

**PLANNING AND ZONING COMMISSION  
MINUTES OF THE REGULAR MEETING  
FEBRUARY 8, 2012  
7:00 PM**

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

Commission Members present- Thompson, Peterson, Kinney, and Szurek.  
Members absent - Fiorendino

Also present were Gary Peterson (Council Liaison), Jeff Sargent (City Planner), and Shelley Hanson (Secretary).

*Motion by Kinney, seconded by Peterson, to approve the minutes from the meeting of December 6, 2011. All ayes. MOTION PASSED.*

**PUBLIC HEARINGS**

**CASE NUMBER: 2012-0201**  
**APPLICANT: Tybang Transmission**  
**LOCATION: 836 – 40<sup>th</sup> Avenue NE**  
**REQUEST: Conditional Use Permit for a Minor Automobile Repair Shop**

Sargent stated that Tybang Transmission is requesting a Conditional Use Permit (CUP) in order to operate a minor automobile repair facility in the building located at 836 – 40<sup>th</sup> Avenue NE, per Code Section 9.110 (F)(3)(c). Currently, the building is occupied by Minnefax, Inc., that operates as a special effects contractor for movies, etc. Tybang Transmission is currently located at 4201 Central Avenue and has been in that location for the last 2 years.

Tybang Transmission plans no exterior changes to the building located at 836 – 40<sup>th</sup> Avenue. Inside the building, the current paint booth will be removed, as well as the present metal and wood shop machinery. Transmission shop equipment will be installed. As stated by the applicant, “Tybang Transmission repairs both automatic and standard transmissions. Its mission is to deliver quality transmission repair at a fair price. Its owner, Tybang Nguyen, strives to make the customer feel welcome and comfortable. He and his staff are skilled technicians who can diagnose today’s sophisticated transmission problems”.

The applicant has also stated that no dismantled vehicles will be stored outside the building and that the business will be operated in harmony with the neighborhood and will generate little traffic.

**COMPREHENSIVE PLAN**

The Comprehensive Plan guides this property for Commercial use. Minor Auto Repair facilities are consistent with the types of uses that would be guided as Commercial. With that said, staff does have some concerns will allowing this type of use along 40<sup>th</sup> Avenue, which suits itself more for neighborhood-oriented businesses.

One of the Land Use goals in the Comprehensive Plan is to: “Preserve and enhance the existing viable commercial areas within the community”. An implementation strategy to accomplish this goal is to “Develop a redevelopment plan for the 40<sup>th</sup> Avenue Corridor” by “budgeting for and completing a redevelopment plan using the Transitional Development District guidance to strengthen the residential character and provide for increased neighborhood commercial development along 40<sup>th</sup> Avenue.” The Transitional Development District allows for opportunities for neighborhood-retail/service developments.

Staff feels that allowing a Minor Automobile Repair facility to locate along 40<sup>th</sup> Avenue would be counterintuitive to the commercial goals as outlined in the Comprehensive Plan, and would have a great potential of disrupting the current residential character of the surrounding area. With that said, however, the property is zoned correctly and guided properly for the proposed use.

### **ZONING ORDINANCE**

The subject property is zoned CBD, Central Business District, as are the properties to the north, east and west. The properties to the south are zoned R-3, Multiple Family Residential. The property is also located within the 40<sup>th</sup> Avenue Design Guidelines District, and will be subject to regulations for properties located therein.

Minor Auto Repair facilities are defined as “The replacement of any part or repair of any part including the removal of the engine head or pan, engine, transmission or differential; incidental body or fender work; minor painting and upholstery service when said service above stated is applied within and enclosed building.” Minor Auto Repair facilities are specifically mentioned as a Conditional Use in the Central Business District, and the repairing of transmissions fits the definition.

PARKING. Per Code Section 9.106 (L)(8), the CBD is established as a public off-street parking district, so that nonresidential uses are exempt from providing off-street parking spaces as required. For this reason, the applicant will not have to supply adequate on-site parking for its customers.

DESIGN GUIDELINES. At this time, the applicant is not proposing any exterior changes to the building. However, shall the building have the need for rooftop-mounted exhaust systems, etc., those facilities would have to be screened from public view per the Design Guidelines standards. Any new signage for the business would also have to meet minimum Design Guideline standards and will be approved administratively by the Zoning Administrator.

### FINDINGS OF FACT

Section 9.104 (H) of the Zoning Ordinance outlines nine conditions that must be met in order for the City Council to grant a Conditional Use Permit. They are as follows:

- (a) The use is one of the conditional uses listed for the zoning district in which the property is located, or is a substantially similar use as determined by the Zoning Administrator.

*The proposed use of the building as a minor automobile repair facility is specifically listed as a Conditional Use in the CBD, Central Business District.*

- (b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.

*The proposed use complies with the Comprehensive Plan guidance for the property upon which the use will be located. However, Staff believes that the general purpose and intent of the Comprehensive Plan would be compromised if the use was allowed based on the fact that the intended character of the area is for residential uses and residentially-oriented services.*

- (c) The use will not impose hazards or disturbing influences on neighboring properties.

*The proposed use is traditionally a more intensive use than others in commercially zoned areas. Specifically, this parcel is located adjacent to several residentially-zoned parcels and also shares a common alley with them. Should this CUP be approved, a list of conditions will be added to help ensure that the proposed use will not have any disturbing influences on neighboring properties. However, even with those conditions, it is difficult to determine whether the proposed use would fit harmoniously within the intended character of the area.*

- (d) The use will not substantially diminish the use of property in the immediate vicinity.

*The imposed conditions of approval should ensure that the proposed use would not substantially diminish the use of property in the immediate vicinity.*

- (e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

*The applicant is not suggesting any exterior changes to the building at this time. For this reason, the appearance of the building will remain compatible with the appearance of the surrounding area.*

- (f) The use and property upon which the use is located are adequately served by essential public facilities and services.

*This is a correct statement.*

- (g) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.  
*The applicant stated that traffic congestion would not be altered with the presence of his business. It is assumed that vehicles, including tow trucks would access this property either from the southbound-only alley off of 40<sup>th</sup> Avenue, or the alley off of Jackson Street in order to drop off vehicles for repair at the rear of the building.*
- (h) The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.  
*Should this CUP be approved, a list of conditions will be added to help ensure that the proposed use will not have a negative cumulative effect on neighboring properties. However, even with those conditions, it is difficult to determine whether the proposed use would fit harmoniously within the intended character of the area.*
- (i) The use complies with all other applicable regulations for the district in which it is located.  
*This is a correct statement.*

Staff recommends that the Planning Commission take everything into consideration when deciding whether or not to recommend approval of the proposed use at 836 – 40<sup>th</sup> Avenue. Should the Planning Commission recommend approval, Staff has supplied a list of conditions to help regulate the proposed use at its proposed location. The motion should include these conditions in order to approve the CUP. Sargent reviewed these conditions with the members.

Questions by members:

Thompson stated that he thought Condition #13 should have the language changed to “submitted and approved” to that clause. He also questioned whether we had the right to require the doors to be closed during business hours. Sargent told members that he had reviewed that requirement with the City Attorney and that we can make it a condition of the CUP approval. Sargent explained it is being required so that nearby residences aren’t affected by noise. Thompson felt this condition was too strictly worded. He thought the language could be changed to allow the doors to be open if no vehicles are being worked on if the owner chooses to do so.

The other members didn’t have questions or comments at this time.

Public Hearing Opened:

Robert Miller who owns the building adjacent to this property was concerned with the lack of parking available for these two buildings. He said his building has two parking spaces behind it which will be needed by him or whoever buys his building, since it is currently vacant. Sargent explained that the Site Plan submitted by the applicant shows that there is room for six vehicles to be parked behind the building. He assured Mr. Miller that the CUP is for the 836 40<sup>th</sup> Avenue site only and that it does not include any provisions for him to use parking belonging to other properties in the area.

Jim Suck who owns the building at 850 40<sup>th</sup> Avenue told members that he thought there were enough car related businesses in the city already. He said the majority of them push the envelope in regards to parking and not having enough space for their business operations. Sargent explained that most of those were in place before a CUP was required. The purpose of the CUP is to ensure these types of problems can be prevented because the conditions imposed on the CUP give the City the right to enforce the restrictions. Suck said he thinks it sets the business owners, the neighbors, and the City up for a contentious situation. Sargent said it is always a risk to allow a CUP, but with the conditions in place, hopefully the problems can be averted.

Thompson said it is hard to vote against something that is allowed, especially since staff has recommended such an extensive list of conditions.

Alan Hamel-Integrated Real Estate Services-is working with the applicant and the bank who owns the building. He explained the applicant currently shares space at his present location of 4201 Central Avenue. He noted that most of the cars on that lot are not there for the applicant's business. They are on site for the owner's business. He explained the applicant has been in the business for ten years and has been on his own for two years. He is looking to expand and grow his business and feels this will be a good fit for him.

Kinney asked how many vehicles he usually works on at one time. Mr. Nguyen stated he usually works on two cars at a time, with 2-3 cars possibly waiting. He said it is just him and one employee working at the present time, and he feels he can probably store 5 vehicles in the building at one time.

Szurek doesn't want the business to negatively impact the neighbors, and is concerned with the parking and noise issues.

Peterson asked Sargent if there were any restrictions regarding parking along 40<sup>th</sup> Avenue. Sargent said nothing that he is aware of other than the normal winter parking restrictions. He said the personal vehicles of Mr. Nguyen and his employee may be parked along 40<sup>th</sup> Avenue during the work day, but cars waiting to be worked on will not be allowed to be parked there long term as per the conditions of the CUP. Peterson then asked if residents in the area were notified of this meeting. Sargent told members that everyone within 350 feet of the business was notified at least 10 days prior to this meeting. Peterson noted that the two people who spoke were business owners and that there was only one resident from the area in attendance. The resident stated she was not against the business locating there, she just came to the meeting to find out more information.

Szurek asked the owner what his hours would be. He stated that normally they are Monday-Friday from 9-5. He was asked if he had a tow truck that had to be stored, or if he received vehicles from other tow trucks. Mr. Nguyen told members that approximately one vehicle per week is brought to him by an independent tow truck. He does not own a tow truck. He said most of the vehicles he works on are usually still functioning enough to be driven in. Once in a great while a vehicle will be dropped off after hours. If that is the case, there is adequate parking behind the building for that occurrence.

Gary Peterson asked Mr. Hamel if the applicant understands the conditions imposed on the CUP. Mr. Hamel said they do understand and realize it will cost approximately \$30,000-\$40,000 to install a sprinkler system in the building. They are working with the bank, the Small Business Administration and the City to see how to pay for this required improvement. He said the cost of this may make it cost prohibitive to go through with the purchase if they can't find some financial assistance to make it work. Sargent told members that the requirement for a sprinkler system is a building code requirement, not City Staff adding unreasonable conditions.

Public Hearing Closed:

*Motion by Peterson, seconded by Thompspon, that the Planning Commission recommends the City Council approve the Conditional Use Permit for a Minor Automobile Repair facility located at 836 – 40<sup>th</sup> Avenue NE, subject to certain conditions of approval that have been found to be necessary to protect the public interest and ensure compliance with the provisions of the Zoning and Development Ordinance, including:*

- 1. Due to the change of occupancy of the building, the building will have to be fitted with a fire-suppression sprinkler system prior to the tenant operating the business. This item requires a separate building permit from the city.*
- 2. The party wall, as well as the wall separating the shop area from the offices, will have to be fire-rated to meet minimum requirements. This item requires a separate building permit from the city.*

3. *must be constructed to meet minimum code requirements.*
4. *If over 3 vehicles are stored within the building, a flammable liquids trap will have to be installed meeting minimum code requirements.*
5. *If the tenant utilizes the parking area in the back of the property, proper parking stalls must be designated and striped accordingly.*
6. *During business hours, the garage service door must remain closed at all times.*
7. *All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces. No cars waiting for repair or pick-up shall be stored on 40<sup>th</sup> Avenue.*
8. *All work shall be performed within a completely enclosed building.*
9. *All vehicles parked or store on-site shall display a current license plate with a current license tab. Outside storage of automobile parts or storage of inoperable or salvage vehicles shall be prohibited.*
10. *The sale of vehicles shall be prohibited, unless allowed by conditional use.*
11. *The use shall employ best management practices regarding the venting or odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.*
12. *Any newly-installed rooftop equipment must be screened from view from adjacent properties.*
13. *An environmental management plan, including a storm water management and drainage plan, shall be submitted and approved to address the impact of the facility on the environment.*

*Roll Call Vote: Ayes-All ayes*

The following Resolution will go to the City Council for approval at the City Council meeting of February 13, 2012.

**RESOLUTION NO. 2012-XX**  
**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR**  
**TYBANG TRANSMISSION TO ALLOW A MINOR AUTOMOBILE REPAIR BUSINESS IN**  
**THE CENTRAL BUSINESS DISTRICT IN THE CITY OF COLUMBIA HEIGHTS,**  
**MINNESOTA**

**WHEREAS**, a proposal (Case #2012-0201) has been submitted by Tybang Transmission to the City Council requesting a conditional use permit from the City of Columbia Heights at the following site:

ADDRESS: 836 – 40<sup>th</sup> Avenue NE

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING PERMIT: A Conditional Use Permit per Code Section 9.110 (F)(3)(c), to allow a minor automobile repair business in the CBD, Central Business District at 836 – 40<sup>th</sup> Avenue NE.

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on February 8, 2012;

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed conditional use permit 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 City Council of the City of Columbia Heights after reviewing the proposal, that the City Council accepts and adopts the following findings of the Planning Commission:

1. The use is one of the conditional uses listed for the zoning district in which the property is located, or is a substantially similar use as determined by the Zoning Administrator.
2. The use is in harmony with the general purpose and intent of the Comprehensive Plan.
3. The use will not impose hazards or distributing influences on neighboring properties.
4. The use will not substantially diminish the use of property in the immediate vicinity.
5. The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
6. The use and property upon which the use is located are adequately served by essential public facilities and services.
7. Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.
8. The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.
9. The use complies with all other applicable regulations for the district in which it is located.

**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. Due to the change of occupancy of the building, the building will have to be fitted with a fire-suppression sprinkler system prior to the tenant operating the business. This item requires a separate building permit from the city.
2. The party wall, as well as the wall separating the shop area from the offices, will have to be fire-rated to meet minimum requirements. This item requires a separate building permit from the city.
3. Should the tenant wish to continue to store the dumpster outdoors, a masonry enclosure must be constructed to meet minimum code requirements.
4. If over 3 vehicles are stored within the building, a flammable liquids trap will have to be installed meeting minimum code requirements.
5. If the tenant utilizes the parking area in the back of the property, proper parking stalls must be designated and striped accordingly.
6. During business hours, the garage service door must remain closed at all times.

7. All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces. No cars waiting for repair or pick-up shall be stored on 40<sup>th</sup> Avenue.
8. All work shall be performed within a completely enclosed building.
9. All vehicles parked or store on-site shall display a current license plate with a current license tab. Outside storage of automobile parts or storage of inoperable or salvage vehicles shall be prohibited.
10. The sale of vehicles shall be prohibited, unless allowed by conditional use.
11. The use shall employ best management practices regarding the venting or odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.
12. Any newly-installed rooftop equipment must be screened from view from adjacent properties.
13. An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

### **NEW BUSINESS**

Sargent told members that the City Council approved O'Reilly's variance and that O'Reilly's has now submitted their plans to the City. The Site Plan will be on the March agenda, and will also be reviewed by the EDA and the City Council.

Sargent told members that they are now into the fourth week of the Citizen's Academy and that it has gone very well and seems to have generated some interest in how City government works. He said that so far Administration, Finance, Community Development, and Fire have made their presentations. This week the Library and Recreation Departments will address the Academy.

Peterson asked whether the turn lane at 50<sup>th</sup> and Central was still being considered. Sargent told him it will be installed, but that properties along 50<sup>th</sup> and Central probably won't be assessed for the cost. The additional striping of the lanes should help any traffic confusion.

The meeting was adjourned at 7:45 pm.

Respectfully submitted,

Shelley Hanson  
Secretary