

SEP 04 2012

**APPLICATION FOR APPEAL**

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

Zoning Office Use OnlyFile #: 12-101937Fee: 520.00

Tentative Hearing Date: _____

APPELLANT

Name Raymond and Susan Cantu
Address 115 Rose Avenue West
City St. Paul St. MN Zip 55117 Daytime Phone 651-488-2308 Home

PROPERTY LOCATION

Zoning File Name Approval of Site Plan 12-090127-REEMO Gas Pump relocation at
Address / Location 1200 Rice Street 1200 Rice Street

TYPE OF APPEAL: Application is hereby made for an appeal to the:

☒ **Planning Commission**, under provision of Chapter 61, Section 701, Paragraph c of the Zoning Code, of a decision made by the Planning Administrator or Zoning Administrator

OR

☐ **City Council**, under provision of Chapter 61, Section 702, Paragraph a of the Zoning Code, of a decision made by the Planning Commission

Date of decision: August 24, 2012File Number: 12-090127

GROUND FORS FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission.

The above named appellant hereby appeals the decision of the Department of Safety and Inspections to approve site plan 12-090127 – REEMO gas pump relocation 1200 Rice Street, dated August 24, 2012, and asks the Planning Commission to deny the site plan approval.

The above named appellant's appeal consists of the following:

Page 1-History and Actions, Page 2-4 Grounds for Appeal, Page 5 – Letter of Support, Attachments totaling 53:

Attachment A District 6 Planning Council Task Force recommendation and modification requests
Attachment B Zoning Committee May 10th Results
Attachment C Zoning Committee Staff Report and Conditional Use Permit Application
Attachment D Planning Commission Min. pgs 1 & 9, T. Beach response to several condition requests, Planning Commission Resolution, Tri Area Block Club letter
Attachment E July 11, 2012 letter from Department of Safety and Inspections denying two site plans
Attachment F August 24, 2012 letter from Department of Safety and Inspections approving site plan
Attachment G City of Saint Paul Planning Commission Resolution
Attachment H Negotiated Settlement – Parcel #3 on the Rice Street at Maryland Reconstruction Project
Attachment I Minimum Compensation Statue, M.S. 117.187
Attachment J District 6 Planning Council Land Use Task Force agenda

Appellant's Signature

S. Cantu
Raymond Cantu

Date

9/2/12

City Agent

History:

Ramsey County authorized construction of turn lanes on Maryland at Rice to improve safety/traffic issues at the intersection. The City of Saint Paul acquired the additional footage for the street expansion. The City Council authorized the purchase of three homes on Maryland due to concern of those homeowners over the livability after loss of the frontage. Mr. Alsadi, 1200 Rice Street, worked through the appeal process eventually receiving a settlement of \$1,000,000 from Ramsey County. Property owners on the block were approached by a developer who expressed interest in acquiring all property on the block for a redevelopment. Mr. Alsadi did not reach an agreement and chose to remain a part of the community.

Actions:

April 24, 2012 District 6 Land Use Task Force application for a Conditional Use Permit at 1200 Rice Street

The CUP application was reviewed and discussed. Mr. Alsadi stated in his application **"The property located at 1200 Rice Street which is located at the southeast corner of the intersection is losing 20 feet across the north property line and a diagonal piece of property at the corner. Due to this taking the property needs to remove and relocate the pump island, canopy, underground tanks, and building"**.

John Kosmos, KK Design acting on behalf of Mr. Alsadi presented detailed drawings for a new building and reconfiguration of the lot which were included with the application.

District 6 Council recommended approval and submitted a list of conditions for consideration.ⁱ

May 10, 2102 – Zoning Committee – 12-045-151 Conditional Use Permit 1200 Rice Street^{ii, iii}

The Zoning Committee Staff Report was presented:

Section H Findings:

1.***Due to the land acquisition, the property owner needs to remove and relocate the pump islands, canopy, underground tanks, and building.***

Section I STAFF RECOMMEDATION:

Based on the above findings, staff recommends approval of the Conditional use permit for auto convenience market subject to the condition that a site plan is approved by city staff.

Zoning Committee recommended approval with conditions.

May 18, 2012 – Planning Commission^{iv}

#12-045-151 Bilal Alsadi – Conditional use permit for auto convenience market

Packet for the meeting included the Zoning Committee Staff Report, Mr. Alsadi's application, drawings for a new building by KK Design, District 6 letter, Tri Area Block Club letter, Planning Commission Resolution.

Planning Commission approved the CUP subject to the additional conditions (Tom Beach memo).

July 11, 2012 Site Plan 11-250428 Department of Safety and Inspections Letter to Mr. Alsadi^v

Denied site plan for a new building and pump island citing Ramsey County and Saint Paul Public Works traffic safety concerns.

Denied site plan for relocating the pump islands 12' south while keeping the existing building and driveway citing concerns of Ramsey County and Saint Paul Public Works determination that it was not consistent with traffic safety. Moreover, the site plan would not work for standard tanker truck gas delivery, and circulation of cars on the site.

August 24, 2012 Site Plan 12-090127 Department of Safety and Inspections Letter to Mr. Alsadi^{vi}

Approved site plan to move pumps islands subject to conditions.

Grounds for Appeal:

All actions/interactions with the neighborhood by District 6 Council, Zoning Committee, and the Planning Commission were predicated on the plans for a new building.

The resolution^{vii} granting the CUP approved by the planning commission on May 18, 2012 stated the following:

"WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. Maryland Avenue is being reconstructed to provide additional left-turn lanes. Due to the need for extra width, portions of property along the south side of Maryland east of Rice Street are being taken. This property, at 1200 Rice Street, is located at the southeast corner of this intersection and will lose the north 20 feet of the site through acquisition by the county. Due to the land acquisition, the property owner needs to remove and relocate the pump islands, canopy, underground tanks, and building. Because the existing building and facilities will be removed the applicant is required to apply for a new condition use permit for an auto convenience market.

When was this project changed from a rebuild and investment in the neighborhood to a minor rehab of one of the corners of a major intersection of the City? An approval of a plan that does not include removal of the existing building is in direct conflict with the resolution passed by the Planning Commission and should not stand.

As per the Executive Summary of the settlement, agreement between Mr. Alsadi and Ramsey County^{viii} the Eminent Domain Commission award of \$867,624 was based heavily on the Minimum Compensation Statue (M.S. 117.187)^{ix} which addresses compensation for relocations.

Why was approval for a minor rehabilitation approved when Mr. Alsadi has been compensated for costs of relocation?

As homeowners in close proximity to the intersection, the neighborhood was optimistic that this would spark further investment in the area. Certainly, Mr. Alsadi must be as confused as the neighborhood over a denial for a new building and subsequent approval of a rehabilitation plan that is in direct conflict with the Planning Commission Resolution.

The approval letter of August 24 gives no indication that the site plan was reviewed by Ramsey County and Saint Paul Public Works and if the issues of traffic safety were addressed.

Why was a plan to relocate the pumps rejected on July 11 due to safety concerns and then a plan to relocate the pumps is approved on August 24? How could a plan to relocate the pumps be unsafe in July and safe in August?

No plan site plan approval should be issued until the community is assured that all safety issues have been addressed, there needs to be a full airing of this issue. This entire project and the **multi-million dollar cost** to tax payers was undertaken to improve safety and traffic flow at the intersection of Maryland/Rice.

District 6 Council scheduled a meeting on August 28, 2012^x to review the site plan relocating the gas pumps and discuss the project changing from new construction to a building rehabilitation. Neighborhood citizens were informed on August 27, 2012 a site plan had been approved on August 24.

Why was a site plan approved four days before the scheduled District 6 meeting?

Why was the procedure of obtaining review and advice from the District 6 Council not followed?

No site plan should be approved before District 6 has a sufficient amount of time for consideration and review. The Area Plan for District 6 cites specific requirements and recommendations to ensure an "Attractive Commercial District". The area plan specifically addresses auto related businesses and street design guidelines for existing building renovations and improvements.

Despite the administrative approval of the site plan before the meeting, the site plan was presented and there was discussion that found it lacking and in conflict with the Area Plan. Less and less detail is provided each time a new site plan is submitted for approval. This project is of high importance to the neighborhood and District 6. The neighborhood and District 6 have clearly indicated concerns with this project that the City and County have disregarded and failed to take into consideration. This latest action to administratively approve a site plan, which had never been contemplated or presented to District 6, demonstrates that no regard is given to the concerns of the neighborhood directly affected by these actions.

During the August 28 meeting and in subsequent communication with District 6 many issues were raised with the approved plan that needs to be addressed if this plan is to be considered. Discussion involved the complete change to just move the pumps and leave the current building versus the new building plan, and the actions taken by the City and County.

Discussion moved to the site plan approved April 24. There were concerns in regards to access of the pump location, fuel tanker access, the handicapped access ramp, and the parking places for employees.

The location of the pumps is a critical issue, one for obvious safety concerns, but also for general traffic and congestion of vehicle and pedestrian traffic. Concerns were raised regarding the placement of the pumps in relation to the street, sidewalk, and building. The proposed location of the fuel pumps creates seriously congested foot traffic into the building from the street, parked vehicles at the pump, and in the lot parking spots. At first glance, it does not appear there is enough room for in and out going vehicle traffic, pedestrian movement, and commercial vehicles necessitating scientific verification in regards to the pump location. There is a question of whether measurements regarding the pumps location and island reconstruction are in fact accurate. Based on prior errors in previous site plans by both sides of the application and approval process it would be no surprise if the calculation were incorrect and taken from the wrong points.

The new site plan does not address the flow of the tanker traffic, which details the entry and exit points of the tanker. In the original site plan for the new building great detail and attention was paid to lock time, steering angle, and other measurables. This issue was raised at the meeting and no real explanation was provided as to why it is not in the current site plan.

The design for the handicapped accessibility necessitates that the individual would access the building by moving through the traffic flow area. There should be access to a sidewalk directly east of the parking spot and along the entire north side of the building for safety reasons.

The site plan also creates two parking spots for employees in the back of the building, which abuts the alley. The drawing depicts the spots at 90-degree angles to each other, but does not take into account that the spots call for the removal of curbing which creates problems for snow removal and parking by the owner of the home on the other side of the alley. At a certain point, the spots will become so caked with snow and ice it will make it impossible to use these spots. Consequently, the employees will try to use the alley to park making it impassable during the winter.

The employee parking spots also create an attractive nuisance. Currently access to these areas is limited, and it is more a depository for patron's trash and winter snow. The parking spot will create another pedestrian traffic lane behind the business and create even more of a problem with non-resident traffic through the current alley. The creation of the parking spots allows more access, which based on the history of this area will promote neighborhood issues.

This entire project has brought about a lot of frustration and unfulfilled expectations for the neighborhood. We were shown a new building plan which would enhance Rice Street and Maryland Avenue and encourage its use by the neighbors. It appears this action by the City is discouraging investment in the area.

ⁱ Attachment A District 6 Planning Council Task Force recommendation and modification requests

ⁱⁱ Attachment B Zoning Committee May 10th Results

ⁱⁱⁱ Attachment C Zoning Committee Staff Report and Conditional Use Permit Application

^{iv} Attachment D Planning Commission Minutes pages 1 and 9, Tom Beach response to several condition requests, Planning Commission Resolution, Tri Area Block Club letter

^v Attachment E July 11, 2012 letter from Department of Safety and Inspections denying two site plans

^{vi} Attachment F August 24, 2012 letter from Department of Safety and Inspections approving site plan

^{vii} Attachment G City of Saint Paul Planning Commission Resolution

^{viii} Attachment H Negotiated Settlement – Parcel #3 on the Rice Street at Maryland Reconstruction Project

^{ix} Attachment I Minimum Compensation Statue, M.S. 117.187

^x Attachment J District 6 Planning Council Land Use Task Force agenda

Appeal of the Approval of Site Plan 12-090127 – REEMO Gas Pump relocation at 1200 Rice Street

We, the undersigned, having received and read a copy of the above named appeal express our support for the Appellant.

Name

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