

October 29, 2012

Saint Paul City Council
c/o Corrine Tilley – Department of Safety and Inspections (DSI)

RE: File # 12-116607

As the appellant in the above matter, we would like to outline some of our concerns with the site plan approval for relocation of the gas pumps at 1200 Rice Street.

This began with a project to implement turn lanes on Maryland Avenue at Rice Street by Ramsey County (with a monetary contribution from the City) to relieve congestion, but more importantly to improve safety at this intersection.

The City, in acquiring the easement for the project, sought a full taking of Mr. Alsadi's property. When the City could not reach an agreement, the taking went through an Eminent Domain process that included multiple appeals and an eventual settlement of \$1,000,000 for a partial taking. In the settlement, all claims for damages current and future were waived. Throughout this process, including at the Eminent Domain hearing, Mr. Alsadi presented plans to re-build his auto convenience mart with a new building, and relocation of the underground storage tanks/gas pumps. On April 13, 2012, a notice/timeline was sent to Mr. Alsadi to disconnect the fuel pumps, which were now in violation of fire code for being too close to the property line. This was the conclusion of there being a gas station at this location; the convenience store and restaurant remain.

The Conditional Use Permit that had been issued to 1200 Rice Street expired as per code *City of Saint Paul's Code of Ordinances Part II of the Legislative Code, Section 61.505* after the taking resulted in a lot reduction.

Mr. Alsadi applied for a new CUP for an auto convenience mart at 1200 Rice Street proposing new construction and relocation of the gas storage tanks and pumps. We received a Notice of Public Hearing as required. Mr. Alsadi's representative from KK Design attended the April 24, 2012 District 6 Land Use Task Force meeting and presented the new construction plan; District 6 recommended approval. On May 10, 2012, the Zoning Committee held a public hearing at which the new construction plan was again presented, took public testimony, and recommended approval of the CUP provided a site plan be approved. The Planning Commission made as a finding of fact that "Due to the land acquisition the property owner needs to remove and relocate the pump islands, the canopy, underground tanks, and building." and approved the CUP with conditions. At no time was there discussion or presentation of a proposal to relocate pumps, there was no appeal to the new CUP from citizens or District 6.

DSI files show that in July (after the settlement and CUP approval) a proposal to "temporarily relocate" the gas pumps was submitted in lieu of the new construction, both plans were denied by DSI citing safety concerns.

After another plan to relocate the gas pumps was approved on August 24, 2012, we filed an appeal. No information was provided to the neighborhood that consideration was being given to a pump relocation plan until August. The site plan was approved four days before a scheduled meeting by District 6 on August 28, 2012 to discuss the plan.

It was specifically the proposal for new construction and investment in the area that made this an acceptable project. At the public hearing for the appeal, Mr. Alsadi's representative from KK Design was asked what would have to be done to get approval of the new construction plan and he said it would need to be redesigned to use the current curb cuts.

We do not believe the City should have allowed this type of deviation from a proposal that was approved through a public hearing process.

DSI staff has already gone beyond normal considerations to accommodate Mr. Alsadi including:

- Recommending approval of the new CUP even though the lot size was below the minimum required in City Code Sec. 65.702 (b) the zoning lot on which it is located *shall* be at least twelve thousand (12,000) square feet in area. Staff used a density calculation counting alley space to reach the minimum lot required. This procedure is specified in the City Code for use in traditional neighborhood zoning not B2 community business zoning district.
- Allowed fuel dispensing to continue throughout the construction and after Maryland Avenue was reopened even though it was a clear violation of fire code. This resulted in unsafe conditions for pedestrians, vehicles, and exposed the City to potential liability; this was despite numerous complaints from concerned neighbors.

Mr. Alsadi has been fully compensated for his damages and continues to have full use of his property.

Finally, the staff report in response to our appeal states City staff relied on a previously issued CUP for this site plan approval, we have clearly shown the only valid CUP was the one issued in May of 2012 for new construction.

We ask that you uphold our appeal.

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cc: District 6
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