignment Agreement and Use Agreement (which include indemnification language, and other documents as necessary) to close on the purchase of the property at 60 West Sycamore Street to house the Department of Public Works Solid Waste and Recycle Operations.*
  - July 17, 2024: Resolution-Public Hearing File # [RES PH 21-171](#): *Authorizing the City to enter into a purchase agreement for 60 West Sycamore to house the Public Works Solid Waste and Recycle Services; amending the 2024 budget to establish the spending and financing for the purchase; and declaring the official intent of the City to reimburse certain original expenditures related to the capital projects from the proceeds of tax-exempt or taxable bonds to be issued by the City.*
- In 2022, Council President Rebecca Noecker, who to date still represents this site, sponsored Ordinance File # [Ord 22-8](#), *rezoning 540 Randolph from T-2 to I-1 Light Industrial, affirming its industrial future without public testimony or opposition. The Planning Commission supported this change.* This was unanimously approved by the Council (Councilmembers Thao, Noecker, Tolbert, Jalali, Brendmoen, Yang and Prince). It is important to note that the underlying zoning on this site is not an outdated relic of archaic land-use perspectives, but a very recent policy decision authored and championed by the elected City Council Member who still represents the area.
- For over two decades, the site has been actively industrial. While plans from 2000 to 2013 explored future residential potential, none concluded that rezoning was appropriate. Notably, no master plan or redevelopment initiative ever materialized due to lack of market interest and ongoing industrial use.
- The 2040 Comprehensive Plan, developed with extensive public engagement, designated the site as Industrial (I-1).
- In prior discussion on Appeal-Planning Comm File # [APC 21-1](#) (see video time mark 2:08 – 2:15) related to the development of 411-417 Lexington Parkway North, in another quasi-judicial matter, comments on the public record from Council President Rebecca Noecker reflect a commitment to fair, lawful, and predictable governance—one that should extend equally to this case:
  - “It’s compelling to me that staff initially recommended approval, the Zoning Committee recommended approval, and the Planning Commission voted just by one vote to deny. I also think it’s important to note this project doesn’t require any variances, any conditional use permits, or any dollar public subsidy. It’s an entirely private transaction. The only reason we’re seeing it is because the Planning Commission chose to review its site plan, which is typically focused on very technical, very physical issues. Normally the Planning Commission delegates that to staff, and we wouldn’t even be discussing it.” (2:08 – 2:09)

- "...we don't make citywide policy on a case-by-case basis. We make policy through a considered public process of deliberation and research and decision making, and I think denying an application because it conflicts with a future policy that we haven't yet enacted is unfair and illegal and frankly it gives those who want to develop in Saint Paul zero confidence that they can do so before the rules are changed on them in the middle of the game, and I think that would be the last thing any of us would want. So, for all of those reasons, I think denying the site plan is not legally justified." (2:12 – 2:13)

I took action to remedy the aforementioned matter in alignment with the wisdom reflected by the Council President above and treat this matter consistently.

**Conclusion**

The action taken in Resolution # RES 25-572 cannot be reconciled with state statutes, city codes, legal precedent, the administrative record, or the Council's own record and values. By overriding a lawful zoning determination without a proper legal basis, this decision risks triggering a cascading series of negative operational and legal consequences. Such a decision cannot stand.

For these reasons, and in the interest of maintaining our legal integrity and ensuring consistency in land use policy, I respectfully issue this veto.

Pursuant to Minnesota Statute § 15.99, Subd. 2, the 60-day window for a final agency decision will expire on April 15, 2025. As such, this veto will serve as the City of Saint Paul's final agency action on the initial zoning application.

I remain committed to working with you toward solutions rooted in the rule of law, equitable service delivery, and transparent public process. Thank you for your continued partnership and dedication to Saint Paul.

Sincerely,



Melvin W. Carter III  
Mayor, City of Saint Paul