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Hearings on St. Paul Land-Use Issues Are So Much Wasted Breath

By Andrew Rorvig

There appear to be numerous opportunities for citizen engagement on land-use issues in St. Paul. The process is usually initiated by the Department of Planning and Economic Development (PED). A vetting by the local district council follows. Next is an intermediary review with public hearings before the city's Board of Zoning Appeals (BZA) or Planning Commission. Finally, there are public hearings before the City Council.

All three public reviews should allow the parties meaningful opportunities to flesh out issues of fact and law. Yet, with most projects, the deal is done by the time it reaches the public. For average citizens, the chance of obtaining an outcome different than the one recommended by city staff is slim at best.

Take 2018 for example. In that year the City Council heard 11 appeals of BZA or Planning Commission decisions. Developers or other property owners seeking permits, variances, or reviews of unfavorable administrative decisions brought six of those appeals. Neighbors or other stakeholders who opposed the granting of permits, variances or decisions made the other five appeals. In almost every case, the BZA or Planning Commission approved the city staff recommendation and the City Council denied the appeal to overturn that decision.

In fact, since 2015 there has been only one instance of a stakeholder successfully challenging a BZA or Planning Commission decision in favor of an institutional or income-generating development. And even that victory was undone when the luxury condominium project at 1174 Grand Ave. returned in 2016 with a three-square-foot change in requested lot coverage.

The false appearance of citizen engagement should be enough to cause St. Paulites to question the system. Add to that a recent example of incompetence or worse, and there is plenty of reason to blow up that system. In January, the Planning Commission considered the demolition of historic St. Andrew's Church in the Como neighborhood to allow the German Immersion charter school to proceed with the construction of a new building.

City staff had recommended approval of the variances needed for the demolition. The Planning Commission took testimony from 40 people and received 126 letters. It certainly looked like

robust community engagement. The Zoning Committee's recommendation to deny the variances resulted in a 6-6 tie vote by the Planning Commission. However, one of the votes was by the chair, who likely should not have voted at all except in the instance of a tie.

Had the chair not voted on the motion, the variances would have been denied 6-5. However, the chair went further and voted on the motion a second time, breaking the tie she had created and leading to the variances being approved. Rather than voting again after this illegality was determined, the Planning Commission opted to rely on a statutory provision allowing variance requests that are not considered in a timely fashion to be approved by default.

We must remember that the Planning Commission and BZA are made up of political appointees chosen by way of an extremely opaque selection process. So why would we think these bodies are objective and willing to reach opinions different than those that run City Hall? The St. Andrew's matter now goes to the City Council following the payment by concerned citizens of the \$462 fee required for an appeal. If history is a measure of things to come, those citizens will lose at City Council.

Creating the illusion of citizen engagement and due process is worse than having no process at all. It allows an insular group of hired and appointed personnel to rubber-stamp a City Hall agenda without rigorous debate. It results in ordinary folks wasting time, energy and money on a process that doesn't really exist. The inequities are against us, the common citizens and voters, and nothing will change unless we are willing to challenge the insular oligarchy and the interests that support it.

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