



City of Saint Paul

15 West Kellogg Blvd.
Saint Paul, MN 55102

Minutes - Final

Legislative Hearings

Marcia Moermond, Legislative Hearing Officer
Mai Vang, Hearing Coordinator
Joanna Zimny, Executive Assistant
legislativehearings@ci.stpaul.mn.us
651-266-8585

Tuesday, November 9, 2021

9:00 AM

Remote Hearing

9:00 a.m. Hearings

Remove/Repair Orders

- 1 [RLH RR 21-24](#) Ordering the rehabilitation or razing and removal of the structures at 975 HUDSON ROAD within fifteen (15) days after the May 26, 2021, City Council Public Hearing. (Amend to remove within 15 days)

Sponsors: Prince

Layover to LH November 23, 2021 at 9 am. PO/Purchaser to 1) submit work plan, including schedule and bids, 2) financial documents sufficient for completing the rehab, 3) affidavit dedicating funds to the project, 4) contract with third party doing rehab for review, 5) purchaser to post new \$5k PD, 6) bring real estate taxes current; and 7) property must be maintained. (CPH December 8)

Lorrie Miller, owner, appeared via phone

Derek Thooff, attorney, appeared via phone

Lee Yan, contractor and potential purchaser, appeared via phone

Voicemail for Steadman at 9:24 am: calling you to discuss 975 Hudson. We will try back in 2 minutes.

Voicemail for Steadman at 9:27 am: this is Marcia Moermond calling again from St. Paul City Council. We are going to begin the hearing. If you want to be called in in the next few minutes, call the front desk at 651-266-8560.

Staff update by Manager Steve Manger: a letter was sent October 29 laying the matter over to today. By close of business Friday November 5 bring real estate taxes current, purchase agreement, schedule and work plan, proof of financing, affidavit and property must be maintained.

Moermond: I think I will turn it over to Mr. Thooff to get us started.

Thooff: I'll turn it over to Ms. Miller. She can inform us on her next steps.

Miller: as far as I'm aware Sam and I have been working on the list. I don't know where they are on it. It sounded like they were pretty close. We were working out details on the purchase agreement. I got an updated purchase agreement last night. Wanted to

make sure there was enough time for them to finish. I haven't spoken with Lee directly; I don't know more than that. I've heard multiple times they were working on it.

Yan: we have our electrician go in to do an assessment. We have a bid and plan for that. We have a verbal bid from the master plumber. The second we close we'll pull permits. We are waiting on HVAC, it has been tough to get someone in. We have everyone else set up. Hoping to get it wrapped up this week.

Moermond: and you'd be putting together the plan for the building items?

Yan: I own and operate a property management company who is licensed and insured for workers comp. We have a licensed general contractor. He'd be pulling the permits and doing the work. I'm more like a property manager. I'm coordinating the contractors.

Moermond: so you have electrical, verbal plumbing, and you have a licensed contractor putting together the general construction statement.

Yan: yes.

Moermond: and what is that timeline?

Yan: we're hoping to get the plans together this week.

Moermond: And there has been a revised purchase agreement sent to Ms. Miller. Is this the final addendum on that? Or is there additional?

Yan: that's more Sam's side. I'll check with him. I'm more project management. I think he's out of town with family. I'm hoping they're submitting the sworn construction statement by Thursday.

Moermond: hopefully you can have HVAC with that, that is necessary. Are you part of the financing?

Yan: that's Mr. Steadman and his partners. I do know that we have the funds. We've done quite a few projects like this.

Moermond: everything we said in the October 29 letter is what we're looking for.

Miller: would it be helpful if they send what they have until they have everything?

Moermond: it is up to you. It doesn't matter to me. We haven't talked about taxes. My understanding is there is \$5,200 in taxes that are past due. That would be something you'd want to cover in the purchase agreement if you aren't handling it. Or if you're getting your Performance Deposit back you may want to apply that. I put that out there as a loose end that needs to be handled.

Miller: I will talk to Sam about that piece of it.

Moermond: sounds like you're close with the purchase agreement. That's one part I'm concerned about getting. I want to see the project management is happening by Mr. Yan and Mr. Steadman, the purchase agreement and work plan will describe that for me. I'll give you one more extension to bring that forward. We have hearings next November 23 with a Council Public Hearing December 8. That hearing will make sure everything looks like we need it to and it will go to Council for a vote on December 8. I

need to see this documentation. Please get that done. Any questions?

[all: none]

Moermond: and you'll communicate with Mr. Steadman about this hearing, and we'll copy him on the follow-up letter.

Laid Over to the Legislative Hearings due back on 11/23/2021

- 2 RLH RR 21-62** Ordering the rehabilitation or razing and removal of the structures at 1514 VAN BUREN AVENUE within fifteen (15) days after the October 20, 2021, City Council Public Hearing. (to Refer back to November 9, 2021 Legislative Hearing)

Sponsors: Jalali

Grant 180 days to remove or repair the property.

Alan Tang, owner, appeared via phone

Moermond: we have taken a few minutes to go through your materials and we're in agreement that they will suffice. My recommendation to Council will be you get 180 days to remove or repair the structure. You have that six month grant of time. We'll send this to Council December 1, but because both DSI and I are in agreement you can begin pulling permits November 12, this Friday.

Tang: 180 days shouldn't be a problem. In the event I need more time, what happens?

Moermond: we'll be talking again in six months. Roughly May (note: should be June) 1, 2022. We'll send you a letter confirming this. We also send a letter prior to the deadline and if you aren't done we ask you get the building inspector out. If you're past 50% great, we'll need a new work plan. If you aren't we'll be having a more serious conversation about money.

Tang: more money like a bigger deposit?

Moermond: you got it.

Tang: ok, that sounds good.

Referred to the City Council due back on 12/1/2021

- 3 RLH RR 21-66** Ordering the rehabilitation or razing and removal of the structures at 288 AVON STREET NORTH within fifteen (15) days after the December 8, 2021, City Council Public Hearing.

Sponsors: Thao

Remove within 15 days with no option to repair.

No one appeared

Staff report by Manager Steve Magner: the building is a one-story, wood frame, single-family dwelling on a lot of 6,098 square feet. According to our files, it has been a vacant building since May 13, 2020. The current property owner is Steven R.

Schoneck and Richard L. Schoneck per Amanda and Ramsey County Property records. On September 1, 2021, an inspection of the building was conducted, a list of deficiencies which constitute a nuisance condition was developed and photographs were taken. An Order to Abate a Nuisance Building was posted on September 7, 2021 with a compliance date of October 7, 2021. As of this date, the property remains in a condition which comprises a nuisance as defined by the legislative code. Taxation has placed an estimated market value of \$48,900 on the land and \$104,200 on the building. Real estate taxes for 2020 are delinquent in the amount of \$3,738.69, which includes penalty and interest. Taxes for 2021 are due and owing in the amount of \$3,104.20, which includes penalty and interest. The property is schedule for tax forfeiture in 2024. The vacant building registration fees were paid by assessment on June 1, 2021. As of November 8, 2021, a Code Compliance Inspection has not been done. As of November 8, 2021, the \$5,000 performance deposit has not been posted. There have been eight Summary Abatement Orders since 2020. There have been ten work orders issued for Garbage/rubbish, boarding/securing, tall grass/weeds, and snow/ice. Code Enforcement Officers estimate the cost to repair this structure exceeds \$50,000. The estimated cost to demolish exceeds \$20,000.

Moermond: it ended up in the program following a condemnation resulting from a fire. We have extensive fire damage from May 2020. The fire report and photos are in the record. Given they are not taking care of the property or paying taxes, it looks like they've abandoned the property. We haven't heard from them. The ownership and encumbrance report just lists them, it doesn't look like there is a lien on the property?

Magner: a warranty deed was issued. Looks like there's no mortgage.

Moermond: so they own it outright. Was there signed for certified mail or personal service on this?

Magner: I'll have to check with staff on that.

Moermond: email that to us. There's a P.O. box in Newport, so certified mail would be the only way. House was also posted. Four ways to try to contact them. Given the apparent abandonment and severe fire damage we'll recommend it is removed within 15 days with no option for rehabilitation.

[recess]

Moermond: following up on the question of personal service and certified mail. Mr. Magner?

Magner: we only have that P.O. box in Newport. As such, we don't have a physical address to do person service and you can't do certified mail to a P.O. box. So only standard mail was sent. No record that it was returned. We did post the building with Public Hearing notices.

Moermond: so they did receive proper legal notification. The extra bells and whistles we were unable to complete.

Referred to the City Council due back on 12/8/2021

10:00 a.m. Hearings

Making Finding on Nuisance Abatements

- 4 **RLH RR 21-44** Making finding on the appealed substantial abatement ordered for 1179 SEVENTH STREET EAST in Council File RLH RR 21-40.

Sponsors: Yang

Layover to LH November 23, 2021 at 10 am. Purchaser to submit updated work plan/schedule by no later than close of business November 19, 2021. (CPH December 1)

*Quintus Pillai, purchaser, appeared via phone
Rashad Kennedy, purchaser, appeared via phone*

Staff update by Manager Steve Magner: a letter was sent October 29 laying the matter over to today. By close of business Friday, November 5 they were to submit an updated work plan and schedule.

Moermond: we haven't received an updated work plan yet, but we did hear from Mr. Bruhn and he said 20%. Turning it over to you to talk about that work plan.

Pillai: that didn't get sent, I'll send it within the next hour. I'm meeting with Mr. Bruhn in about 30 minutes. Then it will be done within 2 and a half months.

Moermond: fantastic. I'd love to see those plans as soon as possible, I'll officially review them November 23. No later than November 19. If Mr. Magner and I agree on the 23, we'll continue to issue permits and there will be no hiccups. That's the target, keep the permits flowing and keep you from posting an additional Performance Deposit. I'd like to put this in front of Council December 1 for them to officially bless our recommendation. But we do need that updated work plan.

Pillai: absolutely.

Moermond: great, we'll look at this in November 23.

Kennedy: as far as a completion date, that will be January 31.

Moermond: and I'd like to give a full 180 days, which is standard, but also gives cushion for any supply chain problems. Then we don't have to revisit in February. You'll have time to recover from any problem before we'd talk again.

Kennedy: absolutely.

Referred to the City Council due back on 12/1/2021

- 5 **RLH RR 21-43** Making finding on the appealed substantial abatement ordered for 521 YORK AVENUE in Council File RLH RR 21-10.

Sponsors: Brendmoen

Grant an additional 180 days to rehabilitate the property. Continue the performance deposit.

Maurice Griffin, owner, appeared via phone

Voicemail left at 10:14 am: this is Marcia Moermond from St. Paul City Council. We have reviewed your materials and we find them acceptable to meet the expectation in the letter. We'll recommend an additional 180 days to complete and we'll send a letter confirming this. It will go to Council December 1. If you need additional permits there shouldn't be a problem pulling them.

Referred to the City Council due back on 12/1/2021

11:00 a.m. Hearings

Summary & Vehicle Abatement Orders

Correction Orders

Orders to Vacate Code Enforcement

- 6 RLH VO 21-43** Appeal of Amy Her to an Amended Notice of Condemnation as Unfit for Human Habitation and Order to Vacate at 360 WHEELLOCK PARKWAY EAST.

Sponsors: Brendmoen

Grant the appeal on items 1, 2 and 9 as they pertain to illegal basement dwelling unit (which was subsequently found to be a legal unit [legal nonconforming duplex]) and deny the appeal on item #3, pertaining to egress from sleeping room (NW main floor) being blocked.

No one appeared

Moermond: following up on this. One part of what we needed to do was confirm zoning for this property. Duplex or single family home? Followed up with Yaya Diatta and Peter Warner and Yaya determined this was indeed a duplex and the finding was made legally nonconforming in 2001. He has that in there attached to the record. Based on that, I'm recommending the Council grants the appeal on items 1, 2, and 9 and deny the appeal on 3 pertaining to the egress from sleeping room on main level. They need to unblock that window. We were going to ask inspector for additional inspection, Ms. Martin?

Lisa Martin: the lower unit we couldn't get into due to occupants having Covid, they did send photos. We did verify a couple weeks ago the basement was vacated. Photos show completely empty rooms.

Moermond: so basement is in compliance on egress issues. We'll make note of that. They could send a photo of the northwest corner to show that isn't blocked.

Referred to the City Council due back on 12/1/2021

1:00 p.m. Hearings

Vacant Building Registrations

**7 RLH VBR
21-71**

Appeal of Scott Beck, Havenbrook Homes, to a Vacant Building Registration Notice plus Revocation of Fire Certificate of Occupancy and Order to Vacate at 1125 MARGARET STREET.

Sponsors: Prince

Layover to LH November 23, 2021 at 1 p.m. for update on Fire C of O status. If Fire C of O is reinstated release building from VB program.

[FOLLOW UP: Granting appeal on VBR as condition has been met. Fire C of O issued 11/10/21, sending straight to Council]

Scott Beck, o/b/o HavenBrook Homes, appeared via phone

Moermond: I had a chance to talk with the Fire Inspection supervisor, Mr. Neis, let's get that report on the record.

Neis: due to unforeseen circumstances we were unable to have that inspection performed. Mr. Thomas is out the next few days. I apologize for that.

Moermond: so it is on the City that the inspection wasn't done, so I'd like to just push this out a couple more weeks. Supervisor Shaff can go or have someone else go out. So not on you Mr. Beck that the inspection wasn't done.

Beck: not a problem. we just need to know when.

Moermond: I'd like to see an inspection done by November 23 so we can have an update then. Mr. Neis can you communicate that?

Neis: yes.

Beck: I'd prefer sooner than later since it is vacant.

Moermond: understood. We'll make that commitment to have that done. I'll get a follow-up report that day. Hopefully we have that Fire Certificate of Occupancy reinstated and you're out of the program.

Beck: could we do it this week? Saturday I'm going on vacation for 2 weeks.

Neis: I'm emailing Leanna Shaff as we speak. We'll try and get that done.

Moermond: will Ms. Shaff reach out to him?

Neis: someone will reach out to him, yes.

Moermond: I apologize from the City for the delay.

Referred to the City Council due back on 12/1/2021

**8 RLH VBR
21-75**

Appeal of Shekita Moore to a Vacant Building Registration Notice at 201 GENESEE STREET.

Sponsors: Brendmoen

Grant an extension to December 17, 2021 to have Fire C of O reinstated or property must be vacated. Waive the VB fee for 90 days (to January 20, 2022)

Shekita Moore, tenant, appeared via phone

Kristina Serrano, o/b/o DeLewis Properties, appeared via phone

[Moermond gives background of the appeals process]

Staff report by Supervisor AJ Neis: this is a revocation of the Fire Certificate of Occupancy for long-term noncompliance. This started back in October of 2020, the Certificate of Occupancy was approved in May 2021 with deficiencies. There were some exterior issues that were to be addressed. That was not completed and a month later, after improving the interior, we received another complaint in June about water leaking from light fixture. Inspector Franquiz did another exterior inspection and found out there was a seal around the bathroom sink that was worn, fixture did have water in it. The Certificate of Occupancy was revoked for long-term noncompliance in addition to the new violations found. It was to be unoccupied by October 15.

Staff report by Supervisor Matt Dornfeld: we opened a Category 2 Vacant Building on October 19, 2021 per that Fire referral.

Moermond: and went out and found it still occupied, correct?

Dornfeld: inspector Hoffman did document that, yes.

Moermond: Ms. Moore you said didn't receive notice until a week before October 15, need time to vacate. Sounds like we have some communication issues with property management and yourself. What are you looking for today Ms. Moore?

Moore: Efrayn is the inspector who has been coming out. He told me prior that it was a possibility that if the landlord doesn't comply I would have to move. By the time October 15 came I got a letter a week prior. I don't know if it was late, or what, but I only had a week to be out or the items corrected. I didn't hear anything from the landlord. I haven't heard from them in 2 years. I've been talking to Kristina, not Daryl.

Moermond: do you want to leave or do you want to stay?

Moore: I want to leave. I don't want this to happen again. I'd like 30 days to be out. I don't want to go through continuing to live there. I've been there 4.5 years. The maintenance has always been an issue. I don't want to continue to live like that.

Serrano: when it comes to the maintenance we have had issues with having reliable workers. Lately we've been having issues that people don't want to go into occupied units because of Covid. Another issue is financially with not getting all the rent payments, there has been restrictions financially.

Moermond: have you done rental assistance? For the past due rent?

Serrano: we are working on that now.

Moermond: do you have any intention of doing these repairs from the September 21 orders?

Serrano: yes.

Moermond: under what timeline?

Serrano: I think there are a few things, the roofing work on the garage, as it gets colder people aren't willing to come out. That's been a challenge. Hopefully once the funds come in it can be done in one to two months. I have personally been doing anything I can do as an amateur, but yes they need to get more funds. The hardest one will be the shingles on the garage roof.

Moermond: what about the leaking in the house?

Serrano: that was an issue with water coming out of the shower when they were showering with the curtain not closed. That's not a problem anymore.

Moore: it was the caulking around the tub itself. That wasn't done right. It was leaking through the cracks. It comes out of the tub, then leaking through the cracks. They needed to be caulked.

Moermond: it says in the orders seals along backside of bathroom sink is worn and sink is coming loose. I don't see issues on the bath, so now we're talking about repairing the water damage to the ceiling and fixture that were affected. That sounds straightforward. Ms. Moore I hear you say want to leave and Ms. Serrano saying they can't do repairs for at least a couple of months. Ms. Serrano, let me be plain with you on this, this property has been referred to the Vacant Building program. You are in a narrow window to get your Fire Certificate of Occupancy reinstated or remain a Category 2 Vacant Building. There is a fee attached to that as well as a requirement you go through the Code Compliance Inspection. That makes a punch list of what is necessary to bring it into minimal code compliance. Delaying action is not in your interest. Delay is an expensive decision. I have a limited amount of patience because this has been going on for quite a while. I'm happy to give an extension for the tenant to vacate. She's asking for 30 days. I'm going to say December 17. At the same time, if you can get your Fire Certificate of Occupancy reinstated by December 17 I'll recommend that you can get out of the Vacant Building program. If you don't have it reinstated you are in the Vacant Building program as a Category 2 Vacant Building. Your Vacant Building fee will be waived for 90 days. Since you are put in October 20, so through January 20. It may mean you want to reprioritize the repairs on this property. If the work is done and the Certificate of Occupancy reinstated prior to the 17 then there is no need to have it vacated unless you and the tenant come to an agreement. Does this all make sense?

Moore: yes.

Serrano: yes, I want to make sure she has time to move if she wants to.

Moore: me and Kristina have a good relationship.

Moermond: I do wish you all well.

Referred to the City Council due back on 12/1/2021

**9 RLH VBR
21-73**

Appeal of Greg Fry, Oak Knoll Property Management, to a Vacant Building Registration Fee Warning Letter at 912 ROSE AVENUE EAST.

Sponsors: Yang

Grant the appeal and release the property from the Vacant Building program.

*Greg Fry, o/b/o Oak Knoll Property Management, appeared via phone
Martha Black, o/b/o Oak Knoll Property Management, appeared via phone*

[Moermond gives background of appeals process]

Staff report by Supervisor AJ Neis: this is a revocation of the Fire Certificate of Occupancy and order to vacate. I believe the home is currently vacant. It was referred by Inspector Franquiz due to multiple code violations in addition to long-term noncompliance. This began April of this year; it was revoked in June. He determined the property to be vacant September 9 and sent it over to Vacant Buildings.

Staff report by Supervisor Matt Dornfeld: our Department opened a Category 1 Vacant Building on September 13, 2021 per that referral.

Moermond: Ms. Fry, Ms. Black, what is going on?

Fry: we don't want to be on the Vacant Building list and pay the fine. We did have an inspection April 13; my office person was there at 10:30. Your inspector didn't show up. He says he was there sometime later. I was on the phone with her at 10:45 and he wasn't there. We left him a Voicemail; he didn't call back until a week later saying he didn't get the message right away. June 1 they moved out. Martha emailed inspector Franquiz saying we'll flip it and clean it up, so why would we do the inspection now? We'll take care of it items, it is a waste of time to do that. We got no response until June 8, Martha emailed back again to postpone, he said no. June 9 there was an inspection. We got the deficiency list, when we found out about the Vacant Building we had the just electrical left and installing carpet.

Black: the carpet was just getting someone in.

Fry: we have carpet and now the electrical is done. I believe the permit was pulled. They had to drive down there to do it. A GFI needed to be changed out. That's where we're at. Then we got this \$2,000 fine.

Moermond: so, going forward, it sounds like you are close to having this ready to re-rent. Is that right?

Fry: yes.

Moermond: this is a Category 1 Vacant Building which means that if it were an owner occupant, someone could move in tomorrow. It is turnkey from the City's perspective. You can't rent it because you need the Certificate of Occupancy. For that reason I'm going to recommend you can get out of the Vacant Building program by getting your Fire Certificate of Occupancy reinstated. You can go for 365 days from when you were identified as a Vacant Building before you meet that definition. So let's say September 9, 2022 you become a registered Vacant Building again if you don't have it fixed and occupied. Let's get that Certificate of Occupancy reinstated as soon as you can and that should be done, but you can't rent it out until then.

Black: do I just contact the regular inspector?

Moermond: yes, and if there is a glitch in communication, Mr. Neis who is the supervisor?

Neis: thank you for bringing that information to our attention. I would like you to reach out to Inspector Franquiz's supervisor Leanna Shaff. Her number is 266-8980, not just because of rescheduling but some of the information you relayed today is concerning regarding procedures. I think that needs to be brought to her attention. Good customer service, and we value the relationship and the property manger's time as well.

Moermond: in the follow up correspondence to Mr. Fly we'll copy Ms. Shaff and Ms. Weise and attach the minutes to this meeting so they have that written summary in their hands. Then perhaps the Supervisor can follow up with them?

Neis: sounds like a wonderful plan.

Moermond: I'm glad we got this sorted through, have a great day.

Referred to the City Council due back on 12/1/2021

**10 RLH VBR
21-74**

Appeal of James Brinker to a Vacant Building Registration Fee Warning Letter at 1739 YORK AVENUE.

Sponsors: Yang

Waive Vacant Building fee for 90 days (to January 18, 2022)

Jim Brinker, owner, appeared via phone

[Moermond gives background of appeals process]

Staff report by Supervisor Matt Dornfeld: was made a Category 2 Vacant Building October 2019. The appellant went through our sale review process and was approved February 23, 2021. We have a Code Compliance Inspection and active permits on file. We haven't had any nuisance complaints. I'm assuming we are here to discuss the Vacant Building registration fee that is past due by a couple of weeks.

Moermond: looks like this went into the program October 18, 2019?

Dornfeld: correct.

Moermond: sounds like you're close to being done?

Brinker: yes. The only thing I need finalized is the building inspection. All the other trades have been signed off on.

Moermond: sounds like you'll have it done around now? I'd like to put a 90 day waiver in place. So if by January 18 you have it done there is no fee.

Brinker: yes, that is great.

Moermond: if you aren't able to get done for some reason it will come forward as a proposed assessment and that is appealable too and we can talk about prorating that fee.

Brinker: I am grateful, thank you so much.

Referred to the City Council due back on 12/1/2021

1:30 p.m. Hearings**Orders To Vacate - Fire Certificate of Occupancy**

- 11 RLH VO 21-41** Appeal of Tamer Azzazi to a Revocation of Fire Certificate of Occupancy and Order to Vacate at 1843 MINNEHAHA AVENUE EAST.

Sponsors: Prince

Grant to January 1, 2021 to have garage structure braced, repaired, or removed.

Tamer Azzazi, owner, appeared via phone

Moermond: we are following up on 1843 Minnehaha. We got your engineer report. From what your engineer said it sounds like there needs to be some bracing done to secure this, if not full repair. Is that what you got?

Azzazi: the most cost effective one is what he listed, but we're going to look at getting a mason out. We have a quote already; we're going to get one more. Then compare to the block guys.

Moermond: I would like to put some pressure on. This needs to be taken care of before the snow flies and snow builds up on the roof. I can't let this sit over the winter.

Azzazi: that's no problem.

Moermond: the bracing doesn't sound time intensive?

Azzazi: they said six to 8 weeks out. They said it would only take a day, but they are that far out.

Moermond: have you contacted any other firms that do this work? To see if they have the same timeline?

Azzazi: they usually send someone to do an estimate to compare apples to apples. They engineer the job for the company but not before the initial estimator comes out.

Moermond: I'm a bit uncomfortable but this needs to be braced, repaired, or removed by January 1 of 2022.

Azzazi: that's tight.

Moermond: I'm worried about snow load.

Azzazi: I understand. The pressure is from the sides, not the top. We could certainly put in posts and beams if you are concerned about the roof

Neis: we had this same situation not long ago and water had infiltrated and took out half the house because the walls couldn't support the ceiling.

Azzazi: I can send pictures. It is just straight trusses. There is ground on 2 sides, and the trusses are about a foot above grade.

Neis: I'm deferring to the engineer and what he suggested.

Moermond: the inspection would occur after January 1. Does this require a permit?

Neis: yes, it would.

Moermond: you'll need to pull a permit, any questions?

Azzazi: no. We're 7 weeks out and that's from the day I got my first estimate. I just think the time is tight. I understand your concerns, but I haven't even got my second quote yet or had the mason come out. If we're making progress can we get further extensions?

Moermond: I would like to see additional engineering information that it is stable enough to make it longer than that. That would definitely be considered. Any other questions?

[none]

Referred to the City Council due back on 12/1/2021

2:00 p.m. Hearings

Fire Certificates of Occupancy

- 12 RLH FCO** Appeal of Terry Hopkins, Americold LLC, to a Fire Inspection Correction
21-82 Notice at 236 and 240 CHESTER STREET.

Sponsors: Noecker

Recommendation forthcoming.

*Terry Hopkins, general manager, Americold, appeared via phone
Doug Hartman, district director of operations, Americold, appeared via phone
Andre Garabedian, USACE Contract Fire Protection Engineer, appeared via phone
Lucas Pangle, attorney representing Americold, appeared via phone
Susan Detlefsen, corporate safety partner, Americold, appeared via phone*

[Voicemail for Ms. Detlefsen at 2:39 p.m.: this is Marcia Moermond trying to reach you about 240 Chester. We'll try you back in 5 to 10 minutes]

Staff update by Supervisor James Perucca: this is a continuation of a June 8 hearing from a May 21 Certificate of Occupancy orders written May 13. The order being appealed is the refrigerator freezer portion of the warehouse. MN state Fire Code section 32.505 maximum high pile storage height which says multiple volume should not exceed 12 feet. In addition, multiple areas have storage in excess of that, up to 24 feet. Reduce height to no more than 12 feet off the ground required in buildings without a sprinkler system. Americold argues they are S2 storage occupancy which doesn't typically necessitate a sprinkler system. Strict compliance with the code is impractical because installation of the system or having to reduce up to half of the storage capacity wouldn't be economically viable. They state they would qualify for 104.8. In addressing those points, the grandfathering provision doesn't exclude them from complying with the storage requirements of this type of occupancy. Looking back over

the files and reviewing the Fire Code from the time the building was built, there were requirements in that Fire Code defining high pile storage to include piles on racks more than 12 feet high. It does mention the building should be deemed this storage shouldn't exceed 2,500 sq feet or 1/10 of the available area. In the original site plan from 1973 the code storage area was 65,232 square feet. At the time the facility was built it had 2 different occupancy which is very different from the use now. The Certificate of Occupancy from July 1972 was a meatpacking plant. It did process meat with several hundred employees, and cold storage was done for processed meats. Probably not in rack or pallet configuration. The second point that Americold points out about S2 occupancy, that doesn't necessarily mandate a sprinkler system. If that building had been built today, it may. We are not necessarily asking them to do that as part of compliance with this order. The third point that it is impractical because it would require them to engineer a system or give up half their storage capacity. Either or are acceptable means of compliance although.

Weise: the report provided dated September 13 highlight a couple other issues unrelated to our order because they speak to the overall hazards of the building. In four different years the independent insurance review did site an idle pallet issue with the height storage. There is a forklift charging station lacking exhaust so a potential hydrogen buildup. Current code would require that. Exposed polystyrene walls in areas and significant amount of ammonia on premise because of the refrigeration. One may not think the storage of frozen vegetables would be hazardous but there are other items not related to storage that we do find concerning in the building.

Moermond: did you have a discussion of the September 13 report with the engineer or outfit that prepared it and walk through this?

Weise: I did not. We did have a prior meeting with an engineer after the first hearing. To my knowledge there is no minutes from that, it was a discussion about what may be a viable package to meet compliance with this order. I did review this packet with the Building Official because even though it is a Fire order, any alternate means of compliance that is building code related and requires a building permit goes into his realm and we coordinate on those.

Moermond: so you consulted with the Building Official on this and did he add anything to your analysis?

Weise: Jim covered it on his first point that we believe this fall in the definition of change of use because the nature of the storage has changed.

Moermond: I was hearing even if it hadn't changed the storage height requirements at time of construction were proximately the same as now. is that correct?

Perucca: yes, similar. The language is different but the intent is the same. There was a supplement attachment by Americold that listed some of their concerns about installation of a sprinkler system that would exceed 2 million dollars. They feel that is a concern. Second they said alternative preventative measures in place already, they say they are subject to extensive regulations subjecting it to requirements beyond the MN Fire Code. Many are OSHA requirements and general engineering good practices. They are not a substitute of the Fire Code.

[Susan Detlefsen was added to call at 2:56 pm]

Pangle: Mr. Perucca I have a few questions. Could you give me a date and a cite as

far as this language in the uniform Fire and Building Code that predates 1979? I thought we identified the first one in 1979.

Perucca: this is a hard copy because nothing is online. 1971 edition article 34, high pile combustible stock.

Pangle: you said the Fire official didn't find merit on the argument on feasibility. What facts did you base that on?

Perucca: you've been in compliance at other times during your operation.

Pangle: did you count the seasonal fluctuation in their storage practice?

Perucca: I don't have operational knowledge of what and when over time.

Moermond: an inspection is a snapshot in time when they are there. They wouldn't necessarily have intimate knowledge of January versus May versus September storage.

Pangle: did you review exhibit C to the September 13 report identifying the number of pallets in March of 2017?

Perucca: I did review it; I don't have it handy.

Weise: I have the document up.

Pangle: I'm curious, that would have been during the time of the last inspection which shows they were in compliance at the time but based on their papers that shows the number of pallets in the building it shows no way. Wondering if they considered that in the analysis?

Perucca: we consider what we actually observe.

Pangle: so if Americold says they can't store below 12 feet with pallets, you don't have something to base it on other than what your Fire guy saw last time? I just want to make sure I understand.

Perucca: yes, our inspections are based on in person observations.

Garabedian: it seems as if the report of September 13 was interpreted and only 3 conclusions were deduced from it. I helped author that report. I'm a fire protection engineer and consultant.

Perucca: only 3 components were part of the appeal.

Garabedian: nowhere was grandfathering mentioned in the report. The intent is not to grandfather the facility.

Moermond: that was actually point number one in the original appeal document. Your report is supplementary to that. It was germane.

Garabedian: I can speak to my report, I don't know what language was used. That was before I was involved and reviewed your codes. The building has had 8 Certificates of Occupancy since 1974. We know the reason we attached those inspection surveys

from over those years is this use has not changed in those 7 subsequent times. What Lucas was trying to point out in the pallet count circa the time of the last inspection it would have been impossible to observe 12 feet storage at the time at that facility because that number of pallets would never fit at that storage height. Americold has never changed use of that building. They had 8 prior Certificates of Occupancy. That brings us to the applicability of the code. Which code do we apply when we walk into an existing building that has had 8 prior Certificates of Occupancy? Do we open up the book and jump into chapter 32?

Moermond: if something has been called incorrectly in the past and is called out correctly now, the past error doesn't mean the current code does not apply. I think you are jumping to an erroneous conclusion, if you would like to address that as well.

Garabedian: so in the prior versions of the Uniform building codes frozen foods are under a different chapter than high pile storage. Frozen food is one of the most conservative storage arrangements in the warehousing industry, so it is still not applicable under chapter whatever it was in 1971 or 1974. It is still just a frozen food lower hazard occupancy. I do agree a past omission isn't a reason to carry that error forward. But we do know that that building does not constitute any unique hazard today that it constituted the prior 7 times it was surveyed.

Perucca: but you do agree that the pallets themselves are a distinct hazard.

Garabedian: no. No. Distinct hazard in the code has a very clear definition, as the report points out. The code allows the Fire Code Official to impose the Code retroactively for things like sprinklering when the building imposes a distinct hazard. If you look at the Code, even the way your code is written, there are clear definitions of what a distinct hazard are. In the examples I gave you from the Code, if I had a high rise residential occupancy used for elderly residents that was not sprinklered, you could clearly say they need to sprinkler the building. But in reality the Code wouldn't support you retroactively sprinkling even that building. You have to go to appendix M of the Fire Code which has to be specially adopted before even that is retroactive. So when we try to find the litmus test of the Code for what a unique hazard it is, it is not a one-story frozen food warehouse with 9 people in it. The retroactivity requirements for sprinklers there is not even close when you compare them to other occupancies for retroactivity. If you go to--

Weise: if I may interrupt. You keep saying retroactive. We believe we found a new hazard, and we are requiring it per the new code because it is a new condition. That's the part that's a little "he said, she said." because I believe Americold feels differently but we have a new condition under new provisions. Not anything retroactive.

Moermond: Mr. Garabedian, I want to hear more and I know Ms. Weise has pressure on her time. Let's keep talking knowing if there are questions we need her response to we may need that in writing after your comments.

Garabedian: I'll speak to the change of use. There may be differences of opinion, but we have historic data, photographs, racks from the 70's age wise. We have buildings built with 30 foot high ceilings. It is unlikely someone would air condition that entire volume and only store 12 feet. It is clear it was always used for this amount. With respect to the 8 Certificates of Occupancy, we have determined that if 8 people make mistakes in the past I guess we could dig through each of the code versions to see. Once a building has a Certificate of Occupancy there is a certain bar established for that building, and that bar is the measure for that building moving forward. In an

existing building with a legal occupancy and you apply the correct chapter of the Fire Code to that building you apply chapter 12 in your Fire Code.

Moermond: you keep saying "your Fire Code", to be clear are you referring to the Minnesota State Fire Code?

Garabedian: yes. It differs slightly to the International Fire Code. It would be chapter 11 and that states that compliance with that chapter is compliance with the Fire Code. The intent of chapter 11 is to allow code officials to walk into a building and figure out what the distinct hazard definition is. Chapter 11 gives you specific conditions for distinct hazards that require sprinklers. We were talking about earlier whether that is retroactive or not. Again our position is that this building has always been this use. We can go back to the 1970's and prove that. With that understood and the Certificate of Occupancies understood over the years, we arrive at chapter 12. We can't walk into any old building, open up today's Fire Code and go to that chapter. There is a specific chapter for existing buildings and it is written for a reason. The whole purpose of Minnesota's Conservation Code is to preserve buildings for use. We are not trying, as a jurisdiction, to put buildings into obsolescence. If a building exists, and has a function, hasn't dilapidated, or become unsafe, under the Minnesota Conservation Code we want to use this building. That's a corollary to the International Building Code which has the same charter. If the Minnesota Code is clear that we don't want to impose requirements on buildings that would put them into obsolescence today, immediately, when walking into the building. We think it isn't really "Grandfathering" or a questions of retroactively reaching back, it is a question of looking at a building today and determining upgrades, when or where does the Code require a drastic measure. You will find both in the MN Fire Code and MN Conservation Code it is very rare that the Codes would support that measure on an existing building with a Certificate of Occupancy. The report only spends some time on that, and then spends the balance of the time on how this building performs far better than most storage occupancies you guys will ever walk into. Freezers, class 1 and 2 commodities, are the lowest class. This building has 9 employees. They know exactly where those 9 people are. They don't reside in the freezers. It is easy to account for people in emergencies. The building is fronted by expansive free ground, noncombustible impervious cover in all directions, meaning it isn't a hazard to its neighbors. It has adequate supply at the perimeter of the building, only the perimeter. Even if we were to take a step out of what might have been required in 1971 when we look at the building today and compare it to storage occupancies and whether it poses a unique or unusual hazard that warrants this application of today's code, the report indicates we don't see that. This isn't the type of building that would require that type of reach-back because we don't need to reach-back when we have high-rise apartments that aren't sprinkled. We don't even reach back when we have schools or bars or restaurants. In the Minnesota State Fire Code it is interesting that the night club fire in Rhode Island killed hundreds of people and that prompted a requirement to sprinkle nightclubs over a certain occupancy. Minnesota didn't adopt that. They didn't make it retroactive; some states did. It would take something like that to make sprinkling storage occupancies justified in our opinion.

Perucca: I want to make clear that the orders, again, Americold has stated that on the fact that sprinkling is the only solution here. Our orders ask to reduce height of storage. Also speak to the risk to firefighters that have to stretch hoses into this cavernous building without any other protections. The lives at stake re those beyond the employees.

Garabedian: I understand that 100 percent. The safest thing for a firefighter is an

empty building, far away from other buildings, with substantial water supply at the perimeter. I can't get any better than it. The other safest thing is a building that poses little risk of ignition potential to begin with. Very difficult. To ignite hamburger patties.

Perucca: so you are saying once there is a fire in this building there is no entry into the building?

Garabedian: I'm not going to dictate your operations.

Perucca: I am trying to read into what you are suggesting.

Garabedian: I am suggesting this building is very different than other storage facilities

Perucca: it is average. It isn't different.

Garabedian: your average storage building is not separated by 200 feet in all directions from the next building.

Moermond: we've fallen into debate mode here, but you were doing presentation of your thoughts, continue with that.

Garabedian: hazards to firefighters. The operation of this building is unique and far superior, you have a lot better capability than most other storage occupancies. I don't believe this is average. There are 9 people who cannot reside in a freezer. They have to be on forklifts. They don't sit in there and work. Only 9 people. Always know where they are. Hundreds of feet of separation to the next occupancy. An adequate water supply at the perimeter. Firefighting tactics for this building should be very cut and dry.

Moermond: and for that reason you would like a variance should one be required. Any other comments?

Garabedian: I don't remember the opening statements so if I missed addressing something let me know.

Moermond: I've heard your assessment; I've reviewed the file. If Mr. Pangle or you have any other comments, I don't want to miss comments. Just to note that I can see four paths forward. The first fork in the road is whether or not you would have your appeal granted or not, and if it is not, there are alternate paths. One would be to reduce storage height, two would be sprinkler the building and three would be to come forward with an alternate means of compliance. Mr. Pangle, how would you like to proceed?

Pangle: Mr. Hopkins spoke about feasibility issues with lowering the storage height below 12 feet last time we were in front of you.

Moermond: I have that material and have reviewed it.

Garabedian: regarding infeasibility and hardships. Again, the MN State Conservation code and the International Building Code have language that deals with hardships. Some of the prevalent language has to do with times when sprinklers systems are required in buildings that have a change of use. The common language in all of those codes is sprinklering would be required provided an adequate water supply is there to do so. Again, they are trying to get people to repurpose buildings. Not abandon them. In this case requiring a building be sprinklered would take a useful building and perhaps make it vacant. That isn't the intent of the Code. Wanted to mention that part

of the report. The bar the MSCC and IEBC set for sprinkling is pretty high. The distinct hazard argument isn't quite met for the facility either.

Pangle; would you or Susan give background of the process we took in evaluating this building?

Garabedian: we described it in our last hearing and explored that further. You can't sprinkler overnight, but a building can benefit from taking water from Chester towards the building, creating an interloop around the building from which sprinkler laterals could be tapped to risers from which we could install hose stations and extend further in with a sprinkler system. This exploratory infrastructure upgrade was part of the final goal of sprinkling. They are all excellent plans. It is a good idea obviously on a voluntary basis. We have a document and plan that talks to this with an onsite pumphouse. Then over a period of several years as freezers go down bring specialized double lock reaction systems to these spaces. Because it is freezing you have to be careful about introducing water. Mandatory at this juncture is what we are here to talk about.

Pangle: and that isn't in place. It would have to be constructed?

Garabedian: yes.

Pangle: and pricing that?

Garabedian: it was in the report. I drafted a layout; it was over 2 million. I drafted a plan to give an idea of number of hydrants, linear footage of underground main. That got them a number and they extrapolated in building systems to get the next number. Oh, it is 1.4 million for the sprinkler system. I don't recall what the underground work was.

Detlefsen: just shy of \$800,000.

Pangle: I want to give you indication of our level of thought process.

Detlefsen: there is no City hydrant on the backside.

Pangle: it is difficult to perceive a mistake was made in the 1970's, and in all other years, that not only misclassified the building but also missed the fact there was no onsite hydrant. It was probably done with some care and the standard of care at the time was not to promote the structure of all the sprinkler systems.

Moermond: we are waxing on now. We do know it was a meat processing plant at the time.

Garabedian: it was a freezer in 1974 for commodities over 12 feet. And has been since then.

Pangle: there are 2 buildings onsite. One may have been a meat locker and one a cold storage facility.

Hopkins: it is one building connected through a crossway. One section on the far side at one time was a meat packing plant. That section sits unused. The rest of it has been cold storage the whole time. The cold storage side hasn't changed, we just don't use the meat packing part.

Garabedian: the initial Certificate of Occupancy included hundreds of occupants and workers. That would have been a different occupancy. Clearly more hazardous. A change to a freezer would have been a lower hazard. 300 people out and 9 people in, sure that's not a change in use. If it was it was a lesser hazard

Pangle: we'd be happy to answer any questions you have.

Moermond: I have soaked in quite a bit of information and taking notes. I don't have questions; we have a lot of answers back and forth. At this point I believe the next step is I'm going to reduce a decision to writing. That would go in front of Council, I'd like to leave that open for you to provide testimony should you disagree with that recommendation. I will send a letter, 2 to 4 weeks out. I want to give it proper consideration. This isn't a small amount of money or small endeavor. We've been having this conversation months, so time to get it right is important. Any additional information or comments please send them on to me to add to the record to be considered while I develop my recommendation. Thank you for sharing your honest and professional opinions.

Referred to the City Council due back on 12/8/2021

3:00 p.m. Hearings

Other

- 13 **RLH OA 21-16** Appeal of Diane Slate to a denial of a Request for Fence Variance at 620 JESSAMINE AVENUE EAST.

Sponsors: Yang

Deny the appeal for the variance on front yard fence height (front yard fence cannot exceed four feet in height).

Diane Slate, owner, appeared via phone

[Moermond gives background of appeals process]

Staff report by Building Official Steve Ubl: Ms. Slate came in and asked for fence permit, in doing so she asked for the fence to be installed that is not in conformance with the fence ordinance for height and setback requirements. Staff advised she could appeal those to the Building official and she filled out that variance request form. It came to me for review with some aerial photography and a sketch of the lot and the proximity of where she wanted to place the fencing. The sketch submitted showed a six foot high fence on the front and side lot lines. The fence parallel to the sidewalk would be four feet. The intent was to put a six foot fence in the setback of the front yard which is not in compliance, and also in the side-yard on the east alleyway. I denied the variance due to it not meeting the conditions: nuisance animals, terrain, or site conditions. In my opinion it seemed dangerous for pedestrian and traffic flow with those alleyways present. So I denied the variance and indicated it may be appealed to the Legislative Hearing Officer.

Moermond: so you have those 3 criteria you can look at via code and if doesn't meet those it ends up on my desk.

Ubl: yes.

Moermond: can you describe what's going on Ms. Slate?

Slate: I would like the fence because I have a lot of traffic coming in. We have cameras and when I'm at work I see people trying to open my door, they're in my backyard doing drugs right by the garage. It is a lot.

Moermond: when I look at your property from the street, it looks like there is a lot width between the house and the alley. Does that land belong to you?

Slate: where the fence is is where the property line stops.

Moermond: so the area people park in between you and the alley isn't yours and wouldn't be fenced?

Slate: that's right, yes.

Moermond: the only part of the fence you need a variance is the part around the front of the house because the code says it can only be 4 feet in the front. Mr. Ubl, I believe she can go as high as 7 feet around the balance?

Ubl: correct.

Moermond: so you may want to think about that as a 7 foot fence even, you can do that legally. The front of the house is the rub, and putting a six foot fence around the front is more problematic. I'm concerned about it. You have such a deep boulevard between curb and sidewalk. The neighboring property seem to have lower fences in the front and going with a high privacy fence in the front looks like a fortress rather than a home in a neighborhood. That's one of the reasons the code is what it is about the front. I'm inclined to say go 4 feet in the front but not six, and I'd strongly encourage you to go 7 feet around the rest of the lot. Improve your security that much more around the back. Are you using cameras? Sounds like you are.

Slate: I have it from the front and back. I feel so uncomfortable. I go in the back to take my trash out and people are sitting right there. I have had to call the police numerous times. The neighbors drive their car right over in the back towards the parking lot.

Moermond: you might want to consider that because you have the alley there and people parking there. I don't know what they are doing, so reflective paint or tape on the posts or corners, things that would make a person see the fence. I think you may be in a good situation. I'm sympathetic about the back of your house. Getting your garbage out shouldn't feel unsafe. You're going to need to open up a gate and take the garbage out through that gate.

Slate: I have a lock on the back because when I do open the garage, I go through the garage and open that and people are right there in the alley. I have it enclosed so I feel more comfortable.

Moermond: I don't see a problem with a 7 foot fence from the front to the back, the only concern I have is it shouldn't be that tall around your front yard. All the rest I would say, what your describing is exactly why people build fences.

Ubl: looking at the front photograph showing the street view, do you have that?

Moermond: I do, and it looks like the image was captured in August of 2014. So it may not look the same now as then.

Ubl: with that in mind, to the left of mature boulevard tree appears to be a sidewalk. That would typically indicate there was a structure in that empty space at one point. Are these one or 2 separate lots? The visual is telling me there is concern about the height of the fence at the corner of that newly laid asphalt alley and the sidewalk.

Moermond: it looks like there is a setback. The garage isn't on the property line itself.

Ubl: the current chain link fence in the street view would indicate her property line. Just to concur she doesn't own the property adjacent to the alley, correct?

Moermond: that's what I'm hearing, correct.

Ubl: if that is the case then I don't visually see that as a safety issue from my perspective. Thank you for your time.

Moermond: what I will recommend to the Council is they not allow anything higher than 4 feet around the front of your house, but the rest of the house can have a fence 7 feet in height or less.

Referred to the City Council due back on 12/1/2021