

**MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISISON
October 6, 2021**

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

Present:

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

Absent: None

- 1) APPROVAL OF AGENDA – Motion to approve as presented – Fournier/Frankot (7-0).
- 2) APPROVAL OF MINUTES – September 1, 2021 – Motion to approve the minutes as presented – Thompson/Fournier (7-0).
- 3) NEW BUSINESS

None.

- 4) PUBLIC HEARINGS

A. Setback Variance for a Detached Garage at 552 8th Avenue South

Mr. Healy presented the Staff report. The Applicant is John Starr, the owner of the property. He is seeking two variances to complete a detached garage that was started without a building permit. The Applicant is requesting a variance to allow a 0-foot setback from the south side property line and a variance to allow a 1-foot setback from the alley right-of-way. Garages are required to be setback at least 3 feet from any side property line and at least 3 feet from the rear property line. The Applicant purchased the property in 2018 and currently rents out the single-family home without a rental license. The Applicant began constructing a detached garage during the summer of 2021 without a building permit. A “Stop Work” order was issued by the Building Official in August after Staff was made aware that the garage was being constructed without a building permit.

The property previously had a detached garage in the location where the Applicant was building the detached garage. The garage was “grandfathered” to not meet setbacks. Per the Applicant, the garage was destroyed by a storm in 2012 and was not rebuilt. Per State Statue, grandfathered structures that are destroyed can be rebuilt if a building permit is applied for within 180 days of when the structure was destroyed.

The Applicant chose to rebuild the garage in the position of the original garage due to the great condition of the existing slab. The slab from the original garage was replaced in 1992. The Applicant also stated that the existing slab has a pattern that he enjoys and that the garage “fits” nicely in the existing location. The location of the garage fills in a fence line gap between the subject property and a neighboring property. There is also a telephone pole that is placed in the alley in such a way that it would be difficult for the property to have an alley facing garage without removing the telephone pole. Staff noted that in every block within the subdivision the

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subject property is in, there are a couple properties that are less than 40 feet wide. The subject property is one of the undersized lots. Staff acknowledges there are some extenuating circumstances that could potentially be viewed as a practical difficulty but did not provide a formal recommendation on the application.

Commissioner Frankot asked if the garage is located exactly on the property line. Mr. Healy explained that the City's site plan requirements in the 1930s did not require setback information for structures so Staff cannot say for certain.

Commissioner DesMarais asked about the permit issued for the garage in 1992. Mr. Healy explained that the building permit was for the replacement of the garage's concrete floor.

Commissioner Frankot asked if the property owner had any other properties in violation of the city code. Mr. Healy stated that the property owner owns a second property immediately north of the subject property which is also an unlicensed rental. Mr. Healy stated the Applicant had picked up a rental license application for this property.

Chair Ross asked what would happen to the non-conforming shed if the garage variances were not approved. Mr. Healy explained that the shed was grandfathered. State legislature allows grandfathered structures to be repaired, maintained, improved and replaced, but if it is being replaced, it needs to be replaced with a structure with the same footprint.

The Applicant, John Starr, was present to speak on the item. Mr. Starr stated that the garage was damaged in a storm and torn down by the previous owner. The previous owner got sick shortly after the garage was torn down and never rebuilt the garage. Mr. Starr spoke to the quality of the slab at the site.

Chair Ross asked the Applicant why he had not applied for a building permit for the project. Mr. Starr stated he had no excuse and simply neglected to get a permit.

Chair Ross shared that he did know Mr. Starr and had worked with him previously but stated that he would not recuse because he was confident he could make an impartial decision on the application.

Chair Ross asked if there would be an additional fee when the Applicant went to pull a permit for the project given that the Applicant initially failed to pull a permit. Mr. Healy explained that the Building Official can double the cost of the permit fee as a penalty for doing work without a building permit.

Commissioner Krueger shared that she drove through the neighborhood and felt that the garage fits the character of the neighborhood.

Chair Ross asked staff if they had received any correspondence.

Mr. Healy stated that he received one written comment. The comment was from Jerry Loverink, 544 8th Avenue South, wrote that he would like to see the variance be denied.

Chair Ross asked if the comment was from the property owner to the north of the subject property. Mr. Healy stated that the comment was from the property that is two to the north of the subject property.

Mr. Starr shared that the property to the south would benefit from the garage because it would act as part of their privacy fence. Mr. Starr commented on the exterior storage that was reported at this property and stated that he would require his tenant to place any equipment in the garage.

Commissioner Felton asked staff to reread the public comment. Mr. Healy reread the public comment.

Chair Ross shared the lot size, and the location of the telephone pole constituted a practical difficulty.

Chair Ross asked Mr. Starr if he was familiar with the conditions of approval. Mr. Starr stated he was.

Mr. Starr apologized for dropping the ball on licensing the property and promised to rectify the situation.

Commissioner Felton shared that he was prepared to vote against approving the item due to the Applicant's failure to receive proper permitting/licensing for the property, but the Applicant's apology was appreciated and that he may vote to approve the item due to the Applicant taking responsibility for his actions.

Motion to recommend approval of the setback variances to allow a detached garage at 552 8th Avenue South as presented – Frankot/Fournier (7-0).

B. Site Plan Review and Variances for BC Engineering Development

Ms. Mann shared the staff report. The Applicant is Beck Properties of Minnesota. The Applicant requested site plan review, a variance to allow a 10-foot parking setback along Hardman Court, a variance to allow a wall sign to be greater than 3 feet in height, a variance to allow a wall sign to be located higher than 15 feet above the ground, and a waiver of the requirement that the cost of the plant material is at least 2% of the cost of the proposed building. The Applicant is proposing to build a new 28,000 square foot building. The property is zoned I1, Light Industrial district. The proposed building meets almost all the standards for a property in the Industrial district, except for the parking setback standards which the Applicant has requested a variance for. The signage variances that the Applicant has requested would be irrelevant within the next few months as Staff is proposing changes to the sign ordinance which would not restrict wall signs to be located in a 3-foot horizontal band that is at least 10 but not more than 15 feet above the ground. The proposed ordinance amendment is listed as Item 4.F on the meeting's agenda. Staff recommends approval of the site plan, parking setback variance, and signage variances.

Jeremy Thomas, RJ Ryan Construction, was present to speak on the application. Mr. Thomas shared that RJ Ryan had constructed Cobra Transportation and many of the building in the Bridgepoint Industrial Park, so he was very familiar with the area. Mr. Thomas explained that the surcharge is placed on a site with poor soils and needs to be kept on the soil for a period. The surcharge at the site was placed based on where a future building could be placed. The parking setback variance is a result of the location of the surcharge and the hardships caused by the location of the surcharge. If the building is located out of the surcharge area, the site would need to be re-surcharged.

Chair Ross commented that the Applicant was proposing more overstory trees than was required. Mr. Thomas acknowledged that this was the case and explained his client's request for a waiver of the landscaping cost requirement.

Chair Ross asked staff if received any correspondence on the item. Ms. Mann stated that correspondence had not been received on the item.

Commissioner Frankot asked Ms. Mann if the sign ordinance amendments being reviewed later in the evening would address the sign variances the Applicant had requested. Ms. Mann stated that they would, but that

ordinance amendments require two readings and are not guaranteed to be approved so it was in the Applicant's best interest to request the sign variances.

Commissioner Felton asked who lays down surcharge. Ms. Mann explained that the EDA orchestrated the surcharge being laid down at the site.

Motion to recommend approval of the site plan, parking setback variance, and signage variances at 285 Hardman Avenue South as presented- DesMarais/Fournier (7-0).

C. Variance and Conditional Use Permit for Signage at Wakota Ridge- Woodbury Lutheran Church

Ms. Mann presented the staff report. The Applicant is Gina Kazmerski, on behalf of Woodbury Lutheran. The Applicant has requested a Conditional Use Permit and Variances to allow 2 wall signs. The subject property is located at the corner of 5th Avenue South and Douglas Street West. The property is zoned R-2. The city code is incredibly restrictive in its standards for institutional uses in residential districts. The maximum gross allowable signage for a property in the district is 6 square feet. Institutional uses in residential districts are allowed to have either a 6 square foot wall sign or a 32 square foot monument sign. The property has two existing signs, a 17 square foot wall sign that will be replaced with a 14 square foot wall sign and a 33 square foot monument sign. The Applicant would like to add two additional wall signs to the property: a 5 square foot wall sign that says 'Welcome' and a 20 square foot wall sign with the church's name and logo. Both signs would be visible from Douglas Street West. Staff recommends approval of the Conditional Use Permit and variances.

Commissioner Thompson asked if any of the variances the Applicant was requesting would be addressed by the proposed ordinance amendment. Ms. Mann explained that one of the variances would be addressed in the proposed ordinance amendment, but the sign size and total property signage variances would not be addressed as part of the ordinance amendment.

Commissioner DesMarais asked staff is the signs would be illuminated. Ms. Mann stated the signs would not be illuminated.

Ms. Kazmerski was present to answer any questions.

Chair Ross opened the public hearing.

Staff shared a voicemail they had received from Tom Thoenke who resides at 250 Douglas Street West. Mr. Thoenke stated he had no problem with the proposed signage but requested that the signage not be lit up at night.

Chair Ross closed the public hearing.

Commissioner Felton asked who the applicant was for the project. Ms. Mann stated the Gina Kazmerski was the Applicant. Commissioner Felton commented that it would be nice for the property owner to be in attendance at Planning Commission meetings

Commissioner Felton commented that staff often used language about South St. Paul's code being restrictive and the city differing from the norms of other communities. Commissioner Felton stated that this is what makes South St. Paul, South St. Paul.

Chair Ross requested that Staff encourage the Applicant to be present for meetings. Mr. Healy stated that anyone with an interest in a property can be the Applicant for a project with the written consent of the property owner. Mr. Healy reminded the commissioners that Ms. Kazmerski is the Applicant for this item.

Commissioner Felton reiterated the importance of encouraging the property owner to be present at meetings.

Motion to approve the Conditional Use Permit and Variances for two wall signs- Thompson/Frankot (7-0).

D. Variance for Signage at 104 5th Avenue South

Ms. Mann presented the staff report. The Applicant is Mark Fenton on behalf of the South St. Paul School District. The Applicant has requested a variance to allow more than 150 square feet of signage at the subject property to allow a 48 square foot non-illuminated awning sign to replace an existing 13 square foot non-illuminated awning sign. The subject property is zoned C-1, Commercial Retail business and is located at the intersection of Marie Avenue and 5th Avenue South. The property has multiple facades with multiple entrances due to the previous uses of the properties that currently make up the School District's office. Per the Applicant, the existing signage is not enough to direct visitors to the appropriate department. The School District is also relocating their district office internally to the main entrance of the building along 5th Avenue South. There is currently an awning sign above this entrance that reads "Family Education Center." The Applicant is proposing the awning sign be replaced to read "South Saint Paul Public Schools." Staff recommends approval of the variance.

Commissioner Frankot asked if the Applicant's request would be addressed in Agenda Item 4.F. Ms. Mann explained that the Applicant's request would not be addressed as part of the proposed ordinance amendment because the variance the Applicant requested was for additional signage beyond what is allowed within the C-1 district. Mr. Healy explained that the proposed ordinance that staff is bringing forward as Item 4.F is intended to clean up the wall sign code to reduce the number of variances needed for a standard wall sign. Mr. Healy shared that Staff would be bringing forward in the coming months an ordinance amending the standards for institutional uses in residential districts and allowing additional gross signage flexibility for commercial or industrial properties that are larger than one acre in size.

Chair Ross opened the public hearing.

Robert & Jane Hoch who reside at 102 4th Avenue South were present to comment on the application. Mr. and Mrs. Hoch stated that granting the sign variance would encroach on the residential nature of their property and that they do not find value in the variance. Mrs. Hoch shared her frustration with the number of sign variances that are granted in the community and the precedent that is set with each variance that is granted. Mr. Hoch commented that the existing electronic changeable sign at the school district property is incompatible with the residential neighborhood.

Chair Ross asked Mr. and Mrs. Hoch if they objected to the existing signage that exceeded the maximum gross area allowed or if they objected to more signage being added to the site. Mrs. Hoch stated that they were opposed to more signage being added.

Mrs. Hoch expressed her frustration that she could see the light from the electronic changeable sign at the subject property from her property that is one block away. Chair Ross commented that there should be time restrictions for when the sign could be lit. Mr. Healy stated that this might not be the case. Mr. Healy explained that there did not appear to be a Conditional Use Permit for the sign. The sign appears

to predate the requirement. Mr. Healy noted that the subject property is zoned for commercial use as are many of the residential properties in the neighborhood. The requirement that electronic signs be turned off at night is only in place for residential districts. No such requirement is in place for properties in commercial districts.

Chair Ross asked if the Planning Commission could retroactively impose conditions about the hours the electronic sign is lit as part of the motion for the item. Mr. Healy stated that the Planning Commission did not have the authority to regulate the sign retroactively.

Chair Ross suggested tabling the item until the following meeting to allow for more review time. Mr. Healy noted that a representative for the Applicant failed to attend the meeting which is grounds for tabling the item. Commissioner Felton suggested outright denying the item on the grounds that the Applicant was not present, and the neighbors clearly opposed the item.

Chair Ross closed the public hearing.

Commissioner Krueger commented that the site was very unattractive and lacked landscaping.

Chair Ross suggested another reason to table the item would be to discuss with the Applicant restricting the hours that the electronic sign is lit.

Mrs. Hoch shared that her main comment is that the City should stop allowing signs to increase in size and that the City should encourage applicants to beautify their sites. Mrs. Hoch stated the bigger signage does not help gentrify the area. Mrs. Hoch shared that she was disappointed in the precedent that was set by allowing sign variances and was concerned that other nearby properties would continue to request more signage if the Applicant's variance request was granted.

Commissioner Frankot asked staff if the Applicant could abbreviate the signage to reduce the size of the sign. Mr. Healy stated the property owner is changing the use of their building which is why they are proposing to change the sign.

Chair Ross asked Mr. Healy what the restrictions are for lighted signs. Mr. Healy explained that the code regulates how bright a sign can be, how frequently the sign can change, and whether a sign can move. Mr. Healy furthered that the code does not outright have any conditions about the hours of operation for an electronic sign; however, a Conditional Use Permit is required for electronic changeable signs which allows conditions, such as the hours the sign can be lit, to be added to the approval of the sign. Electronic changeable signs in residential districts need to be off between the hours of 10:00 PM and 7:00 AM.

Commissioner DesMarais asked Staff if the awning was being changed in addition to the lettering on the awning. Mr. Healy explained that only the lettering was being changed.

Commissioner Thompson asked Staff to clarify that the request was to change the letters on the existing awning. Mr. Healy clarified that the request was to change the lettering of the awning sign. Commissioner Thompson asked if conditions could be attached to require the Applicant to improve the

property to be more attractive. Mr. Healy explained that any conditions added must to be related to the variance.

Commissioner Krueger shared her concerns that if the Planning Commission recommended denial of the application as opposed to tabling the item, the Commissioners would not be able to share their concerns with the School District because a representative for the School District would never come before the group. Chair Ross explained that the City Council would receive a summary of the Planning Commission's discussion.

Motion to recommend denial of the sign variance finding that the variance fails to meet the standards for a practical difficulty - Felton/DesMarais (5-2) (Frankot, Krueger).

Amendment to the motion requiring Staff to contact the School District about turning off the electronic sign between 10:00 PM and 7:00 AM- Ross/Felton (7-0).

E. An Ordinance Establishing the Mixed Markets and Makers District and Standards for Site Plan Review

Mr. Healy presented the Staff report. The proposed ordinance would enact the Mixed Markets and Makers District and would establish standards for site plan review. The 2040 Comprehensive Plan calls for a study and update on Concord Street North between Wentworth Avenue and the border of Saint Paul. today, this area is zoned North Concord Mixed Use District (NCMU) and is guided "mixed use". The existing zoning standards for the NCMU district are unworkable due to parcel configuration, topography, and the sheer costliness and complexity of the existing standards. Staff has been working with Michael Lamb Consulting on the zoning update. The proposed ordinance would replace the NCMU District with the Mixed Markets and Makers district. The new district would offer more flexible standards in terms of the required building materials, the allowable and conditional uses within the district, and parking requirements. The ordinance would also establish codified standards for site plan approval, add new zoning definitions, and would update the City's rules for quasi-public structures. Staff recommends approval of the proposed ordinance.

Commissioner Frankot asked about the open house that staff held. Mr. Healy shared that the open house ended up being a co-open house with the owners of the historic Cenex Building. Mr. Healy shared that staff met with three business owners and a number of residents that were interested in the project. Many of the business owners that stopped by wanted to see how the ordinance update would impact their business.

Commissioner Felton asked if an existing non-auto sales business in the MMM-3 district could receive a Conditional Use Permit for auto sales. Mr. Healy stated that the NCMU district does not currently allow auto sales. The proposed ordinance would allow auto sales with a Conditional Use Permit in the MMM-4 district where the lot sizes are a little bit larger. The MMM-3 subdistrict would not have auto sales as a Conditional Use. Commissioner Felton asked why auto sales were not a Conditional Use in the MMM-3 district. Mr. Healy explained that the allowed/conditional uses proposed for the subdistrict were based on the goals and priorities for the area. Staff understands that there is a high interest in auto sales in this area; however, the visioning for the district showed that there is an interest in having retail and restaurant uses in the area as opposed to auto sales.

Chair Ross asked if the Met Council reviews zoning changes. Mr. Healy stated that the Met Council is not obligated to review zoning changes; however, state law requires any rezoning to be consistent with the City's Comprehensive Plan.

Chair Ross opened the public hearing.

Mr. Healy shared two comments he received during the open house.

TJ Hammerstrom, 1321 Butler Court, stated that all truck traffic should be removed for Concord Street North, north of Wentworth Avenue.

Staff also received an anonymous comment requesting that small, 10 car auto sales be allowed in the MMM-3 district.

Chair Ross closed the public hearing.

Motion to recommend approval of the proposed ordinance- Thompson/Fournier (7-0).

F. An Ordinance Amending the Sign Code's Regulations for Wall Signs and Monument Signs

Mr. Healy shared the staff report. In recent years, the City has received and granted a large number of sign variance requests. The City has a long history of very restrictive sign regulations which the City regularly grants variances from. It is in the best interest for all parties to have staff amend the code to reduce the number of sign variance requests. Staff noted that there were a number of businesses that would be watching to see if the sign ordinance amendment would be approved. If the ordinance is not approved, a number of businesses would be requesting variances. The design guidelines regarding the size and height of wall signs would be amended to allow signs to be taller than 3 feet in height and to be placed anywhere on a wall. The standards for signage in the Concord Gateway Mixed Use District would be amended to allow wall signs that are not just individual letters and would remove the Conditional Use Permit requirement for wall signs with a logo. The proposed ordinance also includes several housekeeping items related to signage. Staff recommends approval of the proposed ordinance.

Chair Ross reiterated that one of the housekeeping items was replacing any text that says "NCMU" for the North Concord Mixed Use District and replacing it with "MMM" for the new Mixed Makers and Markets district.

Chair Ross opened the public hearing.

Neighbor's Incorporated, 222 Grand Avenue West, provided a letter of support for the proposed ordinance.

Chair Ross closed the public hearing.

Motion to recommend approval of the proposed ordinance- Frankot/Fournier (7-0).

G. A Comprehensive Plan Amendment to Raise the Maximum Density for Mixed Use Development in the Concord Exchange/Grand Avenue Area.

Mr. Healy shared the staff report. The item was initiated by the City Council after their July 26th work session. The City Council and the Economic Development Authority have spent decades preparing land "down the hill"

(along Concord Street) for mixed use development. The Met Council has designated South St. Paul as an urban center community. Urban center communities are required to have a minimum density of 25 units per acre in mixed-use areas. Additionally, a maximum density of 60 units per acre is in place City wide. In discussions with developers, it has become apparent that it is not generally possible to build a high-quality modern multi-family building with premium amenities and structured parking with a density of 60 units per acre. This type of project requires at least 64-68 units per acre. "The Yards" was approved on a technicality, but the same is not possible for other future developments. The only way to increase the density requirement is through a comprehensive plan amendment. The proposed comprehensive plan amendment would create a "Concord/Grand Mixed Use" area with a maximum density of 75 units per acre. This area would include the Hardman Triangle and properties along Concord Exchange. All other districts would continue to have a maximum density of 60 units per acre.

Chair Ross opened the public hearing.

No one was present to speak on the item. Staff noted that the packet included a number of "No Comment" replies from neighboring municipalities and Dakota County. The City is required to reach out to surrounding communities and Dakota County for comments whenever changes are made to the comprehensive plan.

Chair Ross closed the public hearing.

Motion to recommend approval of Planning Commission Resolution 2021-01 recommending approval of comprehensive plan amendment to raise the maximum density to 75 units per acre for mixed-use development on Concord Exchange and the Hardman Triangle- Krueger/DesMarais (6-1) (Felton).

5) OTHER BUSINESS

None

6) ADJOURNMENT

Motion to adjourn- DesMarais/Fournier (7-0).