

Minneapolis Planning Department

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MEMORANDUM

DATE: October 16, 2003

TO: Council Member Gary Schiff, Chair, Zoning & Planning Committee and
Members of the Committee

FROM: Tom Leighton, City Planner

SUBJECT: Appeal of City Planning Commission action on BZZ-1361 conditional use
permit and site plan review, Karmel Plaza, 206 Elroy Street South

The Whittier Alliance Board of Directors has filed an appeal of the September 8, 2003, actions of the City Planning Commission approving a) a major site plan review, and b) a conditional use permit for farmer's market, for the above described project. The term "farmer's market" refers to the portion of the proposed development that will function as an ethnic market, offering small area shops in a format similar to that of the Karmel Square development to the immediate south of the proposed development.

The appeal was filed on September 17, 2003. It highlights concerns relative to lack of neighborhood contact prior to Planning Commission action. The letter from Angela Currier on behalf of the Whittier Alliance Board of Directors is attached to this memorandum. Also attached is written documentation of an April 24, 2003, action taken by the Whittier Alliance Board supporting the Sabri Property original development proposal. The April 24 letter was taken by planning staff to signify neighborhood support for the project, since the plan that was approved by the City Planning Commission on September 17, 2003, was the same as the 2001 approved plan, with two exceptions. The floor area of the building was reduced by 14%. And a first floor 2,500 square foot restaurant is included in the plan.

Attached is the original Planning Department report, and documentation associated with the appeal.

Minneapolis City Planning Department Report

Site Plan Review
Conditional Use Permit
BZZ – 1361

Date: August 26, 2003

Applicant: Karmel Properties, LLC

Address of Property: 206 Elroy Street South

Date Application Deemed Complete: July 16, 2003

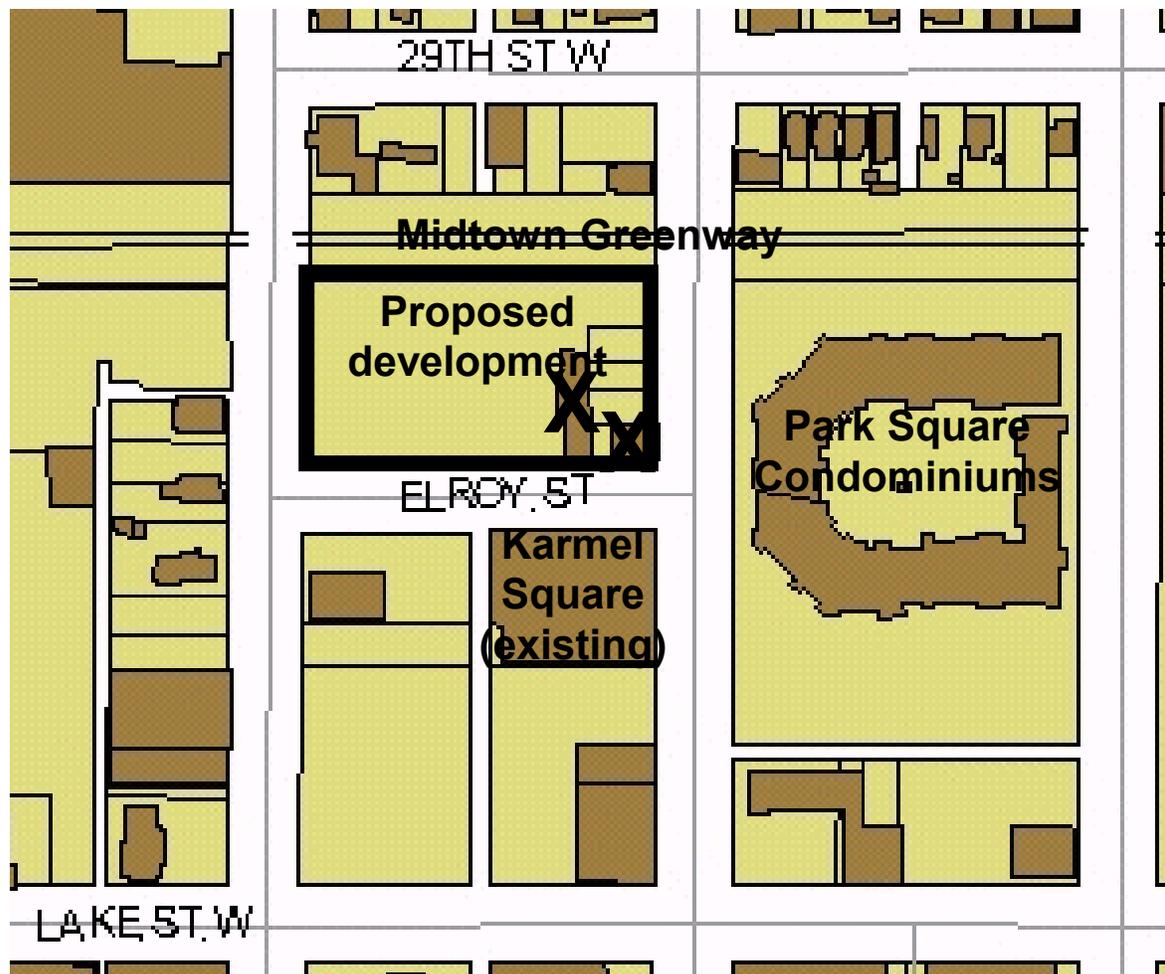
End of 120 Day Decision Period: September 14, 2003

Contact Person: Basim Sabri
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Planning Staff: Thomas Leighton
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Ward: 6 **Neighborhood Organization:** Whittier Alliance

Existing Zoning: I1



Proposed Use: Industrial, Office, Ethnic market, Restaurant

Previous Actions:

- The land sale by the MCDA to the developer was approved by the Community Development Committee on March 5, 2001, and by the full City Council on March 23, 2001. The redevelopment contract has not yet been executed.

Background: The applicant originally partnered with the Whittier CDC to develop the subject property as Karmel Plaza. The application advanced through the development review process, obtaining Planning Commission approval on June 4, 2001. Before final plans could be submitted to staff for approval and building permits issued, the development became a subject of a federal investigation. By the time development activity was able to resume, the application approvals had expired¹. This application represents a re-submission of the project that was proposed in 2001. The slight modifications that have been made to the 2001 development proposal include a 14% reduction of overall floor area, and the addition of 2,500 s.f. of restaurant space.

Note that, while the site plan review and conditional use permits have expired, the vacation of Elroy Street, and the north-south alley between Elroy and Lake Streets was given final approval in 2001. While they are still street and alley in appearance, in legal terms they are property that has been conveyed to the adjacent property owners—which includes the MCDA (now CPED) on the north side of Elroy Street.

The proposed development is a two story mixed use building that would be built at the perimeter of the site with an interior parking area accessible at the south side of the property from both Pillsbury and Pleasant Avenues. The building will house offices and industrial space on the second floor, with industrial space, a restaurant and retail space on the ground floor. The retail space is proposed to be an ethnic market that functions as an enlargement of the primarily Somali market located at the ground level of the Karmel Square building immediately to the south of the subject site.

144 parking spaces are proposed. 101 parking spaces are required for the subject development. 21 additional parking spaces will be leased to the Karmel Square building on the south side of the parking lot in order to satisfy its parking requirement. Bicycle parking is proposed in three locations.

Because the development exceeds 20,000 square feet, it is subject to the provisions of the site plan review ordinance. The ethnic market is categorized as a farmer's market for purposes of application of the zoning code. As such, it requires a conditional use permit in the II zoning district.

The proposed parking area utilizes nearly all of vacated Elroy Street, but the applicant does not currently own all of vacated Elroy Street. For the proposed parking to work, the applicant will need to establish control of the entire area of the proposed parking area either by easement, or by land sale.

¹ Per 525.40, no zoning approval granted by the city planning commission, board of adjustment or city council, except zoning amendments, are valid for more than one year from the date of decision unless the building permit is obtained within such period, and either the use is established or erection or alteration of building is substantially begun. The zoning administrator, upon written request and good cause, may extend this period for up to one additional year.

A revised landscaping plan was received on August 27, 2003. Planning Department staff has not had adequate time to thoroughly review it.

Community review. The original project proposal was presented to the Whittier Alliance Board of Directors at its February 22, 2001, meeting. The Board voted to support the project with certain conditions. The Whittier Alliance Board of directors voted to support the current development on April 24, 2003, as documented in the attached letter.

Current problems at the site are responsible for a high level of concern about the proposal from surrounding property owners and tenants. Two years ago, many letters and phone calls were received related primarily to the behavior of the tenants and patrons of the applicant's existing development, Karmel Square—which is located directly south of the proposed Karmel Plaza. These behaviors are made more problematic because of the current lack of off-street parking facilities. Reports were of illegal parking, double parking, cars stopped with drivers conversing out of car windows, and parking in the parking lot reserved for Park Square condominium residents and guests. Much concern was expressed about the applicant's proposal to provide additional space for this ethnic marketplace. Planning staff has been in recent conversations with MCDA staff and Council Member Zimmerman that make it clear that these problems and concerns have persisted. This is not surprising given that no additional parking has yet been made available.

One phone call has been received with regard to the current application. The caller expressed concern that the Karmel Plaza proposes to essentially expand the existing ethnic market space in Karmel Square by utilizing about half of the ground floor of the proposed Karmel Plaza development for this purpose.

I. REQUIRED FINDINGS FOR MAJOR SITE PLAN REVIEW

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

Karmel Plaza is proposed to be situated at the right of way line on both Pillsbury and Pleasant Avenues. It would be set back twenty feet from the northern property line where it fronts on the Midtown Greenway. The window area on both the first and second floors exceed 30% of the wall area. Other architectural detailing provides interest and breaks up the expanse of the structure. All sides of the building utilize the same façade materials and are similarly detailed. All entries into the building are proposed to be from the interior of the site. Interior building entrances are connected to the public sidewalk via an arcade along the perimeter of the building situated underneath the building's second floor.

ACCESS AND CIRCULATION:

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

Sidewalk concerns are addressed in the previous section.

Public Works and Fire Department staff have reviewed the plan, and find that it adequately meets City requirements for vehicular access and circulation. Dimensions of parking spaces and drive aisles meet the minimum requirements of the Zoning code.

A number of the islands in the interior of the parking lot are designated for snow storage, as is the south side of vacated Elroy Street.

The applicant has spaced the building 20 feet from the north property line along the midtown greenway. This makes land available at such time as there is interest on the part of the Hennepin Council Regional Rail Authority, or other entity, in developing a public walking path along the south side of the greenway trench.

LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
- Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).
- Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).
- Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).
- The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.
- Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.
- All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.
- All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.

The proposed landscaping totals about 16% of the net site area. In lieu of meeting the 20% landscaping requirement, the applicant is providing significant offsetting site enhancements that include landscaping all parking lot islands and peninsulas, providing distinctive fencing, an arcade sidewalk feature, bicycle parking spaces, and a building in a distinctive architectural style.

The landscaping plan, received August 27, 2003, requires additional work. Because plant materials are not identified and no landscaping is proposed for the area north of the building, a full review of the landscaping plan is not yet possible.

ADDITIONAL STANDARDS:

- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- Site plans shall minimize the blocking of views of important elements of the city.
- Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- Buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260.
- Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

A lighting plan for the building exterior is not yet available.

ALTERNATIVE COMPLIANCE:

The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
- The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

The applicant proposes to locate all building entrances on the interior of the site, with no entrances to the building from Pillsbury and Pleasant Avenues. This is largely to address the concerns of the residents of the Park Square Condominium building about disruptions that have occurred at the street side of the Karmel Square building. The site plan review chapter calls for buildings to “be oriented so that at least one principal entrance faces the public street rather than the interior of the site.” However, Pillsbury and Pleasant Avenues are not major commercial streets, so staff supports the use of alternative compliance. While it is helpful for crime prevention reasons to have activity on the street, activity on the street sufficient for this purpose will remain. Where a development is on a commercial or community corridor, it makes sense to orient activity to the street so that one can walk down the street between the different commercial venues. This setting is a block off Lake Street with a major residential building directly across the street. Sufficient alternative amenities are provided including a covered walkway to building entrances in the site interior.

As discussed above, proposed site landscaping is only 16% of the net site area, short of the required 20%. Offsetting enhancements are noted above.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE:

Parking spaces and drive aisles conform with the requirements of the City’s zoning code. Zoning staff have reviewed and support the applicants parking calculations as documented on the attached site plan. The parking requirement for the restaurant is valid provided it has no more than 1,250 square feet of seating area.

Trash collection is located within the building.

MINNEAPOLIS PLAN:

The subject site is located in an area without an explicit designation in *The Minneapolis Plan*. It is about a block from Lake Street, which is a commercial corridor, and adjacent to the Midtown Greenway, an abandoned rail corridor now serving as a commuter and recreational bicycle route.

The following evaluates consistency of the project with particular policies of *The Minneapolis Plan*.

- 1.2 Minneapolis will encourage both private and public development that provides gathering spaces in city neighborhoods.** The Karmel Square development evidently serves as an important gathering space for Somali Minneapolisians. The proposed

development would provide additional market and office space for the same patron community.

- 2.2 Minneapolis will support the existing economic base by providing adequate land and infrastructure to make city sites attractive to businesses willing to invest in high job density and low impact, light industrial activity.** The subject development is being sold to the applicant by the MCDA, and provides industrial jobs.
- 9.6 Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.**
- 9.15 Minneapolis will protect residential areas from the negative impact of non-residential uses by providing appropriate transitions.**
- 9.16 Minneapolis will encourage new development to use human scale design features and incorporate sunlight, privacy, and view elements into building and site designs.**
- 9.23 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.**

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

LAKE STREET MIDTOWN GREENWAY CORRIDOR FRAMEWORK PLAN (1999)

The Framework Plan identifies the Elroy industrial site as an opportunity area for greenway friendly development, and offers a concept illustration of a potential development on the site that includes an ample greenway public edge on the north side of the site. The 2001 MCDA-issued Request for Proposals included greenway friendly development guidelines as evaluation criteria. Two proposals were received, with one subsequently withdrawing. The applicant submitted the remaining proposal.

The Plan also contains the following specific policies:

- **Promote an integrated relationship between new development and the Greenway edge. Make the corridor “Greenway friendly.”** Sub-policies under this heading include
 - **Require that new development projects front onto the Greenway and along 29th Street.**
 - **Where relocating entrances onto the greenway is unfeasible, develop pedestrian-friendly facilities along the rim, such as terraces for employees, improved landscaping and additional windows and awnings to improve visual connections to the corridors.** Proposed windows conform with this policy.
- **Develop a premier public edge along both sides of the Greenway, including 29th Street on the south side and a public promenade on the north.** This is an unusual section of the greenway in that 29th Street is on the north side of the greenway. The applicant is responding to this policy by setting the building back 20 feet from the northern property line and offering

to provide an easement to Hennepin County Regional Rail Authority for the construction of a public walkway/promenade along the greenway edge.

- **Locate front doors on the street (including 29th Street and the Greenway) and relocate service doors away from the public realm.** The proposal deviates from this policy for reasons outlined above in the alternative compliance section.
- **Support compact development and promote mixed use in the corridor.** This project mixes several categories of commercial and industrial development in a two story design.
- **Locate parking either on the street or behind and between buildings along the block.** Parking is located in the interior of the site.

STAFF RECOMMENDATION ON SITE PLAN REVIEW APPLICATION:

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application with the following conditions.

1. The applicant shall obtain control by purchase or easements of the south side of the vacated Elroy Street to allow its use as a parking lot for the subject development.
2. The applicant shall submit a stormwater management plan acceptable to Public Works staff.
3. The applicant shall submit an exterior lighting/security plan that describes the features and management practices to be utilized in ensuring the security of the site.
4. Building facades shall be constructed as illustrated.
5. Bicycle lock-up facilities shall be provided with a capacity of at least 20 bicycles.
6. Restaurant seating area does not exceed 1250 s.f.
7. Final site and landscaping plans shall be subject to approval by Planning Department staff.
8. Before building permits are issued, the applicant shall guarantee site improvements including landscaping, bicycle racks, and fencing through the submission of a performance bond in the amount of 125% of estimated costs.
9. All site improvements shall be completed by October 31, 2004, or the permit may be revoked for noncompliance.

II. REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT (FARMER'S MARKET)

The applicant proposes to expand the ethnic market in his Karmel Square building south of the subject site by providing additional market space in the subject development. As noted above, the Zoning Department has classified this use as a farmer's market for purposes of zoning code interpretation. A farmer's market requires a conditional use permit in the I1 zoning district.

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.**

Some letters from adjacent owners and tenants express the view that the existing and proposed level of development is not appropriate for the area because the related traffic and noise is not compatible with a mixed use area that includes residential properties.

Permitted hours of operation in the I1 zoning district are the same as that in the C1 zoning district: 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. through 11:00 p.m. Friday and Saturday.

As described in the background section of this report, the existing market in the Karmel Square building has caused significant problems for the residential neighbors of the property in the Park Square Condominiums. The proposed Karmel Plaza development is also directly across the street from the Park Square building, and it is proposed to include additional market space. However, the proposed Karmel Plaza development is also providing 144 off-street parking spaces that would be available to employees and patrons of both the existing Karmel Square building and the proposed Karmel Plaza. The proposed 144 parking spaces exceeds the parking required for both uses by 22 spaces. Bicycle parking for a minimum of 20 bicycles is proposed as a condition of site plan review approval. Planning staff feel that the provision of off-street parking in excess of the zoning code requirement, combined with good bicycle facilities, adequately offsets the additional market space in the proposed development.

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

See the discussion under the previous heading above.

It is hoped that the provision of the off-street parking lot will reduce many of the behaviors that have been of concern to residential neighbors—double-parking, parking in the parking lot of the condominium building, etc.

The proposal offers many aesthetic features such as windows, architectural detailing and landscaping that communicate a high quality development, and improve its compatibility with nearby residential development.

3. Will have adequate utilities, access roads, drainage and necessary facilities.

Adequate utilities are available at the site.

4. Will take adequate measures to minimize traffic congestion in the public streets.

Public Works staff has reviewed the proposal at its preliminary plan review meeting, finding that the parking lot and its connections to the street are appropriately designed. The design of the proposed parking depends, however, on the applicant's control of the south side of the vacated Elroy Street.

5. Is consistent with the applicable policies of the comprehensive plan.

See notes under site plan review above.

6. **And, upon approval of this conditional use permit, site plan review and street and alley vacations, does in all other respects conform to the applicable regulations of the district in which it is located.**

See notes under site plan review above.

STAFF RECOMMENDATION ON CONDITIONAL USE PERMIT APPLICATION (FARMER'S MARKET):

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application with the following conditions.

1. The site plan review application is approved and the approved site plan implemented.
2. The applicant shall obtain control by purchase or easements of the south side of the vacated Elroy Street to allow its use as a parking lot for the subject development.

**Excerpt from the
Monday, September 8, 2003
CITY PLANNING COMMISSION
MINUTES
317 City Hall
Minneapolis, MN 55415
4:30 p.m.**

16. Karmel Plaza (BZZ-1361 Ward 6)

206 Elroy Street South (Thomas Leighton).

A. Conditional Use Permit

Application by Basim Sabri, on behalf of Karmel Properties, LLC, for a conditional use permit for a Farmer's Market at 206 Elroy Street.

Motion: The City Planning Commission adopted the findings and **approved** the application with the following conditions.

3. The site plan review application is approved and the approved site plan implemented.
4. The applicant shall obtain control by purchase or easements of the south side of the vacated Elroy Street to allow its use as a parking lot for the subject development

B. Site Plan Review

Application by Basim Sabri, on behalf of Karmel Properties, LLC, for a site plan review for a Farmer's Market at 206 Elroy Street

Motion: The City Planning Commission adopted the findings and **approved** the application with the following conditions.

10. The applicant shall obtain control by purchase or easements of the south side of the vacated Elroy Street to allow its use as a parking lot for the subject development.
11. The applicant shall submit a stormwater management plan acceptable to Public Works staff.
12. The applicant shall submit an exterior lighting/security plan that describes the features and management practices to be utilized in ensuring the security of the site.
13. Building facades shall be constructed as illustrated.
14. Bicycle lock-up facilities shall be provided with a capacity of at least 20 bicycles.
15. Restaurant seating area does not exceed 1250 s.f.
16. Final site and landscaping plans shall be subject to approval by Planning Department staff.
17. Before building permits are issued, the applicant shall guarantee site improvements including landscaping, bicycle racks, and fencing through the submission of a performance bond in the amount of 125% of estimated costs.
18. All site improvements shall be completed by October 31, 2004, or the permit may be revoked for noncompliance.

The public hearing was opened by Commission President Martin. President Martin asked if there was any opposition to the staff recommendation for agenda items: 1, 3, 4, 5, 6, 10, 11, 13, 14 and 16. Hearing none, the public hearing was closed.

Commissioner Hohmann moved staff recommendations for the consent agenda. Commissioner LaShomb seconded.

The motion carried 7-0