

**PLANNING AND ZONING COMMISSION  
MINUTES OF THE REGULAR MEETING  
MARCH 6, 2012  
7:00 PM**

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

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

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

*Motion by Thompson, seconded by Peterson, to approve the minutes from the meeting of February 8, 2012. All ayes. MOTION PASSED.*

**PUBLIC HEARINGS**

**CASE NUMBER: 2012-0301**  
**APPLICANT: Linder's Greenhouses**  
**LOCATION: 4300 Central Avenue NE**  
**REQUEST: Interim Use for Outdoor Seasonal Sales**

Sargent explained that Linder's Greenhouses has applied for an Interim Use Permit to allow the operation of a seasonal mini-garden center. The specific development standards for an outdoor sales/display establishment are found at Section 9.107 (C)(28), and will be added as conditions of approval for this permit. This will be Linder's 23<sup>rd</sup> year operating a temporary greenhouse at this location in Columbia Heights.

The greenhouse structures will be the same as previous years with four, six-foot doors remaining open at all times during business hours. There will be at least four fire extinguishers in the Flower Mart and all smoking will be prohibited. The principal uses of the subject parcel are preexisting and comply with zoning regulations. The two structures and patio will displace approximately 30 parking spaces and a drive aisle.

**COMPREHENSIVE PLAN**

The Comprehensive Plan designates the property for commercial use, including retail sales, offices, and service businesses. The proposal is consistent with the intent of the City's Comprehensive Plan.

**ZONING ORDINANCE**

The zoning classification for this property located at 4300 Central Avenue is GB, General Business District. Retail uses are allowed in this zoning district.

Existing parking exceeds zoning requirements. Section 9.106 (L)(10) of the Zoning Ordinance requires that commercial uses provide 1 parking space for each 300 square feet of use. Therefore, the existing 144,900-square foot commercial building is required to have 483 parking spaces.

After using the 30 parking spaces for the greenhouses, the site still has 598 parking spaces. Furthermore, with the location of the display area on the opposite side of the parking lot as the store entrances, the operation should not have any effect on vehicular access for the site.

### **FINDINGS OF FACT**

Section 9.104 (H) of the Zoning Ordinance outlines seven findings of fact that must be met in order for the City to grant an interim use permit. They are as follows:

1. The use is one of the interim uses listed for the zoning district in which the property is located, or is a substantially similar use, as determined by the Zoning Administrator.  
*Outdoor sales/display establishments are an Interim Use in the GB, General Business District, and are considered retail sales, which are permitted.*
2. The use is in harmony with the general purpose and intent of the Comprehensive Plan.  
*The Comprehensive Plan guides the subject property for commercial use. Outdoor sales/display uses are allowed as conditional uses in all residential districts.*
3. The use will not impose hazards or disturbing influences on neighboring properties.  
*The closest residential property to the south is over 300 feet from the proposed temporary use. In addition, the amount of space dedicated for the greenhouse sales is relatively small at approximately 1,000 square feet. Therefore, the proposed temporary use should not have any detrimental impact on neighboring properties.*
4. The use will not substantially diminish the use of property in the immediate vicinity.  
*The garden center as proposed will have no impact on the use of adjacent properties.*
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.  
*Linder's has been in operation for 22 years at this location, with the City experiencing no complaints. The proposed garden center should not negatively impact the existing character of the vicinity.*
6. 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 traffic generated by the garden center will not significantly increase the traffic on the public streets, and the site is large enough to handle additional interior traffic.*
7. The use will not cause a negative cumulative effect on other uses in the immediate vicinity.  
*As indicated by prior descriptions, the garden center should not have a negative impact on other uses in the immediate vicinity, which are zoned for residential and commercial uses.*

Staff recommends that the Planning Commission approve the Interim Use Permit for seasonal agricultural sales subject to conditions of approval outlined below.

Questions from members:

Peterson asked if there were any changes from other years. Sargent told him no.

Fiorendino asked if staff ever receives any complaints on this seasonal business. Sargent told him, not to his knowledge.

Public Hearing Opened:

No one was present to speak on this issue.

Public Hearing Closed.

*Motion by Fiorendino, seconded by Kinney, that the Planning Commission approves the Interim Use Permit for seasonal agricultural sales at 4300 Central Avenue NE from April 15 through July 15, 2012, 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. *Outdoor agricultural/produce sales located within the public right-of-way are prohibited.*
2. *All goods shall be displayed in an orderly fashion, with access aisles provided as needed.*
3. *Music or amplified sounds shall not be audible from adjacent residential properties.*
4. *Signage shall be limited to (2) professionally made signs per structure, not exceeding thirty-two (32) square feet per sign.*
5. *The outdoor storage shall be located as indicated on the site plan.*
6. *A \$500 deposit shall be submitted to the Community Development Department prior to installation of the structures on the site. The deposit shall be refunded after the Conditional Use Permit expires and the site has been cleaned up.*
7. *The proposed fence must be 20 feet from the retaining wall for safety vehicular access.*

*All ayes. MOTION PASSED.*

**RESOLUTION NO. 2012-PZ01**  
**RESOLUTION OF THE PLANNING AND ZONING COMMISSION APPROVING AN**  
**INTERIM USE PERMIT FOR LINDER'S GREENHOUSES, INC WITHIN THE CITY OF**  
**COLUMBIA HEIGHTS, MINNESOTA**

**WHEREAS**, a proposal (Case #2012-0301) has been submitted by Linder's Greenhouses to the Planning and Zoning Commission requesting an Interim Use Permit approval from the City of Columbia Heights at the following site:

ADDRESS: 4300 Central Avenue

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING PERMIT: Interim Use Permit for outdoor seasonal sales from April 15, 2012 to July 15, 2012.

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on March 6, 2012;

**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 use is one of the interim 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 disturbing 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. 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.
7. The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.

**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. Outdoor agricultural/produce sales located within the public right-of-way are prohibited.
2. All goods shall be displayed in an orderly fashion, with access aisles provided as needed.
3. Music or amplified sounds shall not be audible from adjacent residential properties.

4. Signage shall be limited to (2) professionally made signs per structure, not exceeding thirty-two (32) square feet per sign.
5. The outdoor storage shall be located as indicated on the site plan.
6. A \$500 deposit shall be submitted to the Community Development Department prior to installation of the structures on the site. The deposit shall be refunded after the Interim Use Permit expires and the site has been cleaned up.
7. The proposed fence must be 20 feet from the retaining wall for safety vehicular access.

Passed this 6<sup>th</sup> day of March 2012,

Offered by: Fiorendino  
Seconded by: Kinney  
Roll Call: All ayes

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CHAIR Marlane Szurek

*Attest:*

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SECRETARY, Shelley Hanson

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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.

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Ciao Cella                      Date

**CASE NUMBER:                      2012-0302**  
**APPLICANT:                         O'Reilly Auto Parts Store**  
**LOCATION:                             3700 Central Avenue**  
**REQUEST:                            Site Plan Approval**

At this time, O'Reilly Auto Parts Store is requesting a Site Plan approval for a 7,500 square foot building located at 3700 Central Avenue per Code Section 9.104 (N). In December 2011, O'Reilly Auto Parts applied for and received an 11-foot front yard setback variance for parking. It was noted at the City Council meeting that O'Reilly Auto Parts would need to apply for the Site Plan approval at a later time. The applicant has submitted the information needed for the Site Plan approval and is requesting the same of the Planning Commission.

The City has been working with the developer of this property for several years. The subject property is approximately 0.65 acres and comprised of land that was owned both by the City of Columbia Heights Economic Development Authority (EDA) and the developer. Through the Development Agreement, the EDA and the developer have sold the land to O'Reilly Automotive Stores, Inc. so that construction may take place on the parcel. Because of the tie of the land to the EDA Development Agreement, the Site Plan is required to be forwarded to the City Council for final approval.

### **COMPREHENSIVE PLAN**

The Comprehensive Plan guides the property as Commercial. The proposed retail center is consistent with the types of uses allowed in all commercially zoned areas of the City.

### **ZONING ORDINANCE**

The property located at 3700 Central Avenue is zoned GB, General Business, as well as the properties to the north and east. The properties to the west are zoned R-3, Multiple Family Residential, and the property to the south is located in the City of Minneapolis. The subject property is also located in the Design Overlay Central Business District and is subject to a set of specific development standards as outlined in the Design Guidelines.

PARKING. Properties located in the GB, General Business District are required to provide one (1) parking stall for each 300 square feet of gross floor area for retail establishments. The total amount of retail space provided by this development is 7,452 square feet, which requires a minimum of 23 parking stalls. The site plan indicates a total of 29 on-site parking stalls, meeting the city's requirements.

LANDSCAPING. The City Code requires landscape plans that include a minimum of one tree for every 50 feet of street frontage or fraction thereof. Parking areas shall also have a minimum of one over-story tree for each 20 spaces or fraction thereof as well. The property at 3700 Central Avenue has approximately 367 feet of street frontage along Central Avenue and 37<sup>th</sup> Avenue, and incorporates 29 parking stalls. This requires seven regular trees and two over-story trees. The proposed plans indicate a total of 16 trees, six of which are over-story trees, meeting the City's minimum requirements.

Per Staff's request, the landscape plan indicates trees planted on the parking islands and peninsulas along the western property line. This would serve as a screening mechanism for the parking lot while adhering to the landscape requirements.

SIGNAGE. The O'Reilly Auto Parts building will incorporate three wall signs. Two wall signs will be 70 square feet in area, and the third will be 42 square feet in area, totaling 182 square feet. The City Code allows for 2 square feet of signage for each linear foot of building along a public right-of-way, with a maximum allowance of 200 square feet for the building. The proposed building is approximately 88 feet wide along both 37<sup>th</sup> Avenue and Central Avenue, for a total of 176 linear feet. Being that the building has greater than 100 linear feet along a public right-of-way, the City Code would allow for the maximum of 200 square feet of signage. The proposed 182 square feet of signage meets the minimum Code requirements.

City Code allows for the monument sign to be 10 feet in height and 50 square feet in area. The proposed plans indicate that the monument sign will be 10 feet in height and 48 square feet in area, meeting the minimum Code requirements. The Design Guidelines do not allow for the monument sign to be internally lit, unless it is done in a manner consistent with allowable

illumination. The proposed sign will utilize a 100% opaque application to ensure that the “red” area will not allow light to pass through it. This method of illumination meets the Design Guidelines standards.

**STORMWATER MANAGEMENT.** The subject property is less than one acre in size, which means that on-site stormwater ponding is not required. However, the property is still required to control the rate of rainwater run-off from the property. The Site Plan includes a large green space area along the north side of the property, which will aid the rate of run-off.

**COMPARISON TO PREVIOUS PLAN.** In 2008, CROS Companies submitted a Site Plan Review application for a 9,400 square foot retail center for this property. Although this plan was approved, the building was never pursued due to a weak commercial economy. It would be worth noting the comparisons of the two plans.

	<b>2008 Plan</b>	<b>2012 Plan</b>
Building square footage	9,400 s.f.	7,500 s.f.
# of Parking Spaces	34	23
# of Access points from Central Ave	1	1
# of Access points from the alley	2	2
Projected Average PM peak trips	98.5*	44.8

\*Projected trips based on a coffee shop without a drive-thru with the remainder of the building being a shopping center.

**DESIGN GUIDELINES**

The property at 3700 Central Avenue is located in the Design Overlay Central Business District and is subject to a set of specific development standards as outlined in the Design Guidelines. Some of the following areas of interest are as follows:

**BUILDING PLACEMENT.** Buildings should have a well-defined front façade with primary entrances facing the street. At intersections, buildings should “hold the corner” – that is, have street facades at or near the sidewalk on both streets. The building at 3700 Central Avenue will be placed very near the intersection of Central and 37<sup>th</sup> Avenues. The proposed placement of the building meets the Design Guidelines for the district, with the main entrance facing north towards the parking lot and a secondary entrance along Central Avenue.

**BUILDING HEIGHT.** All buildings shall have a minimum cornice height of 22 feet, in order to give the impression of a two-storied structure. The building for this project alternates in height and measures 22 feet in height at its highest point, meeting this requirement.

**WINDOW AND DOOR OPENINGS.** The Design Guidelines require that at least 30% of the front façade be covered with window or door openings and that at least 20% of any two side or rear facades be covered with window or door openings. The proposed plans initially indicated a shortfall in this requirement. However, after discussions with the applicant, more windows were included in the plans for both the front and two side facades.

The applicant will need a deviation from the Design Guidelines as all the windows on the south and east elevations will be non-transparent, as well as the smaller windows on the north elevation. This is due to the location of the proposed windows in relation to the interior layout of the store. Staff feels that utilizing this much non-transparent window area does not meet the intent of the Design Guidelines. Staff has had conversations with O'Reilly regarding this situation and would rather see the larger windows on the East Elevation be transparent. O'Reilly contends that the wall space given up by the windows would hurt their sales, as this space is needed to display their merchandise.

Sargent explained to members that staff had no problem with having non-transparent windows on the south and west sides of the building, as that area is their storage/warehouse area. However, he feels the windows in the middle section on the east side along Central Avenue should be transparent windows which would better meet the intent of the Design Guidelines.

**BUILDING MATERIALS.** The building will incorporate, brick, glass, and EIFS, which are all acceptable building materials for the district in which the building is located.

### **FINDINGS OF FACT**

Section 9.104 (M) 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 setbacks, parking criteria, landscape requirements and Design Guidelines requirements pertaining to the Zoning Code, with the exception of the deviation regarding the opacity of the windows.*
- b) The site plan is consistent with the applicable provisions of the city's Comprehensive Plan.  
*The Comprehensive Plan guides the property as Commercial. The proposed retail center is consistent with the types of uses allowed in all commercially zoned areas of the City.*
- 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.  
*The proposed site plan meets all applicable setback requirements and zoning provisions. For this reason, there will be no adverse impacts on property in the immediate vicinity or the public right-of-way.*

Sargent stated that due to the design and plan submitted that traffic and congestion will be better than other plans that had previously been considered because O'Reilly's plans on widening the alley along their property to a two-lane alley to allow for better traffic flow.

The site involving the proposed development has been a redevelopment priority for the City of Columbia Heights and provides an additional 7,500 square feet of retail development along the major commercial corridor of Columbia Heights. The proposed plans for the construction of the new building meet all zoning and design guideline requirements. For these reasons, staff recommends approval of the site plan for 3700 Central Avenue.

Question by members:

Thompson commented about access to the site during construction. He didn't feel there would be enough room for trucks to turn around on the site without using the alley. Sargent explained that the City Engineer had looked at the Site Plan and feels there is adequate room and that he expects the construction traffic to use the alley access. Central Avenue is too congested to accommodate all the in and out traffic from the site. Thompson asked who would be responsible for any damage to the alley. Sargent stated that is addressed in the additional conditions imposed by the City Engineer as item #10 that requires any damage to be covered by the Developer. Thompson went on to express concern whether storm sewer barricades used during construction would adhere to Minnesota standards or be sub-standard ones that are used in other states. Sargent said they will have to meet Minnesota requirements. And lastly, Thompson commented that the plan shows they will be using an EIFS exterior, which he believes birds will peck holes in.

Fiorendino didn't think the plan follows our Design Guidelines for the placement of the building, the amount of window space, and the layout of the parking area. He pointed out that more than 40% of the frontage is devoted to parking, which exceeds the recommended limit. Fiorendino also thinks the main entrance to the building should appear to be along Central Avenue, not facing north. He agrees with staff that transparent windows are necessary along Central Avenue at a minimum.

Sargent explained that there are three districts in the Design Guidelines-the Highway District, the Central Business District, and the 40<sup>th</sup> Avenue District. Each District has its own requirements. Also coming into play is the fact that this site is zoned GB, not CBD, therefore all the parking must be provided on the site. It cannot rely on street parking such as in the CBD. Sargent said staff feels the front of the store facing north is acceptable because of the exposure for traffic traveling southbound on Central Avenue. If they install additional transparent windows under the awning near the secondary door on the east side as requested, the building will appear to have two store fronts, which he believes meets the intent of the Guidelines.

Szurek said the placement of this building is similar to that of Advanced Auto Parts. Part of the problem that requires some compromise is that these lots are small and have limited access off Central Avenue. In order to meet all the setbacks, storm water requirements, landscaping, design guidelines, and parking needs some accommodations may be needed. She thought they did a good job considering this lot is only 109 feet deep. Szurek did agree that the east side needed to have more transparent windows to meet the intent of the Design Guidelines.

Kinney stated that she appreciates the effort made to design the site, the building, the parking, and landscaping that creates a buffer. She likes the placement of the building near the street. Kinney agrees with the other members, however, that additional transparent windows are necessary on the east side.

Peterson did not like the lack of separation between the alley and the residential properties behind this site. He thought the building shape should be changed, the alley widened even more, and that additional landscaping be done along the alley to provide separation between the commercial and residential properties. Sargent told him this plan meets all the requirements in regards to setbacks, landscaping, and lighting so as not to overly affect the residential properties. Sargent went on to explain that it is difficult when commercial sites and residential sites abut one another. However, he pointed out that the residential properties all have their garages behind their homes along the alley and many already have fences, which in itself, creates a barrier between the properties. Peterson asked how wide the landscaped portion is along the west side. Sargent said it is approximately 6-8 feet wide and that the developer is also creating a two lane alley along their property.

Peterson then asked if O'Reilly's would be allowed to put advertising on the non-transparent windows. Sargent said they can advertise, but will have to adhere to our sign ordinance. Transparent windows cannot cover more than 25% of the area in advertising. He asked about whether they could use the non-transparent windows for advertising. Sargent told him that anything going on those windows would be on the outside and would be considered banners. He reminded members that we have previously allowed non-transparent windows at Taco Bell and Sonic's, and that the CVS on 37<sup>th</sup> and Central also has this type of design.

Public Hearing Opened:

William Johanek of 3713 Van Buren St said he wants an O'Reilly's store there, but thinks they designed it all wrong. He is concerned with added traffic congestion. He passed out a plan to the members on how he would like to see the site designed. Fiorendino said the Commission can only look at what O'Reilly's has submitted per their architect to determine if it meets the City's requirements. While he appreciates the work Mr. Johanek went to, he pointed out that he is not an architect and is also not familiar with all the setback, parking, landscaping and storm water issues that have to be addressed in any plan submitted. He encouraged him and any other concerned residents to attend the City Council meeting on Monday, March 12<sup>th</sup> at 7 pm to express their opinions since the City Council will be the deciding factor for this Site Plan.

Fred Waddley, the representative from O'Reilly's stated the building is a prototype that is used to accommodate their shelving/setup of merchandise for their many stores. Based on the designs used at their other locations, it is necessary to have non-transparent windows on the east side of the building to maximize their product displays.

Members generally agreed that more transparent windows were necessary on the east side in order for them to approve the plan. There was some discussion whether just adding transparent windows to the middle section under the awning was enough or whether to require 30% windows on that side, similar to the north side. Staff again stated that if just the middle section (the door and 5 windows) were made transparent that meets the 20% requirement required by the City.

Public Hearing Closed.

*Motion by Peterson, seconded by Kinney, that the Planning Commission recommends that the City Council approve the Site Plan per Code Section 9.104 (N), for the construction of a 7,500 square foot O'Reilly Auto Parts Store located at 3700 Central Avenue, 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. All application materials, maps, drawings and descriptive information submitted with the application shall become part of the permit.*
- 2. The larger windows under the awning on the East Elevation must be transparent.*
- 3. Three sides of the dumpster enclosure must be constructed of masonry and colored to match the principal structure.*
- 4. All existing utility lines not in use must be disconnected as part of the building permit.*

5. *The applicant must submit all plans to the Metropolitan Council for a Sewer Availability Charge (SAC) determination.*
6. *All construction traffic shall be directed through the vehicle tracking pads. Due to the traffic volume on Central Avenue, site access shall be limited to the alley.*
7. *All erosion control measures shall be installed and inspected by the City prior to any site activities beginning.*
8. *All restoration of turf areas in the Public Right of Way (ROW) shall be by 4 inches of topsoil/sodding.*
9. *Catch basin inlet protection shall be provided on 37<sup>th</sup> Avenue.*
10. *All disturbed areas shall be provided with temporary surface protection 7 days following establishment of final grade.*
11. *All work within the Public ROW shall be inspected by the City Engineering Department. 24-hour advanced notice of an inspection is required.*
12. *The applicant shall provide a copy of any MnDOT review comments and a copy of the permit for work on Central Avenue to the City Engineering Department.*
13. *Any revisions to the sidewalk in the Public ROW shall meet the most current ADA and City requirements for pedestrian ramps and grade. The detectable warning plate color should match those on Central Avenue.*
14. *The concrete sidewalk on Central Avenue was a special design, which included a 6-inch thickness with ½ inch diameter reinforcing each way and colored concrete. All construction documentation should be corrected providing for its replacement.*
15. *If disturbed during construction, the existing concrete ally shall be restored in-kind, full width, joint to joint, and shall meet City requirements.*
16. *It is recommended to televise the existing sanitary sewer services to verify adequacy.*

*Roll Call: Ayes- Kinney and Szurek,  
Nays-Thompson, Peterson, and Fiorendino*

*MOTION FAILS.*

**This item will go to the City Council March 12<sup>th</sup> with the following Resolution. Members wanted to make sure the City Council knew why they denied the Site Plan and expressed that they wanted a copy of the minutes to be submitted to them for the Council Agenda.**

**RESOLUTION NO. 2012-XXX**  
**RESOLUTION OF THE PLANNING AND ZONING COMMISSION APPROVING A SITE PLAN FOR THE CONSTRUCTION OF AN O'REILLY AUTO PARTS STORE LOCATED AT 3700 CENTRAL AVENUE NE WITHIN THE CITY OF COLUMBIA HEIGHTS, MINNESOTA**

**WHEREAS**, a proposal (Case #2012-0302) has been submitted by O'Reilly Auto Parts Store, to the City Council requesting a site plan approval from the City of Columbia Heights at the following site:

ADDRESS: 3700 Central Avenue

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING PERMIT: Site Plan approval for the construction of a 7,500 square foot auto parts store located at 3700 Central Avenue NE.

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on March 6, 2012;

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission 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 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 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, drawings and descriptive information submitted with the application shall become part of the permit.
2. The larger windows under the awning on the East Elevation must be transparent.
3. Three sides of the dumpster enclosure must be constructed of masonry and colored to match the principal structure.
4. All existing utility lines not in use must be disconnected as part of the building permit.
5. The applicant must submit all plans to the Metropolitan Council for a Sewer Availability Charge (SAC) determination.

6. All construction traffic shall be directed through the vehicle tracking pads. Due to the traffic volume on Central Avenue, site access shall be limited to the alley.
7. All erosion control measures shall be installed and inspected by the City prior to any site activities beginning.
8. All restoration of turf areas in the Public Right of Way (ROW) shall be by 4 inches of topsoil/sodding.
9. Catch basin inlet protection shall be provided on 37<sup>th</sup> Avenue.
10. All disturbed areas shall be provided with temporary surface protection 7 days following establishment of final grade.
11. All work within the Public ROW shall be inspected by the City Engineering Department. 24-hour advanced notice of an inspection is required.
12. The applicant shall provide a copy of any MnDOT review comments and a copy of the permit for work on Central Avenue to the City Engineering Department.
13. Any revisions to the sidewalk in the Public ROW shall meet the most current ADA and City requirements for pedestrian ramps and grade. The detectable warning plate color should match those on Central Avenue.
14. The concrete sidewalk on Central Avenue was a special design, which included a 6-inch thickness with ½ inch diameter reinforcing each way and colored concrete. All construction documentation should be corrected providing for its replacement.
15. If disturbed during construction, the existing concrete ally shall be restored in-kind, full width, joint to joint, and shall meet City requirements.
16. It is recommended to televise the existing sanitary sewer services to verify adequacy.

**CASE NUMBER:** 2012-0303  
**APPLICANT:** Goldstar Taxi, Nabil Ali  
**LOCATION:** 5009 University Avenue  
**REQUEST:** Conditional Use Permit for Used Auto Sales

At this time, Nabil Ali d/b/a Goldstar Taxi is requesting a Conditional Use Permit in order to operate a used car dealership from the property located at 5009 University Avenue, per Code Section 9.110 (E)(3)(d).

Mr. Ali currently operates the Goldstar Taxi service from the property located at 5009 University Avenue. He stated that he would like to be able to buy cars from the Minnesota State auctions so that he can replenish his taxi fleet when needed. Mr. Ali indicated that he has a storage lot in Minneapolis which he uses to store his vehicles, and any vehicle he would purchase would also be stored on that lot.

In order for Mr. Ali to purchase vehicles at the State auctions, he is required to have a Minnesota State-issued used car dealership license to do so. The City of Columbia Heights also requires a used car dealership license for Mr. Ali to purchase and sell vehicles from the property located at 5009 University Avenue. When Staff reviewed his request, it was determined that the only way that the City would be able to issue a used car dealership license would be if Mr. Ali first obtained a Conditional Use Permit.

Mr. Ali does not intend on selling the vehicles that he purchases at auction. The vehicles that he purchases will be used for his taxi service company and will be stored outside the City limits. On a very rare occasion, a vehicle might be sold given the circumstances. If this is the case, the vehicle for sale would be kept inside the building.

### **COMPREHENSIVE PLAN**

The Comprehensive Plan guides this property as University Mixed Use. Holding offices for the taxi company is consistent with the types of uses that would be guided as University Mixed Use.

### **ZONING ORDINANCE**

The zoning classification for the property located at 5009 University Avenue is GB, General Business District, as are the properties to the north. The properties to the east and are zoned R-2, One and Two Family Residential and the properties to the south are zoned R-3, Multiple Family Residential. The properties to the west are located in the City of Fridley.

The current use of the property as an office is consistent with the zoning classification. The proposed use essentially continues the current use as office, as the building would only serve as a location to make car-buying transactions.

### **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.  
*Use Automobile Sales is specifically listed as an acceptable Conditional Use in the GB, General Business District.*
- (b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.  
*The Comprehensive Plan guides this property as University Mixed Use. Holding offices for the taxi company is consistent with the types of uses that would be guided as University Mixed Use.*
- (c) The use will not impose hazards or disturbing influences on neighboring properties.  
*The proposed use would not cause any disturbing influences on neighboring properties because no change to the business will occur. No vehicles will be stored on site and all vehicles for sale would be stored inside an enclosed building.*

- (d) The use will not substantially diminish the use of property in the immediate vicinity.  
*The use of neighboring properties would not be diminished in any way with the proposed use of the subject property.*
- (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.  
*No external changes to the property will be made with the proposed Conditional Use Permit.*
- (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 on-site circulation of traffic will remain unchanged.*
- (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.  
*This is a correct statement.*
- (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 approve the proposed Conditional Use Permit to operate a used car dealership from the property located at 5009 University Avenue. Should the Planning Commission recommend approval, Staff has supplied a list of conditions to help regulate the proposed use at its proposed location. Those conditions are part of the motion if the CUP is approved.

Questions from members:

Peterson asked why he needed a license to purchase vehicles from the MN State auction. Sargent explained the State requires him to have one and the City requires one if he is using his Columbia Heights business address for this purpose. Peterson then asked why he doesn't do this from his address in Minneapolis where he actually stores his cars. Sargent said he can't speak to that as he doesn't know the situation with that lot. He said Mr. Ali uses his office in Columbia Heights as his official business address, and therefore, we are considering his request for the CUP.

Peterson asked Mr. Ali what he intended to do with the damaged white Jeep Cherokee that is currently parked behind his office location. Mr. Ali said that is not his vehicle. Peterson then asked how many vehicles Mr. Ali could fit inside his business if he did finalize a sale at that location. Ali stated he can fit two vehicles inside the business location.

Fiorendino clarified that it is a condition of the permit being approved that any vehicle for sale would have to be kept inside the building. No vehicles could be stored outside with for sale signs on them. Sargent told him that is correct. The only vehicles he could park outside are his taxis.

Public Hearing Opened:

Mitchell Watson from 5056 4<sup>th</sup> St has concerns about this permit being approved. He doesn't believe this site is suitable for this type of business. Mr. Watson passed out pictures he had taken of the parking lot for this strip mall at various times of the day over a week long period to prove there is no room to park cars for sale in the lot.

The commission members told Mr. Watson that this issue is addressed by the conditions placed on the CUP to prevent this from happening. Peterson asked how we would know if a vehicle parked on site is for sale or not. Sargent said unless they have a for sale sign on them, we wouldn't necessarily know. He asked if there was any way to control parking in small strip malls. Sargent responded that is an issue between the landlord and tenant as part of their lease agreement.

Peterson then suggested changing the language in condition #3 from "and" to "or".

Public Hearing Closed.

*Motion by Peterson, seconded by Fiorendino, that the Planning Commission recommends that the City Council approve the Conditional Use Permit for used automobile sales located at 5009 University Avenue, 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. All vehicles for sale on the property must be kept indoors at all times.*
- 2. Outdoor vehicle display areas within the public right-of-way are prohibited.*
- 3. The outdoor storage of inoperable, junk vehicles or vehicles with expired tabs is prohibited.*
- 4. The property must adhere to all other applicable regulations pertaining to used car sales as outlined in Code Section 9.107 (C)(7).*

*All ayes. MOTION PASSED. The following Resolution will go to the City Council March 12<sup>th</sup>.*

**RESOLUTION NO. 2012-XXX**  
**RESOLUTION APPROVING A CONDITIONAL USE PERMIT FOR**  
**GOLDSTAR TAXI TO ALLOW A USED CAR DEALERSHIP IN THE GENERAL BUSINESS**  
**DISTRICT IN THE CITY OF COLUMBIA HEIGHTS, MINNESOTA**

**WHEREAS**, a proposal (Case #2012-0303) has been submitted by Nabil Ali to the City Council requesting a conditional use permit from the City of Columbia Heights at the following site:

ADDRESS: 5009 University Avenue

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING PERMIT: A Conditional Use Permit per Code Section 9.110 (E)(3)(d), to allow a used car dealership in the GB, General Business District at 5009 University Avenue NE.

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on March 6, 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.

March 19

March 6, 2012

**CONDITIONS ATTACHED:**

1. All vehicles for sale on the property must be kept indoors at all times.
2. Outdoor vehicle display areas within the public right-of-way are prohibited.
3. The outdoor storage of inoperable, junk vehicles or vehicles with expired tabs is prohibited.
4. The property must adhere to all other applicable regulations pertaining to used car sales as outlined in Code Section 9.107 (C)(7).

**NEW BUSINESS**

Sargent stated that the first group had completed the Citizen's Academy. He said staff received a lot of positive feedback from the participants in a survey they completed at the final session. He told the members that several of the participants are eager to get involved in some fashion. He hopes they will offer this program again next year.

Sargent then told them that the City Council recently gave staff direction to form a Steering Committee to look at several of the City's Ordinances and the Design Guidelines to update them. He explained how the committee would be made up of several business owners, a Council member, a Planning Commission member, a staff member, and a resident. Sargent explained that the Sign Ordinance is one of the items needing updating, and the input from business owners who would be affected is important. He also said staff recommends appointing someone who just completed the Citizen's Academy to this committee. The Commission felt this was a good idea also.

The meeting was adjourned at 8:55 pm.

Respectfully submitted,

Shelley Hanson  
Secretary