

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

Minutes April 20, 2012

A meeting of the Planning Commission of the City of Saint Paul was held Friday, April 20, 2012, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. Merrigan, Noecker, Reveal, Shively, Thao, Wencl; and Messrs. Connolly, Edgerton, Gelgelu, Nelson, Ochs, Oliver, Schertler, and Spaulding.

Commissioners Absent: Mmes. Halverson, *Perrus, *Porter, *Wang, and Messrs. *Lindeke, *Ward, *Wickiser.

Absent: *Excused

Also Present: Donna Drummond, Planning Director; Patricia James, Allan Torstenson, Lucy Thompson, Christina Morrison, Kate Reilly and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes April 6, 2012.

MOTION: *Commissioner Nelson moved approval of the minutes of April 6, 2012. Commissioner Thao seconded the motion. The motion carried unanimously on a voice vote.*

II. Chair's Announcements

Chair Wencl had no announcements.

III. Planning Director's Announcements

Donna Drummond announced that last Wednesday the City Council approved the North End – South Como District 6 Plan and the rezonings that go along with that plan. The Council also approved the Greater Lowertown Master Plan.

The Hamline United Methodist Church at 1514 Inglewood has announced the church's listing on the National Register of Historic Places. An open house celebration with tours will be held on Sunday from 2:30 to 4:00 p.m.

IV. PUBLIC HEARING: Nonconforming Use Text Amendments – Item from the Neighborhood Planning Committee. (Patricia James, 651/266-6639)

Chair Wencl announced that the Saint Paul Planning Commission was holding a public hearing on the Nonconforming Use Text Amendments. Notice of the public hearing was published in the Legal Ledger on April 9, 2012, and was mailed to the citywide Early Notification System list and

other interested parties.

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

The following people spoke.

1. Mr. Don Husband, a resident of Saint Paul for over 40 years. He spoke regarding proposed changes to the consent petition requirements, including the comments by PED staff. The process might be cumbersome, but this does not justify not protecting the rights of the neighbors. Other changes could be put in place to possibly solve the problem. It is reasonable to assume that obtaining consent from the neighborhood would help and not hinder a developer. It would require them to work closely with the neighborhood from the beginning. The consent petition process should aid the developer in getting the Planning Commission approval. Without the consent process, the neighborhood loses control over the decision unless an appeal is made within an allowable period of time. Any zoning regulation will put a limit on the rights of an owner of property. Zoning regulations are based on the rights of the public to control unwanted or misconceived plans of another property owner. He recommends that the current consent process not be changed.
2. Mr. Jeff Roy, representing Summit Hill Association/District 16 Planning Council, reported that their Zoning & Land Use Committee held a public hearing on April 11, 2012. At the hearing there was strong concern about the impact and possible unintended consequences in the effort to identify options for changing the consent petition requirement for establishing and re-establishing nonconforming use permits. They feel that the current city zoning process requiring the petitioning of property owners within 100 feet of a site is necessary and appropriate. If the petitioning requirement was either eliminated or changed, the local community near the specific property/building would lose a valuable tool with respect to process. The Summit Hill Association and their Zoning & Land Use Committee recommends that there be no change for the re-establishment and establishment of a nonconforming use.
3. Mr. Al Oertwig, President of Payne Phalen District 5 Planning Council, stated that they have not taken a formal position on the proposed amendments. They see the importance of retaining the petition requirement. The petition process helps to surface vital information regarding local impact of proposed changes to a nonconforming use. They do not find the petition requirement burdensome, but rather a safeguard to sustainable development in their area.
4. Mr. Chuck Repke, representing District 2 Community Council, stated that on Wednesday their board voted to express the same concerns about the changes to nonconforming use regulations regarding the petitioning process. Mr. Repke stated that district council staff are there to help people get consent petitions. He is in front of the Planning Commission as many times to advocate for change as he is to oppose change, and he disagrees with the assumption that the power of neighbors to be able to sign the consent petition should be taken away because of the difficulties of some individual applicant in getting signatures when there is a network of organizations out there established to be able to facilitate those kind of communications. District Councils are a resource; direct

applicants to the district councils, and they will be able to assist them. If the applicant can't get their neighbors to sign, then maybe it shouldn't happen.

Commissioner Schertler noted that community public bodies are charged to make decisions on these uses, and are required to meet due process standards. Commissioner Schertler's concern is that an individual is in effect making a regulatory decision by preventing the community from talking about it at a public hearing, and there is no due process check on the individual property owner to find out whether they are acting rationally or not.

Mr. Repke said that since the petition requirement is for uses that have already been discontinued for a year, it is a request for something beyond the regulation. So whatever be the motivation of the neighbor, it's already well beyond any rights of the new buyer of this property to protect themselves. The City shouldn't weaken the rights of those neighbors to assure that some how this nonconforming use goes away because of fear of the motives of some neighbor.

Commissioner Schertler said his concern went beyond the motives of a neighbor. If the decision has been made in a community body as opposed to an individual, there is at least some transparency in the process and some ability for people to come in and say, I signed the petition but I disagree with the change and I hope that this isn't allowed to happen. Isn't the City delegating some authority to consider land use decisions to individual property owners that happen to be within 100 feet as opposed to the community process to make the decision in front of everybody?

Mr. Repke reiterated that the petition requirement applies to nonconforming uses that have been gone for a year. These are nonconforming uses which the City's plans say shouldn't be there.

Commissioner Oliver said that the process has already been set up for this permit to be referred to the District Council for comment; it's going to come before the Zoning Committee for public hearing; and all of that then will come before the Planning Commission for a decision, and then the decision is appealable at City Council. Given all that process, why do we need to have a veto point early in the process, especially one that can be exercised by a minority of neighboring properties? If you have ten neighboring properties you need seven signatures; if you only get six signatures, then you can't even turn in your application. Given all the other opportunities to make voices heard and point out that a project doesn't fit and is bad and the neighborhood really wants the use to move on, why do we need to give that veto power in order for neighbors to have their voice heard?

Mr. Repke said that every one of these neighborhoods have neighborhood plans and the City already decided what it is they want the land uses to be in those areas. If a nonconforming use expires after a year, it's dead unless people are willing to say it is okay in this location and they sign the consent petition and move it forward.

Commissioner Nelson asked about vacant homes, foreclosures and banks that you can never get a hold of and that won't respond to any kind of letter. A very good nonconforming use that for some reason happens to go vacant for 366 day - a duplex

that's always been a good duplex, was designed originally as a duplex with adequate parking, but then they just can't get the signatures because it's impossible to get a bank to sign a consent petition; it's impossible to find the absentee landlord. What should be done in those kinds of situations, where it seems like this nonconforming use really does make sense but you can't bring it in front of any kind of body because you can't get the adequate number of signatures required?

Mr. Repke said that his board's first comment would be, that's not our problem. The City may need to come up with some solution to deal with that, but it shouldn't take away the rights of all of these citizens in the City of Saint Paul to know what was going to happen to their neighboring property. This may be the situation on some rare blocks, but you're dealing with a small restricted area of current crises. There has to be some other way to deal with that.

Commissioner Spaulding said that one of the conditions of nonconforming use permits is that it be found consistent with the Comprehensive Plan. So technically they would have to find that still consistent with all the plans of the City that's been adopted as part of the Comprehensive Plan.

Mr. Repke agreed, but said that the City could make the argument that housing is a goal of the Comprehensive Plan and it is therefore consistent.

Commissioner Thao stated that market change is quicker than land use planning. How do we account for those situations?

Mr. Repke said he is testifying about taking away the signature requirement on a nonconforming use of a piece of property that's already stopped being what it is. It's dealing with specific pieces of property and not policy.

Chair Wencl asked about District 2's experience with applicants not being able to reach property owners.

Mr. Repke said in District 2 it just has not been a problem, There are limited blocks where you have lost four out of the ten homes that would be within 100 feet or three of the six homes that would be within the 100 feet, and, if it's that bad, then is that really the place where you want to be doing this?

MOTION: Commissioner Oliver moved to close the public hearing, leave the record open for written testimony until 4:30 p.m. on Monday, April 23, 2012, and to refer the matter back to the Neighborhood Planning Committee for review and recommendation. Commissioner Schertler seconded the motion. The motion carried unanimously on a voice vote.

In response to questions from Commissioner Noecker and Commissioner Edgerton, Patricia James, PED staff, explained that one of the two types of permits where the consent petition requirement is not proposed to change are those where the application is to enlarge a nonconforming use, which should have more neighborhood input. The other is for nonconforming parking lots, and there has never been an application for this type of permit, so there wasn't any experience on which to base a change. She also explained that the petition requirement is a local regulation and was not affected by the state law changes that are the reason

for some of the other nonconforming use text amendments.

V. Zoning Committee

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

Two items came before the Site Plan Review Committee on Tuesday, April 17, 2012:

- Upper River Services, new building for a barge service company to replace their existing facilities, located in the floodplain at 40 State Street.
- Capitol Tunnel, pedestrian and service tunnel under University Avenue between Capitol building and parking lot. Also small entry building to tunnel at University Avenue near Capitol Tunnel.

One item to come before the Site Plan Review Committee on Tuesday, April 24, 2012:

- Reemo Convenience Store, rebuild existing convenience/gas store at 1200 Rice Street.

Two items to come before the Site Plan Review Committee on Tuesday, May 1, 2012.

- Hoy Childhood parking lot, tear up repave existing parking lot. Add new storm sewer connection and private lift station to correct drainage problems at 1435 Midway Parkway.
- Maryland Shops, new 5,300 square foot commercial/retail building at 1208 Arcade (NE corner at Maryland).

NEW BUSINESS

#12-034-046 Dirk and Ruth Dantuma – Rezoning from RM2 Medium-Density Multiple-Family Residential to T2 Traditional Neighborhood. 311 Walnut Street between 7th and Exchange. *(Kate Reilly, 651/266-6618)*

Commissioner Nelson said the owner of the property wants to be able to rent out to people over short periods of time, and the T2 Traditional Neighborhood zone would provide more flexibility in the types of uses that would be allowed, rather than the RM2 zone which is limited strictly to residential uses.

MOTION: Commissioner Nelson moved the Zoning Committee's recommendation to approve the rezoning. The motion carried unanimously on a voice vote.

Commissioner Nelson announced the items on the agenda for the next Zoning Committee meeting on Thursday, April 26, 2012.

VI. Transportation Committee

District 1 Transportation Plan – Recommendation to release for public review and set a public hearing for June 15, 2012. *(Christina Morrison, 651-266-6546)*

Christina Morrison, PED staff, presented some background on the District 1 Transportation Plan. She said that it's a little unique that they would have a neighborhood transportation plan come through the Planning Commission. This community is due for an update of their full plan and they will be working on the additional sections in the coming two-years, enhancing the key sections that are underdeveloped in the existing plan. District 1 is requesting that this section be adopted now as an amendment to the current plan rather than waiting until all the updates are complete. They are asking for this special consideration for a few reasons. One is that the current plan does not adequately address transportation issues. They are confronting the planning of several large regional transportation projects including Red Rock Corridor and Gateway Corridor. District 1 is specifically lacking bike and pedestrian infrastructure. This planning process was completed over the last three years with an increasingly intensive outreach effort in the last year. District 1 has held or participated in at least 15 community meetings around Red Rock, Gateway Corridors, CP Rail or Park & Ride issues or specifically the transportation draft.

In 2011, District 1 convened a Transportation Task Force including members from the Land Use Committee and additional community members. There was also a transportation survey sent out to every household. Staff has conducted outreach to the large apartment complexes in the district seeking input from under represented populations. So the plan that was developed is one that represents the melding of a lot of different perspectives and priorities. It represents significant compromise and the values of District 1 residents and it's very compatible with the City's Comprehensive Plan and Transportation Chapter. The District 1 Community Council Board approved this plan in January 2012 and the Transportation Committee reviewed the plan on April 9, 2012 and recommends that the plan be released for public hearing on June 15, 2012. Ms. Morrison thanked District 1 and especially Betsy Leach, who is present in the audience today if there are questions.

Commissioner Spaulding noted that the Transportation Committee talked about the Complete Streets project, which emphasizes the need for sidewalks, and how this applied to a unique area like Highwood. What's interesting about this area is that it is a very different type of neighborhood structure than the rest of the city. It may not make sense to put in sidewalks on the unpaved streets and the hilly parts like it does in the rest of the city. But what is the threshold or the criteria for making these kinds of determinations? Betsy Leach addressed that issue at the committee meeting as well.

Commissioner Thao asked if every district is required to have a Transportation Plan.

Ms. Morrison said actually since the adoption of the Saint Paul Comprehensive Plan in 2010, there has been some retooling of the format for district and neighborhood plans. Part of that is that the format mirrors the chapters in the Comprehensive Plan, housing, transportation, parks & recreation, public works and historic preservation. So the new format outlines neighborhood-level policies in those six areas. However it is uncommon to have an existing transportation section in a neighborhood plan, but there are a few that have it.

Commissioner Edgerton commented that because of the nature of District 1 it has a lot of border with other communities, including Maplewood to the east and Newport to the south so he thinks it's important that the Transportation Plan is coordinated with those neighboring communities making sure that it's consistent with what the other communities are doing.

Ms. Morrison said that they did talk about how this plan is consistent with the current thinking for regional trails and a lot of those happen in Battle Creek Park, which includes areas in both Saint Paul and Maplewood. Also this plan includes more general policies and principles about bikeway planning and focuses less on specific routes and treatments. The purpose of this is to provide the policy framework and to maximize future opportunities for connecting trails and bikeways.

MOTION: On behalf of the Transportation Committee, Commissioner Spaulding moved to release the draft for public review and set a public hearing on June 15, 2012. The motion carried unanimously on a voice vote.

Commissioner Spaulding announced the next Transportation Committee meeting on Monday, April 23, 2012 has been canceled.

VII. Central Corridor Stormwater and Green Infrastructure Plan – Informational presentation by Wes Saunders-Pierce, City of Saint Paul Water Resources Coordinator.

Wes Saunders-Pierce is the Water Resources Coordinator for the City of Saint Paul and he is also the Project Manager for this initiative. He distributed an informational chart containing the four step process for this plan.

There have been a number of initiatives to plan for the Central Corridor. The Central Corridor Development Strategy responds to the light rail transit, and serves to underpin the transit-oriented development framework that the City's moving toward in the corridor. The Station Area Plans are also a really important part of this, providing more detail on how this vision unfolds. Some key themes that have come out of this work include fostering compact pedestrian friendly development. Public art and green development are also important areas of emphasis. The City is making a lot of effort to promote green development for its own projects but also for private development.

The Central Corridor Stormwater and Green Infrastructure Plan is an initiative of the Corridors of Opportunity partnership, which is focused on promoting sustainable and equitable transit-oriented development along the seven major transit corridors in the region. It is funded with a combination of a federal Sustainable Communities grant and foundation money. Corridors of Opportunity has funded over twenty different projects, and the Central Corridor project for stormwater is the only project out of the twenty that is critically looking at stormwater as a key concept for moving forward with the key goals for the corridor. The hope is that these projects can provide lessons and best practices that can be used on other transit corridor here and around the country. The Central Corridor Stormwater and Green Infrastructure Plan covers the area from the Union Depot to Target field and crosses many jurisdictions: Saint Paul, Minneapolis, the Capital Region Watershed District and the Mississippi Watershed Management Organization.

The major question being asked is: can stormwater management systems be shared? Right now it's parcel by parcel, one land owner for each stormwater management system. There is also a focus on how to get more mileage out of these stormwater systems by stacking the function and using green infrastructure as a key principle in terms of achieving that. Green infrastructure is a way to look at stormwater management that provides a triple bottom line, not just looking at stormwater as the end product, but looking how this infrastructure can provide social, economic and environmental benefits. They are now focusing on the technical and policy issues that are barriers to achieving this.

Commissioner Reveal asked if the way stormwater was being treated in the right-of-way for the LRT project has either limited or precluded what adjacent private properties might or might not do or whether the two can be tied together.

Mr. Saunders-Pierce said to some extent there are constraints in the right-of-way such as utilities. There is also a focus on considering the alleyways as an available right-of-way space, where there is not as much existing infrastructure as might be found on side streets or down the main thoroughfare.

Commissioner Reveal asked if there was specifically a stormwater management solution in the right-of-way or not.

Mr. Saunders-Pierce said that there is a very substantial stormwater management feature along University for the light rail, referred to as "the tree trench system". Mr. Saunders-Pierce showed a diagram of that, where the trees along the boulevard are watered by the stormwater from the street. However, the tree trench system is specifically designed to only handle the public right-of-way. So all the private development that occurs can not tap into that tree trench system, because by doing so it would reduce the capacity of what's been provided there to treat the light rail. All of the private development and all of the investment that's anticipated on the private parcels will need to have their own treatment. Light rail was not intended to provide an infrastructure for those redevelopments.

Commissioner Edgerton commented that he hopes this project will really push green development along the corridor. He'd like it to be a guide that can help development go green and do it in a way that's financially feasible. He hopes it will result in simplification and streamlining of the regulatory process, and find ways to make it easy for a development to be green. That's the opportunity that this document has.

Commissioner Shively asked how this might apply to existing commercial corridors that have buildings already there and need to manage their stormwater in a more innovative way.

Mr. Saunders-Pierce said that he'd like to see that happen. There are a number of different scenarios, where there are parcels that are going to be redeveloped, or maybe it's a vacant building that might get torn down and something new is put up, or there's an existing building that is not looking to change over the next 10 to 20 years. Overall what they would like to do is try to find a way to communicate to owners and developers how this is in their best interest. There's a lot of complicated dynamics in redevelopment with businesses that turn over, different owners, different tenants and so forth. The project is planning two roundtable discussions with developers and business owners to get more feedback about the challenges and opportunities here.

Commissioner Thao's family owns a business along the corridor, she asked how this adds value, because as a property owner she may not be interested in stormwater management and a lot of business owners feel the same. This is a great process but the bigger thing is making the case about how this really adds value to property owners and the broader community. Communicating this will be an important challenge.

Mr. Saunders-Pierce said that her point is well taken and that's something that he and the consulting team are focusing on. Some of these concepts do get technical and are very removed

from the day to day business of property owners and it's partially an education opportunity. They want to talk about what Saint Paul is committing to, in terms of sustainability but they also want to be able to raise the knowledge base of the people along the corridor.

Commissioner Ochs said there should be consideration of the fact that many of the parcels along these corridors are highly impervious and stormwater from them runs into the public sewer system. Central Corridor may not have been designed to handle any private runoff, but perhaps the design of future transportation corridors can consider this. He asked if there were any stormwater management fees being considered, similar to what Minneapolis has with their stormwater management plans, and how properties might be assessed to manage that. Is there something in the plans for Saint Paul?

Mr. Saunders-Pierce said definitely. However, it's a little unclear exactly how strongly that will be forwarded through the different departments and how that is going to come forward. One of the members of the consultant team is a specialist in water law and the different authorities and tools that municipalities and other public agencies have to set up things like special financing districts or assess revenue for stormwater management. The City of Saint Paul does have a storm sewer system charge; it's the same as Minneapolis and it's called the stormwater utility fee. It's a question of whether another fee can be charged to help manage stormwater on-site so it doesn't have to go into the storm sewer system.

VIII. Comprehensive Planning Committee

Commissioner Merrigan announced that the next Comprehensive Planning Committee meeting is on Tuesday, May 1, 2012.

IX. Neighborhood Planning Committee

Commissioner Oliver announced that the next Neighborhood Planning Committee meeting on Wednesday, April 25, 2012 has been canceled.

X. Communications Committee

Commissioner Thao had no report.

XI. Task Force/Liaison Reports

None.

XII. Old Business

None.

XIII. New Business

None.

XIV. Adjournment

Meeting adjourned at 10:30 a.m.

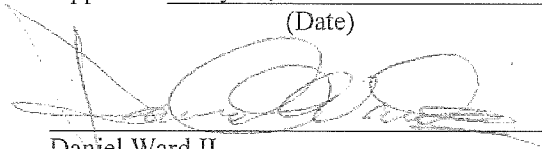
Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

Respectfully submitted,



Donna Drummond
Planning Director

Approved May 4, 2012
(Date)



Daniel Ward II
Secretary of the Planning Commission

Planning Commission, City of St. Paul

My name is Don Husband and live at 149 Grotto St. S. Unit #3. I have been a resident of St. Paul for over 40 years.

I am writing this letter to voice my concerns over the proposed changes to the zoning regulations. My comments are mainly limited to the changing of the consent petition requirements as set forth in the proposal including the comments by the PED staff.

First, while the process of locating the 100' neighbors might be cumbersome due to the reasons as stated, This does not justify not protecting the rights of the other neighbors. Separate changes could be put in place to possibly solve this problem while still providing "due diligence" to not inhibit the rights of these owners. Stating that one of the problems could be language and cultural factors deserves no further comments.

The proposal states that the consent petition requirement would impose an unreasonable hardship to any developers for their proposal not to have a public hearing, and could result in possibly spending a significant amount of money. This is a problem that would exist anyway, since they would have to incur these costs (and probably more) in submitting their full application to the Planning Commission, with the possibility of still having it turned down. It is reasonable to assume that obtaining the consent from the neighborhood would help and not hinder them. This would require them to work closely with the neighborhood from the beginning and disclosing their complete preliminary plans. The consent petition process should aid the developer in getting the Planning Commission approval.

There is also an issue with having a concentrating of power in making a recommendation to allow the zoning to change.

Without the consent process, the neighborhood loses control over the decision unless an appeal (if allowed) is made within an allowable period of time with possibly costs involved. One of the concerns stated by the PED is the possibility of lawsuits as declining a request for a change (including an extension of a NCU), would be a hardship to the owner and allow them to be compensated for their loss. I am not an attorney, but I don't there there is a loss if the current values are based on what is allowed under current zoning restrictions. There is possibly a greater concern of a lawsuit brought by the neighborhood.

It should be stated that any zoning regulation will put a limit on the rights of an owner of property. Zoning regulations are based on the rights of the public to control unwanted or misconceived plans of another property owner. Any limitation on this will impose a impediment of rights of the public.

For the reasons stated above, I would recommend that the current consent process not be changed.

Don Husband