

MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISISON
May 5, 2021

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

Present:

Tim Felton
Geoff Fournier
Jason Frankot
Ruth Krueger
John Ross
Michael Healy, City Planner
Monika Mann, Community Development Support Specialist

Absent:

Angela DesMarais
Matthew Thompson

- 1) APPROVAL OF AGENDA – Motion to approve as presented- Krueger/Felton (5-0).
 - 2) APPROVAL OF MINUTES – April 7, 2021 – Motion to approve the minutes as presented – Frankot/Felton (5-0).
 - 3) NEW BUSINESS
- None.
- 4) PUBLIC HEARINGS

A) Public Hearing for Conditional Use Permit for a Home Occupation at 319 11th Avenue South

Ms. Mann shared the staff report. The applicant is Rachell Gerten. She is seeking a Conditional Use Permit for a home occupation for an in-home salon at her property. The property is zoned R-2. Home occupations are allowed by Conditional Use Permit in all residential districts. The business would operate Tuesday through Thursday with hours varying between 9:00 AM and 8:00 PM, depending on the day. The homeowner would be the sole employee of the business. The proposed home occupation meets the City’s performance standards for a home occupation. The City is proposing updates to the exiting home occupation ordinance. While the ordinance will not be adopted before the application is heard by the City Council, staff would like to note that the proposed home occupation would meet the standards for a home occupation under the proposed ordinance. Under the proposed ordinance, the applicant would not need a Conditional Use Permit. Instead, the applicant would simply need to submit a signed affidavit stating that she will follow the rules for a home occupation. Staff recommends approval of the proposed Conditional Use Permit.

Chair Ross noted that the applicant did not request any signage for the home occupation and asked what the process would be if the applicant would like to add signage in the future. Mr. Healy stated the applicant would need to apply for and receive an Interim Use Permit from the City to add signage for the home occupation to the property.

Commissioner Frankot asked if the homeowner could add additional employees in the future. Mr. Healy explained that a home occupation is when the resident of a dwelling has an occupation in their dwelling. The current code does not prohibit additional employees but requires all home occupations to be reviewed by the City. The proposed code prohibits additional employees that do not live in the home without receiving an Interim Use Permit from the City.

Ms. Gerten was present to speak on her application. Chair Ross noted that this was a challenging time to start a business. Ms. Gerten stated that while it was a challenging time, it is also a great time to start the business. Ms. Gerten clarified that she would not have any additional employees at the site.

Chair Ross opened the public hearing.

The City received one comment which was included in the packet. Janet Palodichuk, 344 10th Avenue South, stated that she would love to see the Conditional Use Permit granted and that it would be a great addition to the neighborhood.

Chair Ross closed the public hearing.

Motion to recommend approval of the proposed Conditional Use Permit as presented – Felton /Frankot (5-0)

B) Public Hearing for a Variance to Allow an Additional Accessory Structure at 600 Gun Club Road

Ms. Mann shared the staff report. The applicant is George Derks on behalf of the South St. Paul Rod and Gun Club. The applicant is requesting a variance to allow an additional accessory structure at the Gun Club. The Rod and Gun Club has been a part of South St. Paul since 1935. The Rod and Gun Club is located in the Industrial zoning district and is a legal non-conforming use. The property is afforded additional use protections from the Minnesota Shooting Range Protection Act, which allows gun clubs to “conduct additional shooting activities” after the use becomes legal non-conforming. The South St. Paul Rod and Gun Club is also located in the floodplain districts. These districts are based on FEMA flood insurance maps. The districts have special performance standards for properties located in or near a floodplain.

The applicant is requesting a variance for an 8 x 10 resin shed. The shed is less than 200 square feet so only a zoning permit is required. The applicant needs a variance because non-residential properties are only allowed one accessory structure for each principal building. The Gun Club’s use is different than a typical business. Where a traditional business would have one principal structure and one accessory structure, the Gun Club has one principal structure and multiple accessory structures that work together to create a user experience. The use of the site is most similar to a private recreational day camp use. The site is grandfathered to have multiple accessory structures; however, because the applicant is looking to add an additional accessory structure, a variance is required.

The site has previously received several approvals for accessory structures. Many of the accessory structures were approved by Conditional Use Permit or Interim Use Permit because the proposed accessory structure was located in the Floodplains District. Per City Code, accessory structures located in the Floodplains District require a Conditional Use Permit. The proposed shed is located just outside of the Floodplains and Flood Fringe Districts, so a conditional use permit is not necessary for the shed. Staff recommend approval of the proposed variance subject to conditions.

The applicant, George Derks, was present to speak on the item. Mr. Derks explained that the South St. Paul Rod and Gun Club was reviving its firearm safety program and needed additional storage space for the equipment used by the program. The equipment that would be stored in the shed is equipment that would be used in the classroom for demonstration or out in the field for field days.

Chair Ross opened the public hearing.

No correspondence had been received and no one was present to speak on the item.

Chair Ross closed the public hearing.

Motion to recommend approval of the proposed variance as presented- Frankot/ Krueger (5-0).

C) Public Hearing for a Conditional Use Permit Amendment for Truck Repair at 116 Hardman Court

Mr. Healy shared the staff report. The applicant is Andy Briggs. The applicant owns a 20,000 square foot office warehouse building that was constructed in 2020. The building consists of four (4) 5,000 square foot suites. The applicant is seeking approval to allow a new tenant to move into one of the suites. The tenant would be Interstate Truck Driving School. They are proposing to use the suite at 116 Hardman Court as a maintenance facility for their truck fleet.

The site is zoned I-1. Truck repair is a conditional use in the I-1 district. The suite would be used for the maintenance of fleet vehicles. The site would have between 1 and 5 employees. The hours of operation would be Monday through Friday from 7:00 AM to 5:00 PM. The applicant may occasionally use the space outside the building for storage but would not store hazardous material or inoperable vehicles. The repair shop would only support Interstate Truck Driving School's operation and would not be open to the public. Staff recommends approval of the proposed Conditional Use Permit subject to conditions.

Chair Ross noted that the narrative letter from the applicant stated that the landscaped screening that was required as part of their 2020 approval had not been completed. Chair Ross asked staff to provide an update on the status of the landscaping. Mr. Healy stated that he had received photos from the applicant earlier in the week of the trees that were being installed at the site.

The applicant, Mr. Briggs, was present to speak on the item.

Commissioner Frankot asked what other businesses the applicant was trying to attract to the site and whether the noise from the truck maintenance business would be problematic for other potential businesses. Mr. Briggs stated that they had been in discussion with other businesses that have an office component and a shop component. Commissioner Frankot complimented the applicant on finishing site construction so quickly.

Chair Ross opened the public hearing.

No correspondence had been received on the item and no one was present to comment on it.

Chair Ross closed the public hearing.

Commissioner Felton asked for additional clarification about the landscaping that had not been installed. Commissioner Felton shared that he was concerned due to the pattern of businesses not installing landscaping that was required as part of their approval. Mr. Healy explained that the City received a cash escrow from the

applicant to guarantee that the proposed landscaping would be installed. The applicant would not be able to get the escrow back until the landscaping/screening was completed. Mr. Healy reiterated that the applicant had begun installing trees at the site.

Motion to recommend approval of the proposed Conditional Use Permit as presented - Krueger/Fournier (5-0).

D) Public Hearing for a Conditional Use Permit and Variance for Illuminated Wall Art on the Drover Apartment Building at 161 Concord Exchange North.

Mr. Healy presented the staff report. The applicant is Master Properties. They are seeking approvals related to installing illuminated wall art on the north side of “The Drover” apartment building at 161 Concord Exchange North. The applicant is requesting a Conditional Use Permit for an exterior light source that is more than 16 feet off the ground in the Concord Gateway Mixed-Use (CGMU) zoning district and a Variance to allow an exterior light source that is not downcast in the Concord Gateway Mixed Use (CGMU) zoning district.

161 Concord Exchange North is zoned CGMU-1. The CGMU district has strict architectural standards that were created with a traditional early 1900s downtown main street in mind. The Drover was constructed in 1974 as an office building but was converted into a multi-family apartment building in 2017. The exterior of the building has been largely unchanged since it was built in 1974. The skyway that connects the Drover to the building across the street will soon be demolished as part of the construction of “The Yards”. The skyway was constructed by the City’s Housing and Redevelopment Authority in 1974. The skyway is governed by an agreement that requires the City to restore the wall at the Drover to a “serviceable condition, in a reasonable esthetic and workmanlike manner” if the skyway is ever removed. The existing exterior material of the Drover is not a material that can be easily recreated to patch the hole.

Staff had originally encouraged the applicant to fill the hole with decorative siding that would match the existing siding or to add a decorative mural. The applicant is proposing to fill the hole with “illuminated wall art”. The wall art the applicant has proposed is a flashing neon sign that once hung outside a bar in Minneapolis. The sign (now deemed “illuminated wall art” based on its proposed use) depicts a cowboy lassoing a cow. The proposed illuminated wall art was reviewed at multiple City Council work session meetings. The City Council was enthusiastically supportive of the wall art. The project would not be subject to city regulations aside from the lighting component because the city does not regulate wall art.

Staff recommends approval of the proposed application subject to conditions. Staff noted that conditions can only be assigned during the initial review of the Conditional Use Permit. The City cannot go back and assign additional conditions in the future if issues arise; however, the city can remove conditions in the future at the request of the applicant.

Chair Ross asked if there were any measures in place to prevent the applicant from adding an advertising sign to the illuminated wall art. Mr. Healy stated that if the applicant wanted to put up advertising signage, they would need to receive a sign permit from the City.

Commissioner Frankot asked if the sign could be modulated. The applicant confirmed that the sign can be controlled as needed.

Chair Ross asked if the City Council had reviewed the proposal at a work session or if the item had been discussed informally. Mr. Healy elaborated that the City Council reviewed the proposal when functioning as the City’s Economic Development Authority and as the City Council. The item had been reviewed at two City Council work session meetings and they had supported the proposal at both meetings.

The applicant, Master Properties, was present at the meeting. Max Heitzmann, Master Properties, explained that the thought was the sign could be an iconic piece for South St. Paul. Doug Simek, Master Properties, noted that the proposed illuminated art was the most cost-effective solution for replacing the skyway.

Chair Ross opened the public hearing.

No correspondence had been received and no one was present to speak on the item.

Chair Ross closed the public hearing.

Commissioner Felton stated that the Planning Commission needed to address the flashing aspect of the illuminated wall art, as the proposed art is better suited for a bar or commercial area as opposed to a residential area. Commissioner Felton asked who owned the wall art and would the City be required to replace the wall art if the owner sold the site and took the art with them. Mr. Healy explained the City is required to repair the hole that will be created when the skyway is removed. The City would likely not be liable for future holes the owner creates.

Commissioner Felton asked who own the illuminated art. Mr. Healy explained that the applicant owned the sign. Commissioner Felton asked if the City is buying the illuminated art. Mr. Healy explained that the applicant is paying for the Conditional Use Permit and Variance application. The applicant also purchased the art. The City is responsible for the cost of repairing the hole and installing material that can hold the weight of the art. The City also may be responsible for installing the art. The long-term costs of the electric for the art are the responsibility of the applicant. The City is not responsible for the on-going maintenance of the site.

Commissioner Felton shared that he was concerned the City was investing money into the hanging of the art that the owners could take with them if they sell the property, leaving the City again with the cost of covering the patch job. Mr. Healy explained that Mr. Garcia, the Director of the Economic Development Authority, is handling the specifics of what the City's legal obligations are. The City attorney's office was also reviewing the contract to ensure that the process is handled responsibly.

Commissioner Frankot asked about typical performance standards for flashing art. Mr. Healy explained that illuminated art is quite unusual. When it comes to changeable electronic signage, commercial businesses with changing electronic signs can have their sign change every 8 seconds. Churches and schools in residential areas can have their electronic signs change every 15 seconds. In residential areas, electronic signs are required to be turned off between 10:00 PM and 7:00 AM.

Chair Ross shared that he felt that the Planning Commission should start with more restrictive regulations and let the City Council loosen them over time. Chair Ross stated that he would like to have one of the conditions be that the illuminated art can not be used in conjunction with advertising.

Commissioner Krueger shared her concerns about the illuminated wall art being distracting while it is flashing. She stated that it would not be appropriate to have the art be flashing all the time and that it should be subject to the standard hours of operation that electronic changeable signs are subject to.

Commissioner Fournier asked if a condition could be added allowing the performance standards for the art to be revisited if there are increased traffic accidents as a result of the art. Mr. Healy stated that for a condition to be enforceable, there needs to be a rational nexus between the condition and the project and that the condition must be objective.

Mr. Healy suggested that the Planning Commissioners confer with the applicant about their intention for the wall art. Mr. Heitzmann stated that the applicants were on the same page as the commissioners with regards to the hours of illumination. Mr. Heitzmann shared that he felt the flashing was too much and so allowing the art to illuminate every so often to see the different positions of the cowboy was preferred. Mr. Simek stated that an individual driving down Grand Avenue would be unlikely to see the art change often enough for it to be distracting if it only changed every 15 seconds.

Commissioner Frankot asked if the light had an intensity level that could be adjusted. Mr. Heitzmann stated he was unsure.

Chair Ross asked how many distinct positions the cowboy moves between. Mr. Heitzmann stated that the cowboy has two unique positions.

Chair Ross asked the applicants to address if the wall art would be used for advertising. The applicants confirmed that they had no intention of using the art for advertising. The sole purpose was to cover the hole that would be created when the skyway is removed.

Commissioner Felton stated that 15 seconds should be the minimum amount of time between the position changes.

Commissioner Frankot suggested the art follow the change frequency and hours of operation that electronic changeable signs are subject to.

Commissioner Felton reiterated the City Council and the lawyers in the project should take into consideration the cost incurred in mounting the art and the potential costs that could arise if the owner sells the building and takes the wall art with.

Motion to recommend approval of the proposed Conditional Use Permit and Variance subject to the illumination of the art being turned off between 10:00 PM and 7:00 AM and that the minimum amount of time between the two illuminated positions be no less than 15 seconds. – Frankot/Fourier (5-0)

E) Public Hearing for an Ordinance Amendment Updating the City's Rules for Home Occupations.

Mr. Healy shared the staff report. The City of South St. Paul is pursuing updates to the City's rules for home occupations based on the direction of the City Council. In February of 2021, the City Council formally discussed options to update the home occupation ordinance. At the conclusion of the meeting, the City Council directed staff to create an ordinance based on their feedback and fine tune it with the assistance of the Planning Commission.

Currently, all in-home businesses and home occupations (including people working from home) are required to have a Conditional Use Permit. Compliance with this standard is extremely low as no Conditional Use Permits for home occupations have been issued since 2015. Until 2017, home offices were exempt from this requirement as long as no customers visited the home, but this was eliminated during a housekeeping ordinance.

Based on the direction that was received from the City Council, staff created an ordinance that clearly defines home occupations and home offices. People working from home with no customers visiting the house do not need a permit or registration. The ordinance lists thirteen (13) uses that are never allowed as home occupations in residential areas under any circumstances, such as restaurants, car mechanics, or general retail. 16 standards were created that minor home occupations must meet. Minor home occupations that meet these standards must sign and submit to the City an affidavit agreeing to follow the Code's performance standards. Businesses that cannot follow all 16-performance standards but are not on the list of prohibited businesses may be allowed with an Interim Use Permit. Interim Use Permits are tied to an individual, as opposed to the property, and expire when the individual no longer resides at the property. Staff has proposed three criteria for approving or denying interim use permits for home occupations. The rules for signage would be virtually the same as they currently are, except that an Interim Use Permit (not a Conditional Use Permit) would be required for signage.

Chair Ross asked what enforcement mechanism the affidavit provides the City if the owner is not abiding by the performance standards for a home occupation. Mr. Healy explained that there are maybe 4 legal home occupations in town and hundreds of illegal home occupations. The City's current approach to addressing illegal home occupations is through the code enforcement program. The program is complaint based so it has its limitations. The improvement with the affidavit is that if a home occupation violates one of the 16 rules, the City can fine them. If the case were to go in front of a judge due to the owner contesting the citation, the City has the signed affidavit showing the homeowner agreed to follow the City's rules for a home occupation. Mr. Healy explained that the ordinance was a path for a legality which supports the residents that want to have a legally conforming home occupation.

Commissioner Krueger left the meeting.

Motion to recommend approval of the proposed ordinance as presented. – Felton/Frankot (4-0)

5) OTHER BUSINESS

Mr. Healy walked the Planning Commissioners through the continuum statements document that was included in the Planning Commission packet. The document is intended to help Staff understand the City Council and Planning Commissions design preferences as Staff and the consultant pursue updates to the North Concord Mixed Use zoning district.

Mr. Healy shared that he would encourage the Planning Commissioners to stay for an additional item at the joint work session on May 24th. The item would be a concept plan review for a proposed apartment building next to the Drover. The concept plan review would be similar to the one that was held for The Yards.

6) ADJOURNMENT

Motion to adjourn-Frankot/Ross (4-0).