

MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISISON
October 7, 2020

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

Present: Angela DesMarais
 Tim Felton
 Justin Humenik
 Ruth Krueger
 Matthew Thompson
 Michael Healy, City Planner
 Monika Mann, Community Development Support Specialist

Absent: Jason Frankot

- 1) APPROVAL OF AGENDA – Felton/Huminek (5-0)
- 2) APPROVAL OF MINUTES – September 2, 2020 – Motion to approve the minutes as presented – Krueger/ Thompson (5-0).
- 3) NEW BUSINESS

 None.
- 4) PUBLIC HEARINGS

 A) Public Hearing for a Rear Yard Setback Variance for a Proposed Deck at 110 3rd Street South

Ms. Mann presented the staff report. The applicant, Beverly Nikolai, requested a variance to allow a deck to be built either 0 feet or 7 feet from the rear property line. The applicant had recently submitted a building permit for a deck to replace a deteriorating staircase that had served the side entrance of the home. Upon review of the application, it was determined by Staff that a variance would be necessary because the existing house is located within the required rear setback and the deck would encroach this setback.

The subject property is a single-family property located in the R-2 District. The existing house on the property is located almost entirely in the required rear yard setback. This leaves the property without a backyard. In addition, the property directly abuts an alley which leaves the property with only one side yard. The applicant requested a 10-foot rear yard setback variance to allow the proposed deck to span from the entry vestibule of the side door to the rear property line. The deck would sit flush with the rear property line, just as the house does. This is the applicant’s preferred location as it would allow the greatest use of the property. The applicant proposed a secondary location for the deck in the that the Planning Commission did not find a 0-foot setback to be supportable. This location would require a 3-foot rear yard setback variance. In this scenario, the applicant’s deck would start at the entry vestibule of the side entrance door and span towards the front of the property. This location is not ideal for the applicant because it would create a section of the property that is useless but would still need to be maintained.

Section 118-121 lists performance standards for single-family properties located in R-1 or R-2 District. This section requires the rear yard of a single-family property to be at least 25 feet in the depth. Section 118-273

Planning Commission Minutes

October 7, 2020

Page 2 of 5

offers setback exemptions for structures located in a residential district. Per this section, decks may encroach 15 feet into a rear yard setback so long as a setback of 10 feet is maintained. The applicant's property does not meet this requirement which is why the applicant requested a variance.

Staff discussed the application with the Building Official to determine if a 0-foot setback would be allowable under the Building and Fire Code. The Building Official stated that the deck would not impact the fire safety of the property given that the existing house is already flush with the rear property line. Staff recommended approval of the variance subject to the conditions of approval.

Commissioner Huminek asked if the applicant could install a concrete staircase in place of the proposed deck if the variance was denied. Ms. Mann stated that the applicant would be able to put in a concrete staircase without the need for a variance, but the applicant requested a deck in this location because it would allow for greater use of the property. Mr. Healy further explained that staircases do not have a setback requirement and can encroach into any area.

The applicant, Beverly Nikolai, was present to speak on the application.

Chair DesMarais opened the public hearing.

No correspondence had been received on the item nor was anyone present to speak on the item.

Chair DesMarais closed the public hearing.

Commissioner Krueger stated that while a 0-foot setback seemed strange, the location of the house made the location of the deck self-evident.

Commissioner Felton stated that he believed the variance made perfect sense and that the deck would be a big improvement to the property.

Commissioner Huminek requested clarification from the commissioners that they were voting to recommend approval of the 0-foot setback for the deck. Commissioners confirmed this was the case.

Motion to recommend approval of a rear yard setback variance to allow a deck to be constructed 0-feet from the rear property line– Felton/Krueger (5-0)

B) Public Hearing for Alter Recycling Rezoning and Comprehensive Plan Amendment Request for PID #36-03900-10-011

Mr. Healy presented the staff report. The applicant, TKDA on behalf of Alter Logistics, requested to amend the 2040 Comprehensive Plan to guide part of their parcel as "Industrial" instead of "Open Space" and to rezone their entire 17 acres parcel from North River Front Development District (NRDD) to Industrial.

Alter Logistics operates a recycling facility in St. Paul's "South Port Terminal." While the majority of Alter Logistics' business is located in St. Paul, the company owns 17 acres in South St. Paul which directly connects to their St. Paul property. The 17 acre property is bifurcated by Union Pacific Railroad tracks, which effectively split the lot in two sections which are referred to as the "east part" and the "west part."

Planning Commission Minutes

October 7, 2020

Page 3 of 5

The 17-acre parcel was zoned heavy-industrial until 1992. In 1992, the City created the NRDD zoning district. At the time, the City was considering creating a golf course, boat marina, and other major recreational amenities at the former landfill site known as Port Crosby (Kaposia Landing Park). The City rezoned the Port Crosby area, including a number of surrounding properties, from Heavy Industrial to NRDD. The NRDD zoning district would only allow boat marinas and recreational uses to ensure that the land was used for recreation purposes. All of the parcels zoned NRDD were acquired by either the City or the Metropolitan Council, except for the existing Alter Logistics parcel. Today the Alter Logistics property is still zoned NRDD. The 2040 Comprehensive Plan guides the west part of the property for industrial use and the east part for open space use.

Given that their property is zoned NRDD, Alter is limited in their ability to use the site for anything other than recreational uses. The existing exterior storage and spur track on the 17-acre site are “grandfathered” uses. State law allows these uses to be “maintained, repaired, replaced, and improved but not expanded” meaning that Alter can continue their use indefinitely, but they cannot expand their operations unless the property is rezoned for industrial use.

Alter Logistics plans to invest in their St. Paul property in the next few years. As a part of the project, Alter is looking to replace and improve the rail spur on the South St. Paul portion of their site. The company is considering creating of a stormwater pond on the east part of their South St. Paul property to support the facilities on their St. Paul property. The applicant has stated that they have no intention to build on their South St. Paul property in the coming years and that their request to rezone the property is a proactive request.

Mr. Healy explained that the City cannot legally rezone a piece of land unless the rezoning is consistent with the Future Land Use Map found in the City’s comprehensive plan. Further, if an applicant requests a property to be rezoned and the Future Land Use Map calls for a rezoning, the City is legally obligated to rezone the property. If the City receives a rezoning request that does not match the Future Land Use map, the City must deny the request because the City cannot approve a rezoning that does not match the Comprehensive Plan. The City is not obligated to approve a comprehensive plan amendment in the same way that the City is obligated to rezone a property that matches the comprehensive plan. Comprehensive Plan amendments require a supermajority (five vote) approval from the City Council.

The City reached out to neighboring communities and organization for comments regarding the Comprehensive Plan Amendment as is required by the Metropolitan Council. A number of organizations did not provide comments. The City of Newport commented that they were okay with the amendment as long as a conservation easement protects their scenic views. The Friends of the Mississippi River, a non-profit, advised the City to deny the Comprehensive Plan amendment. If the City voted not deny the Comprehensive Plan amendment, the Friends of the Mississippi River encouraged the City to require a 300-foot conservation easement along the property line and shoreline of the river.

Mr. Healy stated that the City is legally required to rezone the west part of the parcel to Industrial. Mr. Healy explained that this part of the property could be zoned either “I-Industrial” or “LI- Light Industrial.” Staff recommended rezoning the east part of the property to match the western portion but only if the Comprehensive Plan amendment is approved. Staff recommended that the comprehensive plan amendment either be denied outright or be approved but only if a conservation easement is put in place along the shoreline and the southern property line.

Commissioner Krueger asked staff to speak to how to Robert Piram Regional Trail affected the Alter Logistics site. Mr. Healy explained that the City had submitted its 2040 Comprehensive Plan to the Met Council in December of 2019. During the summer/fall of 2020, a bike trail known as the Robert Piram Regional Trail was constructed to connect Kaposia Landing to St. Paul. The trail is nearby the western side of the Alter Property.

Jeremy Goldstein of Alter Logistics explained that the Robert Piram Regional Trail also abutted the impound lot and the St. Paul portion of the Alter property. Mr. Goldstein stated that the main focus was on the east side of the property. Mr. Goldstein stated that a buffer of 300 feet would be detrimental to the multi-million-dollar updates the organization had planned for their St. Paul site; however, he was open discussing what a conservation easement could look like.

Mr. Healy explained to the applicant that the Planning Commission provides a recommendation to the City Council who will approve or deny the application after considering the Planning Commission's recommendation. Mr. Healy stated that there was room for negotiation but the rezoning of the western part of the property is a given. The rezoning of the eastern part of the property is not a given and will require the vote of 5 City Council members in order for it to be approved. The City Council members can deny the rezoning of the eastern part of the parcel (if the comprehensive plan amendment is denied) or allow for the rezoning subject to a conservation easement on the property.

Mr. Healy further explained that the Robert Piram Trail does not access the Alter property, but it does provide residents with a view of the area that they have not previously had.

Commissioner Krueger shared her positive experience with the new Robert Piram Trail and stated her concerns about having an industrial property near the trail.

Mr. Healy addressed Commissioner Krueger's concerns by explaining that Alter Logistics would need a Conditional Use Permit and a Site Plan approval to expand their business if the property were rezoned. In the case of a Conditional Use Permit, the City could add a condition of approval to require a conservation easement along the property line. Mr. Healy speculated that Alter Logistics would likely not engage in a project that would go right up to the property line.

Commissioner Felton asked if there was a city benefit to the Comprehensive Plan Amendment and rezoning. Mr. Healy stated that there was not. Commissioner Felton stated that he was not comfortable with allowing an organization to put their foot in the door as it has previously resulted in organizations expanding without permission. Commissioner Felton also stated that the eastern part of the property does offer a significant buffer so allowing a business to be active in this area would infringe on the park area the City worked so hard to create. Commissioner Felton pointed out that the applicant requested for their entire property to be rezoned and stated that he was strongly against that.

Jeremy Goldstein (Alter Logistics) and Evan Monson (TKDA) were present to speak to the application. Mr. Monson explained that the rezoning and comprehensive plan amendment requests were proactive requests. Mr. Monson explained that having the entire Alter property zoned for one use could avoid confusion in the future if the existing tracks on the Alter property were removed. Mr. Monson reassured the commissioners that Alter was not looking to do major work on the site or clear cut the site; the applicant is looking to improve the site and be good stewards to the area. Mr. Goldstein reiterated that any future use would involve material storage and that a buffer between the site and the park would be maintained.

Chair DesMarais opened the public hearing.

No one was present to speak on the item and staff had not received any additional comments.

Chair DesMarais closed the public hearing.

Planning Commission Minutes

October 7, 2020

Page 5 of 5

Commissioner Huminek stated he agreed with Commissioner Felton's comments. Commissioner Huminek stated that the community had put a lot of thought into the Comprehensive Plan and that the plan reflects the wishes of the community. Commissioner Huminek stated he was in favor of keeping the eastern portion of the property as open space. Commissioner Huminek stated that he believed the best zoning for the western portion of the property would be Light Industrial to match the industrial district located north of I-494.

Commissioner Felton asked Mr. Healy to confirm that the applicant's request was to rezone their entire property and that if this was the case, was it the Planning Commission's responsibility to rewrite the applicant's request or if the Planning Commission should opt to deny the whole application. Mr. Healy explained that the applicant did request their entire parcel to be rezoned from "NRDD" to "I". The applicant also requested a Comprehensive Plan Amendment for the eastern half of their parcel. Commissioner Felton pointed out that while Staff talked about rezoning the western part of the Alter property, the applicant had requested that entire property to be rezoned which could create ambiguity. Commissioner Felton stated that he did not want to rewrite the Applicant's application for them.

Mr. Healy and Commissioner Felton discussed the logistics of how the item would be brought to the City Council and how to best proceed with the application.

Commissioner Krueger stated that the Planning Commission seemed to be leaning towards denying the Comprehensive Plan Amendment and keeping the eastern portion of the applicant's property as open space.

Commissioner Felton asked Staff if it was best to deny the application in its entirety and have the applicant amend their application for the City Council meeting or withdraw their application and reapply. Mr. Healy stated that this was potentially one option but this would be more time consuming for the Applicant and for City Staff. Additionally, Healy stated that staff's understanding is that the rezoning of the western portion of the property to an industrial zoning district must be approved.

Motion to recommend denial of the Comprehensive Plan amendment – Krueger/Huminek (5-0).

Motion to recommend denial for the rezoning of the Alter Logistics property from NRDD to Industrial- Felton/Huminek- (4-0-1).

5) OTHER BUSINESS

Mr. Healy informed the member of the Planning Commission that Chair Yendell had resigned due to conflicts with her work schedule. Chair Yendell's position would be filled in February of 2021 when the City Council would fill the two Planning Commission seats that are up for election. In the interim, per the Planning Commission bylaws, Vice Chair DesMarais would assume the role of the Chair. If Chair DesMarais were absent for a meeting, an acting chair would be selected by the remaining Planning Commissioners for that meeting.

6) ADJOURNMENT

Motion to adjourn- Felton/Thompson (5-0).