Legislation Text

File #: RES PH 11-1017, **Version:** 3

Consideration of amendment of resolution 08-1033 approving the site plan with conditions to develop the land owned by the Saint Paul Port Authority and commonly known as 637 Barge Channel Road. (Public hearing held August 17)

WHEREAS, on August 20, 2008, the Council of the City of Saint Paul conducted public hearings regarding two separate appeals from zoning decisions of the Saint Paul Board of Zoning Appeals ("hereinafter, the "BZA") and the Saint Paul Planning Commission (hereinafter, the "Commission") pertaining to a development proposal from the Port Authority of the City of Saint Paul (hereinafter, the "Port") to develop land owned by the Port and commonly known as 637 Barge Channel Road; and

WHEREAS, the Port's redevelopment of 637 Barge Channel Road required variances and site plan review both of which were duly approved by the BZA and the Commission, respectively, and then appealed to the City Council; and

WHEREAS, upon the close of the August 20, 2008 public hearings, the City Council denied both appeals and upheld the decisions of the BZA ~~and~~ impose~~d~~ing additional conditions on the approval of the variances and site plan; and

WHEREAS, the additional conditions imposed by the City Council required the donation of specific properties to the City of Saint Paul from the Port; and

WHEREAS, on September 17, 2008, the City Council passed a Resolution authorizing the variances and site plan subject to the conditions including the donation of property from the Port to the City, Council File No. 08-1033, and those donations were contained in lines 328 to 335 of the Resolution under the heading " A. Donations of Port lands to City", and lines 337 to 352 of the Resolution under the heading "B. Wetland's Restoration on Port land", and lines 355 to 363 of the Resolution under the heading "C. Trails and Parks"; and

WHEREAS, on Tuesday, August 2, 2011, the Port submitted an application with enclosures to Shari Moore, City Clerk, and City Council President Kathy Lantry requesting that the City amend ~~the property donation condition on both the variance and the site plan substituting other property owned by the Port and that the Port Authority retain two parcels which were to be donated to the City , commonly known as Barge Terminal No. 2, property identification number 05-28-22-21-0001 and 05-28-22-23-0040 (hereinafter, "BT2")~~Resolution No. 08-1033, line 332, and change the donation of Barge Terminal No. 2, property identification number 05-28-22-21-0001 and 05-28-22-23-0040 (hereinafter, "BT2") and substitute instead approximately 16 acres of other property to be donated by the Port to the City, thereby keeping BT2 in the Port's ownership and possession; and

WHEREAS, per the Port's ~~application included supporting documentation establishing that the donation substitution request by the Port is being made after negotiations between the Saint Paul Parks and Recreation department and the Port involving interested community members and constituents as well resulting in an agreement conditioned on the Port's Board of Commissioners' approval and City approval~~ application all the remaining donation and property responsibilities contained in Resolution No. 08-1033, except for line 332, shall remain in full force and effect; and

WHEREAS, the donation substitution request by the Port is a result of negotiations between the Saint Paul Parks and Recreation department and the Port, involving interested community members and constituents; and

WHEREAS, the Port's Board of Commissioners on June 28, 2011, adopted Resolution No. 4384, which provided in part:

> the initial approval to donate the BT-2 site to the City of Saint Paul is amended so that the BT-2 site shall remain in the Port Authority's ownership and approximately 16 acres of property located at the River Bend, Northport, Southport, and Red Rock is approved to be donated and will be donated to the City of Saint Paul instead. Resolution No. 4272 which authorized the donation of Barge Terminal #2, adopted September 23, 2008, is amended accordingly. The Port Authority will donate the approximately 11 acres of additional real estate as authorized in Resolution No. 4272.

AND, WHEREAS, on July 13, 2011, the Saint Paul Parks and Recreation Commission approved the substitution of the identified parcels in lieu of BT2, Resolution #11-10, and directed City staff to take the actions necessary to amend the conditions contained in Council File No. 08-1033 accordingly; and

WHEREAS, a public hearing on this donation substitution has been duly held before the City Council on Wednesday, August 17, 2011; and

WHEREAS, title and boundary issues frequently arise respecting real estate, especially real estate along the Mississippi River Corridor; and

~~WHEREAS, a concerned citizen brought to the City's and the Port Authority's attention that the Ramsey County Recorder's Office erroneously shows the up-river portion of the property from State Street in the City's name, rather than in the name of the Port Authority.~~

~~WHEREAS, as current evidence of river property title and boundary issues, the deed conveyance of BT2 from the City to the Port Authority, dated June 15, 1966, intending to convey the property depicted in the map attached to the deed from the City to the Port Authority but, due to a scrivener error, did not; and since 1966 to the present the Port Authority has been using the shaded in portion of the property depicted on the map (the map was recorded with the deed); and~~

WHEREAS, the deed conveyance of BT2 from the City to the Port, dated June 15, 1966, contained a scrivener's error that needs to be corrected; attached to the deed is a map, which depicts the area of property intended to be conveyed by the City to the Port, but the deed failed to describe all the property shown on the map omitting an up-river portion and since 1966 to the present the Port has been using the shaded in portion of the property depicted on the map (the map was recorded with the deed); and

WHEREAS, for forty-five years the City and the Port have been unaware that BT2 was not properly described in the June 15, 1966 recorded deed until a concerned citizen brought to the City's and the Port's attention that the Ramsey County Recorder's Office erroneously shows an up-river portion of the property in the City's name, rather than in the name of the Port; and

WHEREAS, since ownership and boundary defects, errors, and omissions are not uncommon for property along the River, both the City and the Port should undertake and obtain reasonable and appropriate title reviews, surveys, and actions to ensure ownership and boundary defects, errors, and omissions are addressed and corrected for BT2 and all the property to be donated by the Port to the City; NOW, THEREFORE,

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BE IT RESOLVED, that the Port's application is granted and the parcels identified for substitution and donation in the Port's application and approved by the ~~Park Board Resolution No. 11-10~~ Saint Paul Parks and Recreation Commission are substituted as the parcels to be donated by the Port Authority to the City per the conditions imposed in City Resolution No. 08-1033 and that BT2 is no longer a parcel that must be donated to the City under Resolution No. 08-1033; and

~~BE IT FURTHER RESOLVED, that Resolution No. 08-1033 shall be amended accordingly and, as amended, shall remain in full force and effect; and~~

BE IT FURTHER RESOLVED, that the Port Authority staff and the City staff shall take all reasonable actions to discover, identify and correct all ~~ensure that the fee~~ ownership and boundary defects, errors and omissions for ~~and boundaries of~~ BT2, and ~~all~~ the property to be donated to the City under Resolution No. 08-1033 as amended, ~~is accurate, known, and properly recorded with the~~ including but not limited to ensuring that the records at the Ramsey County Recorder's Office and ~~with~~ any other governmental entity~~y~~ies where such property records or identification ~~is needed~~ are kept, are accurate; and

~~BE IT FURTHER RESOLVED, that the Port Authority and the City staff shall record the deed conveyances required under Resolution No. 08-1033 within 90 days of the date of this Resolution or as soon as practicable; and~~

BE IT FURTHER RESOLVED, that within 90 days of the date of this Resolution or as soon as practicable thereafter, the Port and the City staff shall execute and record any and all deed instruments and other documents necessary for the donation parcels and to correct the scrivener error for BT2 per the conditions contained in Resolution No. 08-1033 as amended; and

BE IT FURTHER RESOLVED, that all the remaining donation and property responsibilities imposed upon the Port and contained in Resolution No. 08-1033, except for line 332 (the donation of BT2), shall remain in full force and effect, and that Resolution No. 08-1033 shall be amended by this Resolution and, as amended, shall remain in full force and effect; and

BE IT FINALLY RESOLVED that the City Clerk shall mail a copy of this resolution to the Port, the Park Board, the Board of Zoning Appeals, the Planning Commission, and the Zoning and Planning Administrators.

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