

**MINUTES OF  
PLANNING AND ZONING COMMISSION  
DECEMBER 3, 2013  
7:00 PM**

The meeting was called to order at 7:00 pm by Chair Marlaine Szurek.

Commission Members present- Little, Fiorendino, Kinney, Lee and Szurek

Also present were Joseph Hogeboom (Asst. Community Development Director), Shelley Hanson (Recording Secretary), Elizabeth Holmbeck (Intern), and Gary Peterson (Council Liaison).

*Motion by Fiorendino, seconded by Kinney, to approve the minutes from the meeting of June 18, 2013. All ayes. MOTION PASSED.*

**PUBLIC HEARINGS**

**CASE NUMBER:                   2013-1201**  
**APPLICANT:                     Louie Abuhkader**  
**LOCATION:                        4001 University Avenue NE**  
**REQUEST:                        Site Plan Approval**

Louie Abuhkader, in collaboration with Radwan Construction and Barr-Nelson, Inc., is proposing to construct and operate a restaurant/delicatessen on the property located at 4001 University Ave. NE. The applicant obtained Site Plan approval in December, 2012 for the construction of a gas station. The applicant has since reconsidered the use of the site, and has determined that it is a more appropriate location for a restaurant.

The previous building on this site was a gas station, which was destroyed by a fire. The building that is currently under construction is located on the original building pad. As part of the new proposal, the general configuration of the site is consistent with the original Site Plan that was approved. However, due to the change of use, a new Site Plan approval process is required.

This property is located within the boundaries of the 40<sup>th</sup> Avenue Design Guidelines District. The proposed Site Plan does achieve the standards established for the District. The proposed restaurant is planned to be called “Kader Café”, and will specialize in Greek and Palestinian cuisine.

**ZONING ORDINANCE**

The property located at 4001 University Avenue is located in the General Business (GB) Zoning District. The properties to the north and east are located in the Multiple Family (R-3) Residential Zoning District and the properties to the south are located in the General Business (GB) Zoning District. The properties across University Avenue to the west are located in the Multiple Family (R-3) Residential Zoning District.

## **COMPREHENSIVE PLAN**

The Comprehensive Plan guides this area as Commercial. Constructing a new restaurant is consistent with the City's Comprehensive Plan.

## **DESIGN GUIDELINES**

The subject property is located in the 40<sup>th</sup> Avenue Design Guidelines District. The following components are requirements of the Design Guidelines District:

- The building should have a well-defined front façade with primary entrances facing the street.
- The building should be designed with pitched or flat roofs.
- The base floor of the building should include elements that relate to human scale including texture, projections, doors, windows, awnings, canopies or ornamentation.
- Building height shall be a minimum of 22 feet.
- Window and door openings should comprise at least 30% of the area of the ground floor of the primary street façade. A minimum of 20% of any two sides or rear facades at ground level shall consist of window and door openings and a minimum of 15% of all upper story facades shall consist of window or balcony door openings.
- Building materials should be high-quality, durable and authentic. Primary materials can consist of brick, natural stone, precast concrete, and stucco. The two finishes on the building are precast veneer ("Mammoth Stone Series") and prefinished metal siding ("Una-clad" Delta Concealed).
- Parking should be located behind buildings, when feasible.

In general, the proposed building meets the design guidelines. Parking will be located in front of the building because the building was constructed in the location of the previous building on the site. The current proposal is consistent with the gas station Site Plan that was approved in December, 2012.

Signage will be addressed when the applicant applies for a Sign Permit. Signage must be consistent with Design Guidelines and with City Code.

## **SITE PLAN**

As previously mentioned, the proposed building is located within the existing foundation space of the original building. The footprint of the building is 2,400 square feet. The General Business Zoning District setbacks, which are 15 feet in the front yard and 20 feet in the rear yard, are achieved with this proposal. The former gas pumps and canopy structure were removed in early November.

### **1. Parking**

City Code requires 30 parking spaces for the proposed use (including both the building and the outdoor patio). According to the site plan all parking can be accommodated onsite. According to the Site Plan, parking visible to the north will be screened by vegetative cover, and parking visible to the east will be screened by a fence.

## 2. Access

Currently, the site has three curb cut accesses. One access is located on the Highway 47 Frontage Road, and two accesses are located on 40<sup>th</sup> Avenue (CSAH 2). Anoka County plans to create a right turn lane from 40<sup>th</sup> Avenue to University Avenue in the future. Therefore, under the direction of the City Engineer, the applicant intends to remove the westernmost access on 40<sup>th</sup> Ave.

## 3. Other Issues

The façade of the building has changed slightly since the original Site Plan was approved in 2012. The primary change is the removal of several second-story windows on the west-facing and south-facing facades. Despite the changes, the current Site Plan remains in compliance with the requirements of the 40<sup>th</sup> Avenue Design Guidelines District.

Because the proposed use has changed from a gas station to a restaurant, the Site Plan now displays a 32-seat patio. The patio is proposed to be fenced and covered by a pergola roof. Because the patio is on the side of the building that is adjacent to residential properties, staff recommends restricting the patio's hours of operation.

### **FINDINGS OF FACT**

Section 9.104 (N) of the Zoning Ordinance outlines four findings of fact that must be met in order for the City to approve a site plan. They are as follows:

- a. The site plan conforms to all applicable requirements of this article.

*The site plan meets all applicable Design Guidelines for the property with a slight deviation in parking location. The Zoning Code requirements are achieved.*

- b. The site plan is consistent with the applicable provisions of the city's Comprehensive Plan.

*The Comprehensive Plan guides this area as Commercial. Constructing a new restaurant is consistent with the intent of the Comprehensive Plan.*

- c. The site plan is consistent with any applicable area plan.

*There is no area plan for this portion of the city.*

- d. The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

*With consolidating the entrances off 40<sup>th</sup> Avenue to one entrance, adverse impacts are lessened on the public right-of-way.*

## RECOMMENDATION

Staff finds that the proposal for Kader Café is consistent with the City's Comprehensive Plan, and therefore recommends approval of the proposed Site Plan, subject to the following conditions:

1. All application materials, maps/plans, drawings and descriptive information submitted with this application shall become part of the permit. This includes changes requested from the Public Works Director.
2. Any new signage incorporated into the building or site shall meet the requirements of the 40<sup>th</sup> Avenue Design Guidelines District, and shall be approved through the Sign Permit process.
3. The memorandum from the Public Works Director/City Engineer, dated November 13, 2013, shall be a component of this approval.
4. The sidewalk and median on the south side of the building shall be changed from a width of 6 feet to a width of 7 feet to better accommodate front vehicle overhang and pedestrian access. This must be shown on the final plans.
5. The existing payphone and clothing drop box on the southwest side of the site shall be removed prior to the issuance of a Certificate of Occupancy.
6. The location of the future gas meter shall be shown on all future plans.
7. The two proposed parking spaces adjacent to the patio area on the north side of the building shall not be constructed, and shall be removed from future site plans.
8. Future site plans must clarify the driveway location off of the Highway 47 Frontage Road, as well as surface runoff from the east side of the site.
9. The building shall be sprinkled.
10. Parking areas adjacent to residential properties shall be screened with fencing and/or landscaping that is 80% opaque year round.
11. The visual appearance of the trash enclosure shall be consistent with the visual appearance of the building.
12. The fence along the east side yard property line shall be repaired and made compliant with the City's property maintenance standards.
13. The hours of operation of the outdoor patio are restricted from open-9 pm on Sundays through Thursdays and open-10 pm on Fridays and Saturdays.

14. The Public Works Director is requiring a \$5,000 Bond or cash deposit for storm water and erosion control.

Hogeboom stated that the applicants have been told the revised plans with all the requirements listed above must be submitted prior to the City Council meeting on December 9, 2013, since they failed to get the revisions to him before this meeting.

Questions from members:

Szurek asked if they had to have a storm water pond on site. Hogeboom said Public Works did not require this but noted that storm waters cannot be directed to neighboring sites. She then asked how soon till they expect this project to be completed. Szurek stated many projects in the City are taking far longer than expected and this creates eyesores for the various neighborhoods. She asked if there is a deadline under the permit process.

Hogeboom stated that the Community Development Director planned to meet with the City Attorney on December 4<sup>th</sup> to see if the City can add a condition of a Completion Bond that would grant the City the right to demolish the building if construction becomes delayed again for an extended period of time such as it has this year.

Little thought this would be a good idea. According to information he received he said the fire took place in November 2011, the permit to demolish the damaged building wasn't taken out till April 2012. Then a Site Plan was approved for the new building in December 2012, but the permit wasn't obtained until April 2013 and very little work has been done over the last 6 months. Now they are coming before the Commission with a change of plans for a different use mid-stream. He wanted to know why they changed the use and why so little progress has been made in two years. He said this site negatively affects the whole area.

The applicant stated he is still fighting with his Insurance Company and therefore, money has been tight as he was trying to finance this as he went. He recently sold a building in south Minneapolis and now has the funds to complete this project. Mr. Abuhkader stated that he decided to use the site as a restaurant as his ability to sell gas declined once the University Avenue service road was closed near 40<sup>th</sup> Avenue. He said the allowed flow of traffic will better serve this property as a restaurant use so it was strictly a business decision.

Szurek asked if the applicants were aware of the Design Guidelines for the exterior of the building. Hogeboom stated they were and the exterior would be similar to what was originally proposed and will be close to the exterior finish of Sarna's. It will be brick, stucco, and burnished block. Mr. Radwan (contractor) asked if the back of the building could be hardy board. Hogeboom stated he would have to check the Design Guidelines to see if that still meets the requirement. He will get back to them on this.

Gary Peterson stated he thought the Board was being too restrictive and that we should work with the

applicants to get the project completed. He said he liked the idea of Hardy Board on the back side and felt it was a good product and would be faster to install, yet it would look nice.

Mr. Radwan said it is his intent to be done by April of 2014. He said they may add decks in the future, but the main structure should be done by Spring so they can open for business.

Kinney asked if the City had the power to require a Completion Bond. Hogeboom stated that is a question the City Attorney will answer prior to the City Council meeting on Monday. She said she thinks the change to a restaurant is a better use of the property. She also understands the financial issues they have encountered and appreciates the fact they are now able to move forward again. She questioned the parking area on the west side and lack of bump-outs to protect cars. Hogeboom said the entry off University Avenue is one of items he has asked them to provide more detail on. Kinney also thought they need more of a buffer where the pine trees are currently located. Radwan stated they will be adding some additional landscaping which should match the design Sarna's has.

Szurek asked if the applicant was aware of the restricted hours of operation for the patio area? They stated they are aware of them and had no problem with that. They want to be a good business partner with the residents nearby. Hogeboom said they had a survey done for the purpose of putting up a new fence and that may help to serve as a sound barrier. Szurek stated she thinks the neighbors will be happier with a restaurant use than a gas station, but she hopes it gets completed in a timely fashion.

Lee asked if Sarna's patio hours were restricted in any way. Hogeboom stated that their patio faces University Avenue and does not abutt any residences. This particular site has residential uses on two sides of it.

#### Public Hearing Opened.

Joan Dobbs, 4024 4<sup>th</sup> Street-said she is concerned about additional noise generating from the patio use that will impact the neighbors. She said they already get a lot of noise from the Academy/daycare, the Hookah Lounge, and Sarna's. She stated that these businesses have also created a parking nightmare for the area as they park up and down 4<sup>th</sup> Street and 40<sup>th</sup> Avenue. She said the businesses operating around them currently make it harder for the residents to enjoy their homes and yards.

Radwan stated that they do not intend on serving alcohol so that should help keep noise to a minimum.

Szurek stated she hopes the privacy fence will help alleviate some of the noise and distraction. Dobbs noted that the Academy operating behind them only has a cyclone fence and therefore, they do hear all the activity there until at least 7 pm.

Peterson stated we have building codes in place to ensure construction is up to code, and we have the Zoning Code which addresses noise and design issues, but the biggest issue that can't always be addressed is where commercially zoned properties abut residential zoned properties. This makes it hard for both parties to use their properties as they are allowed to. Peterson said the discussion tonight has made the applicants aware of the neighbor's concerns so hopefully they will do their best to be considerate. He suggests they be good neighbors and work together.

Dobbs asked what the second story would be used for. The applicant stated it would be used for office and storage space.

Nicholas Dobbs, 4024 4<sup>th</sup> St-He thought a fence was a condition of the original site plan. Is it now? Hogeboom stated there was not a condition for an 8 foot fence in the original plan, just that screening be done by a fence or landscaping. He stated that the only conditions recommended tonight, is that the fence must be repaired or replaced so that it is compliant with property maintenance standards. The applicant has expressed his intent to have a fence there to serve as a sound barrier.

Lee asked if another condition could be added to require an 8 foot fence. Hogeboom said it could be added, and they would then be required to obtain a Conditional Use Permit and a building permit. Peterson said he thought that is something for them to consider at a later time when they make a final decision about replacing the fence or to use landscaping, or a combination of both.

Fiorendino stated that there are 14 conditions attached to this Site Plan Approval, and it is the Board's job to oversee the changes indicated to make sure they comply with the City's Codes. He explained the Board does not have the legal authority to dictate the use of the site or their business hours (with the exception of the patio area because of the impact to neighbors). He said the 14 conditions that are attached should help deal with most of the issues that have been raised.

Little again expressed his desire to require a Completion Bond as an additional condition. The other members didn't feel that was necessary.

Public Hearing Closed.

*Motion by Fiorendino, seconded by Kinney, to waive the reading of Resolution No. 2013-PZ03, there being ample copies available to the public. Roll Call: Fiorendino, Kinney, Lee, & Szurek-eyes and Little-abstained. MOTION PASSED.*

*Motion by Fiorendino, seconded by Kinney, to adopt Resolution No. 2013-PZ03, being a resolution approving a site plan for a new restaurant located at 4001 University Avenue NE, subject to the 14 conditions as noted. Roll Call: Fiorendino, Kinney, Lee, and Szurek-eyes and Little-abstained.*

**RESOLUTION NO. 2013-PZ03**

**RESOLUTION OF THE PLANNING AND ZONING COMMISSION APPROVING A SITE PLAN FOR THE CONSTRUCTION OF A NEW RESTAURANT AT 4001 UNIVERSITY AVENUE WITHIN THE CITY OF COLUMBIA HEIGHTS, MINNESOTA**

**WHEREAS**, a proposal (Case #2013-1201) has been submitted by Louie Abuhkader, to the Planning and Zoning Commission requesting a site plan approval from the City of Columbia Heights at the following site:

ADDRESS: 4001 University Avenue NE

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING PERMIT: Site Plan approval for the construction of a new restaurant building located at 4001 University Avenue NE.

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on December 3, 2013;

**WHEREAS**, the Planning and Zoning Commission has considered the advice and recommendations of the City staff regarding the effect of the proposed site plan upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas; and

**NOW, THEREFORE, BE IT RESOLVED** by the Planning and Zoning Commission of the City of Columbia Heights after reviewing the proposal, that the Planning and Zoning Commission accepts and adopts the following findings:

1. The site plan conforms to all applicable requirements of this article.
2. The site plan is consistent with the applicable provisions of the city's comprehensive plan.
3. The site plan is consistent with any applicable area plan.
4. The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

**FURTHER, BE IT RESOLVED**, that the attached conditions, maps, and other information shall become part of this permit and approval; and in granting this permit the city and the applicant agree that this permit shall become null and void if the project has not been completed within one (1) calendar year after the approval date, subject to petition for renewal of the permit.

CONDITIONS ATTACHED:

1. All application materials, maps/plans, drawings and descriptive information submitted with this application shall become part of the permit.

2. Any new signage incorporated into the building or site shall meet the requirements of the 40<sup>th</sup> Avenue Design Guidelines District, and shall be approved through the Sign Permit process.
3. The memorandum from the Public Works Director/City Engineer, dated November 13, 2013, shall be a component of this approval.
4. The sidewalk and median on the south side of the building shall be changed from a width of 6 feet to a width of 7 feet to better accommodate front vehicle overhang and pedestrian access.
5. The existing payphone and clothing drop box on the southwest side of the site shall be removed prior to the issuance of a Certificate of Occupancy.
6. The location of the future gas meter shall be shown on all future plans.
7. The two proposed parking spaces adjacent to the patio area on the north side of the building shall not be constructed, and shall be removed from future site plans.
8. Future site plans must clarify the driveway location off of the Highway 47 Frontage Road, as well as surface runoff from the east side of the site.
9. The building shall be sprinkled.
10. Parking areas adjacent to residential properties shall be screened with fencing and/or landscaping that is 80% opaque year round.
11. The visual appearance of the trash enclosure shall be consistent with the visual appearance of the building.
12. The fence along the east side yard property line shall be repaired and made compliant with the City's property maintenance standards.
13. The hours of operation of the outdoor patio are restricted from open-9 pm on Sundays through Thursdays and open-10 pm on Fridays and Saturdays.
14. The Public Works Director is requiring a \$5,000 Bond or cash deposit for storm water and erosion control.

Passed this 3<sup>rd</sup> day of December, 2013,

Offered by: Fiorendino

Seconded by: Kinney

Ayes: Fiorendino, Lee, Kinney, & Szurek

Abstain: Little

\_\_\_\_\_  
Chair

*Secretary Shelley Hanson*

---

---

Approval is contingent upon execution and return of this document to the City Planning Office.

I have read and agree to the conditions of this resolution as outlined above.

---

Louie Abuhkader \_\_\_\_\_ Date

**NEW BUSINESS**

Hogeboom notified members that the meeting scheduled for December 11<sup>th</sup> with the Met Council's Thrive MSP 2040 regarding transit plans for the seven county metro area has been cancelled. He said a meeting will be re-scheduled in the spring so they can review the draft plan with City officials.

Hogeboom updated the members on the following:

- Mady's is in the process of being demolished.
- Maher's (4920 Central Ave) will be coming back to the Board in January for a Site Plan Approval for changes they have planned.
- Rainbow Foods will be leaving January 8<sup>th</sup> and the owners of the Mall will try to find a new tenant for that space.

Szurek brought up a couple issues she wants staff to check into. First, the residents at two tri-plexes in her neighborhood continually park on the street overnight even though there is a parking lot for them to use. She said that the Police Dept. have not ticketed the cars and she said her neighbors are upset with the lack of response or action when they have called.

The second issue is regarding complaints she has received about parking on 43<sup>rd</sup> Avenue in front of the residences by the customers of the Filfillah Restaurant on 43<sup>rd</sup> and Central. She also wants staff to check on the use of a shed by the business on the residential property behind it to see if it is a legal use. Peterson said there was an agreement for parking made at the time of their original Site Plan approval that their customers were supposed to use the parking lot of the Car Wash for their overflow parking, so they wouldn't park along 43<sup>rd</sup> Avenue. Staff will have to contact the business to remind them of this.

The meeting was adjourned at 8:25 pm.

Respectfully submitted,

Shelley Hanson  
Secretary