

**PLANNING AND ZONING COMMISSION  
MINUTES OF THE REGULAR MEETING  
APRIL 5, 2011  
7:00 PM**

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

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

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

*Motion by Thompson, seconded by Peterson, to approve the minutes from the meeting of January 4, 2011. All ayes. MOTION PASSED.*

**PUBLIC HEARINGS**

**CASE NUMBER: 2011-0402**  
**APPLICANT: Aldi, Inc. / Aldi Grocery Store**  
**LOCATION: 5025 Central Avenue NE**  
**REQUEST: Preliminary Plat Approval, Final Plat Approval, Site Plan Approval**

**INTRODUCTION**

Aldi, Inc. has submitted an application for three land use requests. They are as follows:

1. A Preliminary Plat approval per Code Section 9.104 (L);
2. A Final Plat approval per Code Section 9.104 (M);
3. And a Site Plan Approval per Code Section 9.104 (N) for the construction of a new 17,886 square foot Aldi Grocery Store with 71 parking stalls located at 5025 Central Avenue.

The proposal also includes the demolition of the two buildings located at 5001 Central Avenue (Café Donuts) and at 5025 Central Avenue (Crosstown Eatery), and combining the two remaining parcels into one lot through the platting process.

**COMPREHENSIVE PLAN**

The Economic Development goals in the Comprehensive Plan include preserving and enhancing the existing viable commercial areas within the community and to provide mechanisms for successful redevelopment of vacant lands and targeted areas within the community. The proposed redevelopment of these properties will remove a previously vacant business while providing an added benefit for the community. For this reason, the proposal is consistent with the Comprehensive Plan.

**ZONING ORDINANCE**

The properties located at 5001 and 5025 Central Avenue are zoned GB, General Business, and both properties are also located within the Design Guideline Highway District in Columbia Heights. The properties to the north, south and west are also zoned GB, General Business, and the properties to the east are zoned R-2A and R-2B, One and Two Family Residential. The proposed use of this property as a grocery store is a permitted use in the GB, General Business District.

## **SITE PLAN**

**PARKING.** By Code, grocery stores require 1 parking stall for each 300 square feet of retail space within the building. The proposed Aldi building will be 17,886 square feet, requiring 60 parking stalls. The site plan indicates that there will be 71 parking stalls on site. The required parking stall setbacks are 15 feet in the front, and 5 feet in the side and rear. All parking stalls on the proposed site plan meet the setback requirements.

**TRAFFIC CIRCULATION.** Currently, the Café Donuts and Crosstown Eatery restaurants utilize 5 access points into the two properties. This causes some traffic concerns and possible negative diversions. The proposed plan eliminates two of the access points, ensuring a safer traffic environment. City Staff has required that the plat include a 10-foot street easement on the south side of the property for a future right-turn lane for traffic turning right onto Central Avenue from 50<sup>th</sup> Avenue. Staff feels that the addition of a turn lane at this location in the future will also ease traffic concerns in the area.

**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 have a minimum of one over-story tree for each 20 spaces or fraction thereof as well. The proposed Aldi property has approximately 700 feet of street frontage, and incorporates 71 parking spaces. This requires 18 trees, 4 of which shall be over-story trees. The proposed plan indicates a total of 22 trees, all of which are over-story trees, meeting the City's minimum requirements. Included in the landscape plan for the project will be 160 shrubs.

The applicant will also install a wrought iron fence, along with a row of shrubs along the front of the property to help screen the parking lot.

**SIGNAGE.** Of the 200 square feet of signage that the building may have, the proposed site plan indicates that the building will utilize only 105 square feet. The building will have the logo on two sides of the building, attached to the entrance tower and will also have channel-letter signage stating "Food Market". The proposed monument sign will be internally lit and will be located no closer than 5 feet from the property lines on the southwest corner of the property, close to the intersection of 50<sup>th</sup> Avenue and Central Avenue.

**UTILITIES.** The proposed Aldi site will utilize the existing public utilities for sanitary sewer and water service, both of which are currently located within the Aldi property along the north side of the site. The grocery store will require the construction of a 6" water service coming from the existing water main. A 1½" water service will also be extended to the building. The site will also require the construction of a 6" sanitary sewer service coming from the existing 8' sanitary sewer line on the north side of the site parallel with the water main. The sewer line had adequate depth and capacity to serve the Aldi facility.

**STORMWATER MANAGEMENT.** The current site is fully developed, and the redevelopment for the Aldi project will actually decrease the amount of impervious surface area on the site from 1.49 acres to 1.40 acres. The City's stormwater management criteria require that stormwater management be provided for this project. Therefore, an underground stormwater retention system will be constructed in conjunction with this project and will provide the necessary stormwater management to meet both the City of Columbia Heights and the Minnesota Pollution Control Agency requirements.

The proposed system will adequately reduce the peak stormwater discharge from the site for both stormwater rate and volume for all design storm events, including providing infiltration practices meeting the applicable requirements.

**PARK DEDICATION FEE.** The proposed preliminary and final plat approvals involve the combination of two previously platted properties. For this reason, no Park Dedication Fee will be required.

**DESIGN GUIDELINES.** The project is located at 4045 Central Avenue, which is also located within the Design Overlay Highway District. Properties located in this district are subject to design guidelines when discussing the placement of the building on the lot, the height of the building, architectural details of the building, and signage.

The design guidelines build on and complement recently completed streetscape improvements to the Central Avenue business district. They were developed by consultants, and a Citizen Task Force with representatives from the City Council, Planning Commission, area business owners and landowners, and interested citizens, and are mandatory.

It is assumed that the intent of the guidelines should be met, however, it is understood that there may be alternative ways to achieve the same design objectives. The City may permit alternative approaches that, in its determination, meet the objective(s) of the design guideline(s) equally well. The City may also waive any guideline when specific physical conditions of the site or building would make compliance more difficult or inappropriate.

**Parking Lot Placement.** The Design Guidelines specify that no more than 50% of the parking may be located between the principal structure and the major roadway on which the property is located. The proposed plans indicate that 100% of the parking will be located in front of the building. By combining the two properties and retaining the existing access points off of Central Avenue, there are limitations to where the building could be placed. When attempting to adhere to positive traffic flows, building setbacks, parking stall requirements and access points, the proposed location of the building works the best. The result, however, is that 100% of the parking is located in front of the building. Staff has requested that a wrought iron fence, along with a hedge row, be placed between the parking lot and Central Avenue to help screen this area.

**Building Height.** The height of any new building in the Design Guideline Highway District shall be 22 feet as measured to the rooftop. The proposed Aldi building will have an entrance tower that achieves the 22-foot height requirement, however the remainder of the building is only 17'4". To offset this deficiency, staff requested that more windows be added to the south and west elevations of the building. Aldi has complied with this request, as indicated in the attached site plan materials.

**Building Materials and Colors.** The applicant is proposing to construct the building with precast concrete units, with the main building being brown and the accents being a sandstone color. These building materials and colors are permitted and encouraged in the Design Guidelines.

## **FINDINGS OF FACT**

### **Preliminary Plat**

Section 9.104 (K) of the Columbia Heights zoning code requires that the City Council make each of the following findings before approving a preliminary plat:

1. The proposed preliminary plat conforms to the requirements of §9.114.  
*The preliminary plat has been reviewed by the City Engineer in regards to the proposed grading and drainage of the property, all utilities, as well as the storm water management on site. The landscape plan and lighting plan have been reviewed and meet the minimum City Code requirements.*
2. The proposed subdivision is consistent with the Comprehensive Plan.  
*The Economic Development goals in the Comprehensive Plan include preserving and enhancing the existing viable commercial areas within the community and to provide mechanisms for successful redevelopment of vacant lands and targeted areas within the community. The proposed redevelopment of these properties will remove a previously vacant business while providing an added benefit for the community. For this reason, the proposal is consistent with the Comprehensive Plan.*
3. The proposed subdivision contains parcel and land subdivision layout that is consistent with good planning and site engineering design principles.  
*The proposed subdivision combines two previously platted properties into one larger property. The proposed location of the building on the property is consistent with good planning practices because the placement will ensure proper and safe traffic flow throughout the development. All site engineering will draw from existing utility services. The City Engineer has reviewed these plans and has indicated that the site engineering is sufficient.*

### **Final Plat**

Section 9.104 (I) of the Columbia Heights zoning code requires that the City Council make each of the following 2 findings before approving a Final Plat:

1. The final plat substantially conforms to the approved preliminary plat.  
*There are no significant changes between the approved Preliminary Plat and the proposed Final Plat, therefore the final plat conforms to the approved preliminary plat.*
2. The Final Plat conforms to the requirements of §9.114.  
*§9.114 is the subdivision ordinance for the City of Columbia Heights. The proposed Final Plat conforms to all the requirements set forth in the subdivision ordinance.*

### **Site Plan**

Section 9.104 (M) of the Columbia Heights zoning code requires that the Planning Commission make each of the following 4 findings before approving a Site Plan:

1. The site plan conforms to all applicable requirements of this article.  
*The site plan conforms to all applicable requirements of this article as they pertain to the building and parking setbacks. The proposed site plan does not need any type of variance, and for this reason conforms to all applicable requirements of the Code.*

2. The site plan is consistent with the applicable provisions of the city's comprehensive plan.  
*This statement is true for the above-stated reasons.*
3. The site plan is consistent with any applicable area plan.  
*There are no area plans for the project site.*
4. The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.  
*The site plan will improve the existing conditions relating to traffic flow and congestion. Currently, the Café Donuts and Crosstown Eatery restaurants utilize 5 access points into the two properties. This causes some traffic concerns and possible negative diversions. The proposed plan eliminates two of the access points, ensuring a safer traffic environment. As stated previously, City Staff has required that the plat include a 10-foot street easement on the south side of the property for a future right-turn lane for traffic turning right onto Central Avenue from 50<sup>th</sup> Avenue. Staff feels that the addition of a turn lane at this location in the future will also ease traffic concerns in the area.*

Staff recommends approval of the Preliminary and Final Plat, and the Site Plan.

Questions from members:

Peterson asked if the windows on the west side facing Central Avenue would be actual windows. Sargent responded that the two large bottom windows that are being added would be spiral glass that looks like real windows, but you can't see through them. It is what Discount Tire and Taco Bell used on their buildings. Peterson then asked about the lighting and how it would impact the residential properties in the rear of this building. Sargent said there is a 54 foot distance between the building and the property line and that the lighting proposed is well within the foot candles allowed by our Ordinance. He stated that Aldi's plans to have security lighting in the parking lot that will remain on for an hour after closing to ensure the safety of their employees. The security lighting will be turned off after that hour so it will not be intrusive to neighboring properties. Peterson stated he liked the addition of the 10 foot easement for a right turn lane on 50<sup>th</sup> Avenue. He said the intersection is very congested now and hopes the addition of the extra lane will help alleviate the additional traffic. He asked where the new entrance off 50<sup>th</sup> would be located. Sargent showed the drawing depicting the location to be just a little further to the east than it is now.

Fiorendino asked if the monument sign is also being approved tonight. Sargent said the location of the sign is part of these approvals. Staff will then ensure it meets the rest of the requirements, so this issue will not be coming back to the Planning & Zoning Commission. Fiorendino asked if the rear fence would be screened. Sargent responded that it is not necessary since the parking does not extend up to the property line. He said the 50 foot buffer eliminates the need for any additional screening.

Thompson asked who would be responsible for maintaining the underground retention system for the storm water. Sargent said that Public Works inspects these systems annually and the property owners are expected to make any corrections necessary to ensure their performance. Thompson said they sometimes get clogged during construction with debris. He wants to make sure that Public Works inspects this system to make sure it is clean and operational before the Certificate of Occupancy is issued.

Szurek asked how big the monument sign would be. Sargent said it can't be more than 40 sq. ft. and the plan states it would be under that amount.

Public Hearing Opened:

Ted Hanson of 4918 Tyler St. is concerned with the intersection traffic. He said there is traffic confusion there now with all the traffic coming out of Jimmy John's and the adjacent strip mall with the frontage road, as well as the Donut shop and service road in front of that. He also is concerned with the amount of truck and car traffic that use Tyler St. as an alternative now, and that he believes that will only increase. He wants to see improvements made to that intersection and to clearly mark the lanes in conjunction with this new construction.

Szurek asked if the City can force the right turn lane to be done as part of the construction process. Sargent said he will have a conversation with Public Works and Aldi's regarding these concerns.

Rachel from the 50<sup>th</sup> and Central area is the mother of a small child. She also is concerned with the traffic at this intersection. Sargent said MNDOT is reviewing the plans and will require changes if they deem it necessary. He said by reducing the access points from five to three for the Aldi's property, it should help reduce the confusion for patrons and help the traffic flow.

Ann Scanlon of 715 50<sup>th</sup> Avenue thinks the City needs to take a pro-active approach to the traffic congestion at that intersection. She is in favor of the Aldi's development, but feels the traffic pattern needs further analyzing.

Szurek asked the representative from Aldi's what their store hours would be. Ryan Stimmons said the store would be open Mondays-Saturdays from 9 am to 8 pm and on Sundays from 10 am to 6 pm.

Peterson asked if any consideration had been given to having 50<sup>th</sup> Avenue be an exit only, and having the entrance points off Central, to the north. Sargent said that Aldi's has already planned the reduction of 2 access points and prefers to have free access/exit of the remaining three.

Fiorendino thanked people for their comments, and reminded them that the Planning and Zoning Commission is only a recommending board, and that the City Council makes the final decision in these matters.

There was a discussion whether restrictions can be made for how the construction trucks access the site. Sargent said that the only restrictions that can be enforced are load restrictions. Any other signage to prohibit truck traffic should be directed to the Traffic Commission.

Thompson thought there should be a traffic study done before these plans are approved. Szurek stated we can't hold up the approval waiting for that. She believes that these traffic issues will be addressed by MNDOT's review and by the addition of the right turn lane, which she thinks should be striped as soon as possible.

Public Hearing closed.

*Motion by Fiorendino, seconded by Peterson, that the Planning Commission recommend the City Council approve the preliminary plat based on following 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. *An easement shall be provided over the stormwater treatment area, along with an on-going maintenance plan for facility – the City can provide a suggested form.*
2. *Prior to at the time of issuing a building permit, surety in the form of a Letter of Credit or cash escrow shall be provided to Public Works in the amount of \$5,000/acre for erosion control & site restoration in accordance with the City storm water management code. This will be returned following completion of turf establishment.*
3. *A letter of credit (LOC) needs to be provided prior to at the time of issuing a building permit for the public improvements, restoration in the public ROW and site landscaping. The calculation of the LOC shall include the removal and reconstruction of the alley and complete site landscaping x 1.25. This will be returned following completion of turf establishment.*
4. *For engineering site inspection, the Developer shall provide \$1,500 to be deposited in an engineering escrow account for staff inspections of public ROW improvements, site SWPPP activities and utility work. All unused funds are returned to the Developer at project completion.*
5. *All erosion control measures shall be installed and inspected by the Engineering department prior to any site activities beginning.*
6. *The proposal will require a work within ROW permit from MnDOT.*
7. *All construction traffic shall be directed through the vehicle tracking pads, as indicated on the SWPPP plan.*
8. *All slopes greater than 3:1 shall be provided erosion control blanket.*
9. *Catch basin inlet protection, such as Wimco's or equivalent shall be provided on catch basins until restoration is completed.*
10. *Site/Civil work shall be inspected by the City Engineering Department (connection to public storm sewer system or work within ROW). 24-hour advance notice of an inspection is required.*
11. *The City standard for drive entrances is a concrete apron matching the concrete curb and gutter.*
12. *An NPDES permit will be required, at the time of construction. The City also reserves the right to require additional erosion control measures during construction, as conditions warrant.*
13. *All restoration of turf areas in the Public Right-of-Way (ROW) shall be by four (4) to six (6) inches of topsoil/sodding.*
14. *Prior to installation of the stormwater system, all heavy equipment shall be kept out of the stormwater system footprint in order to prevent compaction of soils in the proposed infiltration area.*
15. *All work within Public ROW shall be inspected by the City Engineering Department. Twenty four (24) hour advance notice of an inspection is required.*
16. *All utilities (water main, sanitary sewer and storm sewer), shall meet the City of Columbia Heights specifications for materials and installation.*
17. *Disconnect any existing utility service stubs in accordance with Public Works requirements.*
18. *All sidewalks shall meet ADA requirements for pedestrian ramps and grade.*

*All ayes. MOTION PASSED.*

*Motion by Fiorendino, seconded by Peterson, that the Planning Commission recommends the City Council approve the final plat in its entirety, based on the following 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 conditions set forth in the City of Columbia Heights' subdivision ordinance shall be met per Code Section 9.114.*

*All ayes. MOTION PASSED.*

*Motion by Fiorendino, seconded by Peterson, that the Planning Commission recommends the City Council approve the proposed site plan, as it is consistent with the Comprehensive Plan and the Design Guidelines. All ayes. MOTION PASSED.*

**RESOLUTION NO. 2011-XXXX**  
**RESOLUTION APPROVING A PRELIMINARY PLAT SUBDIVISION**  
**WITH CERTAIN CONDITIONS FOR ALDI, INC.**

**WHEREAS**, a proposal (Case No. 2011-0402) has been submitted by Aldi, Inc. to the City Council requesting a subdivision from the City of Columbia Heights Subdivision Code at the following site:

ADDRESS: 5025 Central Avenue

EXISTING LEGAL DESCRIPTIONS: On File at City Hall

PROPOSED LEGAL DESCRIPTION: Lot 1, Block 1, Aldi Addition

THE APPLICANT SEEKS APPROVAL OF A PRELIMINARY PLAT SUBDIVISION.

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed subdivision upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to traffic, property values, light, air, danger of fire, and risk to public safety, in the surrounding area; and has held the required public hearing on this proposal on April 5, 2011.

**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 proposed preliminary plat conforms to the requirements of §9.114.
2. The proposed subdivision is consistent with the Comprehensive Plan.
3. The proposed subdivision contains parcel and land subdivision layout that is consistent with good planning and site engineering design principles

**FURTHER, BE IT RESOLVED**, that the attached condition, plans, maps, and other information shall become part of this subdivision approval.

CONDITIONS:

1. An easement shall be provided over the stormwater treatment area, along with an on-going maintenance plan for facility – the City can provide a suggested form.
2. Prior to at the time of issuing a building permit, surety in the form of a Letter of Credit or cash escrow shall be provided to Public Works in the amount of \$5,000/acre for erosion control & site restoration in accordance with the City storm water management code. This will be returned following completion of turf establishment.
3. A letter of credit (LOC) needs to be provided prior to at the time of issuing a building permit for the public improvements, restoration in the public ROW and site landscaping. The calculation of the LOC shall include the removal and reconstruction of the alley and complete site landscaping x 1.25. This will be returned following completion of turf establishment.
4. For engineering site inspection, the Developer shall provide \$1,500 to be deposited in an engineering escrow account for staff inspections of public ROW improvements, site SWPPP activities and utility work. All unused funds are returned to the Developer at project completion.
5. All erosion control measures shall be installed and inspected by the Engineering department prior to any site activities beginning.
6. The proposal will require a work within ROW permit from MnDOT.
7. All construction traffic shall be directed through the vehicle tracking pads, as indicated on the SWPPP plan.
8. All slopes greater than 3:1 shall be provided erosion control blanket.

9. Catch basin inlet protection, such as Wimco's or equivalent shall be provided on catch basins until restoration is completed.
10. Site/Civil work shall be inspected by the City Engineering Department (connection to public storm sewer system or work within ROW). 24-hour advance notice of an inspection is required.
11. The City standard for drive entrances is a concrete apron matching the concrete curb and gutter.
12. An NPDES permit will be required, at the time of construction. The City also reserves the right to require additional erosion control measures during construction, as conditions warrant.
13. All restoration of turf areas in the Public Right-of-Way (ROW) shall be by four (4) to six (6) inches of topsoil/sodding.
14. Prior to installation of the stormwater system, all heavy equipment shall be kept out of the stormwater system footprint in order to prevent compaction of soils in the proposed infiltration area.
15. All work within Public ROW shall be inspected by the City Engineering Department. Twenty four (24) hour advance notice of an inspection is required.
16. All utilities (water main, sanitary sewer and storm sewer), shall meet the City of Columbia Heights specifications for materials and installation.
17. Disconnect any existing utility service stubs in accordance with Public Works requirements.
18. All sidewalks shall meet ADA requirements for pedestrian ramps and grade.

**RESOLUTION NO. 2011-XXXX**

**RESOLUTION APPROVING A FINAL PLAT SUBDIVISION  
WITH CERTAIN CONDITIONS FOR ALDI, INC**

**WHEREAS**, a proposal (Case No. 2011-0402) has been submitted by Aldi, Inc. to the City Council requesting a subdivision from the City of Columbia Heights Subdivision Code at the following site:

ADDRESS: 5025 Central Avenue

EXISTING LEGAL DESCRIPTION: On File at City Hall

PROPOSED LEGAL DESCRIPTION: Lot 1, Block 1, Aldi Addition

THE APPLICANT SEEKS APPROVAL OF A FINAL PLAT SUBDIVISION.

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed subdivision upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to traffic, property values, light, air, danger of fire, and risk to public safety, in the surrounding area; and has held the required public hearing on this proposal on April 5, 2011.

**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 final plat substantially conforms to the approved preliminary plat.
2. The final plat conforms with the requirements of Section 9.114.

**FURTHER, BE IT RESOLVED**, that the attached condition, plans, maps, and other information shall become part of this subdivision approval.

CONDITIONS:

1. *All conditions set forth in the City of Columbia Heights' subdivision ordinance shall be met per Code Section 9.114.*

**RESOLUTION NO. 2011-XXXX**  
**RESOLUTION APPROVING A SITE PLAN FOR AN ALDI GROCERY STORE LOCATED AT 5025**  
**CENTRAL AVENUE WITHIN THE CITY OF COLUMBIA HEIGHTS, MINNESOTA**

**WHEREAS**, a proposal (Case #2011-0402) has been submitted by Aldi, Inc., to the City Council requesting a site plan approval from the City of Columbia Heights at the following site:

ADDRESS: 5025 Central Avenue

LEGAL DESCRIPTION: Lot 1, Block 1, Aldi Addition

THE APPLICANT SEEKS THE FOLLOWING PERMIT: Site Plan approval for the construction of a 17,886 square foot grocery store located at 5025 Central Avenue.

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on April 5, 2011;

**WHEREAS**, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concern related to traffic, property values, light, air, danger of fire, and risk to public safety, in the surrounding area;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Columbia Heights 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 shall become part of the permit.*

**CASE NUMBER:** 2011-0406  
**APPLICANT:** City of Columbia Heights  
**LOCATION:** City Wide  
**REQUEST:** Zoning Amendment Pertaining to Trash Receptacle Enclosures

**BACKGROUND**

As a part of the Sheffield Neighborhood Action Plan initiative, staff has been looking for mechanisms to better beautify the Sheffield neighborhood and the city as a whole. One way that the city could accomplish this is through a text amendment that would require better screening of trash handling equipment (dumpsters) throughout the city. As staff has been patrolling the Sheffield neighborhood, as well as the city, it has become apparent that dumpsters need to be screened more appropriately.

### **COMPREHENSIVE PLAN**

One of the goals of the Comprehensive Plan is to preserve and reinvest in the housing stock to protect values and investment in the city. The proposed ordinance amendment would make the city a more attractive place to live and work, while further preserving the housing stock. For this reason, the proposed amendment is consistent with the Comprehensive Plan.

### **ZONING ORDINANCE**

At this time, the Code requires the following screening:

*“For all uses other than one- and two-family dwellings, trash and/or recycling collections areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.”*

There are some concerns that staff has regarding this language. First, there is no mention as to where on the property the storage area should be located, nor how close to the property lines the storage area may be. Second, there is no requirement for a gate. Oftentimes, the dumpsters are not always screened from adjacent properties because the open side of the enclosure is still visible, even if it does not “face any public street or the front yard of any adjacent property”. Last, there are a number of properties throughout the city that do not meet the screening requirement, by not providing any dumpster enclosure at all.

Staff proposes the following language to amend the current ordinance:

*“For all uses other than one- and two-family dwellings, trash and/or recycling collections areas shall be located in the side or rear yards only, located no closer than one (1) foot from any side or rear property lines. The trash and/or recycling areas shall be screened utilizing a 6-foot wall with the same exterior masonry material as the principal structure and shall include a latchable gate with at least 80% opacity. 96-gallon trash receptacles shall be screened with a wall of sufficient height to completely screen the receptacle, constructed with the same masonry material as the principal structure. Such enclosures shall also be equipped with a latchable gate with at least 80% opacity”.*

The proposed language establishes the proper location on the property, as well as proper setbacks to the property lines. It also requires an opaque and latchable gate in order to screen the fourth side of the enclosure.

Staff also proposes to be proactive with this ordinance by requiring all multi-family residential properties (three or more units) to conform to the new regulations within two years of the adoption of the ordinance. We feel that this is essential in building a community image that would be beneficial to all residents.

### **FINDINGS OF FACT**

Section 9.104 (F) of the Columbia Heights zoning code requires that the City Council make each of the following four findings before approving a zoning amendment:

1. The amendment is consistent with the Comprehensive Plan.  
*One of the goals of the Comprehensive Plan is to preserve and reinvest in the housing stock to protect values and investment in the city. The proposed ordinance amendment would make the city a more attractive place to live and work, while further preserving the housing stock. For this reason, the proposed amendment is consistent with the Comprehensive Plan.*
2. The amendment is in the public interest and is not solely for the benefit of a single property owner.  
*The proposed amendment would be effective for all properties within the city.*
3. Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.  
*Not applicable.*
4. Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in the current zoning classification.  
*Not applicable.*

**Staff recommends approval of the proposed Zoning Amendment. However, staff would like to gain insight from the Planning Commission and the public regarding this issue prior to formally submitting a text amendment for approval. Sargent suggested using this meeting as a sounding board to gather constructive ideas on how to deal with the obvious problem that exists at various properties throughout the City. For this reason, staff also recommends that the Planning Commission table making any decision on this until a future date.**

Questions by members:

Sargent stated that staff has been inspecting properties throughout the City and took photos of various examples of unsightly garbage dumpsters that have a direct impact on neighboring properties, not to mention the image of the City as a whole. He told members that since mailing out the notices regarding the Public Hearing on this issue, he has received numerous calls and correspondence from property owners who have legitimate concerns on how this would negatively impact them. He listed some of the reasons owners cited for their garbage dumpsters being placed where they are and what their thoughts were on enclosures:

- \*Small size of lots, and providing enough parking for residents
- \*Hardship due to space needed for snow removal
- \*Dumpsters getting frozen into snow/ice inside an enclosure
- \*Gate radius would eliminate further parking spaces
- \*Whose responsibility is it to unlock enclosure gates for pick up (hauler or owner?)
- \*Enclosures matching exterior of primary structure is cost prohibitive-brick/stucco would cost a lot
- \*Topography of site
- \*Overhead wires getting in way of truck being able to access dumpster

Sargent stated that he would like the input of those in attendance on how the Ordinance can be improved, and how other cities handle this issue, that may also work here to help clean up our multi-family building sites. He invited those that had something to add to this list to speak.

Peterson asked how Jimmy Johns handles their garbage. Sargent said it is in a brick enclosure in a planned location on the site. Peterson said as a single family homeowner he is responsible for setting his garbage cans out to the curb and for putting them away after pick up. It was noted that there is a 24 hour time frame where garbage cans can be at the curb. After that they must be stored behind the front of the house or at a reasonable site near the alley. He thinks it is important to keep the City looking as clean as possible and not have dumpsters and garbage laying just anywhere.

Fiorendino asked how many people this Ordinance would affect. Sargent thought it would possibly affect a couple hundred properties. He said the proposed change would give owners two years to construct an enclosure to come into compliance with the Ordinance. He said one of the things to consider would be to provide a course of action for those that would have problems complying, possibly through a variance option, or some other language in the Ordinance for hardship cases.

Thompson is aware of the logical reasons this Ordinance wouldn't work, and thought that property owners should organize and make a reasonable suggestion on how to deal with this issue. Sargent stated it is staff's job to write the Ordinances, not the property owners. The public can give input that is constructive which helps the City Officials make their decisions.

Szurek reminded those in attendance to please bring only new comments to the Board as some items have already been discussed.

The Public Hearing was opened:

Sargent noted that Doug Jones sent correspondence to him regarding this matter and that Lisa Pelien from MN Multi Housing Association also sent him a letter.

Lisa Pelien was present and suggested the City consider other alternatives. She did research on 10 other cities. None of those cities required the enclosures to match the exterior of the primary structure. She said other materials such as wood fencing should be allowed. When asked if she acknowledged there is a problem in this area, she said she really didn't know. She doesn't disagree with the goal, just wants alternatives considered.

Mark Gotsart manages the 4200 3<sup>rd</sup> Street building as well as many others throughout the metro area. He suggests a committee be formed to work on this. He said every property is different and each circumstance is different, so it is difficult to pass something that would encompass all the properties. He also thinks alternative materials should be allowed as long as it's complimentary to the principal structure. He would like to see an Ordinance that allows some flexibility and not necessarily require gates for all properties.

Szurek said that a lot of the owners of multi-family buildings don't care what the garbage looks like at their properties. She said the City needs to treat everyone the same, and that we can't just enforce the Ordinance on certain properties and not others.

Sargent said the Ordinance that is in place only affects new construction. It does not address placement of the dumpsters and only requires screening on three sides. Currently, we can't force owners to construct an enclosure for their garbage. Language in the new Ordinance would stipulate a time frame that existing properties would have to become compliant.

Bill Modell owns three properties in Columbia Heights (3746 Stinson, 1480 47<sup>th</sup> Ave, and 4650 Johnson). These properties have been owned by his family for over 36 years and they've never received a notice from the City regarding problems with the garbage. He reminded members that not all rental property owners are slum landlords. Szurek acknowledged that.

Brian Jones from 4025 Stinson Blvd manages 4615 Tyler St and 5100 6<sup>th</sup> St. The size of the two parcels are very different. At 4615 Tyler St. a dumpster enclosure would cause him to lose parking spots, which in turn, would cause him to lose residents. At 5100 6<sup>th</sup> St. the dumpsters are kept in the garage area as the site is very large. He thinks the City should cite and fine the bad owners, and not take it out on the good ones.

Norma Rust is not a resident, but owns rental property here. She stated that sometimes the terrain or overhead wires dictate the location of dumpsters, and sometimes the haulers don't put the dumpsters back where they were. She also stated she only has two 96 gallon cans for her 4-plex. She said if she contracted the service she would change haulers, but since the City contracts it, she is stuck with what they dictate. Sargent said there are some policy issues that need to be resolved such as the correct number of containers to ensure they are adequate to handle all the garbage.

Jesse Davies said properties aren't limited to how many containers they have. It is up to the owners to decide how many they need. However, the more containers they have, the more they will pay, and that is why many owners try to get by with the least amount of containers they can.

Wade Shatzer manages properties all over the state. He doesn't see how enclosures can work in Columbia Heights due to the size of the lots and lack of parking available, especially in winter. There is too much density.

Mary Marth owns 4619 Tyler Street and understands why this Ordinance is being introduced, but states she is a responsible owner. She thinks it would have to be enforced on a case by case basis though due to all the items already mentioned. She does think the City needs to get tougher for owners that chronically have issues with garbage storage.

Chuck Gramith owns 529 Mill Street and says he has a problem with his neighbor, the City of Columbia Heights. He stated he is offended with comments made about who can say something and what they can say. He accused the Commission members of not listening to the public. Property owned by the City is also part of the problem. He cited dumpsters located at Murzyn Hall as an example. He said this issue all boils down to health issues and the City should be enforcing the Health Ordinance.

Rich Caron owns 1020 40<sup>th</sup> Avenue and has a dumpster pocket on a pad. His issue, if this moves forward, would be his inability to mow behind an enclosure if a 6 ft fence would be required due to a hill behind the space. His neighbor also would be unable to gain access to his rear yard to mow. He also concurs that each property is different so it will be difficult to apply to everyone equally.

Sargent said the objective tonight was to get testimony and opinions from those in attendance. He also invited people to e-mail him or call him and share their thoughts.

Dave from Veolia Environmental Services said requiring enclosures would create safety issues for his drivers in some cases. He cited some examples.

Commission member Thompson left at 9 pm.

Jerome Thompson who owns 1341 42<sup>nd</sup> Avenue tells his tenants to put garbage in the dumpster in the enclosure and they just throw it over the top. He keeps it plowed in the winter, but they are too lazy to open a gate and dispose of properly. He stated enclosures aren't necessarily the answer.

Maggie Engel of 4347 University agreed with what has been said so far. Each case is different.

Mayor Peterson thanked everyone for their comments and said he found it interesting to listen to the comments. There is a lot of blame to go around, from bad owners/managers to lazy tenants, to lack of enforcement from the City. He thinks maybe this should be handled similar to long grass situations- whereby, owners get notified to correct and if they don't clean up the area, the City will and then bill the owners. He also suggested the Police Dept. address this issue in their Landlord meetings. He agrees the City needs to be more pro-active and issue owners citations for not keeping their properties clean. There are already ordinances in place and property maintenance requirements, and they should be enforced. By forcing enclosures for all the properties might be creating a bigger problem since it would be hard to enforce uniformly. He believes if the Community Service Officer issues citations and if Public Works employees have to do clean up with the billing going to the owners, that people will start complying.

Szurek agreed. Therefore, the consensus was to table this matter to some date in the future, so that staff has time to decide what actions will be implemented.

**CASE NUMBER: 2011-0403**  
**APPLICANT: City of Columbia Heights**  
**LOCATION: City Wide**  
**REQUEST: Zoning Amendment for LED Signage**

### **INTRODUCTION**

In 2008, the City Council approved an ordinance that allowed for the use of LED signage through the Conditional Use Permit (CUP) process. In summary, the ordinance regulates the following:

1. Allows for Dynamic LED signage in all zoning districts with a Conditional Use Permit. Only religious and education institutions may utilize dynamic LED signage in residentially zoned districts.
2. Prohibits animation, scrolling, flashing, and blinking and videos on dynamic LED signs.
3. Messages may change no more frequently than once every 10 minutes in commercially or industrially zoned districts, and no more than once every 30 minutes in residentially zoned districts.
4. Dynamic LED signs may only be used in conjunction with a monument sign, and may occupy no more than 50% of the signage area.

At this time, staff is proposing a text amendment to reduce the regulated frequency between message changes from 10 minutes to 10 seconds for commercially and industrially zoned districts and from 30 minutes to 10 minutes for all other districts. When staff initially proposed the ordinance, the intent was to create a conservative ordinance in order to give businesses time to adapt to the new regulations. There was no determination as to how many businesses would utilize LED signage, or if the frequency between allowable messages displayed would adequately serve the sign's purpose.

Since the inception of the ordinance, only three businesses have received a CUP for LED signs. They are: Jeff's Bobby and Steve's Autoworld, Sonic Restaurant, and the City's municipal Liquor Store located on Central Avenue. To the best of staff's knowledge, these businesses operate their sign within the parameters of the code. Allowing business to change the message more frequently would enable more advertisements in a shorter amount of time. Businesses have expressed the desire to be able to advertise more frequently on the LED signs.

The City of Columbia Heights is routinely compared to other like-cities in the metropolitan area to determine whether a proposal is consistent with what other cities have done. A survey of the 12 other cities indicated their regulations on LED signage:

Anoka:	"Reasonable intervals" for public service information only.
Brooklyn Center:	2 seconds between changes
Crystal:	3 seconds between changes (time and temperature only)
Hastings:	6 seconds between changes
New Brighton:	8 seconds between changes
Hopkins:	LED signage not allowed
New Hope:	5 seconds between changes
Richfield:	1 minute between changes
Shoreview:	LED signage not allowed
South St. Paul:	8 seconds between changes
West St. Paul:	8 seconds between changes
White Bear Lake:	LED signage not allowed

Staff is also proposing some changes to monument signage to better aid businesses in the city to gain much needed advertising.

### **COMPREHENSIVE PLAN**

One of the goals of the Comprehensive Plan is to preserve and enhance the existing viable commercial areas within the community, and to promote reinvestment in properties by the commercial and industrial sectors. Allowing dynamic signage is a way to enhance economic vitality by giving the commercial owners a mechanism to advertise their business in an efficient and aesthetic manner.

### **ZONING ORDINANCE**

The following are key zoning changes proposed for the use of monument signs and LED signs:

1. Increase maximum height of all monument signs from 8 feet to 10 feet. Currently, the Zoning Code requires that all monument signs be a maximum of 8 feet in height, unless the sign is located in the Design Guideline Highway District and the principal structure on the parcel is greater than or equal to 22 feet in height – in which case the maximum height of the monument sign may be increased to 10 feet. Because of the large right-of-way widths along Central Avenue, and because of the proximity of some properties to the street itself, many freestanding signs are located a considerable distance from passing motorists. Increasing the height of all monument signs to 10 feet would help businesses gain visibility in this respect.

2. Increase maximum size of monument signs from 40 square feet to 50 square feet. Using the same rationale to increase the height of the sign, staff feels that increasing the overall size of the sign by 10 square feet would help gain needed visibility for businesses. Both the height increase from 8 to 10 feet and the size increase from 40 s.f. to 50 s.f. are a proportional increase of 25%.
3. Increase the LED portion of the monument sign from 50% to 60%. Currently, the largest LED sign that a business would use is one measuring 20 square feet, since the Zoning Code only allows for 50% of a 40 square foot monument sign to be used for LED purposes. The proposed ordinance would allow for up to 60% of the monument sign to be used as an LED sign, which means the largest LED sign could be 30 square feet.
4. Increase the frequency for LED displays from once every 10 minutes to once every 10 seconds for commercially and industrially zoned districts. To stay in line with the regulations from the surrounding communities, and to enable businesses in Columbia Heights to thrive through effective advertising, staff feels that increasing the frequency for message displays to once every 10 seconds would be beneficial.
5. Increase the frequency for LED displays from once every 30 minutes to once every 10 minutes for all other districts. It is anticipated that churches and schools may wish to utilize LED signage to promote activities occurring on their premises. Staff feels that allowing a message change only once every 30 minutes is a bit restrictive; however staff understands that the residential neighborhoods in which these establishments are located still need to be protected. By increasing the frequency to once every 10 minutes, religious and educational institutions will still be allowed to advertise for events more effectively while not disturbing the surrounding area.

### **FINDINGS OF FACT**

Section 9.104 (F) of the Columbia Heights zoning code requires that the City Council make each of the following four findings before approving a zoning amendment:

1. The amendment is consistent with the Comprehensive Plan.  
*One of the goals of the Comprehensive Plan is to preserve and enhance the existing viable commercial areas within the community, and to promote reinvestment in properties by the commercial and industrial sectors. Allowing dynamic signage is a way to enhance economic vitality by giving the commercial owners a mechanism to advertise their business in an efficient and aesthetic manner.*
2. The amendment is in the public interest and is not solely for the benefit of a single property owner.  
*The proposed amendment would affect all business owners throughout the city and not solely for the benefit of a single property owner.*
3. Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.  
*The amendment would not change the zoning classification of a particular property.*

4. Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in the current zoning classification.

*The amendment would not change the zoning classification of a particular property.*

Questions from members:

Szurek thinks 10 seconds is too fast and would be very distracting. She thinks a one minute interval would be sufficient. She understands the height adjustment, but questioned the need to increase the sq. ft. amount. Sargent told her that was a proportional adjustment to match the increase in the height adjustment.

Fiorendino didn't feel it was in the public's best interest to have it flash every 10 seconds either. He doesn't see a reason to change from the 10 minute timeframe that is currently in place. He felt the height and size adjustment was acceptable.

Peterson didn't see a problem with the 10 second interval and also found the height and size adjustment acceptable.

Mayor Peterson isn't offended by these signs and said they are the current way to draw attention to a business. He asked if LED signage would be allowed on walls signs or pylon signs. Sargent said no, they would not, with the exception of a government/public sign.

*Motion by Szurek, seconded by Fiorendino, that the Planning Commission recommends the City Council approve the proposed zoning amendment with the time frame changed to a one minute interval for the commercial, industrial, or public uses . All ayes. MOTION PASSED.*

*The following draft Ordinance will go to the City Council for consideration. (Note: it will be up to the City Council to approve the time frame-therefore, the Ordinance Language may change).*

**DRAFT ORDINANCE NO. XXXX**

**BEING AN ORDINANCE AMENDING ORDINANCE NO. 1490, CITY CODE OF 2005 RELATING TO LED, DYNAMIC, AND OTHER SIGNAGE WITHIN THE CITY OF COLUMBIA HEIGHTS**

The City of Columbia Heights does ordain:

Chapter 9, Article I, Section 9.103 of the Columbia Heights City Code, is proposed to include the following additions and deletions:

**§ 9.103 DEFINITIONS.**

*For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.*

*SIGN, VARIABLE ELECTRONIC MESSAGE.* A dynamic LED sign that changes its message more frequently than once every ten (10) ~~minutes~~ **seconds** for commercial and industrial properties located in the LB, GB, CBD, I-1 and I-2 zoning districts, and a dynamic LED sign that changes its message more frequently than once every ~~thirty (30) minutes~~ **ten (10) minutes** for religious and/or educational institutions located in the R-1, R-2A, R-2B, R-3, R-4, ~~and LB and PO~~ zoning districts.

Chapter 9, Article I, Section 9.106 (P) of the Columbia Heights City Code, is proposed to include the following additions and deletions:

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) Sign regulations.

(8) Dynamic LED signage.

(a) Regulations. *Dynamic LED signage is allowed as a conditional use in those zoning districts specified in this code. All dynamic LED signage is subject to the following conditions:*

1. *Dynamic LED signs are allowed only on monument signs for conditionally permitted uses in all zoning districts, with the exception of the PO, Public District, in which LED signage may be utilized on existing pylon signs. of Motor fuel stations, which may display dynamic LED signs as a part of the pylon sign to promote motor fuel prices only. Such motor fuel price signs do not require a Conditional Use Permit. All Dynamic LED signs may occupy no more than ~~forty~~ ~~sixty~~ percent (~~50%~~) (60%) of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic LED signs, even if not used. Only one, contiguous dynamic display area is allowed on a sign face.*

2. *A dynamic LED sign may not change or move more often than once every ten (10) ~~minutes~~ ~~seconds~~ for commercial, ~~or~~ industrial uses, or public uses, and no more than once every ~~thirty (30) minutes~~ ~~ten (10) minutes~~ for religious and/or educational institution uses, except one for which changes are necessary to correct hour-and-minute, date, or temperature information.*

3. *A display of time, date or temperature information may change as frequently as once every ~~ten (10) five (5) seconds~~, however information displayed not relating to the date, time or temperature must not change or move more often than once every ten (10) ~~minutes~~ ~~seconds~~ for commercial, ~~or~~ industrial uses, or public uses, and no more than once every ~~thirty (30) minutes~~ ~~ten (10) minutes~~ for religious and/or educational institution uses.*

4. *The images and messages displayed must be static, and the transition from one state display to another must be instantaneous without any special effects. Motion, animation and video images are prohibited on dynamic LED sign displays.*

5. *The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.*

6. *Dynamic LED signs must be designed and equipped to freeze the device in one position if a malfunction shall occur. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this ordinance.*

7. *Dynamic LED signs may not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness. Dynamic LED signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half hour before sunset and one half-hour after sunrise.*

8. *Dynamic LED signs existing on the effective date of this ordinance must comply with the operational standards listed above. An existing dynamic LED sign that does not meet the structural requirements may continue as a non-conforming sign subject to section 9.105 (E).*

*Chapter 9, Article I, Section 9.106 (P)(9)(d) of the Columbia Heights City Code, is proposed to include the following additions and deletions:*

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(9) *Signs in Residential Districts R-1, R-2A, and R-2B.*

(d) *Restrictions on Conditional Use Signs.* Signs requiring a Conditional Use Permit in the R-1, Single-Family Residential, and R-2A and R-2B, Two-Family Residential Districts are subject to the following restrictions:

1. All signage must be approved through the Conditional Use Permit process as outlined in § 9.104 (H) of the zoning code.

2. All signage must meet the requirements for Dynamic LED signs, as outlined in section 9.106 (P)(8) of this ordinance.

3. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ~~thirty (30)~~ **ten (10)** minutes of display time.

*Chapter 9, Article I, Section 9.106 (P)(10)(d) of the Columbia Heights City Code, is proposed to include the following additions and deletions:*

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(10) *Signs in Residential Districts R-3 and R-4.*

(d) *Restrictions on Conditional Use Signs.* Signs requiring a Conditional Use Permit in the R-3, Limited Multiple-Family Residential, and R-4, Multiple-Family Residential Districts are subject to the following restrictions:

1. All signage must be approved through the Conditional Use Permit process as outlined in § 9.104 (H) of the zoning code.

2. All signage must meet the requirements for Dynamic LED signs, as outlined in section 9.106 (P)(8) of this ordinance.

3. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ~~thirty (30)~~ **ten (10)** minutes of display time.

*Chapter 9, Article I, Section 9.106 (P)(11)(d) of the Columbia Heights City Code, is proposed to include the following additions and deletions:*

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(11) *Signs in LB, Limited Business District.*

(d) *Restrictions on Conditional Use Signs.* Signs requiring a Conditional Use Permit in the LB, Limited Business District, are subject to the following restrictions:

1. All signage must be approved through the Conditional Use Permit process as outlined in § 9.104 (H) of the zoning code.

2. All signage must meet the requirements for Dynamic LED signs, as outlined in section 9.106 (P)(8) of this ordinance.

3. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ten (10) ~~minutes~~ **seconds** of display time for commercial businesses.

4. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ~~thirty (30)~~ **ten (10)** minutes of display time for religious or educational institutions.

Chapter 9, Article I, Section 9.106 (P)(12)(a)2 of the Columbia Heights City Code, is proposed to include the following additions and deletions:

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(12) *Signs in CBD, Central Business District.*

(a) *Permitted signs.* In the CBD, Central Business District, the following signs shall be permitted:

1. [SECTION TO REMAIN UNCHANGED]

2. One monument sign not to exceed ~~40~~ **fifty (50)** square feet in size, limited to two sides, not to exceed ~~8~~ **ten (10)** feet in height, and set a minimum of 5 feet from any property line.

Chapter 9, Article I, Section 9.106 (P)(12)(d) of the Columbia Heights City Code, is proposed to include the following additions and deletions:

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(12) *Signs in CBD, Central Business District.*

(d) *Restrictions on Conditional Use Signs.* Signs requiring a Conditional Use Permit in the CBD, Central Business District, are subject to the following restrictions:

1. All signage must be approved through the Conditional Use Permit process as outlined in § 9.104 (H) of the zoning code.

2. All signage must meet the requirements for Dynamic LED signs, as outlined in section 9.106 (P)(8) of this ordinance.

3. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ten (10) ~~minutes~~ **seconds** of display time.

Chapter 9, Article I, Section 9.106 (P)(13)(a)3 of the Columbia Heights City Code, is proposed to include the following additions and deletions:

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(13) *Signs in GB, General Business District.*

(a) *Permitted signs.* In the GB, General Business District, the following signs shall be permitted:

1. [SECTION TO REMAIN UNCHANGED]

2. [SECTION TO REMAIN UNCHANGED]

3. If not located adjacent to a state trunk highway where the 20-foot building setback cannot be met, one monument sign not to exceed ~~40~~ **fifty (50)** square feet in size, limited to two sides, not to exceed ~~8~~ **ten (10)** feet in height, and setback a minimum of 5 feet from any property line. ~~If such property is located in the Design Overlay Highway District, the maximum height of the monument sign may be increased to 10 feet for those principal structures greater than or equal to 22 feet in height.~~

Chapter 9, Article I, Section 9.106 (P)(13)(d) of the Columbia Heights City Code, is proposed to include the following additions and deletions:

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(13) *Signs in GB, General Business District.*

(d) *Restrictions on Conditional Use Signs.* Signs requiring a Conditional Use Permit in the GB, General Business District, are subject to the following restrictions:

1. All signage must be approved through the Conditional Use Permit process as outlined in § 9.104 (H) of the zoning code.

2. All signage must meet the requirements for Dynamic LED signs, as outlined in section 9.106 (P)(8) of this ordinance.

3. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ten (10) ~~minutes~~ **seconds** of display time.

Chapter 9, Article I, Section 9.106 (P)(14)(d) of the Columbia Heights City Code, is proposed to include the following additions and deletions:

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(14) *Signs in I-1 and I-2 Industrial Districts.*

(d) *Restrictions on Conditional Use Signs.* Signs requiring a Conditional Use Permit in the I-1, Light Industrial District, and the I-2, General Industrial District, are subject to the following restrictions:

1. All signage must be approved through the Conditional Use Permit process as outlined in § 9.104 (H) of the zoning code.

2. All signage must meet the requirements for Dynamic LED signs, as outlined in section 9.106 (P)(8) of this ordinance.

3. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ten (10) ~~minutes~~ **seconds** of display time.

*Chapter 9, Article I, Section 9.106 (P)(15) of the Columbia Heights City Code, is proposed to include the following additions and deletions:*

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(P) *Sign regulations.*

(15) *Signs in the PO, Public and Open Space District.*

(a) *Permitted Signs.* In the PO, Public and Open Space District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building not to exceed 200 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts a residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

2. One monument sign per street frontage for those public facility parcels that include governmental offices. Such signs shall not exceed ~~forty (40)~~ **fifty (50)** square feet in area, and shall be located no closer than five (5) feet from any property line.

3. Any number of freestanding identification signage used to promote the name of a public city, regional or state park. Such signs shall be no greater than forty (40) square feet in area, shall not exceed ten (10) feet in height, and shall be located no closer than five (5) feet from any property line.

(b) *Restrictions on permitted signs.* Permitted signs in the PO, Public and Open Space District are subject to the following restrictions:

1. Total signage shall not exceed two square feet for each front foot of building or structure.
2. The maximum height of a monument sign shall not exceed ~~eight (8)~~ **ten (10)** feet in height.

3. The sign number and area permitted by this section are considered maximum. These maximums, or any portion thereof, which are not utilized by the owner or user of the property are non-transferable to any other property owned, occupied or used by such persons or to any other owner or user of property located in the same or other districts.

(c) *Conditional Use signs.* In the PO District, the followings signs shall require a Conditional Use Permit:

**1. A Dynamic LED sign used in conjunction with a governmental facility.**

(d) *Restrictions on Conditional Use Signs.* Signs requiring a Conditional Use Permit in PO, Public and Open Space District are subject to the following restrictions:

1. All signage must be approved through the Conditional Use Permit process as outlined in § 9.104 (H) of the zoning code.
2. All signage must meet the requirements for Dynamic LED signs, as outlined in section 9.106 (P)(8) of this ordinance.
3. Dynamic LED Signs may change its message with a frequency of no less than one (1) message for each ~~thirty (30)~~ **ten (10)** minutes of display time.

Section 2:

*This ordinance shall be in full force and effect from and after 30 days after its passage.*

First Reading: April 11, 2011

Second Reading: April 25, 2011

Date of Passage:

**CASE NUMBER: 2011-0401**  
**APPLICANT: Linder's Greenhouses**  
**LOCATION: 4300 Central Avenue NE**  
**REQUEST: Interim Use Permit**

**INTRODUCTION**

Linder's Greenhouses has applied for an Interim Use Permit to allow the operation of a seasonal mini-garden center for flowering plants and retail sales. The City of Columbia Heights has recently amended the ordinance regarding outdoor seasonal sales in all zoning districts, and now requires an Interim Use Permit rather than a Conditional Use Permit. 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. The will be the Linder's 22<sup>st</sup> year operating a temporary greenhouse at this location in Columbia Heights.

The attached site plan illustrates the configuration of two structures plus a patio area in front. This site plan and configuration remains unchanged from previous years. A fence will enclose the patio and connect to each structure. 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 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.

Please note that the Fire Department has reviewed the proposal and has no concerns regarding it.

### **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 21 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.

*Motion by Fiorendino, seconded by Peterson, that the Planning Commission approves the Interim Use Permit for seasonal agricultural sales at 4300 Central Avenue NE from April 15 through July 15, 2010, 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.*

**RESOLUTION NO. 2011-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 #2011-0401) 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, 2011 to July 15, 2011.

**WHEREAS**, the Planning Commission has held a public hearing as required by the city Zoning Code on April 5, 2011;

**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 5<sup>th</sup> day of April 2011,

Offered by: Fiorendino  
Seconded by: Peterson  
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:** 2011-0403  
**APPLICANT:** City of Columbia Heights  
**LOCATION:** City Wide  
**REQUEST:** Zoning Amendment Pertaining to Fence Regulations

### **BACKGROUND**

Currently, city regulations pertaining to fences are located in two separate sections of the City Code. The first location is at Chapter 6, Article IV of the Municipal Code, which deals with building and construction standards. The second location is at Chapter 9, Article I, which is the Zoning Code. Staff feels that these two sections should be combined and located in one area of the City Code in order to make it easier for the general public to gather the necessary information when constructing a fence.

On January 4, 2011, staff presented the Planning Commission with a text amendment combining these two sections with slight modifications to the ordinance regarding fencing. When staff presented the proposed amendment to the City Council, the City Council wanted to see language added to the ordinance to better address barbed wire fences.

Barbed wire fences will still require a Conditional Use Permit, but language has been added to clarify the type of barbed wire fencing that the City would allow.

### **COMPREHENSIVE PLAN**

One of the goals of the Comprehensive Plan is to preserve and reinvest in the housing stock to protect values and investment in the city. The proposed ordinance amendment would make it easier for the general public to gather the necessary information when constructing a fence.

### **ZONING ORDINANCE**

The following outlines the key aspects of the proposed ordinance change:

1. *Chapter 6, Article IV of the Municipal Code would be deleted in its entirety.*
2. *The construction standards from Chapter 6, Article IV of the Municipal Code will be transferred to the Zoning Code.*
3. *Residential fences greater than six (6) feet in height will require a Conditional Use Permit.*
4. *Non-residential fences greater than seven (7) feet in height shall require a Conditional use Permit.*
5. *Barbed wire fences will still be allowed in the industrial district, but will now require a Conditional Use Permit, with specific standards for construction.*

**FINDINGS OF FACT**

Section 9.104 (F) of the Columbia Heights zoning code requires that the City Council make each of the following four findings before approving a zoning amendment:

1. The amendment is consistent with the Comprehensive Plan.  
*One of the goals of the Comprehensive Plan is to preserve and reinvest in the housing stock to protect values and investment in the city. The proposed ordinance amendment would make it easier for the general public to gather the necessary information when constructing a fence.*
2. The amendment is in the public interest and is not solely for the benefit of a single property owner.  
*The proposed amendment would be effective for all properties within the city.*
3. Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.  
*Not applicable.*
4. Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in the current zoning classification.  
*Not applicable.*

Staff recommends approval of the proposed Zoning Amendment.

**Questions from members:**

Fiorendino asked if there were any barbed wire fences in the City now? Sargent didn't think so, but any existing ones would be considered legally non-conforming.

*Motion by Peterson, seconded by Fiorendino, that the Planning Commission recommends the City Council approve the proposed zoning amendment. All ayes. MOTION PASSED.*

**DRAFT ORDINANCE NO. 1589  
BEING AN ORDINANCE AMENDING ORDINANCE NO. 1490, CITY CODE OF 2005 RELATING TO  
FENCES WITHIN THE CITY OF COLUMBIA HEIGHTS**

The City of Columbia Heights does ordain:

*Chapter 6, Article IV, of the Columbia Heights City Code, is proposed to include the following additions and deletions:*

**§ 6.401 GENERAL PROVISIONS.**

~~*(A) No person, firm, partnership or corporation shall construct, or cause to be constructed, or erected within the city any fence six feet or higher without securing a permit therefore from the Building Official, who shall require submission of an application prior to issuance of a permit.*~~

~~(B) For purposes of this section, the following words shall have the meaning ascribed to them:~~

~~**FENCE.** Any partition, structure, wall or gate erected as a dividing marker, barrier, or enclosure of a permanent nature.~~

~~**FRONT YARD.** Any portion within the front yard setback.~~

~~**PRIVACY FENCE.** A fence more than 42 inches in height which is constructed in a manner so as to completely obstruct view from the property on which the fence is located to the property immediately adjacent and on the opposite side of the fence.~~

~~(C) The written application shall be submitted to the Building Official setting forth the type of fence proposed, the materials to be used therefore, the height of the proposed fence, and the exact location of the proposed fence.~~

~~(D) All boundary line fences shall be located entirely upon the private property of the person, firm or corporation constructing or causing the construction of such fence unless the owner of the adjoining property agrees in writing that such a fence may be erected on the division line of the respective properties. In the case of a property line dispute, the Building Official may require the owner of the property upon which a fence now exists to cause to establish a boundary line of his property by survey thereof to be made by a registered land surveyor. The Building Official may similarly require any applicant for a fence permit to obtain a similar survey. However, the Building Official shall not become an arbitrator of boundary disputes between private persons.~~

#### ~~§ 6.402 CONSTRUCTION STANDARDS.~~

~~(A) Fences, free standing walls, and retaining walls shall be constructed in a substantial and workmanlike manner to withstand conditions of soil, weather and use, and of substantial material reasonably suited for the purpose for which the fence, free standing wall or retaining wall is proposed to be used. No previously used materials such as old board boards or railroad ties may be used in any fence, freestanding wall or retaining wall within the city. Minimum standards for construction of fences, freestanding walls and retaining walls shall be prescribed hereinafter.~~

~~(B) All fences shall be constructed of the following approved fencing materials:~~

~~(1) Galvanized or vinyl coated woven fabric minimum 11½ gauge, with two inch maximum mesh, with knuckles up and cut edge down.~~

~~(2) Approved vinyl fencing materials.~~

~~(3) Treated wood or wood of natural materials resistant to decay.~~

~~(C) All fences shall be constructed with the posts on the inside of the fence with the finished side facing the adjacent properties.~~

~~(D) Retaining walls or freestanding walls shall be constructed in the following manner:~~

~~(1) Retaining walls and cribbing shall be used to stabilize steep slopes or prevent erosion.~~

~~(2) They shall be designed in accordance with sound engineering practice; including, but not limited to, a minimum four inch concrete footing of appropriate width and drains of appropriate type, size and spacing.~~

~~(3) Cribbed slopes shall be appropriately planted if open faced cribbing is used.~~

~~(4) The retaining wall or freestanding wall shall be constructed in a manner that presents a finished appearance to the adjoining property where applicable.~~

~~(5) With regard to measuring the permissible height of fences, which consist of or include retaining walls, terracing may not be used as a device to exceed the height limitations of this chapter. In the case of terraced walls or fences, each terraced wall or fence will be added to the height of the lowest span of wall or fence to the extent that it exceeds the lowest span for purposes of determining the height of a wall or fence under this chapter, and the said total of those measurements shall be considered as the height of a single fence or wall hereunder.~~

~~§ 6.403 USE OF FENCES; RESTRICTIONS.~~

~~(A) (1) Barbed wire fences shall not be permitted, used or constructed except in industrial districts and upon property used for public purposes.~~

~~(2) Every fence so constructed under this section and any fence existing at the time of the passage of this section shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or dangerous.~~

~~(3) Any property owner who receives notice from the Building Official that his fence is in a state of disrepair or is dangerous shall repair said fence within 30 days after receipt of written notice to abate said condition by the Building Official.~~

~~(B) A six and one half foot high privacy fence may be constructed only within property lines and shall not extend beyond the front corners of the main structure (house). Any fence higher than six and one half feet would require a special purpose fence permit approved by the Planning and Zoning Commission and City Council.~~

~~(1) A site plan and construction plan for the fence location must be approved by the Building Inspection/Planning Department staff and a building permit is issued.~~

~~(2) Any such fence to be constructed or maintained in the front yard (limited to 42 inches) or on a corner lot no construction shall be permitted in excess of 30 inches about the abutting curb line shall be permitted within a triangular area as defined as follows: Beginning at the intersection of the projected curb line of two intersecting streets ten 30 feet along one curb line, then diagonally to a point 30 feet from the point of beginning on the other curb line then to point of beginning. The Building Official shall determine the maximum allowable height for fences on a corner lot in accordance with his personal observations and findings relating to visibility.~~

~~(C) Any such fence will not be more than 42 inches high when constructed anywhere within the front yard setback area up to the front corners of the main structure (house).~~

~~(D) Fences for special purposes and fences differing in construction, height or length may be permitted in any district in the city by the issuance of a special fence permit recommended by the Planning and Zoning Commission and approved by the Council upon proof and reasons submitted by the applicant and upon showing to said bodies that such special fence is necessary to protect, buffer, or improve the premises for which such fence is intended. Notice of any application for any special purpose fence shall, before consideration thereof first be served upon all abutting properties of such applicant with proof of service filed with the Planning and Zoning Commission. Such special fence permit, if issued, may stipulate and provide for the height, location, construction and type of special fence thereby permitted.~~

**~~§ 6.404 ZONING RESTRICTIONS.~~**

~~(A) In residential districts, no fence more than seven feet in height may be erected or maintained. Additionally, fences along any rear property line which abut a public alley or street shall be no closer than three feet from said alley or street boundary line.~~

~~(B) The use of fences in commercial districts is subject to the following conditions:~~

~~(1) If the applicant can prove to the satisfaction of the Council that a fence for security reasons is necessary above said permitted height, a fence not exceeding 8 feet in height may be constructed along the rear, side and front lot lines provided that such fence exceeding 7 feet in height is constructed with a setback from the front property line of 20 feet.~~

~~(2) Fences erected along a property line in common with any residential district shall be subject to the regulations herein set forth in the residential districts, and shall have a maintained green area 20 feet wide located 20 feet from the adjoining residential property line.~~

~~(3) Fences located on commercial property and adjacent to residential districts shall be subject to the most restrictive of either the residential regulation or commercial regulation of the zoning ordinance.~~

~~(C) The use of fences in industrial districts is subject to the following conditions:~~

~~(1) Fences erected along a property line in common with any residential district shall be subject to the regulations herein set forth in the residential districts, and shall have a maintained green area 20 feet wide located 20 feet from the adjoining residential property line.~~

~~(2) Such fences shall not be erected within the landscaped portion of the front yard of any industrial establishment.~~

~~(3) No provision of this section in any way restricts the requirement of the zoning ordinance of the city.~~

Chapter 9, Article I, Section 9.106 (D) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

(D) Fences.

(4) General requirements. *The following standards shall apply to all fences:*

(a) *Fences may be constructed, placed or maintained in any yard or adjacent to a lot line in accordance with the requirements of this section.*

(b) *The owner of the property upon which the fence is located shall be responsible for locating all property lines prior to constructing said fence.*

(c) *All fence posts and supporting members shall be placed within the property lines of the property on which they are located.*

*(d) All fences shall be situated so that they can be maintained from within the property boundaries of the property on which they are located.*

*(e) All fences shall be constructed so that the finished side or more attractive side of the fence faces the adjacent property or right-of-way.*

~~*(f) All fences shall be constructed of durable, weather treated and rustproofed materials.*~~ *(f) Fences, freestanding walls, and retaining walls shall be constructed in a substantial and workmanlike manner to withstand conditions of soil, weather and use, and of substantial material reasonably suited for the purpose for which the fence, freestanding wall or retaining wall is proposed to be used. No previously used materials may be used in any fence. All fences shall be constructed of the following approved fencing materials:*

*1. Galvanized or vinyl coated woven fabric – minimum 11½ gauge, with two-inch minimum mesh, with knuckles up and cut edge down.*

*2. Approved vinyl fencing materials.*

*3. Treated wood or wood of natural materials resistant to decay.*

*(g) Retaining walls or freestanding walls shall be constructed in the following manner:*

*1. Retaining walls and cribbing shall be used to stabilize steep slopes or prevent erosion.*

*2. They shall be designed in accordance with sound engineering practice; including, but not limited to, a minimum four-inch concrete footing of appropriate width and drains of appropriate type, size and spacing.*

*3. Cribbed slopes shall be appropriately planted if open-faced cribbing is used.*

*4. The retaining wall or freestanding wall shall be constructed in a manner that presents a finished appearance to the adjoining property where applicable.*

~~*(g)*~~ *(h) All fences shall be maintained and kept in good condition.*

~~*(h)*~~ *(i) Fence height shall be measured from the average grade to the top of the fence. In situations where a grade separation exists at the property line, the height of the fence shall be based on the measurements from the average point between the highest and lowest grade.*

*(j) Barbed wire, razor wire and electric fences shall not be permitted in any zoning district. However, barbed wire may be permitted in industrially zoned districts and property used for public purposes through a Conditional Use Permit process.*

~~*(i)*~~ *(k) Fences exceeding six (6) feet in height shall require a building permit from the city.*

*(5) Residential fences. The following standards shall apply to all fences constructed in any residential zoning district or directly adjacent to any residential zoning district:*

*(a) No fence shall exceed seven (7) feet in height. Fences exceeding ~~seven (7)~~ six (6) feet in height shall be deemed structures and shall require a Conditional Use Permit.*

**(b) Fences along any rear property line that abut a public alley or street shall be located no closer than three (3) feet from said alley or street right-of-way.**

**(c) It shall be the responsibility of property owners with fences within recorded city easements to remove such fence at any time when access to the recorded city easement would require the removal of said fence.**

~~(b) (d)~~ A fence extending across or into the required front yard setback shall not exceed 42 inches (3.5 feet) in height; however, fences that are less than 50% opaque may be up to 48 inches (4 feet) in height.

~~(e) Fences exceeding six (6) feet in height shall require a building permit from the city.~~

**(6) Non-residential fences. The following standards shall apply to all fences constructed in any commercial or industrial zoning district:**

**(a) No fence shall exceed eight (8) feet in height. Fences exceeding seven (7) feet in height shall be deemed structures and shall require a Conditional Use Permit.**

~~(b) A fence extending across or into the required front yard setback shall not exceed four feet in height.; however, fences that are less than 50% opaque may be up to 48 inches (4 feet) in height.~~

**(c) A fence required to screen a commercial or industrial use from an adjacent residential use shall not exceed eight feet in height or be less than six feet in height. In addition, said screening fence shall be no less than 80% opaque on a year round basis.**

**(7) Fencing of play areas. For parks and playgrounds, either public or private and located adjacent to a public right-of-way or railroad right-of-way, a landscaped yard area no less than 30 feet in width, or a fence no less than 4 feet in height, shall be installed between the facility and the right-of-way.**

Chapter 9, Article I, Section 9.109 (E)(3)(h) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

#### **§ 9.109 RESIDENTIAL DISTRICTS.**

**(E) R-1, Single Family Residential District.**

**(3) Conditional uses.** Except as specifically limited herein, the following uses may be allowed in the R-1, Single-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

**(h) Fences greater than six (6) feet in height.**

Chapter 9, Article I, Section 9.109 (F)(3)(k) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

#### **§ 9.109 RESIDENTIAL DISTRICTS.**

**(F) R-2A and R-2B, Two-Family Residential District.**

**(3) Conditional uses.** Except as specifically limited herein, the following uses may be allowed in the R-2A and R-2B, Two-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

**(k) Fences greater than six (6) feet in height.**

Chapter 9, Article I, Section 9.109 (G)(3)(p) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.109 RESIDENTIAL DISTRICTS.**

*(G) R-3, Limited Multiple-Family Residential District.*

(3) *Conditional uses.* Except as specifically limited herein, the following uses may be allowed in the R-3, Limited Multiple-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

**(p) Fences greater than six (6) feet in height.**

Chapter 9, Article I, Section 9.109 (H)(3)(r) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.109 RESIDENTIAL DISTRICTS.**

*(H) R-4, Multiple-Family Residential District.*

(3) *Conditional uses.* Except as specifically limited herein, the following uses may be allowed in the R-4, Multiple-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

1. Fences greater than six (6) feet in height.

Chapter 9, Article I, Section 9.110 (D)(3)(t) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.110 COMMERCIAL DISTRICTS.**

*(D) LB, Limited Business District.*

(3) *Conditional uses.* Except as specifically limited herein, the following uses may be allowed in the LB, Limited Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (t) Fences greater than six (6) feet in height.

Chapter 9, Article I, Section 9.110 (E)(3)(s) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.110 COMMERCIAL DISTRICTS.**

*(E) GB, General Business District.*

(3) *Conditional uses.* Except as specifically limited herein, the following uses may be allowed in the LB, Limited Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (s) Fences greater than six (6) feet in height.

Chapter 9, Article I, Section 9.110 (F)(3)(h) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.110 COMMERCIAL DISTRICTS.**

(E) *CBD, Central Business District.*

(4) **Conditional uses.** Except as specifically limited herein, the following uses may be allowed in the LB, Limited Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (h) Fences greater than six (6) feet in height.

Chapter 9, Article I, Section 9.111 (D)(3)(i) and (j) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.111 INDUSTRIAL DISTRICTS.**

(D) *I-1, Light Industrial District.*

(3) **Conditional uses.** Except as specifically limited herein, the following uses may be allowed in the I-1, Light Industrial District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (i) Fences greater than seven (7) feet in height.
- (j) Barbed wire fences.

Chapter 9, Article I, Section 9.111 (E)(3)(i) and (j) of the Columbia Heights City Code, is proposed to include the following additions and deletions.

**§ 9.111 INDUSTRIAL DISTRICTS.**

(E) *I-1, Light Industrial District.*

(3) **Conditional uses.** Except as specifically limited herein, the following uses may be allowed in the I-1, Light Industrial District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (i) Fences greater than seven (7) feet in height.
- (j) Barbed wire fences.

**Chapter 9, Article I, Section 9.107 (C)(8) of the Columbia Heights City Code, is proposed to include the following additions and deletions.**

**§ 9.107 SPECIFIC DEVELOPMENT STANDARDS.**

(C) **Specific development standards.** The following uses are subject to specific development standards:

(8) *Barbed wire fences.*

(a) Barbed wire fences may only utilize a projecting arm to support the barbed wire, commencing at a point no less than six (6) feet above the ground.

(b) At no point shall the projecting arm encroach into the City right-of-way or neighboring properties.

Section 2:

*This ordinance shall be in full force and effect from and after 30 days after its passage.*

First Reading: April 11, 2011  
Second Reading: April 25, 2011  
Date of Passage:

**CASE NUMBER: 2011-0405**  
**APPLICANT: City of Columbia Heights**  
**LOCATION: City Wide**  
**REQUEST: Zoning Amendment Pertaining to Animal Kennels and Shelters**

**BACKGROUND**

Recently, City Staff was approached regarding the possible placement of an animal shelter within the city. Upon review of the Zoning Code, it was discovered that while the Code requires specific development standards for animal shelters, it does not indicate in which zoning districts such uses may be located. At this time, staff is proposing a zoning amendment to clarify this issue.

Staff feels that such uses should be located only in the GB, General Business District as a Conditional Use, to enable the City Council to review such uses on a case-by-case basis. All of the commercially zoned parcels in the city abut residentially zoned parcels, so it is imperative that specific development standards are in place in order to protect the residential character of the city.

**COMPREHENSIVE PLAN**

One of the goals of the Comprehensive Plan is to preserve and enhance the existing viable commercial areas within the community. The proposed text amendment would allow for a viable commercial use while preserving the characteristics of the surrounding areas. For this reason, the proposed text amendment is consistent with the Comprehensive Plan.

**ZONING ORDINANCE**

At Section 9.107 of the Zoning Code, animal kennels and shelters are regulated in the following manner:

1. All activity shall be within a completely enclosed building with soundproofing and odor control.
2. Outdoor kennels shall be prohibited.

Staff recommends amending this language to allow for some activities to take place outside, but done in a manner that would protect neighboring residential areas. The new suggested language is as follows:

1. Any activity conducted outdoors, including but not limited to play areas, outdoor runs, etc. shall be approved by the City Council through a Conditional Use Permit on a case-by-case basis.
2. Outdoor kennels shall be prohibited.
3. All outdoor activity space shall be completely screened from abutting neighboring residential zoning districts or uses by a six-foot tall privacy fence that is at least 80% opaque.

The proposed language would allow for dog and cat runs outdoors while still protecting the surrounding residential areas. Again, each situation would be reviewed on a case-by-case basis by the City Council through the Conditional Use Permit process.

**FINDINGS OF FACT**

Section 9.104 (F) of the Columbia Heights zoning code requires that the City Council make each of the following four findings before approving a zoning amendment:

1. The amendment is consistent with the Comprehensive Plan.  
*One of the goals of the Comprehensive Plan is to preserve and enhance the existing viable commercial areas within the community. The proposed text amendment would allow for a viable commercial use while preserving the characteristics of the surrounding areas. For this reason, the proposed text amendment is consistent with the Comprehensive Plan.*
2. The amendment is in the public interest and is not solely for the benefit of a single property owner.  
*The proposed amendment would be effective for all properties within the city.*
3. Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.  
*Not applicable.*
4. Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in the current zoning classification.  
*Not applicable.*

Staff recommends approval of the proposed Zoning Amendment.

**Questions from members:**

Fiorendino questioned striking the language about soundproofing and odor control for Indoor Activities. He thinks it should remain in.

The Commissioners all agreed.

*Motion by Peterson, seconded by Fiorendino, that the Planning Commission recommends that the City Council approve the proposed zoning amendment but add back in the language as item #4: All indoor activity shall include soundproofing and odor control. All ayes. MOTION PASSED.*

**DRAFT ORDINANCE NO. XXXX**  
**BEING AN ORDINANCE AMENDING ORDINANCE NO. 1490, CITY CODE OF 2005 RELATING**  
**ANIMAL SHELTERS AND KENNELS WITHIN THE CITY OF COLUMBIA HEIGHTS**

The City of Columbia Heights does ordain:

*Chapter 9, Article I, Section 9.107 (C)(2) of the Columbia Heights City Code, is proposed to include the following additions and deletions:*

**§ 9.107 SPECIFIC DEVELOPMENT STANDARDS**

(C) *Specific development standards.* The following uses are subject to specific development standards:

(2) *Animal kennel or shelter.*

- ~~(a) All activity shall be within a completely enclosed building with soundproofing and odor control.~~ (a) **Any activity conducted outdoors, including but not limited to play areas, outdoor runs, etc. shall be approved by the City Council through a Conditional Use Permit on a case-by-case basis.**
- (b) Outdoor kennels shall be prohibited.
- (c) **All outdoor activity space shall be completely screened from abutting neighboring residential zoning districts or uses by a six-foot tall privacy fence that is at least 80% opaque.**
- (d) **All indoor activity shall include soundproofing and odor control.**

*Chapter 9, Article I, Section 9.110 (E)(3) of the Columbia Heights City Code, is proposed to include the following additions and deletions:*

**§ 9.110 COMMERCIAL DISTRICTS**

(E) *GB, General Business District.*

(3) *Conditional uses.* Except as specifically limited herein, the following uses may be allowed in the GB, General Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

(s) **Animal kennel and/or shelter.**

Section 2:

*This ordinance shall be in full force and effect from and after 30 days after its passage.*

First Reading: April 11, 2011  
Second Reading: April 25, 2011  
Date of Passage:

**NEW BUSINESS**

Sargent told members that an application came in for the remodel of McDonald's. It will come before the Planning and Zoning Commission in May.

The EDA approved an amendment be made to the Development Agreement for 37<sup>th</sup> and Central for the construction of an O'Reilly's Auto Parts store. This will come before the Planning and Zoning Commission in June or July.

The meeting was adjourned at 9:56 pm.

Respectfully submitted,

Shelley Hanson  
Secretary