Saint Paul Planning Commission
City Hall Conference Center
15 Kellogg Boulevard West

Minutes April 15, 2011

A meeting of the Planning Commission of the City of Saint Paul was held Friday, April 15, 2011, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present:	Mmes. Halverson, Merrigan, Perrus, Reveal, Thao, Wencl, Young; and Messrs. Commers, Connolly, Fernandez, Gelgelu, Kramer, Ochs, Oliver, Schertler, Spaulding, Ward, Wickiser.
Commissioners Absent:	Mmes. *Porter, *Wang, and Mr. *Nelson. *Excused
Also Present:	Donna Drummond, Planning Director; Patricia James, Kate Reilly, Penny Simison, and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes April 1, 2011.

MOTION: ***Commissioner Thao moved approval of the minutes of April 1, 2011. Commissioner Gelgelu seconded the motion. The motion carried unanimously on a voice vote.***

II. Chair's Announcements

Chair Commers announced that the Great River Gathering dinner is on May 12th. Commissioner interested in attending should talk with Donna Drummond to sign up for the dinner. This is an annual event and it would be nice to once again have a Planning Commission presence there.

III. Planning Director's Announcements

Donna Drummond reported that the City Council introduced a few amendments to the Central Corridor Zoning Study at last Wednesday's meeting. Councilmember Carter proposed changing the classification on some of the properties from T3 to T2 in certain areas east of Lexington Parkway and also to limit the ability to apply for a conditional use permit for additional height in T3 east of Lexington. Because of these changes the City Attorney's office has advised the Council to have another public hearing on just those amendments, which will be next Wednesday, April 20th at 5:30 p.m. in the Council chambers. Also last Wednesday the City Council approved the Highland Village Zoning Study. Councilmember Harris made an amendment prior to the hearing to remove properties in the northern edge of the study area that were proposed to be rezoned to T2. They will remain zoned RM2 (multi-family residential) and a few are OS (office service), but the rest of the rezonings were approved.

Regarding APA memberships, commissioners who have not yet paid and still want to join or

renew their membership should give Ms. Drummond a check today as she needs to turn it in as a group membership for the Planning Commission. Also, reservations and checks for the Great River Gathering dinner sponsored by the St. Paul Riverfront Corporation will be accepted now thru May 2nd.

IV. Zoning Committee

STAFF SITE PLAN REVIEW – List of current applications. *(Tom Beach, 651/266-9086)*

Two items came before the Site Plan Review Committee on Tuesday, April 12, 2011, They were: Como Elementary Bus Drop-Off located at 780 Wheelock Parkway West, sidewalks, signage and striping drop-off zone, ADA route, and Stroh Brewery Site Stormwater Pond located at 707 Minnehaha Avenue East, relocate pond and pave demolished building footprint.

One item to come before the Site Plan Review Committee on Tuesday, April 19, 2011 is: Obama School Parking Lot located at 707 Holly Avenue, replace pavement.

OLD BUSINESS

#11-103-193 Red Dog Holdings LLC - Conditional Use Permit for a pawn shop with modification of separation requirement between pawn shop and alternative financial establishment (1053.5 ft. existing, 1320 ft. required). 1891 Suburban Avenue, NW corner at Burns. *(Penelope Simison, 651/266-6554)*

Commissioner Kramer stated that one of the requirements for a pawnshop is that it is located 1,320 feet from any existing alternative financial establishment, and in this case the distance requirement is not met. The pawn shop is one piece of a multi-piece development at this address. The committee recommends denial of the modification and the accompanying conditional use permit because the separation requirement is not met.

MOTION: ***Commissioner Kramer moved the Zoning Committee's recommendation to deny the conditional use permit for a pawn shop.***

Commissioner Spaulding stated he was not in favor of the committee's recommendation. He believes the pawn shop conditional use permit should have been approved for a variety of reasons. Commissioner Spaulding distributed an alternative set of findings that could be used in place of the Zoning Committee's findings in the resolution. He stated that his document is not a substitute motion, but if the commission wishes to adopt his findings they should vote 'no' on the Zoning Committee's recommendation. The alternate findings could then be used as a basis for approving the pawn shop application.

Chair Commers stated for clarification that what is currently on the floor is the committee's recommendation, and what Commission Spaulding is circulating is a document to facilitate discussion.

Commissioner Spaulding said the document he handed out was based on conversations with City staff about what alternative findings could look like. He noted that the language is not final. Commissioner Spaulding read his alternative findings and resolution into the record. He explained that the crux of this case is the modification of the distance requirement between the

Piggy Bank (an alternative financial establishment) and the pawn shop. The code requires 1,320 feet, and instead the distance that would separate them under the proposal is 1,053.5 feet, for a difference of about 250 feet. The character of the street is such that the distance is not impactful; there is no surrounding residential use directly adjacent to the property or nearby. All of those factors suggest that the impact of modifying the distance requirement would be relatively minor. So he finds it would be appropriate to modify the distance requirement and appropriate to then approve the conditional use permit for a pawnshop at this site.

Commissioner Oliver spoke in support of the alternate findings and he gave his thoughts on the key issues for discussion. First the justification for the modification, in his view, is not its size. This is a six acre site and it's possible to locate the pawn shop elsewhere on this site outside of that quarter mile perimeter. Putting the pawn shop in the existing dealership puts it on the inside of the development, which is the least impactful location for it in his opinion. Modifying the distance allows it to be put where it best fits within the entire development and within the neighborhood. He supports adopting the alternate findings and also ensuring that this entire development gets built.

Commissioner Wickiser said that he does not disagree with a lot of the comments, but he would be more in favor of the developer putting the pawnshop in a different location on the site.

Commissioner Connolly asked how long the Piggy Bank has been there. Commissioner Kramer estimated that it has been there close to 5-years.

Commissioner Connolly also asked about the reasoning for requiring a quarter-mile separation.

Patricia James, PED staff, explained that in Saint Paul a typical city block is 660 feet long by 330 feet deep, so a quarter mile is basically two blocks. The zoning code uses that distance for a number of other uses where a concentration is undesirable.

Commissioner Fernandez asked about the classification of the Piggy Bank.

Penelope Simision, PED staff, explained that initially staff thought that the Piggy Bank was not an alternative financial establishment, because its primary business was wire transfers. However, the ordinance states that check cashing shall be incidental to the primary business of the establishment, and staff ultimately concluded that the check cashing function was not an incidental part of this business.

Commissioner Wickiser distributed copies of the September 10, 2010 Planning Commission minutes where a resolution was passed and discussed regarding the distance requirement between alternative financial establishments and pawn shops. The discussion was geared toward severely restricting the pawn shop use by putting in these distance requirements. The proposed resolution for this case is consistent with the distance requirement that was approved by the Planning Commission in 2010.

Commissioner Thao asked if check cashing is the primary business at the Piggy Bank. Ms. Simison said that it is more accurate to say that it is not incidental.

Commissioner Kramer said that the incorporated name of the business is The Piggy Bank Checks Cashed. The issue as to the exact nature of the business relates directly to why the City passed

the ordinance. The City's ordinance says if you are in the business of cashing checks, you're a check casher, unless your business is a bar that cashes someone's paycheck or a grocery store, for example. The determination of alternative financial establishment is based on the activity. Commissioner Kramer also summarized the case: there are four buildings proposed on the site for a total of 42,000 plus square feet. The Zoning Committee is recommending approval of three of the four conditional use permits and 81% of the square footage as requested by the applicant. They did not recommend the modification between the two land uses. He does not totally disagree with the layout of the site plan, but he did not hear any testimony that explained why the pawn shop needed to be put in the existing building and why it could not be put on the western portion of the site. Commissioner Oliver and Commissioner Spaulding's interpretations are reasonable conclusions, but he thinks they are lacking any evidence that the site cannot be used without that modification.

Commissioner Wencl called attention to the finding in the resolution that states the pawn shop as proposed does not achieve the goals of the Sun Ray-Suburban Small Area Plan and is not in substantial compliance with the plan. When the small area plan was done, it did not talk about alternative plans for this site, because no one thought it was necessary -- it was an established business at the time. Now the Commission is put in the position of trying to decide what a good mix of uses is for this site. She cautioned not to just jump on any plan that comes along because of the economic times. We need to look at what is the best use for the land. This is a large enough parcel of land that there are other possible uses that might be a better fit.

Commissioner Perrus spoke in opposition to the motion currently on the table recommended by the Zoning Committee. The argument seems to be where on the existing site plan the pawn shop should be located. She trusts the site plan that was submitted and the way it looks, which is supported by the district council. So, that is how the site should look at the end of the day.

Commissioner Young stated she does not see sufficient evidence for why the pawn shop has to be located within the existing building as opposed to being in one of the new buildings that will be constructed in another area of the site, so she supports the Zoning Committee's recommendation.

Chair Commers called for a roll call vote with each commissioner voting to approve the Zoning Committee recommendation stating the reasons for their vote. Chair Commers stated that it would be sufficient to simply say that the vote is based on the findings as stated in the resolution.

ROLL CALL VOTE: ***The motion to deny the conditional use permit failed on a roll call vote of 5-12 (Commers, Connolly, Fernandez, Gelgelu, Halverson, Ochs, Oliver, Perrus, Reveal, Spaulding, Thao, Ward,) with 1 abstention (Merrigan).***

Commissioner Ward moved approval of the conditional use permit for a pawn shop based on the alternative findings, recommendation, and conditions that Commissioner Spaulding previously read into the record and distributed. Commissioner Fernandez seconded the motion.

Commissioner Spaulding said that condition 9 has been brought to his attention. He suggested that it be changed to: "The conditional use permit and modification of the separation requirement", instead of the way it is presently worded. Commissioners Ward and Fernandez accepted this as a friendly amendment.

Commissioner Perrus expressed concern about the enforceability of condition 9.

Commissioner Spaulding explained that there could be some tweaking in the language. The language of the condition is intended to clarify that the pawn shop merits a separation modification only if the entire site is developed as represented by the applicant. If the site is not developed per the applicant's representation within two years, then the pawn shop has to move some place else on the site that meets the separation requirement.

Commissioner Oliver stated his view that there can be a time restriction within a condition if it's related to the findings. While the Commission cannot have a condition that only allows the pawn shop for two years, that's not what is being said. If the site is built out at the same time, and the pawn shop does not open its doors until everything else is built out, then the condition is met. If the pawn shop opens its doors before the rest is complete, the condition could potentially not be satisfied if that time element is not met. They are not creating an actual sunset on this permit as a whole.

Commissioner Kramer found two statements in the resolution that could be better phrased. The first is a statement that hardship exists because a fast food drive through cannot be put in the existing building. While that may or may not be true, there was not any testimony to that and it is a poor justification. It should be rephrased. The same paragraph also includes reference to the applicant having been given letters of intent. Commissioner Kramer does not think that the applicant ever testified to that, and he thinks this resolution should not be that specific. The resolution should use a more general statement about the proposed uses.

Chair Commers stated that those are two specific proposed amendments, would the maker of the motion and the seconder of the motion find them to be friendly. Commissioner Ward and Fernandez agreed that they are friendly.

Commissioner Spaulding said that, in general, the findings section of the document he proposed and communicated is generally what will be in the resolution, but staff may find other changes that should be made. What is relatively close to the final form is the exact wording of the conditions placed on the conditional use permit.

MOTION: ***Commissioner Ward called the question on the motion approving the conditional use permit for a pawn shop, with modification of separation requirement and an alternative financial establishment as specified in the alternative findings provided by Commissioner Spaulding. The motion carried on a voice vote with -4votes against (Kramer, Wencl, Wickiser, Young) and with 1 abstention (Merrigan).***

#11-112-696 Red Dog Holdings LLC - Conditional Use Permit for an auto specialty store. 1891 Suburban Ave, NW corner at Burns. *(Penelope Simison, 651/266-6554)*

Commissioner Kramer stated that the conditions on the permit are tailored to permit an auto use that works with the rest of the proposed uses on the site.

MOTION: ***Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried on a voice vote with 1 abstention (Merrigan).***

#11-112-697 Red Dog Holdings LLC - Conditional Use Permit for a fast food restaurant with drive through service. 1891 Suburban Ave, NW corner at Burns.
(Penelope Simison, 651/266-6554)

Penelope Simision, PED staff said that attached to the resolution is the Litter Collection Plan, which was worked out in collaboration with District 1. It addresses the issues raised at the public hearing, including the responsibility of the property owner with respect to the site itself. The property owner also agrees to participate in the Public Works Program called Come Clean, which is a community effort with participating businesses to pick up litter that those businesses generate.

MOTION: ***Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried on a voice vote with 1 abstention (Merrigan).***

#11-112-698 Red Dog Holdings LLC - Conditional use permit for a fast food restaurant with drive through service. 1891 Suburban Ave, NW corner at Burns.
(Penelope Simison, 651/266-6554)

Penelope Simison, PED staff, said that attached to the resolution is the Litter Collection Plan, which was worked out in collaboration with District 1. It addresses the issues raised at the public hearing, including the responsibility of property owner with respect to the site itself. The property owner also agrees to participate in the Public Works Program called Come Clean, which is a community effort with participating businesses to pick up litter that those businesses generate.

MOTION: ***Commissioner Kramer moved the Zoning Committee's recommendation to approve the conditional use permit subject to additional conditions. The motion carried on a voice vote with 1 abstention (Merrigan).***

NEW BUSINESS

#11-111-350 Dr. Justin O'Brien - Establishment of legal nonconforming use as a yoga / trade school. 1317 Summit Ave, between Hamline and Syndicate. *(Kate Reilly, 651/266-6618)*

MOTION: ***Commissioner Kramer moved the Zoning Committee's recommendation to approve the establishment of legal nonconforming use status subject to additional conditions. The motion carried unanimously on a voice vote.***

#11-111-117 Saldi LLC - Rezoning from TN2 Traditional Neighborhood to B3 General Business. 150 Cesar Chavez St, between George and Robert. *(Lucy Thompson, 651/266-6578)*

Commissioner Kramer stated that the proposed rezoning is not consistent with various portions of the Comprehensive Plan and they are outlined in the resolution. Also the proposed rezoning would not be compatible with surrounding uses and the current TN2 zoning allows a large number of reasonable choices of use for the propety.

Commissioner Thao asked if there other options.

Commissioner Oliver said he does not see a way to rezone this property. One option could be to amend TN2 uses to permit what this person does. He suggested postponing action on the conditional use permit until the Commission can consider a zoning amendment to the TN2 use table.

Donna Drummond, Planning Director, said that under the 60 day rule a decision must be made, otherwise the application is approved, and there would not be sufficient time within that 60-day period to amend the zoning code and get it through City Council approval

Commissioner Young stated that they had spoken with the owner of this business, and when going through the rezoning process they had multiple community meetings and mailings. The owner stated that he did not participate in the process because he didn't think that it would affect him adversely. They are a good business and she would support an exception in TN2. .

Commissioner Kramer said that this use would not have been permitted under the previous B2 zoning either. There are two issues here, one is that it is prohibited in the zoning district and the second is that it is prohibited within so many feet of residential property. This operator can cash checks now as an incidental activity but they want to become a check cashing store. The rezoning and the conditional use permit go with the land, so if it gets rezoned to B3 and this proprietor goes away, there could be an automotive use there or a pawn shop or whatever. They would also have to comply with the state's ¼ mile distance separation from other check cashing stores as well. It is not an easy fix. He also expressed doubt that the City Council would permit this use in the TN2 district citywide.

Commissioner Wickiser stated that while this operator is a good one, the ordinance recently passed expressed the intent to restrict the locations for this type of use.

Commissioner Reveal expressed concern about the appearnace that we make excpetions to the ordinance whenever asked. She stated that the Commision should set a high hurdle for exceptions.

MOTION: ***Commissioner Kramer moved the Zoning Committee's recommendation to deny the rezoning. The motion carried unanimously on a voice vote.***

#11-111-120 Saldi LLC - Conditional Use Permit for alternative financial establishment with modification of required distance from residential property. 150 Cesar Chavez St, between George and Robert. *(Lucy Thompson, 651/266-6578)*

MOTION: ***Commissioner Kramer moved the Zoning Committee's recommendation to deny the conditional use permit. The motion carried unanimously on a voice vote.***

Commissioner Kramer announced the items on the agenda for the next Zoning Committee meeting on Thursday, April 21, 2011.

V. Comprehensive Planning Committee

Central Corridor Station Area Plans-Western, Victoria & Hamline Station Areas – Approve a resolution recommending to the Mayor and City Council adoption of the plans as addenda to the Central Corridor Development Strategy, a chapter of the City's Comprehensive Plan.

Commissioner Merrigan said that they had a public hearing and an overview of the public hearing comments was provided. These have been reviewed by the committee and changes recommended in response. The committee has forwarded a resolution to recommend the station area plans for Western, Victoria and Hamline Station Areas to the Mayor and Council.

MOTION: ***Commissioner Merrigan moved the Comprehensive Planning Committee's recommendation to approve the resolution for the Western, Victoria & Hamline Station Area Plans recommending that the Mayor and City Council adopt as addenda to the Central Corridor Development Strategy, a chapter of the City's Comprehensive Plan. The motion carried unanimously on a voice vote.***

Commissioner Merrigan announced that the next meeting is on Tuesday, April 26, 2011.

VI. Neighborhood Planning Committee

Solar Energy Systems Zoning Study – Approve a resolution initiating a zoning study to consider amendments to the Zoning Code pertaining to solar energy systems. *(Kate Reilly, 651/266-6618, and Allan Torstenson, 651/266-6579)*

MOTION: ***Commissioner Wencl moved the Neighborhood Planning Committee's recommendation to approve the resolution initiating a zoning study to consider amendments to the Zoning Code pertaining to solar energy systems. The motion carried unanimously on a voice vote.***

Wind Turbines Zoning Study – Approve a resolution initiating a zoning study to consider amendments to the Zoning Code pertaining to wind turbines. *(Kate Reilly, 651/266-6618, and Allan Torstenson, 651/266-6579)*

MOTION: ***Commissioner Wencl moved the Neighborhood Planning Committee's recommendation to approve the resolution initiating a zoning study to consider amendments to the Zoning Code pertaining to Wind Turbines. The motion carried unanimously on a voice vote.***

Commissioner Wencl announced the items on the agenda for the next Neighborhood Committee meeting on Wednesday, April 20, 2011.

VII. Transportation Committee

Citywide Sidewalk Infill Program - Approve a resolution providing recommendations to the Mayor and City Council regarding a citywide sidewalk infill program.

Commissioner Wickiser said that there was good discussion at the committee, which had approved the Citywide Sidewalk Infill program and also talked about how Public Works would interact with the Transportation Committee.

Christina Morrison, PED staff, said that the recommendation is to change the assessment policy, to allow for 50% assessment for residential properties in order to reduce the cost to the property owner, and to propose that Public Works embark on a 10-year sidewalk infill program, focusing first on adding sidewalks on one side of the arterial or collector streets. Ms. Morrison noted that the memo attached to the resolution contained various options, and that options 2, 5, and 6 are the ones that Public Works is looking to forward to City Council for their approval.

Commissioner Merrigan asked if the assessment could be added over 20-years to one's property taxes or if it is a one time assessment. Commissioner Kramer noted that the property owner could use either option.

Commissioner Wencl asked if McKnight Road is a Ramsey County or Saint Paul road. Ms. Morrison stated that she assumes it is an arterial street, and that the Saint Paul portion of McKnight may be eligible for the list of streets that would be targeted if it is missing sidewalks.

Commissioner Wencl stated that part of the street has a separate, striped area where people walk, and asked if that was considered a sidewalk. Ms. Morrison said that a sidewalk would be more than a striped shoulder. It would be a separated paved surface that would meet ADA code and allow safe pedestrian activity.

Commissioner Wencl asked if the entire area of Upper and Lower Highwood would be considered since there are no sidewalks on most cul-de-sacs. Ms. Morrison said the program would study arterial and collectors streets citywide; however, criteria will be used to prioritize the sidewalk infill projects. She stated that many parts of Highwood would not likely rank high on this list because the neighborhood does not have as much bus service, residential density, or commercial activity, and therefore may not perform well on a cost-benefit analysis.

Commissioner Kramer asked if there are going to high priority areas, and if there is a way for people to weigh in on those choices. Ms. Morrison said that the department of Public Works is recommending that there be an annual proposal for sidewalk infill projects, and that there would be a public hearing each year to discuss that proposal.

MOTION: ***Commissioner Spaulding moved the Transportation Committee's recommendation to approve the resolution with recommendations to the Mayor and City Council regarding a citywide sidewalk infill program. The motion carried unanimously on a voice vote.***

Commissioner Spaulding announced that the next Transportation Committee meeting for Monday, April 18, 2011 has been cancelled.

VIII. Communications Committee

No report.

IX. Task Force Reports

Commissioner Wencl announced that the Near East Side Task Force will be meeting on Tuesday, April 19, 2011 at the Dayton's Bluff District 4 Community Council Office.

X. Old Business

None.

XI. New Business

None.

XII. Adjournment

Meeting adjourned at 10:36 a.m.

Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

Respectfully submitted,

Donna Drummond

Donna Drummond
Planning Director

Approved 4-29-11
(Date)

Anthony Fernandez
Secretary of the Planning Commission

PED\butler\planning commission\minutes\April 15, 2011