

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, January 17, 2019 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: Baker, DeJoy, Fredson, Lindeke, and Rangel Morales  
EXCUSED: Edgerton, Ochs, and Reveal  
STAFF: Josh Williams, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Baker.

**Canadian Pacific Railway Retarder Tower Addition - 18-134-557 - Conditional use permit for a building addition not elevated on fill above the regulatory flood protection elevation in the flood fringe district, 1000 Shop Road**

Josh Williams presented the staff report with a recommendation of approval with conditions for the conditional use permit. Mr. Williams stated that He stated District 1 made no recommendation, and there were no letters in support or opposition.

Brian Gadiant, Momentum Design Group, 765 N. Hampden Avenue, #180, Saint Paul stated this is a relatively small addition to an existing building. The existing floor heights from first to second floor limit their ability to raise the building up out of the flood plain.

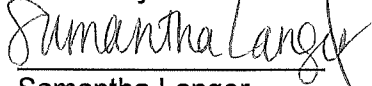
No one spoke in support or opposition. The public hearing was closed.

Commissioner Kris Fredson moved approval with conditions of the conditional use permit. Commissioner Luis Rangel Morales seconded the motion.

The motion passed by a vote of 5-0-0.

Adopted                      Yeas - 5                      Nays - 0                      Abstained - 0

Drafted by:



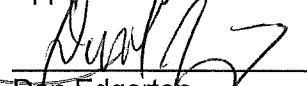
Samantha Langer  
Recording Secretary

Submitted by:



Josh Williams  
City Planner

Approved by:



Dan Edgerton  
Chair

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PRESENT: Baker, DeJoy, Fredson, Lindeke, Ochs, and Rangel Morales  
EXCUSED: Edgerton and Reveal  
STAFF: Tia Anderson, Josh Williams, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Baker.

**Twin Cities German Immersion School (TCGIS) - 18-117-556 and 18-126-865 – Site plan for a 3-story building addition, and variances for maximum building height (30' allowed, 33'-1" proposed), maximum lot coverage (35% allowed, 36% proposed), and minimum off-street parking (86 spaces required, 52 spaces proposed) at 1031 Como Ave, between Argyle and Churchill**

Tia Anderson explained that the applications for both the site plan and variances were laid over at the December 20, 2018, Zoning Committee meeting. The Committee requested that staff work with the project team to review the Traffic Impact Study (TIS) and provide more information on issues with traffic, pedestrian safety, and parking. The public hearing was closed at the December 20, 2018, Zoning Committee meeting. There were 23 people that spoke and 104 letters that were in support. There were 16 people that spoke and 22 letters in opposition. She presented a revised staff update to the staff report and continues to recommend approval with revised conditions regarding off-street parking, screening, and TIS recommendations.

In response to Commissioner Baker's question regarding the signal timing changes, Ms. Anderson explained that the TIS originally use traffic counts taken before the subsequent timing changes to the light located at the intersection of Lexington and Como. The signal light has been lengthened during morning and afternoon school pick-up and drop-off hours, and this new information has been included in the updated Traffic Impact Study. She also noted that Public Works Traffic Engineering has accepted the updated TIS. Ms. Anderson noted TIS recommendations that are being implemented by TCGIS now and that there are other public realm changes that would be implemented with the site plan. Other TIS recommendations require ongoing review and coordination between Public Works staff and TCGIS.

In response to Commissioner Fredson, Ms. Anderson explained the parking deficiency. She referred to page two of the staff report and said that the off-street parking deficiency is 34 spaces.

Mr. Williams added that it would be a 34-space variance if the existing seven space lot to the east of the former church building was removed, as recommended in the site plan staff report.

Mr. Williams stated that there were minor modifications made to the staff report regarding the three variances for lot coverage, building height, and off-street parking. However, based on conversations with Ms. Anderson, he has drafted revised conditions including the following: final plans for this use must be approved by the Zoning Administrator. Those plans shall be in substantial compliance with the plan submitted and approved as part of this application; the

applicant shall submit a traffic impact study (TIS) for final review and acceptance by Public Works, and the implementation of any recommendations therein contained is required; approval of and monitoring by the Zoning Administrator of a shared parking agreement with the owners of the property at 1040 Como Avenue for 15 off-street spaces is required. If the shared parking agreement is terminated for any reason, the school shall immediately notify the Zoning Administrator in writing and apply for a 15-space off-street parking requirement variance; and Twin Cities German Immersion School shall not increase future student enrollment above the proposed 648 students such that it would require additional parking at 1031 Como Avenue.

In response to Commissioner DeJoy's questions about the shared parking agreement, Ms. Anderson stated that the shared parking agreement was included in the original December 20 packet. It has been written as an annual agreement and would need to be filed as a shared parking agreement with the Zoning Administrator. It is not a license, but is administered similar to one, receiving an annual review and renewal process. If the shared parking agreement were terminated, the 15 off-street parking spaces would need to be made up through other means such as another shared parking agreement or an approved variance. Ms. Anderson confirmed that the Zoning Administrator would make sure that a new agreement was submitted every year.

Commissioner Lindeke stated his concerns about the Traffic Study. He questioned whether it fits with the transportation goals that are in the Comprehensive Plan. He said he had hoped to have specific recommendations or policies that the school would agree to implement before they are granted a variance. He stated he would like more information on what additional operational engineering solutions to improve safety Public Works would suggest.

Ms. Anderson referred to the Executive Summary of the Traffic Impact Study. She said the conversations with Public Works, Spack Consulting, and the Twin Cities German Immersion School (TCGIS) project team resulted in updates to the table on page 19; which show alternative solutions and impacts, and are summarized on page 23. They are looking to utilize the west parking lot for pick-up and drop-off. That might be an engineering solution that requires additional analysis. There are engineering solutions, but they want to review all possibilities, and make sure that they aren't implementing one solution while at the same time creating another problem. Some engineering solutions can be done immediately such as; they can add a single point of crossing with a striped crosswalk, use crossing guards, and directing family and staff not to park on Como Avenue. Other issues may need a longer term evaluation and some may need ongoing evaluation, for example, the signal light at Lexington and Como. There isn't one answer to solve the existing problems; instead there is a menu of things to consider.

Mr. Williams added that Public Works staff had accepted the amended Traffic Study. He referred to condition five on the site plan staff update that very specifically states that there will be ongoing analysis of the traffic and safety issues. There are things that the school can implement and they will continue to work with City staff. There is also a position in Public Works that solely works with traffic issues around schools on an ongoing basis. The school will be required to implement solutions as directed by Public Works.

Commissioner Rangel Morales stated he appreciates what staff is saying regarding implementing actions as the issues arise and possibility of correcting a behavior while creating a

new issue. His concern is that by that point, if they approve the Site Plan, and allow this to go through, the former church will be gone. That is part of the reason there has been a lot of opposition to the case.

In response to Commissioner Rangel Morales concerns regarding parking, Ms. Anderson referred to page seven of the TIS that states that the traffic engineering consultant indicated that there was ample on-street parking available of over 200 spaces immediately around the school building to possibly accommodate 37 vehicles from the school. These are available on-street parking spaces not being used by residential uses. The recommendation not to park on Como Avenue and on some of the immediate side streets within 200 feet of Como Avenue would be aligned with trying to minimize any parking conflicts with the drop-off and pick-up operations. The report shows there is parking broadly around the area where staff could park and not interfere with these operations.

Mr. Williams added this is a solution that has been used in other parts of the City. It may limit some parking, but it is easing circulation in the area.

In response to Commissioner Rangel Morales, Ms. Anderson said TCIGS has been exploring TDM strategies such as discounted Metro Transit passes, updated site plan with designated carpool parking spaces for staff, use of the ZipShare carpooling app, and evaluation of options for increasing school bus use for the 2019-2020 school years. She stated that she does not have first-hand knowledge of things that have been implemented.

In response to Commissioner Ochs regarding finding 3(b), Mr. Williams stated that there was a lot of testimony from the applicant describing their process of contacting the community, and from people in the community stating they didn't feel there was an adequate process. He believes it is on the Commission to weigh that input. In terms of the Comprehensive Plan there is always a process of balancing and the Committee needs to debate how conflicting policies interact.

Ms. Anderson stated that she wanted to clarify that it's a recommendation to approve the site plan with conditions that it be approved upon approval of any variances. She is not recommending approval of any variances. That is a separate application that is addressed by Mr. Williams' staff report.

Kelly Laudon, member of the TCGIS school board, 4292 Norma Avenue, Arden Hills, MN stated that the TCGIS facilities committee has been in direct communication with staff throughout the last month. They agree with the proposal that has been submitted.

Commissioner Fredson stated he will be voting against approval. There is a 34 space parking spot deficiency. He feels like the response to the Commissioners concerns that were voiced at the last meeting is inadequate, specifically on the variances. It is best expressed by former Commissioner Bob Spaulding's letter submitted at the last meeting. These are unusual pressing, real and systematic transportation and safety issues. Mr. Fredson stated that they are illustrated by his intensity of use chart comparing elementary and middle schools in R1 and R4 zoning districts. The TCGIS proposed school use would have four times the number of students per acre of the median school. Most schools on that list bus the majority of their students and

TCGIS is unusual that it does not. Its transportation system relies on many hundreds of child drop-offs and pick-ups. The finding of the plight of the land owner is not due to the circumstances unique to the property and created by the land owner. The school has affirmatively decided to raise its enrollment. Also, absent the schools own choosing to get bigger on a quantifiably undersized site, this would not be an issue. He also believes the site plan on balance is inconsistent with the Comprehensive Plan; specifically in the historic preservation chapter policy 4.3 to "protect undesignated historic resources", and the District 10 Como Community Council Plan policy housing and land use 4.1 "support program studies and policies that serve to protect its historical character". Mr. Fredson stated that in his opinion, there is no question that the former St. Andrew's church building is historic. Historic properties can help define the character of their neighborhoods and create a strong sense of place. This has been a defining landmark in the neighborhood since 1927. His judgement is that preserving the historic character out-weighs land use policy 1.55 directing the City to collaborate with public and private elementary and secondary schools in conjunction with construction or major remodeling. He stated that the committee should also consider land use policy 1.57 pertaining to working with the neighbors. This boils down to a judgement call, and in his opinion staff has erred in giving the land use policy greater weight than the historic preservation policy. He urges his colleagues to join him and voting for denial or against approval on both of these today.

Commissioner Ochs said he agrees with most of what Commissioner Fredson mentioned, particularly with respect to the schools inability to really serve the community. He stated that TCGIS is more or less a commuter school with a very small percentage of students living in the neighborhood. This school is too much for this site, and they should consider moving on or keep to a manageable size that is in harmony with the surrounding neighborhood.

Mr. Williams stated that the zoning code does not differentiate between types of schools and advised that the committee, in making its decision, should be able to apply the same logic to any type of school.

Ms. Anderson stated that included in today's packet there is a handout showing the students location by geography and students and staffs modes of transportation to and from the school.

Commissioner Lindeke stated that he supports most of what Commissioner Fredson stated. He said it doesn't have to do with the type of school it is, but more about the traffic modes. He doesn't believe that diligence has been done to convince him that a parking minimum variance of this size has been justified. There are tensions between some of the different goals of the recommendations of the study. One of the goals is to get as many students and cars through there as quickly as possible. That conflicts with the other goal which is how do we make sure the people drive safely and people in the community aren't impacted by this twice daily situation. There are more issues about transportation that could be addressed and still haven't been. He was hoping more details about specific policies such as raising the 4% mode share of transportation through a TDM plan. He is not convinced by the implementation of the plan of the traffic study because nothing has been committed to action. He also sees Commissioner Fredson's points made about the different Comprehensive Plan Chapters and the idea of preservation. This is a great school, but he is conflicted with these issues.

Commissioner Rangel Morales also sees a lot of problems with approving it at this time. He thinks the application could have had a lot more materials to deal with a lot of the issues that Commissioner Lindeke has expressed which he also shares.

Commissioner DeJoy referred to the finding where it states it will not alter the character of the surrounding area. This school has gone through growth, and the current facility cannot support that growth. This has contributed to increased traffic and the need to increase the facility size. She feels the intensity of use does not fit with the surrounding area.

Commissioner Baker stated at the last meeting he was the main proponent of laying over the applications to obtain more information. Since then they have received additional information from staff and alternative language for conditions and the applicant has demonstrated a willingness to explore other options for transportation. They have also received approval (acceptance) by Public Works of the Traffic Impact Study. He feels like those elements of the rationale to wait on this application made sense. He is not saying that traffic in the area won't potentially be an issue, but it is an iterative process and that some of it will be based on a process of time. The items that the Commissioners requested at the last meeting have been presented. The school is working to become part of the community and have been willing to compromise on some of the things they wanted. He is not negating the historic preservation of the church. Historic Preservation is important, but ultimately the school owns the building. The church left the building. They are trying to work within the framework the City has given them and because of that he is more willing to vote in favor of the application.

Commissioner Kris Fredson moved denial of variances for maximum building height, maximum lot coverage, and minimum off-street parking for reasons previously mentioned. Commissioner Ochs seconded the motion.

City Attorney, Peter Warner, stated that there were several Findings made that staff felt were met. The requirement under Minnesota Statute 15.99 is to state which of the Findings was not met and with variances you only need to articulate one variance that was not met. Once the maker of the motion does that a roll call vote will need to happen and each Commissioner will be polled to see whether or not you agree with that or have anything to add to the maker of the motions rationale.

Commissioner Kris Fredson moved denial on the basis that the plight of the land owner is not due to the circumstances unique to the property and not created by the landowner. Commissioner Ochs seconded.

There was a roll call vote.

Commissioner Ochs voted in favor of denial joining the maker of the motion's rationale.

Commissioner Lindeke voted in favor of denial citing Finding 3 (b) not being met.

Commissioner Fredson voted denial.

Commissioner DeJoy voted denial citing Finding 3 (f) not being met.

Commissioner Rangel Morales voted denial for the reasons stated by Commissioner Fredson.

Commissioner Baker voted against denial because he agrees with staff's recommendations with alternative language.

The motion passed by a roll call vote of 5-1-0.

Adopted                      Yeas - 5              Nays - 1 (Baker)              Abstained - 0

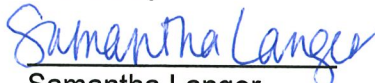
Commissioner Kris Fredson moved denial of the site plan based on Finding 2 not being met. Commissioner Rangel Morales seconded the motion.

Commissioner Fredson noted he has previously expressed his concerns as they relate to parking, consistency to the Comprehensive Plan, the character of the neighborhood.

There was a roll call vote and the motion passed with Commissioners agreeing that Finding 2 was not met by 5-1-0. Commissioner Baker voted in favor of approval of the Site Plan with alternative language to conditions.

Adopted                      Yeas - 5              Nays - 1 (Baker)              Abstained - 0

Drafted by:



Samantha Langer  
Recording Secretary

Submitted by:



Tia Anderson  
City Planner

Approved by:



Dan Edgerton  
Chair



Josh Williams  
City Planner