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MEMORANDUM

DATE: October 15, 2002
TO: Council Member Gary Schiff, Chair, Zoning & Planning Committee
Members of the Zoning & Planning Committee
FROM: Jason Wittenberg
SUBJECT: Appeal of the Planning Commission's decision

In addition to the request to rezone to add the TP (Transitional Parking) Overlay District to the property located at 3717 W. 50th St./5011 Ewing Ave. S., Steve Young has filed an appeal of the City Planning Commission's decision related to several of the concurrent applications.

The appeal is from the Commission's decision to **deny** the following applications:

- A variance to reduce the required front yard setback along Ewing Ave. from 20 ft. or the setback of the residential dwelling to the south, whichever is greater, to 10 ft. for a parking lot.
- A variance to exceed the maximum number of accessory parking spaces in the Pedestrian Oriented Overlay District from 24 to 28 spaces.
- The site plan review application. Specifically, the appellant appeals the condition of approval stating that "the number of accessory parking spaces shall not exceed one hundred fifty (150) percent of the minimum required parking spaces or ten (10) spaces, whichever is greater, as required by section 551.140 of the zoning code."

The Commission's decision to **grant** the following applications has not been appealed:

- A conditional use permit for a parking lot in the TP Overlay District to serve the existing shopping center.
- A variance to reduce the north interior side yard setback from 5 ft. to 0 ft. within the R1A District for a parking lot.
- A variance to reduce the south interior side yard setback from 5 ft. to 0 ft. within the C2 District for a parking lot.
- A variance from the TP Overlay District standard requiring that each entrance to and exit from such parking lot shall be located at least twenty (20) ft. from any adjacent property located in a residence or office residence district.

50th & Ewing Shops
Accessory Parking Lot Addition

The following is a written statement for appeal of the Planning Commission's decision to deny the following:

1. Application by Steve Young, on behalf of 50th-Arbor Properties, LLC for a variance to reduce the required front yard setback along Ewing Ave from 20 feet or the setback of the residential dwelling unit to the south, whichever is greater, to 10 feet for the proposed parking lot south of the existing shopping center.
2. Application by Steve Young, on behalf of 50th-Arbor Properties, LLC for a variance to exceed the maximum number of accessory parking spaces in the Pedestrian Oriented (PO) Overlay District from 24 to 28 spaces for an existing shopping center.

In addition, I will need to appeal Item #2 on the Application by Steve Young, on behalf of 50th-Arbor Properties, LLC for a site plan review of an existing shopping center. This item refers to the maximum number of parking spaces in a PO Overlay District. The reasons for this site plan appeal are the same as the reasons stated below for the PO Overlay District appeal.

Project Description

The proposed project is to create a new accessory parking lot under Article V – TP Transitional Parking Overlay District. This accessory parking lot is proposed on a vacant lot between 50th & Ewing Shops and a single family residence. Please see the attached site plan.

1) Variance to reduce the required front yard setback along Ewing Ave from 20 feet to 10 feet for the parking lot.

- a) Conformity of Use: The setback variance is consistent with similar accessory parking lots along Ewing Avenue. For example, the 20 vehicle accessory lot across Ewing Avenue and the 60 vehicle Ewing Avenue Public Parking Lot on the same block are both in the setback area and adjacent to single family homes.
- b) Keeping with the Spirit of the Ordinance: Front yard setbacks are intended to create a buffer between the proposed use and adjacent uses. In order to justify the variance being sought, I have added additional landscaping in form of trees, scrubs, and fencing. In addition, granting the variance will allow additional buffer and landscaping areas between the proposed parking lot and the existing alley parking spaces. Finally, the only improvements in the setback area are two handicap spaces and should not create a visual impairment in the setback area.
- c) Neighbor Consent: My adjacent neighbor has approved this project and their approval notice was attached to initial application.

I believe a variance in this circumstance is justified because of the precedence of adjacent parking lots within the setback area, additional landscaping to create an enhanced buffer area, and consent from my adjacent neighbor.

2) Variance to exceed the maximum number of parking spaces required in the Pedestrian Oriented Overlay District by four spaces.

- a) Insufficient parking on other property: It is well known that parking is always a problem in the 50th & France neighborhood for both residents and business owners. With the current tenant configuration, the shopping center does exceed the maximum allowed under the PO Overlay District. However, many properties within 50th & France Business District have insufficient parking. Some properties have no parking at all. Not only does this shopping center have to provide parking for its own tenants but many times customers from other businesses park illegally on our site only to shop elsewhere.
- b) Public Safety: Granting the proposed variance will reduce congestion on public streets because fewer vehicles will be searching for street parking. In addition, the variance will increase public welfare and safety because fewer customers will be crossing streets to access the shopping center.
- c) Ewing Avenue Public Parking Lot changes: The Ewing Ave Public Lot is in the process of converting half of its spaces to employee only spaces. This will reduce the number of customer spaces available in the 50th & France District thus, making the customer parking shortage more acute.

I believe a parking maximum variance within the PO Overlay District is justified because there is a current overall shortage of parking in the 50th & France Business District, public safety will be enhanced, and there will be a more acute parking shortage in the future with the reconfiguration of the Ewing Avenue Public Lot.