

**MINUTES OF MEETING**  
**SOUTH ST. PAUL PLANNING COMMISSION**  
**May 3, 2023**

MEETING CALLED TO ORDER BY CHAIR FELTON AT 7:00 P.M.

Present:       Tim Felton, Chair  
                  Geoff Fournier  
                  Jason Frankot  
                  Ruth Krueger  
                  Brianna Miller  
                  Chad Schlemmer  
                  Michael Healy, City Planner

Absent:        James Hart

- 1)       APPROVAL OF AGENDA – Motion to approve as presented –Fournier/Miller (6-0)
- 2)       APPROVAL OF MINUTES – April 5, 2023 –Motion to approve the minutes as presented-  
          Miller/Fournier (7-0).
- 3)       NEW BUSINESS

None

- 4)       PUBLIC HEARINGS

A.   Conditional Use Permit for On-Sale Liquor For El Hornito Wood Fired Pizza

Mr. Healy presented the staff report. Jose Morales, owner of El Hornito Wood Fired Pizza, would like to be able to offer beer and wine to his restaurant patrons. The property is zoned C-1. Restaurants are a permitted use within the zoning district, but liquor sales require a Conditional Use Permit. Staff recommend approval of the Conditional Use Permit for On-Sale Liquor.

Chair Felton asked if the City had ever denied a Conditional Use Permit request for on-sale liquor. Mr. Healy stated he was not aware of the City ever denying this type of Conditional Use Permit. Mr. Healy went on to add that if a City did not want a use to be allowed, they could list the use as “prohibited” in the zoning code or not include the use on the list of allowable uses within a zoning district. The city code was updated in the past 10-15 years to make it easier to operate a business that sells liquor “up the hill” in the C-1 Commercial Retail district. The City is not obligated to allow liquor to be sold in this zoning district and has made a choice to list it as an allowable use in the City Code. Commissioner Felton added that in order to deny the request, the commissioners would need to find that the Conditional Use Permit does not meet the criteria for when to grant a Conditional Use Permit.

Commissioner Fournier commented that the previous on-sale liquor conditional use permit request the Planning Commission reviewed was for a business with an event center component and asked if the application being reviewed had a similar use. Mr. Healy stated that the subject property is small and can seat around 40 people so the restaurant would not be considered an event space.

Commissioner Miller asked Staff if liquor licenses expire. Mr. Healy explained that liquor licenses require renewal on a yearly basis.

Chair Felton asked if liquor licenses were approved by the City or by the State. Mr. Healy explained that liquor licenses are approved by the City Council. At the next City Council meeting, the City Council would review the Conditional Use Permit request for on-sale liquor for the business first and would then hold a public hearing for the liquor license.

Jose Morales, owner of El Hornito Wood Fired Pizza, came forward to speak to the application. Mr. Morales expressed that several of his customers had asked if the business could offer beer and wine.

Chair Felton asked how business had been. Mr. Morales shared that business had been slow to start the year and that many other restaurants seemed to be experiencing that as well. Chair Felton asked if the business had any security cameras on the premises. Mr. Morales stated he did not at this time but that he would in the near future. Chair Felton asked that Applicant how long his business has occupied its current location. Mr. Morales stated he had been there 4 months. Mr. Morales explained that he previously operated a food truck in the parking lot of the 5<sup>th</sup> Avenue shopping plaza for about two years. Chair Felton asked if the Applicant still had his food truck at the site. Mr. Morales stated he did not.

Commissioner Krueger asked if the business still owned a food truck. Mr. Morales shared that they do still own the food truck and have it at events one or two days a week.

Commissioner Frankot asked if the Applicant planned to have a sit-down bar with beer and wine or if the beverages would be sold from a cooler. Mr. Morales explained that customers ordered their food at the main counter and then his staff bring the customers' food to their table. Commissioner Frankot asked if the restaurant would have a bar space for drinks. Mr. Morales stated he would not have a bar and instead keep alcoholic beverages in a cooler.

Chair Felton asked staff what would happen if an establishment wanted to construct a bar and serve cocktails or mixed drinks within an existing restaurant. Mr. Healy explained that the business would need a different type of liquor license. The State has different classifications of liquor licenses so if a business had a license for beer and wine but wanted to sell cocktails, they would need a different license to do so.

Chair Felton opened the public hearing.

Mr. Healy shared a comment received from Brian Dahl who lives at 526 Hawthorne Woods Drive in Eagan. Mr. Dahl owns three apartments near the subject property. Mr. Dahl shared his dislike of liquor and felt the application was problematic. Chair Felton commented that this is the reason why he brought up the Conditional Use Permit Criteria and that there were no grounds to deny the application as long as it met the criteria. Mr. Healy confirmed that was correct and that if the city did not want to have liquor "on the hill" they would not have made it a conditional use. No one was present to speak on the application.

Chair Felton closed the public hearing.

Motion to recommend approval of a conditional use permit for on-sale liquor. – Fournier/Frankot (6-0).

B. Proposed Ordinance Amendment Updating Setback and Height Requirements and Establishing Design Criteria

Mr. Healy shared the staff report. Mr. Healy explained that the proposed ordinance was discussed at the previous Planning Commission meeting. The ordinance is a “laundry list” ordinance that would address issues with driveways for residential properties, fence setbacks, missing setback and site design standards for parking lots in the C-1 and GB districts, setback and design standards for the Southview Boulevard and Marie Avenue, and conflicting language regarding when a Conditional Use Permit is required for residential accessory buildings.

Chair Felton asked if someone could put a fence on a property line under the proposed ordinance. Mr. Healy explained that under the proposed ordinance, a fence could go all the way to the front property line. Under the existing ordinance, a fence located in the side yard or rear yard of a property can go up to the property line but front yard fences need to be at least one-foot back from the front property line. Mr. Healy clarified that the one-foot setback is just for properties with a property line that abuts a street right-of-way. The standard was originally an engineering standard that was intended to provide construction crews with additional room when they work in the right-of-way, but the Engineering Department has given their blessing to remove the one-foot setback requirement.

Chair Felton opened the public hearing.

No correspondence had been received prior to the meeting and no one was present to speak on the application.

Chair Felton asked how residents find out about public hearing for ordinances. Mr. Healy explained that for an ordinance amendment, the City places a notice to the newspaper that the ordinance is being reviewed at the meeting and the City has the agenda available on the City’s website for review prior to the meeting. Mr. Healy shared that the City also has a web page which is kept up to date about ordinances that are being reviewed by the City Council. Mr. Healy explained that a mailing is typically not sent out for an ordinance like this because sending out a mailing to residents within 350 feet of the properties that the ordinance would impact would result in the notice being sent to everyone in the City. Mr. Healy shared that for large projects, the City does send out mailers to all the properties within the district but for an ordinance that is just fixing existing issues, Staff feels that such a high level of engagement is not necessary. Commissioner Frankot noted that this information is available on the city bulletin board on the main floor of City Hall and on the table outside of the City Council chambers.

Chair Felton closed the public hearing.

Commissioner Krueger commented that she felt the ordinance would make things easier for staff.

Motion to recommend approval of the proposed ordinance amendment updating setback and height requirements and establishing design criteria. - Krueger/Schlemmer (6-0).

5) OTHER BUSINESS

Mr. Healy shared two updates. First, the City would soon be bringing forward an update of its Mississippi River Critical Corridor Area (MRCCA) ordinance. The State updated its regulations for the MRCCA in 2017 and is requiring all river-adjacent cities to adopt land use regulations that are consistent with the state’s regulations. This process has not been linear for South St. Paul as it has been for other communities because much of South St. Paul was built near the river prior to the state regulating the land that is known today as the MRCCA. Staff has been working with the DNR for the past several months to request flexibility from the model ordinance in the areas where South St. Paul has existing commercial development. The DNR has conditionally approved the

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ordinance that the City has adopted so the ordinance will be coming to the Planning Commission later this summer for review.

Chair Felton reconfirmed that the State updated its regulations for the Mississippi River corridor and that they were requiring all the cities in the corridor to update their ordinance to reflect the state regulations. Mr. Healy confirmed this was the case and explained that the State has created new rules and had the DNR handle rulemaking. Mr. Healy shared that South St. Paul is so far the only community to request flexibility from the model ordinance.

Mr. Healy also shared that the City Council voted down the Bryant's Ridge development project at their meeting on April 3<sup>rd</sup>. The developer submitted additional information about the buildability of the site and proposed additional guest parking at the site to address some of the concerns they had heard. The Applicant for the Bryant's Ridge project sought the City Council's permission to resubmit the application and the City Council approved that request at their May 1<sup>st</sup> meeting. The application will be coming back to the Planning Commission for review at the June 7<sup>th</sup> meeting.

Commissioner Frankot asked if the issue of the house that needed to be moved had been worked out. Mr. Healy confirmed it had been and explained that when the application for the project was reviewed at the February Planning Commission meeting, a significant portion of the meeting was focused on concerns of the homeowner whose house would need to be moved in order for the project to work. The homeowner shared at the Public Hearing that he was uneasy about his house being moved and that there was no purchase agreement in place. Mr. Healy shared that it was his understanding that the Applicant and the homeowner have come to an agreement on terms for the purchase of the home and that the homeowner would likely be coming to the June meeting in support of the project.

### 6) ADJOURNMENT

Motion to adjourn- Fournier/Miller (6-0).