

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permits
BZZ-5597

Date: July 30, 2012

Applicant: Minneapolis Park and Recreation Board

Address of Property: 1300 Water Street

Project Name: Veterans Memorial – Sheridan Memorial Park

Contact Person and Phone: Deborah Bartels, (612) 230-6400

Planning Staff and Phone: Aly Pennucci, (612) 673-5342

Date Application Deemed Complete: June 27, 2012

End of 60-Day Decision Period: August 26, 2012

End of 120-Day Decision Period: Not applicable for this application

Ward: 3 **Neighborhood Organization:** Sheridan Neighborhood Organization

Existing Zoning: I1 Light Industrial District, FP Floodplain Overlay District, MR Mississippi River Critical Area Overlay District and the SH Shoreland Overlay District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 9

Legal Description: Not applicable for this application

Proposed Use: Construction of a Veteran’s memorial at a public park (Sheridan Memorial Park)

Concurrent Review:

Conditional use permit: for a surface water oriented use (observation platform) within 50 feet of the ordinary high water mark in the MR Mississippi River Critical Area Overlay and the SH Shoreland Overlay Districts;

Conditional use permit: for a use where access to or use of a surface water feature is an integral component (observation platform) in the Floodway in the FP Floodplain Overlay District;

Conditional use permit: for placement of more than 25 cubic yards of fill in the flood fringe district

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits

Background: The applicants are proposing to construct a Veterans Memorial at Sheridan Memorial Park to the veterans of all conflicts Minnesotans have served in. The proposed memorial is a circular plaza, approximately 35 feet in diameter with a sculpture in the center that will be not more than six (6) feet wide and sixteen (16) feet in height and an overlook over the river edge. The plaza will include seating, walkways, gardens, landscaping, a flag pole and sign.

The site is located within 50 feet of the ordinary high water mark of the Mississippi River and its floodplain. This site is located within the SH Shoreland Overlay District, the FP Floodplain Overlay District and the MR Mississippi River Critical Area Overlay District. Specifically the site is located within both the flood fringe and floodway district which is established by the City's Flood Insurance Rate Map (FIRM). All three overlay districts regulate several aspects of a development when located in close proximity to the protected water.

In the SH and MR districts, any proposal that is within 50 feet of the ordinary high water mark requires a conditional use permit (CUP). The proposed memorial is within 50 feet of the ordinary high water mark and therefore requires a CUP. In the FP District, any use where access to or use of a surface water feature is an integral component of the project requires a CUP. The proposed observation platform will be cantilevered over the Mississippi River and therefore requires a CUP. In the FP district, any use that includes more than twenty-five (25) cubic yards of fill a CUP is required. This project will involve approximately 450 cubic yards of fill.

Staff has received a letter of support from the Sheridan Neighborhood Organization (see appendix). Staff will forward additional comments, if any are received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT - for a surface water oriented use (observation platform) within 50 feet of the ordinary high water mark in the MR Mississippi River Critical Area Overlay and the SH Shoreland Overlay Districts

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

- 1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The SH Shoreland Overlay District is established to preserve and enhance the environmental qualities of surface waters and the natural and economic values of shoreland areas within the city, to provide for the efficient and beneficial utilization of those waters and shoreland areas, to comply with the requirements of state law regarding the management of shoreland areas, and to protect the public health, safety and welfare. The MR Mississippi River Critical Area Overlay District is established to prevent and mitigate damage to the Mississippi River, to preserve and enhance the Mississippi River's natural, aesthetic, cultural and historic value for public use, to protect and preserve the biological and ecological functions of the Mississippi River corridor, to

comply with the requirements regarding the management of critical areas, and to protect the public health, safety and welfare.

The Planning Division does not believe that allowing the applicant to construct an observation platform would be detrimental to or endanger the public health, safety, comfort or general welfare provided it complies with all applicable building codes and life safety ordinances as well as Public Works Department standards. The observation platform will allow views into and over the Mississippi without providing direct access to the water.

- 2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that allowing the applicants to construct an observation platform would be injurious to the use and enjoyment of other property in the area. The platform will allow park users the ability to enjoy the river views without disturbing the river bank directly. Broadway Street Northeast separates the subject site from an industrial use located to the south. A railroad corridor and other industrial uses are located to the north. A parking lot on land owned by the City and which could be redeveloped in the future is located to the east. The proposed observation platform will not impede the development and improvement of surrounding properties.

- 3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The site is accessible from 13th Avenue Northeast and Water Street. The applicant will be working closely with the Plan Review Section of the Inspections Department, Public Works staff and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

- 4. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.**

There is not a minimum automobile or bicycle parking requirement for a public park. The applicants will provide three (3) parking spaces, one of which is an accessible space, in the Water Street public right-of-way, via an encroachment permit. Seven bicycle racks will also be provided adjacent to the parking on the park owned land.

- 5. The conditional use is consistent with the applicable policies of the comprehensive plan.**

The future land use map in *The Minneapolis Plan for Sustainable Growth* designates this site as Open Space and Parks. According to the principles and policies outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.

1.8.2 Advance land use regulations that retain and strengthen neighborhood character, including direction for neighborhood-serving commercial uses, open space and parks, and campus and institutional uses

Environment Policy 6.9: Be a steward of clean water by protecting and enhancing its surface and groundwater systems.

6.9.2 Continue to implement the city's floodplain and shoreland Ordinances, and the Mississippi River Critical Area plan

Open Space and Parks Policy 7.1: Promote the physical and mental health of residents and visitors by recognizing that safe outdoor amenities and spaces support exercise, play, relaxation and socializing.

7.1.4 Ensure open spaces provide peaceful, meditative, and relaxing areas as well as social, recreational, and exercise opportunities.

Open Space and Parks Policy 7.3: Maintain and improve the accessibility of open spaces and parks to all residents.

7.3.1 Ensure that access to the city's lakes, streams and the Mississippi River continues to be maintained for the benefit of present and future citizens of Minneapolis.

7.3.3 Support the development of additional publicly accessed open spaces in underserved areas.

7.3.5 Promote designs that ensure access to open space for people with a range of abilities.

7.3.6 Ensure that in all areas of the city people feel safe so that they are comfortable using parks and open spaces.

Open Space and Parks Policy 7.6: Continue to beautify open spaces through well designed landscaping that complements and improves the city's urban form on many scales – from street trees to expansive views of lakes and rivers.

7.6.1 Where open spaces and the built environment interface, seek greater design integration between them to create interesting spaces for active and passive use.

7.6.2 Provide visual and physical connections between urban areas and open spaces including lakes and rivers.

The Planning Division believes that the proposed development is in conformance with the policies of *The Minneapolis Plan for Sustainable Growth*.

SMALL AREA PLANS

The site is within the study area of the *Master Plan for the Upper River in Minneapolis*. The plan identifies this area as a park with active recreation.

Staff comment: Adding a memorial area with walkways, seating and an observation platform is consistent with the land use plan.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

With the approval of the conditional use permits, this development will meet the applicable regulations of the zoning districts in which it is located.

In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following for development located in the SH Shoreland Overlay District:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

The applicants will use best management practices to prevent soil erosion and other possible pollution of the Mississippi River, both during and after construction. Silt fencing and inlet protection will be used until permanent cover is established over the area of disturbance. Approximately eight trees are proposed to be removed for the construction of the memorial. Of those trees, only 3 are within 50 feet of the ordinary high water mark and those trees are not on the steep slope leading down to the river's edge. Approximately 10 trees between the river's edge and the proposed monument location will remain. After construction is completed, new ground cover will be established. Twelve trees will also be planted around the memorial, some of which are located within 50 feet of the highwater mark.

2. Limiting the visibility of structures and other development from protected waters.

The proposed memorial will be visible from protected waters; however, the majority of the memorial will be constructed close to the ground. The Planning Division does not believe that the visibility will negatively affect the use or enjoyment of the Mississippi River but rather will be an improvement to the site.

3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

This development will not impact watercraft usage on the Mississippi River.

CONDITIONAL USE PERMIT - for a use where access to or use of a surface water feature is an integral component (observation platform) in the Floodway in the FP Floodplain Overlay District;

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

- 1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The FP Floodplain Overlay District is established to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program. These regulations govern development within the FP Overlay District in order to minimize damage to property due to flooding and promote public health, safety and welfare.

The Planning Division does not believe that allowing the applicants to construct an observation platform would be detrimental to or endanger the public health, safety, comfort or general welfare. The observation platform will allow views into and over the Mississippi without providing direct access to the water. The majority of the memorial is built at grade and should not increase potential for flooding. The proposed observation platform will be cantilevered above the regulatory floodway elevation of 809 feet above sea level.

- 2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that allowing the applicants to construct an observation platform would be injurious to the use and enjoyment of other property in the area. The platform will allow park users the ability to enjoy the river views without disturbing the river bank directly. Broadway Street Northeast separates the subject site from an industrial use located to the south. A railroad corridor and other industrial uses are located to the north. A parking lot on land owned by the City and which could be redeveloped in the future is located to the east. The proposed observation platform will not impede the development and improvement of surrounding properties.

- 3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The site is accessible from 13th Avenue Northeast and Water Street. The applicant will be working closely with the Plan Review Section of the Inspections Department, Public Works staff and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

4. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.

There is not a minimum automobile or bicycle parking requirement for a public park. The applicants will provide three (3) parking spaces, one of which is an accessible space, in the Water Street public right-of-way, via an encroachment permit. Seven bicycle racks will also be provided adjacent to the parking on the park owned land.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

The CUP is consistent with the applicable policies from the comprehensive plan and the small area plan listed in finding number 5 above.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

With the approval of the conditional use permits, this development will meet the applicable regulations of the zoning districts in which it is located.

In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following evaluation criteria for conditional uses located within the FP Floodplain Overlay District:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

The proposed memorial will be constructed in a manner that should not increase flood heights or velocities. The grading will include cut and fill and will not alter current flood storage on site. The project will use best practices and includes gravel infiltration beds and rain gardens. The observation platform will allow views into and over the Mississippi without providing direct access to the water.

2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

The memorial will be constructed with footings and other freestanding pieces, such as seating areas, that will be permanently anchored to the site using hardware that will prevent materials from being swept into the protected waters. Plantings, once established, will help stabilize the soils. There is some risk that other landscape materials, such as mulch, will be washed into the

water; however, landscaping for a park is a permitted use and does not require a conditional use permit.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

The proposed water supply for the site is for irrigation purposes only. No sanitation systems are proposed.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

The proposed memorial is not an enclosed structure and much of the memorial is at grade, minimizing the risk of flood damage. The proposed memorial is part of the park system operated by the Minneapolis Parks and Recreation Board (MPRB). The applicants are prepared to make any repairs resulting from flood damage.

5. The importance of the services provided by the proposed facility to the community.

The MPRB has worked with the neighborhood organization and veterans group to develop the plans for this memorial. The memorial will serve as a gathering space for formal events on Memorial Day and/or Veterans Day and will serve as an informal gathering space and amenity for the community. The Sheridan Neighborhood Organization has submitted a letter in support of the proposal.

6. The requirements of the facility for a waterfront location.

The public park is already located on the river and is the only park located within the Sheridan neighborhood.

7. The availability of alternative locations not subject to flooding for the proposed use.

The majority of the park is located in the floodplain. As stated above, the MPRB worked with the Sheridan Neighborhood on this project and no other MPRB parks are located within this neighborhood.

8. The relationship of the proposed use to the floodplain management program for the area.

The proposal includes best practices to minimize impacts and is consistent with the floodplain management program for this area. The project has been reviewed by Public Works staff for compliance with the City's stormwater management regulations. A copy of the Preliminary Development Review report is included in the appendix.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

The site is accessible from 13th Avenue Northeast and Water Street.

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

No change is expected to the height, velocity, duration, rate of rise and sediment transport of the flood waters at the site.

11. Such other factors which are relevant to the purposes of this article.

The Planning Division does not believe that the changes proposed to the site will have significant impacts on the adjacent Mississippi River. The new memorial is part of a larger plan being developed to enhance the park and will serve as an amenity to the community. Any future work will require additional review.

CONDITIONAL USE PERMIT - for placement of more than 25 cubic yards of fill in the flood fringe district

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The FP Floodplain Overlay District is established to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program. These regulations govern development within the FP Overlay District in order to minimize damage to property due to flooding and promote public health, safety and welfare.

The Planning Division does not believe that allowing the placement of fill to accommodate the memorial would be detrimental to or endanger the public health, safety, comfort or general welfare. The fill is needed to construct the memorial; however, best management practices will be followed and the construction will not increase flood heights or velocities.

2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The Planning Division does not believe that allowing the placement of fill to construct a memorial would be injurious to the use and enjoyment of other property in the area. The memorial will serve as a gathering space for formal events on Memorial Day and/or Veterans

Day and will serve as an informal gathering space and amenity for the community. Broadway Street Northeast separates the subject site from an industrial use located to the south. A railroad corridor and other industrial uses are located to the north. A parking lot on land owned by the City and which could be redeveloped in the future is located to the east. The proposed fill needed to construct the memorial will not impede the development and improvement of surrounding properties.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The site is accessible from 13th Avenue Northeast and Water Street. The applicant will be working closely with the Plan Review Section of the Inspections Department, Public Works staff and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

4. Adequate measures have been or will be taken to minimize traffic congestion in the public streets.

There is not a minimum automobile or bicycle parking requirement for a public park. The applicants will provide three (3) parking spaces, one of which is an accessible space, in the Water Street public right-of-way, via an encroachment permit. Seven bicycle racks will also be provided adjacent to the parking on the park owned land.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

The CUP is consistent with the applicable policies from the comprehensive plan and the small area plan listed in finding number 5 in the first set of findings..

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

When more than twenty-five (25) cubic yards of fill is located on a zoning lot in any one (1) calendar year for such activities as on-site storage, landscaping, streets, dredge spoil disposal or construction of flood-control works, an erosion/sedimentation control plan shall be submitted subject to the provisions of this article and the Shoreland District. The applicant has provided an erosion control plan and storm water pollution prevention plan, which are attached to this report. With the approval of the conditional use permits, this development will meet the applicable regulations of the zoning districts in which it is located.

In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following evaluation criteria for conditional uses located within the FP Floodplain Overlay District:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.

The proposed memorial will be constructed in a manner that should not increase flood heights or velocities. The grading will include cut and fill and will not alter current flood storage on site. The project will use best practices and includes gravel infiltration beds and rain gardens.

2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

The memorial will be constructed with footings and other freestanding pieces, such as seating areas, that will be permanently anchored to the site using hardware that will prevent materials from being swept into the protected waters. Plantings, once established, will help stabilize the soils. There is some risk that other landscape materials, such as mulch, will be washed into the water; however, landscaping for a park is a permitted use and does not require a conditional use permit.

3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

The proposed water supply for the site is for irrigation purposes only. No sanitation systems are proposed.

4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

The proposed memorial is not an enclosed structure and much of the memorial is at grade, minimizing the risk of flood damage. The proposed memorial is part of the park system operated by the Minneapolis Parks and Recreation Board (MPRB). The applicants are prepared to make any repairs resulting from flood damage.

5. The importance of the services provided by the proposed facility to the community.

The MPRB has worked with the neighborhood organization and veterans group to develop the plans for this memorial. The memorial will serve as a gathering space for formal events on Memorial Day and/or Veterans Day and will serve as an informal gathering space and amenity for the community. The Sheridan Neighborhood Organization has submitted a letter in support of the proposal.

6. The requirements of the facility for a waterfront location.

The public park is already located on the river and is the only park located within the Sheridan neighborhood.

7. The availability of alternative locations not subject to flooding for the proposed use.

The majority of the park is located in the floodplain. As stated above, the MPRB worked with the Sheridan Neighborhood on this project and no other MPRB parks are located within this neighborhood.

8. The relationship of the proposed use to the floodplain management program for the area.

The proposal includes best practices to minimize impacts and is consistent with the floodplain management program for this area. The project has been reviewed by Public Works staff for compliance with the City's stormwater management regulations.

9. The safety of access to the property in times of flood for ordinary and emergency vehicles.

The site is accessible from 13th Avenue Northeast and Water Street.

10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

No change is expected to the height, velocity, duration, rate of rise and sediment transport of the flood waters at the site.

11. Such other factors which are relevant to the purposes of this article.

The Planning Division does not believe that the changes proposed to the site will have significant impacts on the adjacent Mississippi River. The new memorial is part of a larger plan being developed to enhance the park and will serve as an amenity to the community. Any future work will require additional review.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit for a surface water oriented use (observation platform) within 50 feet of the ordinary high water mark in the MR Mississippi River Critical Area Overlay and the SH Shoreland Overlay Districts:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a surface water oriented use (observation platform) within 50 feet of the ordinary high water mark in the MR Mississippi River Critical Area Overlay and the SH Shoreland Overlay Districts located at the property of 1300 Water Street, subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the

conditional use permit shall expire if it is not recorded within one year of approval.

2. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development – Planning Division.
3. All site improvements shall be completed by July 30, 2013, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit for a use where access to or use of a surface water feature is an integral component (observation platform) in the Floodway in the FP Floodplain Overlay District:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a use where access to or use of a surface water feature is an integral component (observation platform) in the Floodway in the FP Floodplain Overlay District located at the property of 1300 Water Street, subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development – Planning Division.
3. All site improvements shall be completed by July 30, 2013, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. No part of the structure shall be constructed below the regulatory floodway elevation of 809 feet above sea level unless floodproofed in accordance with the structurally dry floodproofing classifications in the State Building code, subject to section 551.640(3) of the zoning code.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit for placement of more than 25 cubic yards of fill in the flood fringe district:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a use where access to or use of a surface water feature is an integral component (observation platform) in the Floodway in the FP Floodplain Overlay District located at the property of 1300 Water Street, subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat.

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462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

2. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development – Planning Division.
3. All site improvements shall be completed by July 30, 2013, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Attachments:

1. Project description and statement of findings and Statement of proposed use
2. May 18, 2012, letter to Council Member Hofstede and the Sheridan neighborhood
3. Correspondence
4. Zoning Map
5. Flood Insurance Rate Maps
6. Development plans
7. Storm water pollution prevention plan
8. PDR Report
9. Photographs of the site and surrounding area