

**APPLICATION FOR APPEAL**

Department of Planning and Economic Development

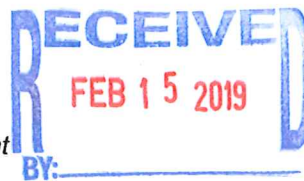
Zoning Section

1400 City Hall Annex

25 West Fourth Street

Saint Paul, MN 55102-1634

(651) 266-6589



Site Plan

Zoning Office Use Only

File #: _____

Fee: \$315

Tentative Hearing Date:

3.6.19

APPELLANTName Kevin W. Anderson Email kwanderson1956@gmail.comAddress 1035 Van Slyke Ave.City St. Paul St. MN Zip 55103 Daytime Phone 651-236-7623**PROPERTY LOCATION**Zoning File Name Twin Cities German Immersion SchoolAddress / Location 1031 Como Ave., St. Paul, MN 55103**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 CommissionDate of decision: February 8, 2019 File Number: 18-117-556**GROUND FORS 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.

Error in Procedure: On Jan. 25th, the Planning Commission approved this site plan. However, the City Attorney later opined that approval of this site plan was passed by an improper vote. On Feb. 8th, the Commission rejected a motion to reconsider this decision, allowing an improper vote and procedural error to stand.

Error in Decision: In rejecting the motion to reconsider the improper vote on Jan. 25th, the site plan will be automatically approved by operation of law on Mar. 6th. Through their decision on Feb. 8th, the Planning Commission has facilitated the approval a site plan dependent on three variances which violate Minnesota State Statute 462.357. See additional sheets.

Attach additional sheets if necessary

Appellant's Signature Kevin W. Anderson Date 02.15.2019 City Agent [Signature]
Digitally signed by Kevin W. Anderson
DN: cn=Kevin W. Anderson, o=Friends of Wamondale - Saint Historic
Saint Paul, MN, email=kwanderson1956@gmail.com, c=US
Date: 2019.02.13 17:22:17 -0500

Rev 9/4/14

February 15th, 2019

Planning Administrator
St. Paul PED
1400 City Hall Annex
St. Paul, MN 55102

Council President, Councilmembers and Staff,

Pursuant to City of Saint Paul Legislative Code §61.702, this document shall be considered the appeal of Friends of Warrendale - Save Historic Saint Andrews LLC to the Planning Commission's February 8th, 2019 decision under Agenda Item III not to re-open the vote on #18-117-556, Twin Cities German Immersion School (site plan).

As a matter of both fact and process, we allege the Planning Commission's decision not to take any action on the site plan will result in an adverse and undesirable outcome for the area surrounding the Twin Cities German Immersion School (TCGIS). Under Minnesota Statutes §15.99, the Planning Commission's failure to reach a decision on this case appears to mean that at the end of the day on March 6th, 2019, the site plan would be approved automatically, absent any later changes brought forward by either staff or applicant during site plan review discussions. The failure appears to be a failure in conflict with City Code §61.202: "The planning commission shall review and approve or deny site plans, conditional use permits, nonconforming use permits, similar use determinations, and other matters provided for in this code." In this case the Planning Commission reviewed, but did not either approve nor deny the site plan and variances applicable to TCGIS.

The only action within the Planning Commission on this issue was at the Zoning Committee. On January 17th, 2019, the Zoning Committee of the Planning Commission recommended denial of the site plan on a 5-1 vote. However, because the full Commission failed to act, based on an unusual and improper set of circumstances, this recommendation remains the only formal guidance available the City Council from the Planning Commission. For the remainder of this document, we will use as a starting point for consideration the site plan presented to the Zoning Committee, which they recommended be denied. Henceforth, we shall refer to this document as "the staff site plan", which was recommended for denial.

We recommend denial based on the failure of the site plan that would be approved under §15.99 to meet multiple findings of site plan review and approval laid out in the City Zoning Code.

Finding 1:

The site plan is consistent with the city's adopted comprehensive plan and development or project plans for sub-areas of the city.

The site plan staff report correctly notes, "The HPC has found that the former St. Andrew's Church meets the legislative criteria (Sec. 73.05) for designation, indicating the value of the church as a historic resource."

With that in mind, here are a range of very specific and applicable policies that would in some cases very specifically be in conflict with city action to approve a site plan that demolishes a historic resource:

- Historic Preservation Chapter 1.12. Prioritize the retention of designated historic resources (or those determined eligible for historic designation) over demolition when evaluating planning and development projects that require or request City action, involvement, or funding.
- Historic Preservation Chapter 2.2. Incorporate historic preservation considerations into development, land use, and environmental reviews, staying mindful of project timelines.
- Historic Preservation Chapter 4.3. Protect undesignated historic resources.
- Como D10 Community Plan 4.1.2.a. Support survey work and potential designations for the historic "Warrendale" area south of Lake Como.
- Como D10 Community Plan 4.1.4. Promote the use of historic tax credits and develop strategies for economic development through historic preservation.
- Como D10 Community Plan 4.1.8. Support the designation of historic resources such as buildings, structures, objects, archaeological sites, historic districts, and landscapes as Saint Paul heritage preservation sites or historic districts.

Of particular interest is the first policy: "prioritize the retention of designated historic resources (or those determined eligible for historic designation) over demolition when evaluating planning and development projects that require or request City action, involvement, or funding." In order to meet this policy, as we

laid out in an October 2018 letter to PED Director Bruce Corrie, one of two things must happen:

1. The former Church of Saint Andrew Building must be substantively retained.
Or alternately,
2. the applicant must submit compelling evidence that they tried everything they could to find a way to meet their needs while saving the building.

The existing application does not support either outcome, and so should be denied.

By contrast, in support of approval, the existing site plan cited some general overarching goals from the Como D10 plan, and just one actual policy:

- Land Use Chapter 1.55. Collaborate with public and private elementary and secondary schools in conjunction with construction or major remodeling.

Planning Commissioner Kris Fredson memorably and succinctly applied this policy to TCGIS and the Church of Saint Andrew: “collaboration is not capitulation.”

Standing back, the very specific and proscriptive policy-level guidance on historic preservation above should carry more weight than any more generalized guidance that didn’t make it into actual policies. Moreover, the core chapters of the City’s current 2010 Comprehensive Plan have 436 policies. Of those, 71 policies focus on historic preservation. By contrast, the staff site plan report could only find one actual policy, and even then it only very debatably supported the proposal. If actual collaboration had occurred, we might all understand more about the feasibility of preserving the Church of Saint Andrew. But such collaboration has not happened, a clear failing.

On this lackluster basis, staff erroneously concluded, “On balance, the site plan meets this finding”. Reviewing the evidence, this is not true - certainly not on balance, or in our view, at all.

On this basis, the site plan should be denied.

Finding 3:

The site plan is consistent with the preservation of unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.

On November 5th, 2018, the Saint Paul Heritage Preservation Commission determined the Church of Saint Andrew building meets four of seven criteria for local historic designation. The 2018 nomination, presented by widely-respected

architectural historian Rolf Anderson, also suggested the building meets four of seven criteria for local historic designation. Just one criteria is required for designation. As a result, demolishing this structure is very obviously not consistent with the “preservation of unique...historically significant characteristics of the city”.

The site plan plainly fails finding three, and on this basis, should be denied.

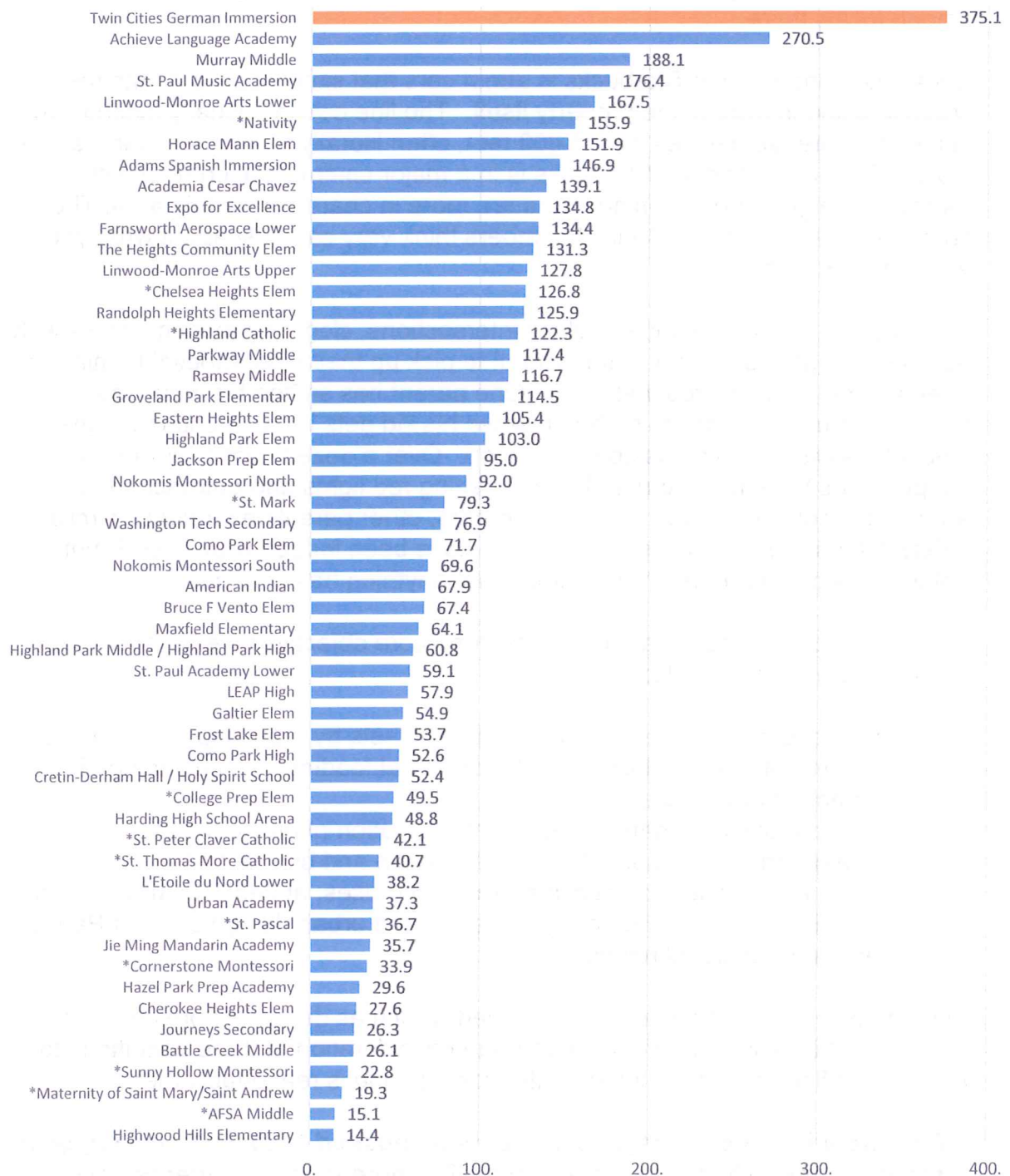
Finding 5:

The site plan is consistent with: the arrangement of buildings, uses and facilities of the proposed development in order to assure abutting property and/or its occupants will not be unreasonably affected.

The chart on the following page shows the proposed use will create a density of students per acre over four times as large as the citywide median in the R1 to R4 zoning districts. It will be by far the highest of any school in these districts.

But the school is more unusual still: only about a third of students have signed up to bus at all, and so a strong majority of students are driven in hundreds of cars that converge on the undersized site every day. This creates transportation gridlock, and a line of cars that often extends blocks in either direction from the school. Most schools on this list bus a strong majority of their students.

Students per Acre at All Saint Paul Elementary & Middle Schools
in R1 to R4 Zoning, if TCGIS Proposal Approved



Analysis based on publicly available datasets: Ramsey County Parcel Geodatabase (2018) & Minnesota Department of Education Enrollment Data (2017-18)

* indicates parcel also includes church or other non-school use. Chart considers site as strictly parcelized land owned by school or school's landlord.

Zoning Committee members raised comparisons to the notorious Starbucks drive-thru at Snelling and Marshall, which continues to cause serious heartburn among locals there.

But all the concern over Starbucks is about cars that simply spill out onto the street in a line in front of the property itself. The line doesn't usually extend two blocks or more, sometimes over 1,000 feet, often literally to another Ward, as the TCGIS line does. And the Starbucks is in a major commercial corridor with traditional neighborhood zoning - cars are more in character for this area. The comparison should make Councilmembers think very carefully about what you are setting in motion.

Cars around TCGIS continue to block intersections, clog neighboring streets with parents who park and walk to the school to pick up their kids. Stoplight timing has been adjusted but still routinely fails. One parent has shifted his work day to begin at 6am specifically to be home when his kid gets home, because of the safety he's witnessed at his son's bus stop. Over a dozen cars over the last couple years have passed right by the flashing red lights and outreached stop arms of his son's bus stop. On other corners, other parents experience similar safety issues with bus stops. Complaints have been lodged with TCGIS, but nothing has given parents reassurance that anything has changed.

The City's Zoning Code is adopted with three core objectives we believe should be considered in this context:

- (g) To lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial vehicles;
- (h) To provide for safe and efficient circulation of all modes of transportation, including transit, pedestrian and bicycle traffic;
- (i) To encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods;

In response, if a site plan is to be approved (which as described previously we recommend against), we would encourage consideration of three conditions to ensure this finding and the intent of the zoning code is reasonably met.

- ***Require a high percentage of students be bussed to the site; we suggest requiring the school bus no less than 75 percent of its students.*** The City's Travel Demand Management policies kick in when 100 parking spaces are required, which is usually tied directly or indirectly to employees. But in a school context, students ought to also be the subject of bussing requirements.

In previous generations, when traditional neighborhood and parochial schools dominated, the transportation needs for schools were different. However, with the advent of public charter schools with wider geographic draws, times have changed, and impacts on surrounding neighborhood livability has changed as well.

This is a significant financial burden. But evidence shows other traditional public and charter schools bussing a far higher percentage of their students. In essence, the school is offloading its transportation costs onto the surrounding neighborhood.

Some considerations that may be secondary in the context of site plan review still deserve mention. In not providing bussing for most students, social costs are being offloaded onto racial minorities and those economically less privileged. While the Saint Paul Public Schools are 79% kids of color, TCGIS is just 13% kids of color. TCGIS' limited commitment to bussing means poorer kids and kids of color have a harder time getting to school. These kids less often have parents that can afford to take kids by car to and from school daily. Finally, there are environmental costs to driving a school population in individual automobiles, as opposed to the more typical arrangement of school buses.

- ***Require, don't suggest, that the school implement staggered start times.*** This is an obvious tool that should be implemented at the school.
- ***Require the school post crossing guards at all five corners and cross-streets on their block.*** These crossing guards should be required to be at the corner at least 20 minutes prior to, and 10 minutes after, the start of school; they should also be present 10 minutes before, and at least 20 minutes after school is let out.

This will ensure the safe interaction of the school's parent pick-up car traffic with the several students who live in the neighborhood and take the bus. Parents should not have to arrive at work at 6am to ensure their students can get home safely; these are major impacts the school needs to address.

Finding 7:

The site plan is consistent with: the sufficient landscaping, fences, walls and parking necessary to meet the above objectives.

The parking needs are addressed through the variance appeal.

The staff site plan draft suggests a fence along the property's eastern edge that is at least 80% obscuring. However, the property owner on the eastern edge at Van Slyke has also repeatedly raised concerned over noise. The playground equipment is installed nearly at the property line there, in a narrow space between the adjoining house and a tall brick wall, where sound is omnipresent when kids play, and echoes.

A fence that is only 80% obscuring will not address noise issues. ***We recommend a requirement be made for a fence that is 100% obscuring and engineered specifically to dampen noise.***