



## Legislation Details (With Text)

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**Title:** Memorializing a decision of the City Council to deny an appeal by Alatus, LLC from a planning commission decision denying a site plan application for a new mixed use development located at 411 and 417 Lexington Parkway North.

**Sponsors:** Dai Thao

**Indexes:**

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**Attachments:** 1. Mayor Carter Veto Letter

Date	Ver.	Action By	Action	Result
4/14/2021	1	Mayor's Office	Vetoed	
4/14/2021	1	City Council	Adopted	Pass

Memorializing a decision of the City Council to deny an appeal by Alatus, LLC from a planning commission decision denying a site plan application for a new mixed use development located at 411 and 417 Lexington Parkway North.

WHEREAS, Alatus Development LLC ("Applicant"), in zoning file No. 20-102-273, applied to the planning commission ("Commission") for a site plan review under Leg. Code § 61.402(a) of its proposal to construct on vacant properties commonly known as 411 & 417 Lexington Parkway North, a new, 6-story, mixed-use development consisting of 288 residential units, ground floor commercial space, amenity space, and structured parking, the said property being legally described as Hall And Brown'S Addition To H Subj To Esmts Vac Ave Accruing & Fol, Ex The N 111.6 Ft And Ex The W 294.01 Ft; Lot 36. And 342923410067 LEXINGTON & UNIVERSITY LOT 4 BLK 1 [PIN Number 34.29.23.41.00.69]; and

WHEREAS, on January 14, 2021, the Commission's Zoning Committee ("Committee"), pursuant to Leg. Code § 61.303, duly conducted a public hearing on the Applicant's site plan application which, due to the Covid-19 pandemic and pursuant to the various executive and emergency orders in effect at the time, was conducted remotely by electronic means as it was deemed neither practical nor prudent to conduct "in-person" hearings; accordingly, as provided by law, attending members of the Committee and Committee staff did so remotely as did the Applicant and other members of the public and, furthermore, all persons interested were also afforded the opportunity to submit, no later than noon of the said hearing date, written testimony for the Committee's consideration, along with verbal testimony, and inclusion in the hearing record; and

WHEREAS, following the close of the Committee's public hearing and based upon all the reports and evidence presented, the Committee moved to recommend approval of the Applicant's site plan for the reasons set forth in the staff report of the Commission dated January 7, 2021 together with certain conditions as recommended in the said staff report; and

WHEREAS, on January 22, 2021, following a report by the Committee's chair, the Commission considered the Committee's recommendation to approve the Applicant's site plan whereupon a motion to approve the

Applicant's site plan was duly made which, following deliberation on the matter, failed on an 7-8 vote; and

WHEREAS, upon the failed motion to approve the Applicant's site plan application, the Commission then deliberated the reasons for denying the site plan application and ultimately moving to lay the matter of its denial over to its February 5, 2021 meeting in order to obtain staff input; and

WHEREAS, on February 5, 2021, the Commission again took up its deliberation on reasons for denying Applicant's site plan and, following discussion of the matter, the Commission, on an 8-7 vote, denied the Applicant's site plan application based upon its inconsistency with the requirements of Leg. Code § 61.402(c) (1-11) as set forth in the findings under Planning Commission Resolution No. 20-15, specifically, Leg. Code §§ 61.402(c)(1) and (2), as follows and incorporated herein by reference:

*1. The city's adopted comprehensive plan and development or project plans for sub-areas of the city.* The site plan does not meet this finding. While the site plan is generally consistent with the applicable policies of the 2040 Saint Paul Comprehensive Plan (2020), the Lexington Station Area Plan (2008), and Union Park Community Plan (2016), on balance the site plan is inconsistent with the 2040 Saint Paul Comprehensive Plan (2020) core values of equity, affordability, and sustainability.

*2. Applicable ordinances of the City of Saint Paul.* The site plan does not meet this finding. The Site Plan does not comply with the following §66.343. - Traditional neighborhood district design standards:

- §66.343(b)(2) - Transitions to lower density neighborhoods. Transitions in density or intensity shall be managed through careful attention to building height, scale, massing, and solar exposure.
- §66.343(b)(16) - Interconnected street and alley network. The existing street and alley network shall be preserved and extended as part of any new development. If the street network has been interrupted, it shall be restored whenever possible.

The site plan complies with the following key Zoning ordinances:

- §66.315 - Intent, T4 traditional neighborhood district.
- §66.331 - Traditional Neighborhood District Density and dimensional standards.
- §66.342 - Parking requirements in T3-T4 traditional neighborhood districts.
- §63.110 - Building design standards.

*3. Preservation of unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.* The site plan meets this finding. The property is typical of the intent of a T4 neighborhood district, which provides for higher-density pedestrian- and transit oriented mixed-use development. This vacant land is neither designated as having historical or environmental significance. It is also not located within a heritage preservation district.

*4. Protection of adjacent and neighboring properties through reasonable provision for such matters as surface water drainage, sound and sight buffers, preservation of views, light and air, and those aspects of design which may have substantial effects on neighboring land uses.* The site plan meets this finding, the effect of this specific proposed building on neighboring properties is reasonable. Specific to the findings:

- The stormwater system meets City standards for run-off rate control. The system will consist of pipes buried

below grade located on the west side of the building in the landscaped setback area.

- The building's proposed setbacks meet or exceed the zoning code for the district. The building is set back 21'4" from the rear property line along the west. A shadow study was provided to demonstrate a reasonable impact to neighboring properties. A spatial buffer is provided by 17' alley right-of-way and 8.5' side setback from the single-family homes to the south.
- The setback areas will be landscaped or paved for vehicular, bicycle, and pedestrian traffic. Existing boulevard trees will be protected where possible and new boulevard trees will be planted as required.
- The off-street parking will be provided for residential tenants with two levels of structured parking. A separate structured parking area will serve the commercial use. Trash and recycling will occur within the parking structure, tenant move in will have a dedicated move in garage access off the alley. There will be no alley access to the parking structures.
- The proposed site adheres to Traditional Neighborhood Design Standards as well as General Design Standards including minimum window and door openings, mechanical screening, building facade articulation, inclusion of elements that relate to the human scale in the bottom 25' of the building, lighting etc.

*5. 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 site plan meets this finding for the reasons listed in finding 4 above. The effect of this specific proposed building on neighboring properties is reasonable:

- A stormwater management system that can manage runoff.
- The site meets or exceeds the minimum setbacks.
- Outdoor residential tenant areas will be protected by two separate three sided courtyards on the second story roof deck, one open towards Lexington Parkway, another open towards the west of the building.
- Structured parking access from the rear of the building off a private street to the rear of the site.
- No alley access to building or parking is proposed beyond a move-in bay.
- Deliveries will occur within the parking structure, the move-in garage, or in the port cochere to the north of the building along a private street reducing additional congestion in the public right-of-way.
- Trash and recycling haulers from the parking structure.
- The building will comply with all applicable design standards.

*6. Creation of energy-conserving design through landscaping and location, orientation and elevation of structures.* The site plan meets this finding. Higher density development is inherently more energy conserving because it has fewer exterior walls per dwelling unit than low density housing minimizing heat loss. The building exceeds the minimum amount of glazing on all sides, allowing the building to gain solar heat. The project shall meet current building and energy codes. Stormwater will be managed onsite and discharged at a rate that complies with city standards.

The proposed development is in the Lexington Station Area and four blocks south of an enhanced bicycle route conducive to walking, biking, and using public transit rather than driving. Secure indoor bicycle parking and a maintenance area is conveniently located off Lexington Parkway for enhanced convenience.

*7. Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets, including traffic circulation features, the locations and design of entrances and exits and parking areas within the site.* The site plan meets this finding. Access to both the commercial (13 spaces) and residential (241 spaces) parking structures are off a private drive to the rear of the property. Existing private drives have been incorporated in their current position for the least impact to circulation on the site. A move-in garage is accessed off an existing public alley, further reduce blockages in the Public

#### Right of Way.

The building's first floor layout allows for convenient pedestrian entry at the southeast, north east, north, and north west sides of the building. Other considerations include a primary pedestrian building entrance on Lexington Parkway for the commercial space, twelve-foot wide sidewalks enhance pedestrian friendliness and walkability along Lexington Parkway and the 15-foot wide landscaped boulevard between the sidewalk and roadway enhance pedestrian safety, friendliness, walkability. Pedestrian ramps have been added in line with Fuller Avenue's future

crosswalks in mind. Bike racks were added on the exterior near the commercial space and a large interior bicycle storage and maintenance room is proposed. The applicant met with Saint Paul Public Works Parks and Ramsey County prior to the submission of these plans to discuss site circulation. A bike lane will be accommodated to the north of the building in anticipation of future connection with the neighborhood.

*8. The satisfactory availability and capacity of storm and sanitary sewers, including solutions to any drainage problems in the area of the development.* The site plan meets this finding. The utility connections are shown on Sheet C4-1. Water, and Sanitary are available in Lexington Parkway and stormwater from the building site will be piped to an underground detention system located on the south west of the property. The stormwater detention system will then connect to existing private stormwater pipes installed when The Wilder Foundation building was constructed. These private pipes connect to the public main at Lexington Parkway. Drainage maps and HydroCAD modeling to meet the City's stormwater run-off rate control standards were reviewed and approved by Public Works. The project disturbs more than one acre of land and requires an Erosion and Sediment Control permit from the Minnesota Pollution Control Agency as well as a permit from the Capitol Region Watershed District to meet water quality requirements.

*9. Sufficient landscaping, fences, walls and parking necessary to meet the above objectives.* The site plan meets this finding. The setback areas around the building will be landscaped and the plan will be approved by the city forester. Existing boulevard trees will be protected where possible and new boulevard trees will be planted as required. Parking is not required within ¼ mile of University Ave. The project is proposing 254 parking spaces, 13 for in the structured commercial lot and 241 for the residential lot.

*10. Site accessibility in accordance with the provisions of the Americans with Disabilities Act (ADA), including parking spaces, passenger loading zones and accessible routes.* The site plan meets this requirement. Required ADA parking spaces will be provided. The floors of the commercial spaces and lobbies will match the sidewalk grades. The sidewalks have accessible crossings.

*11. Provision for erosion and sediment control as specified in the "Ramsey Erosion Sediment and Control Handbook."* The site plan meets this finding. The site plan includes an erosion and sediment control plan that meets this standard.

AND, WHEREAS, on February 11, 2021 the Applicant, pursuant to Leg. Code § 61.702(a), duly filed an appeal from the Commission's decision alleging errors on the part of the Commission when it denied the Applicant's site plan application and requested a public hearing before the City Council; and

WHEREAS, Applicant's appeal was assigned Council File No. APC 21-1 and set on for public hearing before the Council on March 17, 2021; and

WHEREAS, on March 17, 2021, the City Council, pursuant to Leg. Code § 61.702(b), duly conducted a public hearing on the Applicant's appeal which, pursuant to various executive and emergency orders in effect at the time due to the Covid-19 pandemic, was conducted remotely as it was deemed neither practical nor prudent to conduct "in-person" hearings: accordingly, as provided by law, Council members and city staff attending

the hearing did so remotely with City staff presenting the matter to the Council and the Applicant and all members of the public desiring to do so being afforded the opportunity to submit, no later than noon the day before the said hearing date, written testimony for the hearing record and the Council's consideration and, further, were also afforded the opportunity to audibly monitor the Council's proceedings; and

WHEREAS, at the conclusion of the public hearing, the Council closed the hearing and moved to continue its deliberation on the matter to April 7, 2021 for the purpose of taking additional time to review the Applicant's proposal, the analysis and recommendation in the staff report, the findings of the Commission in its Resolution No. 20-15, as well as leave the public record open noon on April 6, 2021 in order to receive any additional written testimony for the record before considering the matter on April 7, 2021; and

WHEREAS, on April 7, 2021, the Council took up the Applicant's appeal and having deliberated on all the files, records and testimony submitted, the Council; DOES HEREBY,

RESOLVE, for the following reasons, that the Applicant's appeal is hereby denied:

Applicant's appeal focused on the two findings by the planning commission which found the Applicant's site plan inconsistent with the requirements of Leg. Code § 61.402(c)(1-11): First, that the site plan was inconsistent with certain core values expressed in the 2040 Comprehensive Plan [Leg. Code § 61.402(c)(1)]; and, Second, that the site plan was inconsistent with certain designs standards applicable in Traditional Neighborhood zoning districts. [Leg. Code § 61.402(c)(2)].

1. The site plan was inconsistent with certain core values expressed in the 2040 Plan.

Although staff recommended that overall, the Applicant's proposal was consistent with the 2040 Plan and other applicable subarea plans as required for site plan approval under Leg. Code § 61.402(c)(1), the planning commission specifically found that Applicant's site plan was inconsistent with the 2040 Comprehensive Plan's core values of equity, affordability, and sustainability when it denied the site plan based upon inconsistency with the requirement of Leg. Code § 61.402(c)(1). A shortage of affordable housing is an issue the City. Testimony however demonstrated that the Applicant's proposed site plan would not address housing affordability in the immediate neighborhood. For this reason, the planning commission did not err when it found the Applicant's site plan did not meet the 2040 Plan's core values of equity, affordability, and sustainability. Based upon this testimony, the planning commission did not err when it found that Applicant's site plan did not meet the requirements of Leg. Code § 61.402(c)(1).

2. The site plan was inconsistent with the zoning code's designs standards applicable in Traditional Neighborhood zoning districts.

The planning commission found that Applicant's site plan was inconsistent with Leg. Code 61.402(c)(2)'s requirement that site plans be consistent with "applicable ordinances of the city." The commission specifically found that Applicant's site plan was inconsistent with two design standards applicable in Traditional Neighborhood zoning districts under Leg. Code §66.343 which provides "Site plans within traditional neighborhood districts shall be consistent with the applicable design standards unless the applicant can demonstrate that there are circumstances unique to the property that make compliance impractical or unreasonable."

The commission specifically found that Applicant's site plan did not meet Leg. Code § 66.343(b)(2), entitled "transitions to lower density neighborhoods," which requires "transitions in density or intensity shall be managed through careful attention to building height, scale, massing and solar exposure." Applicant urged the Council to grant the appeal on the basis that Finding no. 2 was incorrect because there are

circumstances “unique to the property” as “the site is bordered by a gas station, parking garage, four-lane road and a commercial area” and, given these surrounding land uses, “not only is a ‘gradual transition’ in building height and mass unreasonable, it is simply impractical for this particular location.”

The Applicant failed to note that there are also single-family homes adjacent to a portion of the Applicant’s site. Although a 20-foot alley and an 8.5-foot side-yard setback separate Applicant’s T4 zoned property from the adjacent T3 zoned properties which are occupied by single-family homes, Applicant’s parcel is essentially flat vacant land. There is nothing unique about flat and vacant land preventing the Applicant from designing a building that better transitions in scale and massing to the existing single-story homes immediately to the south of the Applicant’s parcel. Testimony indicated that transitioning can be accomplished either through variation in height along the south and west elevations of the building through stepping back the building’s upper floors or by adjusting other aspects of the building’s design such as its scale or mass. The “S” shape of the building’s design appears only to have made accommodations along the building’s east- west axis where there already exists adequate transitioning from the T2 and T3 districts located across Lexington Parkway’s wide right-of-way and the similarly zoned T4 parcels to the west. Nothing demonstrates the building’s “S” design attempted a transition to the single-family homes in the abutting T3 district to the south save the width of the 20-foot alley. The zoning code requires only that some attempt to transition is made. Reviewing the Applicant’s site plan indicates no attempt at transitioning, gradual or otherwise, was made whatsoever by the Applicant to transition the design of its building as it relates to its T4 zoning and the adjacent T3 zoning district’s single-family residential uses. Accordingly, the planning commission did not err when it found that the Applicant’s site plan did not meet Leg. Code § 66.343(b)(2) standard for a “careful transition” which is intended to actuate Land Use Policy-29 of the 2040 Plan which calls for ensuring that building massing, height, scale, and design transition to those permitted in adjoining districts.

The commission further found that the site plan did not meet Leg. Code § 66.343(b)(16), entitled “Interconnected street and alley network” which states that “the existing street and alley network shall be preserved and extended as part of any new development. If the street network has been interrupted, it shall be restored whenever possible.” Whether Fuller or any other public street is ever extended west of Lexington Parkway is open to debate. However, there was testimony that it would not be difficult to connect the existing sidewalk along the existing private driveway running along the north side of the Carty Heights facility which ends at the west corner of the Applicant’s site with the public sidewalk along Lexington Avenue. This would form a logical connection for bicycle purposes and pedestrians rather than having bicyclists follow the route proposed for bicyclists via the private drive that loops around the north and west sides of the Applicant’s site. The Applicant has already agreed to a bike path on its private property. Making the connection along the south side of the building in the private alley would be a reasonable extension of the existing road network on the site as bike paths or pedestrian walk-ways are a reasonably functional equivalent of a “street or alley” when it comes to facilitating transportation modes. Accordingly, the planning commission did not err when it found that Applicant’s site plan did not meet Leg. Code § 66.343(b)(16)’s standard to preserve or extend existing streets as part of any new development.

AND, WHEREAS, for the foregoing reasons and the reasons set forth under Findings no.s 1 and 2 in Planning Commission Resolution No. 21-15, the planning commission’s decision to deny the Applicant’s site plan was not in error, accordingly, the Applicant’s appeal is denied; AND

BE IT FURTHER RESOLVED, consistent with this Resolution, Findings no.s 1 and 2 in Planning Commission Resolution No. 21-15 shall be amended to incorporate the foregoing reasoning with the other findings expressed in the Resolution 21-15 remaining the same; AND

BE IT FINALLY RESOLVED that a copy of this Memorialization Resolution, upon adoption, shall be provided by Planning Commission staff to the Applicant, the Zoning and Planning Administrators and to the Planning Commission.

