



## Legislation Text

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**File #:** RES 23-1101, **Version:** 1

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Memorializing a decision of the City Council denying an appeal from a decision of the Planning Commission to approve a site plan and grant variances for a new multifamily residential development at 0 Madison Street. WHEREAS, Trellis Treehouse Acquisition LLC, ("Applicant") proposed construction of a multi-unit residential structure on undeveloped land commonly known as 0 Madison Street, [Parcel Identification No. 22.28.23.22.0080] and legally described as the south 100 feet of the east 263 feet of Lot 79, Lane's Edgecumbe Hills; and

WHEREAS, on August 23, 2022, the Applicant, for the purpose of constructing a multi-family residential building ("Project") on the said parcel and pursuant to Leg. Code § 61.303, submitted a site plan application to the Planning Commission ("Commission") which was filed under Zoning File No. 22-116-859 and assigned to the department of safety and inspections ("DSI") to review; and

WHEREAS, DSI staff, upon reviewing of Zoning File No. 22-116-859, determined that the Applicant's Project would also require certain variances from the City's zoning regulations in order to approve the proposed site plan; and

WHEREAS, the Applicant was advised of the need for variances and, on October 7, 2022, pursuant to Leg. Code § 61.601, submitted variance applications for residential development on a steep slope with significant regrading, a tall retaining wall, and creation of trough shaped area between the building and the retaining wall which was filed under Zoning File No. 22-104-395 and assigned to department of planning and economic development ("PED") for review; and

WHEREAS, for efficiency purposes, staff from DSI and PED determined that the variance application [Zoning File No. 22-104-395] and the site plan application [Zoning File No. 22-116-859] should be presented at the same public hearing because the site plan application for the Project could not be approved if the Project's variance application was not approved; and

WHEREAS, staff from DSI and PED further determined that both the variance and site plan applications for the Project could not be approved unless the subject parcel was also rezoned from "R1" one-family residential to a zoning classification which would permit a multi-unit residential use; and

WHEREAS, the Applicant was thus informed that the parcel for the Project would require rezoning and the Applicant subsequently petitioned to rezone the said parcel from "R1" one-family residential to "RM2" medium density multi-family residential; and

WHEREAS, the Applicant's variance and site plan applications were then duly noticed for a combined public hearing before the Commission's Zoning Committee ("Committee") which would afford persons interested in the said applications an opportunity to present testimony either in-person at the public hearing or by submitting written testimony for the Committee's consideration; and

WHEREAS, on December 1, 2022 the Committee held a public hearing on the variance and site plan applications and, at the conclusion of the hearing, based upon the record and testimony presented which included a recommendation to approve the variance application [Zoning File No. 22-104-395] for the reasons set forth in a PED staff report dated November 23, 2022, as well as the of recommendation to approve the site plan application [Zoning File No. 22-116-859] for the reasons set forth in a DSI staff report dated November

23, 2022, the Committee, upon separate motions considered each application and moved to recommend to the Commission that it approve each application subject to certain conditions specific to each application; and

WHEREAS, on December 9, 2022, the Applicant's rezoning petition was also reviewed by the Planning Commission ("Commission") which duly moved to recommend to the City Council that the subject parcel be rezoned to RM2 as set forth in Commission Resolution No. 22-46; and

WHEREAS, on December 9, 2022, the Commission considered the Committee's recommendations and, following deliberations on each application, moved first to approve the variance application and its recommended conditions based upon findings set forth in Planning Commission Resolution No. 22-44 which are incorporated herein by reference but separately restated below for convenience:

**1. Planning Commission Resolution No. 22-44 [variance application].**

"WHEREAS, Trellis Treehouse Acquisition, File # 22-104-395, has applied for a variance for residential development on a steep slope with significant regrading, tall retaining wall, and creation of trough shaped yards between a new building and the new retaining wall, under the provisions of § 61.601 of the Saint Paul Legislative Code on property located at; and

WHEREAS, the Zoning Committee of the Planning Commission, on December 1, 2022, held a public hearing at which all present were given an opportunity to be heard pursuant to said application in accordance with the requirements of § 61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant owns the property and proposes to develop a five-story affordable senior housing apartment building with 36 units (27 of the units to be affordable at 30% AMI and 9 units affordable at 50% AMI). The project proposes a combination of one-bedroom, studio, and efficiency units, structured tuck-under parking, and associated amenity space. The roof of the proposed building would be approximately 30' to 40' below the first floor of the single family residential properties to the north and northwest along Lower St. Dennis Road. The project site, located behind the Highland Chateau Health and Rehabilitation Center, at 2319 West 7th Street was chosen due to its proximity to an existing care facility that provides services that will be available to the senior residents of the new building. One-way circulation for vehicles is planned, with an entrance on the west from St. Paul Avenue to the Highland Chateau driveway and then to an exit on the east at West 7th Street; a "right turn only" sign is planned at the exit.

2. The subject property is a lot of record that has 100 feet of frontage on Madison Street, a platted but unimproved street right of way bordering the subject property on the east. Because the parcel lacks frontage on an improved street and is landlocked, the applicant proposes to gain access to the property via a private street onto which an address can be obtained (Highland Chateau's existing semi-circular drive is proposed to be established as a private street). The applicant is working with Department of Public Works staff on the process to establish a private street. A reciprocal maintenance, use and easement agreement will allow for vehicular access and access for public sewer and water services and utilities.

Legislative Code § 71.06 does not allow issuance of an address number for property that does not abut upon a graded and surfaced street or does not have public sewer and water services available for connection and does not allow a building permit to be issued for property without an official designated address number from the Department of Public Works. 3. The project site is heavily vegetated and has very steep slopes that range from 45% up to nearly 70% throughout the site (grade change of 65 feet from the south end at elevation 820' to elevation 885' at the northwest corner). § 63.111 of the Zoning Code regulates residential development on

slopes greater than 12%.

Item (a) in § 63.111 requires an engineering report on slope stability and hydrology if the Zoning Administrator determines one is warranted. In this case the Zoning Administrator determined an engineering report is warranted. Specific elements of the engineering report as described in § 63.111(a)(1-3) must be submitted to the city and accepted before a grading permit will be issued. An engineering report on slope stability and hydrology has been requested but not yet received.

Item (b) in § 63.111 states that “Buildings should be designed to fit into the hillside without significant regrading to protect the stability of the slope and preserve existing trees while preventing excessively tall retaining walls and unattractive trough-shaped yards between buildings and retaining walls. Multi-story buildings are encouraged to reduce the size of the building footprint.” The proposed building is designed to fit into the hillside to minimize significant regrading as much as possible. The design includes siting the building as close to the southern property line as possible, making the depth of the building as shallow as possible, and designing for multiple stories to reduce the size of the building footprint. The design allows grade on the north side of the building to be equal to the third-floor level which results in a retaining wall with an exposed face that is roughly 14’ tall for its highest sections. The building footprint is stepped along the northwest corner which allows the retaining wall path to follow the natural contours at the steepest part of the hill to minimize the height as much as possible. The height of the wall is greatest for its northwest corner roughly 80’ portion and it is held even tighter to the building here to keep it as low as possible. As the wall moves to the east it steps down with the natural topography which allows it to reduce the exposed face until it disappears altogether. The retaining wall will be constructed first and is intended to be slightly deeper than the footings of the proposed building. This allows the wall to serve as shoring for the building and thereby minimize any over-excavation deeper into the hillside. Sharing the existing driveway with the Highland Chateau property and using it to bring in public services and utilities also helps minimize regrading and keeps platted Madison Street right of way in its natural state. Despite these design considerations, significant regrading of about 10,800 square feet of the site (over 40%) and a tall retaining wall, about 14’ in its highest sections, with the resulting trough-shaped yards are proposed for the project. Hence, a variance has been requested to permit significant regrading, a tall retaining wall, and creation of trough-shaped yards between a new building and the new retaining wall.

Item (c) in § 63.111 requires tree preservation where possible and protection during construction. A tree preservation plan is required and tree replacement requirements are prescribed. A tree preservation plan was submitted with the site plan review application.

Item (d) in § 63.111 provides standards for retaining walls taller than four feet and calls for walls to be constructed under city permit with frost footings as required by the state building code and engineered to retain lateral earth pressures consistent with the principles of soils mechanics and detailed to minimize hydrostatic pressures.

4. § 61.601 states that the planning commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

*(a) The variance is in harmony with the general purposes and intent of the zoning code.* Zoning code § 63.111 regulates residential development on slopes greater than 12%. Development on steep slopes is not easy and requires careful thought and detailed plans created by professionals to demonstrate how a project can be designed and carried out. Through its submittal of site plan review documents the applicant has demonstrated how the project can be designed to be carried out in a way that minimizes significant regrading (the site plan shows regrading about 10,800 square feet, a little over 41% of the site) and provides for a single story retaining wall (about 14’ high for about 80 feet of length at its highest), rather than a three story wall, that protects the undisturbed portion of the slope after regrading. As a result, the project can be carried out in a manner that protects the public health, safety, and general welfare of the community and the variance is in harmony with this general purpose and intent of the zoning code. The variance is also in harmony with the

intent of the zoning code to provide housing choice and affordability. Saint Paul is experiencing a housing shortage in general and a significant affordable housing shortage in particular. The variance would allow residential development on a challenging site to develop due to its steep slopes, noting that the developer has demonstrated how the project design can be carried out in a way that minimizes significant regrading as much as possible and provides for as low a retaining wall that protects the undisturbed portion of the slope after regrading. The concern about trough-shaped yards in § 63.111(b) appears to relate to their general aesthetics as not being attractive. While the retaining wall will result in a trough-shaped yard between the new building and the retaining wall, the wall will be located at the rear of the development and behind the Highland Chateau building and will not be visible to the general public.

*(b) The variance is consistent with the comprehensive plan.* The variance for residential development on a steep slope with significant regrading, a tall retaining wall, and creation of trough-shaped yards is consistent with the comprehensive plan. The 2040 Comprehensive Plan does not specifically address residential development on steep slopes. Land use policy LU-21 calls for identifying, preserving, protecting and, where possible, restoring natural resources and habitat throughout the city with the following ordinances: Tree Preservation Overlay District; River Corridor Overlay District; and Subdivision Regulations. However, with no subdivision proposed, none of the ordinances referenced in policy LU-21 apply to the requested variance. While the Great River Passage Master Plan addendum to the Comprehensive Plan speaks to preservation of natural areas, and the bluff is shown as a natural area on its natural areas map, the plan itself acknowledges that it is primarily a parks plan. The project seeks to provide high quality affordable and deeply affordable housing for seniors. The comprehensive plan supports the development of affordable housing. The variance would permit the proposed affordable housing to be developed on a steep slope as demonstrated by the developer that it can be carried out in a way that minimizes significant regrading as much as possible and provides for as low a retaining wall as possible that protects the undisturbed portion of the slope after regrading. Policy H-31 calls for supporting the development of new affordable housing units throughout the city and Policy H-37 calls for encouraging the development of affordable housing in areas well-served by transit and/or in proximity to employment centers. The Highland District Plan includes housing objectives and policies that support the development of affordable housing. Objective H.1 calls for increasing the diversity of housing options so that people of all ages, cultures, ethnicities and incomes have a place in the neighborhood and Policy H1.8. encourages development of affordable housing throughout Highland Park.

*(c) The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.* The application states that the steep slopes of the project site present practical difficulties in complying with the requirement for residential development on steep slopes and that it would not be possible to develop the project without significant regrading, a tall retaining wall, and resulting trough-shaped yards. The applicant acknowledges that the reason for the standard in the zoning code is the reason for the need for the variance. The applicant has developed a design and plan for the project that seeks to minimize significant regrading, minimize slope disruption, and stabilize the slope with as low a retaining wall as possible. The applicant provided the following information on the three main functions the retaining wall will serve:

a. The building is designed to strike a balance of fitting into the hillside while still achieving the goal of 36 affordable units for seniors. The design prioritizes placing all interior spaces that do not need windows along the north side of the building on the first two floors. This approach allows grade on the north side of the building to be equal to the third-floor level which results in a retaining wall with an exposed face that is roughly a single story tall at its highest point rather than three stories tall. The building footprint is stepped along the northwest corner which allows the retaining wall path to follow the natural contours at the steepest part of the hill to minimize the height as much as possible. The height of the wall is greatest at the northwest corner and it is held even tighter to the building here to keep it as low as possible. The result of these strategies is the creation of a recessed yard between the north side of the building and the retaining wall itself which acts as a light well allowing access to natural light for the third-floor spaces facing north. The stairs and elevator shaft

are located at the northwest corner to mitigate the reduced access to daylight given the height and proximity of the retaining wall. As the wall moves to the east it steps down with the natural topography which allows it to reduce the exposed face until it disappears altogether. The third-floor units at grade on the north side are arranged to maximize views and daylight.

b. The retaining wall will be constructed first and is intended to be slightly deeper than the footings of the proposed building. This allows the wall to serve as shoring for the building and thereby minimize any over-excavation deeper into the hillside. It also addresses the challenging issue of drainage by dealing with hydrostatic pressure created by water runoff to be handled at the retaining wall rather than the building foundation wall. A series of drain tiles along the retaining wall will be able to direct water away from the building's foundation and into catch basins that will connect into the retention pipe.

c. The site is bordered on the south side by an existing utility easement. The entire parcel is steeply sloping up to the north. These conditions make locating an underground storm retention tank extremely challenging. By constructing the retaining wall prior to the building, the resulting interstitial space allows a reinforced concrete pipe to be installed between the wall and building without needing to expand excavation to the east or west. This solution also substantially reduces the need for additional tree removal.

*(d) The plight of the landowner is due to circumstances unique to the property not created by the landowner.* While acknowledging that the practical difficulties for the proposed development in complying with the requirements and standards for residential development on steep slopes are due to the steep slopes and heavy vegetation on the site, the application addresses three challenges unique to the property that were not created by the landowner: existing grade; stormwater; and utility easement.

**Existing Grade** - The challenging grade on the parcel exists naturally and is not a condition that was created by the owner. The slopes range from 45% up to nearly 70% throughout the site. The retaining wall and resulting yard between itself and the building are a solution to allow light into the north facing units on the third floor. The building is designed to fit into the hillside as much as possible. The footprint of the building is organized as a long east-west bar with as narrow a profile as possible to minimize excavation. To achieve this, the north facing units are designed to be very shallow (only 18' deep), which reduces the overall depth and footprint of the building. Furthermore, no basement is proposed to minimize excavation.

**Stormwater** - The slopes on the site coupled with the heavy vegetation are existing conditions that make managing stormwater very challenging. The retaining wall solves two problems: 1) The retaining wall and resulting yard space create a space to locate an underground stormwater retention pipe; and 2) The retaining wall allows the below grade water and surface runoff coming down the hill to be handled at the retaining wall rather than the building foundation.

**Utility Easement** - The existing electrical utility easement along the south edge of the parcel requires the building to be sited further into the hillside which further necessitates the need for the retaining wall.

*(e) The variance will not permit any use that is not allowed in the zoning district where the affected land is located.* This finding can be met. The applicant has applied to rezone the property from R1 single family residential to RM2 multiple family residential to allow construction of the proposed apartment building. A variance of 63.111(b) is needed to allow the development. If the rezoning to RM2 is approved, the variance would not permit any use that is not allowed in the zoning district.

*(f) The variance will not alter the essential character of the surrounding area.* The parcel has steep slopes and is heavily vegetated. The proposed retaining wall allows the first two stories of the building to be built into the hillside and preserve the natural topography and vegetation directly to the north and west of it on about 60% of the site. The resulting recessed yard space between the retaining wall and the building is critical to provide light into the north facing units on the third floor. While the variance to allow the development will represent a

change to the character of the previously undeveloped property itself, the variance will not alter the essential character of the surrounding area. Unlike the wooded steep slopes that have been preserved and kept free from development immediately to the east and southwest because they are in public ownership, the subject property and the developed R1 properties to the north are in private ownership. The lots to the north are developed with single family residential uses on flatter ground on top of the bluff. Development of the subject property will result in a change to the wooded steep sloped site, which is inconsistent with the undeveloped nature of the steep slope portions of R1 properties to the north, east and west, but compatible with the essential character of the surrounding area. The surrounding area is characterized by Highland Apartments to the southwest where there are two three-story apartment buildings, Highland Chateau directly to the south that provides transitional care rooms, unimproved Madison Street to the east and wooded bluff parkland beyond, and Snelling Avenue South and single family homes to the north and northwest along Lower St. Dennis Road and their steep sloped and wooded backyards abutting and near the project site.”

AND, WHEREAS, as noted, the variance application was approved for residential development on a steep slope to permit significant regrading, a tall retaining wall, and the creation of trough shaped yards subject to five conditions specified in Planning Commission Resolution No. 22-44: “1. Final plans approved by the Zoning Administrator for this use must be in substantial compliance with the plans submitted and approved as part of this application.

2. The specified elements of the required engineering report on slope stability and hydrology per § 63.111(a)(1-3) must be submitted to the City for review and acceptance before any permits will be issued, including grading permits. The findings in the engineering report may result in required revisions to project plans as determined by Department of Safety and Inspections staff. If revisions to project plans are required as a result of the engineering report, these revisions to plans must be made to all plans submitted to the City for approval before any permits will be issued, including grading permits.

3. A private street to serve the development must be established. The private street must be established based upon a plan submitted to and approved by both the Department of Public Works and the Department of Safety and Inspections, Division of Fire Inspections, before final site plan approval.

4. The present reciprocal maintenance, use and easement agreement must be reviewed by the Department of Public Works and the City Attorney’s Office. This review may result in revisions to the said agreement being required as added conditions to the variance granted here. Revisions resulting from the review must be made to the present reciprocal maintenance, use and easement agreement. The revised reciprocal maintenance, use and easement agreement must be duly recorded with Ramsey County before final site plan approval.

5. Approval of the rezoning of the property from R1 - one-family residential district to RM2 -medium-density multiple-family residential district.”

AND, WHEREAS, also on December 9, 2022, the Commission then took up its Committee’s recommendations regarding the Applicant’s site plan application and, following deliberations, the Commission moved to approve the site plan application based upon the findings set forth in Commission Resolution No. 22-34 which are incorporated herein by reference and separately restated as follows:

## **2. Planning Commission Resolution 22-34 approving site plan application.**

*“1. The city’s adopted comprehensive plan and development or project plans for sub-areas of the city.*

The site plan is consistent with the Comprehensive Plan. The 2040 Comprehensive Plan does not specifically address residential development on steep slopes. Land use policy LU21 calls for identifying, preserving, protecting and, where possible, restoring natural resources and habitat throughout the city with the following ordinances: Tree Preservation Overlay District; River Corridor Overlay District; and Subdivision Regulations).

However, with no subdivision proposed, none of the ordinances referenced in policy LU-21 apply to the proposed project. The Comprehensive Plan's land use chapter designates the site of the proposed development just north of St. Paul Avenue and West 7th Street as urban neighborhood. The site is also in proximity to a designated neighborhood node and an existing transit corridor (Metro Transit Route 46 along St. Paul Avenue and Routes 54 and 74 along West 7<sup>th</sup> Street). The proposed development is consistent with several land use and housing policies. Policy LU-1 encourages transit-supportive density and directs the majority of growth to areas with the highest existing or planned transit capacity. Improved access to affordable housing is a goal of the Housing Plan and Policy H-46 calls for supporting the development of new housing, particularly in areas identified as mixed-use, urban neighborhoods, and/or in areas with the highest existing or planned transit service, to meet market demand for living in walkable, transit-accessible, urban neighborhoods. Policy H-31 calls for supporting the development of new affordable housing units throughout the city and Policy H-37 calls for encouraging the development of affordable housing in areas well-served by transit and/or in proximity to employment centers. The proposed multi-family residential building will provide 36 units of affordable senior housing near existing transit routes and neighborhood businesses. The Highland Park District 15 Plan notes that opportunity sites like Sibley/West 7th bring with them the potential for more diverse and affordable housing types, and that many residents desire housing for senior citizens to allow them to age in community. The plan has several housing objectives and strategies that support development of denser housing and affordable housing including Policy H1.8. that encourages development of affordable housing throughout Highland Park and Policy H3.1 that calls for promoting denser housing development along transit corridors to help support transit ridership.

## *2. Applicable ordinances of the City of Saint Paul.*

The site plan as proposed does not meet this finding without a variance and rezoning. The following standards and conditions apply:

- § 66.212 - Intent, R1 one-family residential district.
- The proposed multi-family /senior housing use is not permitted in the current R1 single-family residential zoning district. A condition of site plan approval is that the property be rezoned to RM2 before a multi-family use may be established.
- § 66.230 - Residential District Density and Dimensional Standards
- The proposed site plan assumes density and dimensional standards for RM2 zoning. In RM2 Zoning District, the maximum building height is fifty (50) feet. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall to the highest point of the roof surface for a flat roof.
- § 66.242 - Multiple-family design standards.
- The proposed multi-family building meets design standards regarding materials, window and door openings, addition of a public sidewalk, and pedestrian connections to the building.
- § 63.111 - Residential Development on Steep Slopes
- The proposed site plan requires a variance of Leg. Code Sec. 63.111 (b) before it may be established: Buildings should be designed to fit into the hillside without significant regrading to protect the stability of the slope and preserve existing trees while preventing excessively tall retaining walls and unattractive trough-shaped yards between buildings and retaining walls. Multi-story buildings are encouraged to reduce the size of the building footprint.
- §67.203 - Tree Preservation Plans are required when development occurs on steep slopes. Replacement trees are required for removals of healthy trees 12" diameter or more that occur more than 15' from the proposed building footprint. A condition of the approval is that the City Forester sign off on the final Landscape and Tree Preservation Plans.

## *3. Preservation of unique geologic, geographic or historically significant characteristics of the city and environmentally sensitive areas.*

The site plan meets this finding. The proposed building and walls must be constructed under city permit with frost footings as required by the state building code and engineered to retain lateral earth pressures consistent with the principles of soils mechanics and detailed to minimize hydrostatic pressures. Retaining walls and building are engineered with the unique geological and hydrological conditions of this site in mind. Per § 63.111 - Residential Development on Steep Slopes, an engineering report on slope stability and hydrology prepared by a registered hydrological, geotechnical or soils engineer is required. A report had not been received at this time this report was written. A condition of approval is that the City Forester accept the Landscape and Tree Preservation Plans for the post construction establishment of trees and vegetation on this slope. All final slopes must be immediately stabilized to prevent erosion. Trees must be planted, and all disturbed soils on the slope must be adequately covered with a suitable topsoil and seeded per Minnesota Board of Water and Soil Resources specifications for native vegetation establishment.

*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.*

This finding is met. Stormwater management, tree preservation practices, and maintaining a buffer of undisturbed wooded area mitigates the effects of development on neighboring properties. During construction, erosion control measures will be in place to protect the slope and adjacent properties. Today, the majority of surface water infiltrates or sheet drains to The Chateau's crescent drive and on to St. Paul Ave. storm sewers via catch basins. In the proposed development rainwater will be collected from the roof, behind, and in front of the building then directed to the city storm sewer at a controlled rate. The remaining ¼ of the site will infiltrate or flow naturally down the slope to the existing Chateau driveway as it does today. The existing trees are in poor condition as the wooded area is not actively managed today. Although trees will be removed in the construction of this development, replacement trees and vegetation will be planted behind and alongside the proposed building.

*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.*

This finding is met. The developer was approached by the Highland Chateau to develop a compatible senior housing use at their 0 Madison St. property. The resulting proposal has been designed with the Highland Chateau site in mind. As part of this development review, existing site concerns at The Highland Chateau will be remedied, specifically installation of public sidewalk, ROW improvements, and ensuring there is trash pickup space in the rear of The Chateau. The Chateau and Treehouse signed a Reciprocal Maintenance, Use, and Utility easement to document shared spaces and responsibilities. The disturbed areas will be stabilized with site specific vegetation, engineered retaining walls, and trees to the north, east, and west of the building. The views and slope of the single-family property to the north will not be affected by this project.

*6. Creation of energy-conserving design through landscaping and location, orientation and elevation of structures.*

The site plan meets this finding. There are strong correlations between energy-conserving design and multi-family buildings. The buildings will meet minimum energy standards for new buildings in MN. Furthermore, the development shall comply with the City's Sustainable Building Ordinance based on funding requirements.

*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. Although the development site is landlocked, the Dept. of Public Works Mapping and Records division determined that an address may be based on frontage on an improved private street. The applicant proposes to make improvements to the existing crescent shaped drive on the adjoining Highland Chateau parcel at 2319 7th St W. and provide access and public services via a private street with a reciprocal maintenance, use, and easement agreement. The existing one-way site circulation will continue with a vehicular entrance to the private street from West 7th Street and an exit onto St. Paul Avenue.

The Highland Park District 15 Plan notes that the West 7th and St. Paul Ave. intersection is a key intersection for safety improvements. Improvements along the Highland Chateau's St. Paul Avenue frontage are required per Public Works and Zoning to provide the safest possible scenario for all modes arriving at the site.

Specifically:

- The existing drive will become a private street to be used by both properties.
- Widening the one-way access drive to give adequate space for Treehouse resident drop off, maneuvering isles, and trash pickup.
- A public sidewalk added to the Highland Chateau parcel along St. Paul Ave.
- Removal of existing encroachments in the ROW
- Minimize curb cuts and meet Public Works' standards for curb and driveway design.
- Room for passenger drop off will remain at the Chateau. A traffic memo is under review by Public Works Traffic Engineering. Public Works sign-off of the site plan and acceptance of the traffic memo are recommended conditions of site plan approval.

*8. The satisfactory availability and capacity of storm and sanitary sewers, including solutions to any drainage problems in the area of the development.*

This finding is met. Sanitary sewers in the area have capacity for the additional units. Currently, runoff on the vacant lot sheet drains to the Highland Chateau's existing drive and is conveyed to public catch basins. A storm water retention system to meet the St. Paul Sewer Department's Stormwater Rate Control requirements has been designed which collects water both uphill and downhill of the building. The water is slowed to an acceptable rate before entering the public storm water system. A separate geotechnical and hydrology report has been requested but has not yet been received.

*9. Sufficient landscaping, fences, walls and parking necessary to meet the above objectives.*

The finding is met. To reduce disturbance to the surrounding slopes, a sheet piling retaining wall will be installed. The applicant has applied for a variance to create a U-shaped trough between the retaining wall and the building. It would provide room for an effective stormwater management system and additional natural light for lower units. Stormwater will flow down the slope towards the retaining wall and be directed east to a proposed stormwater management system with collection areas above and below the proposed building. Trees and vegetation will be replanted on both sides of the main retaining wall, behind and alongside the building. Per Tree Preservation requirements, the project is required to plant 14 trees of at least two and one-half (2 ½) caliper inches. The project meets required bicycle parking minimums and the seven tuck-under parking spaces do not exceed parking maximums. The development is located along transit. The development team has completed a Travel Demand Management plan with Move MN which meets the City's transportation planning objectives.

*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 finding. Public sidewalks will be added to The Chateau site along St. Paul Ave. A

sidewalk will also be added along the western side of the existing crescent drive. This new sidewalk will serve as a direct pedestrian connection for the new building and will be constructed in accordance with ADA provisions. Compliant parking spaces, passenger loading zones, and accessible routes will be available for both the Highland Chateau and the proposed Treehouse development.

*11. Provision for erosion and sediment control as specified in the Minnesota Pollution Control Agency's "Manual for Protecting Water Quality in Urban Areas."*

The site plan meets this finding. The site plan includes an erosion and sediment control plan that is consistent with BMP practices per the Minnesota Pollution Control Agency. If land disturbance exceeds an acre, then a General Storm Water Permit for Construction Activity from the Minnesota Pollution Control Agency will be required."

AND, WHEREAS, as noted, the site plan application was approved subject to the following conditions:

"1. Sign-off by Site Plan Review staff for technical compliance of the site plan that is substantially similar to this approved site plan.

2. Sign-off by Site Plan Review staff for technical compliance of supporting site plan documentation including the final Tree Preservation and Landscape plan by the City Forester and acceptance of the Traffic Memo by Traffic Engineering.

3. Approval of a variance of 63.111(b) to allow the proposed retaining walls and creation of trough-shaped yards between the new building and new retaining walls.

4. Approval of rezoning of the property from R1 - one-family residential district to RM2 - medium-density multiple-family residential district.

5. During Construction, final slopes must be immediately stabilized to prevent erosion. Trees must be planted, and all disturbed soils on the slope must be adequately covered with a suitable topsoil and seeded per Minnesota Board of Water and Soil Resources specifications for native vegetation establishment.

6. The specified elements of the required engineering report on slope stability and hydrology per § 63.111(a)(1-3) must be submitted to the City for review and acceptance before any permits will be issued, including grading permits. The findings in the engineering report may result in required revisions to project plans as determined by Department of Safety and Inspections staff. If revisions to project plans are required as a result of the engineering report, these revisions to plans must be made to all plans submitted to the City for approval before any permits will be issued, including grading permits.

7. A private street to serve the development must be established. The private street must be established based upon a plan submitted to and approved by both the Department of Public Works and the Department of Safety and Inspections, Division of Fire Inspections, before final site plan approval.

8. The present reciprocal maintenance, use and easement agreement must be reviewed by the Department of Public Works and the City Attorney's Office. This review may result in revisions to the said agreement being required as added conditions to the variance granted here. Revisions resulting from the review must be made to the present reciprocal maintenance, use and easement agreement. The revised reciprocal maintenance, use and easement agreement must be duly recorded with Ramsey County before final site plan approval."

AND, WHEREAS, on December 19, 2022, Mr. Chad Cutshall ("Appellant"), pursuant to Leg. Code § 61.702(a), duly filed an appeal from the Commission's December 9, 2022, variance and site plan decisions and requested a public hearing before the Council of the City of Saint Paul ("Council"), which was set on for a

public hearing on January 25, 2023, under Council File No. APC 23-1 [site plan appeal] and Council File No. APC 23-2 [variance appeal]; and

WHEREAS, on January 4, 2023, the Council, under City Council File No. ORD 23-3 received a staff report and first reading regarding Applicant's petition to rezone the Project parcel to RM2 and moved to lay over its deliberations and public hearing on the rezoning petition to January 11, 2023; and

WHEREAS, on January 11, 2023, the rezoning petition was considered by the City Council at a public hearing and, upon closing the public hearing moved to lay over the matter to January 18, 2023, for final adoption; and

WHEREAS, on January 18, 2023, the City Council moved to lay over the rezoning decision until January 25, 2023, to allow consideration of all the matters involving the subject property including the appeals under APC 23-1 and APC 23-2; and

WHEREAS, on January 25, 2023, the City Council, after deliberation and consideration of the files, records and the Commission's recommendation regarding the rezoning petition, duly moved to approve rezoning the subject parcel to RM2 as set forth in City Council File No. ORD 23-3; and

WHEREAS, on January 25, 2023, the Council of the City of Saint Paul then conducted a public hearing on APC 23-1 [site plan appeal] and APC 23-2 [variance appeal] where all persons interested were afforded an opportunity to be heard; and

WHEREAS, upon the close of public testimony on both APC 23-1 and APC 23-2, the Council moved to lay its deliberations on both matters over to February 1, 2023; and

WHEREAS, on February 1, 2023, the Council again considered the matters under APC 23-1 [site plan appeal] and APC 23-2 [variance appeal] whereupon, the Council proceeded in the following manner; NOW, THEREFORE

BE IT RESOLVED, based upon the files, reports, and testimony in the matter in the appeal of Planning Commission Resolution No. 22-44 [APC 23-2 variance appeal] the Council finds no error in the Commission's facts or findings regarding its decision to grant the Applicant's variance application and therefore denies Appellant's appeal under APC 23-2; AND,

BE IT FUTHER RESOLVED, that the Council, in support of its decision to deny the said appeal, hereby adopts the Commission's findings set forth in of Planning Commission Resolution No. 22-44 as its own in support of this decision; AND,

BE IT FURTHER RESOLVED, based upon the files, reports, and testimony in the matter in the appeal of Planning Commission Resolution No. 22-34 [APC 23-1 site plan appeal] the Council finds no error in the Commission's facts or findings regarding its decision to grant the Applicant's site plan application and therefore denies Appellant's appeal under APC 23-1; AND

BE IT FUTHER RESOLVED, that the Council, in support of its decision to deny the said appeal, hereby adopts the Commission's findings set forth in of Planning Commission Resolution No. 22-34 [site plan appeal] as its own in support of this decision; AND,

BE IT FINALLY RESOLVED, that the City Clerk provide a copy of this memorialization resolution to Appellant Cutshall, the Planning Commission, and to planning administrator Pereira and zoning administrator Diatta.