



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: January 15, 2009

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

Referral to: Zoning and Planning Committee

Subject: Marian Biehn with the Whittier Alliance has filed an appeal of the decision of the City Planning Commission to approve a conditional use permit for a preschool located at 2901 Pleasant Avenue South.

Recommendation: At the December 8, 2008, City Planning Commission meeting nine of the ten Planning Commission members were present. All nine of the Planning Commissioners voted to approve the conditional use permit for a preschool located at 2901 Pleasant Avenue South.

Ward: 6

Previous Directives: Not applicable

Prepared by: Hilary Dvorak, Senior Planner Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Hilary Dvorak, Senior Planner
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Community Impact

- Neighborhood Notification: Notice of the Planning Commission hearing was mailed on November 21, 2008, and notice of the appeal was mailed on January 5, 2009.
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: A 60-day extension letter was mailed on December 18, 2008, extending the 120-day decision period to March 13, 2009.

Supporting Information

Marian Biehn with the Whittier Alliance has filed an appeal of the decision of the City Planning Commission to approve a conditional use permit for a preschool located at 2901 Pleasant Avenue South.

The original staff report and the minutes from the December 8, 2008, City Planning Commission meetings are attached.

The appellant has stated that the decision to approve the conditional use permit is being appealed for several reasons:

- The area around the proposed preschool has been identified as a serious public safety issue.
- Safety issues have not been resolved in the area.
- There is not an adequate drop off and pick up area on the site.
- The added traffic associated with the use will exacerbate the congestion in the area.
- A traffic study was not done for the use.
- Using the property as a duplex would be more compatible with the surrounding area than a preschool.

Please see the appellant's complete statement and reasons for the appeal that are attached.

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit
BZZ-4249

Date: December 8, 2008

Applicant: Sheik (Adam) Abdisalam

Address of Property: 2901 Pleasant Avenue South

Project Name: Karmel-ALHikmah Preschool

Contact Person and Phone: Sheik (Adam) Abdisalam, (612) 227-3933

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: November 13, 2008

End of 60-Day Decision Period: January 12, 2009

End of 120-Day Decision Period: Not applicable for this application

Ward: 6 **Neighborhood Organization:** Whittier Alliance

Existing Zoning: R2B, Two-Family District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 25

Legal Description (properties to be rezoned): Not applicable for this application

Proposed Use: Preschool

Concurrent Review:

Conditional use permit: for a preschool

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits

Background: The applicant, as well as several other individuals, is proposing to utilize the building located at 2901 Pleasant Avenue South as a preschool for children ages 3 to 5. The preschool, Karmel-ALHikmah, will have a focus on core subjects as well as Somali language and culture. The applicant has indicated that the curriculum will be modeled using the Preschool Core Knowledge Sequence in math, language arts, social studies, science and fine arts (www.coreknowledge.org). The property is located just north of Karmel Plaza, a multi-tenant market and just east of Karmel Village, a residential development that is currently under construction. The applicant has indicated that given the properties

proximity to both of these establishments the student population for the school will most likely originate from these places.

The applicant has indicated that there will be one teacher and a teacher's assistance in each of the classrooms. There will be a total of five classrooms in the building and up to 15 students per classroom. There are also two offices, a kitchen, two common areas and three restrooms in the building. There is a surface parking area on the site that can accommodate nine vehicles. There is also a green space on the site that will be able to be utilized as an outdoor play area.

CONDITIONAL USE PERMIT – for a preschool

Findings as Required by the Minneapolis Zoning Code:

The Department of Community Planning and Economic Development – Planning Division 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, comfort or general welfare.

The Planning Division does not believe that a preschool would be detrimental to or endanger the public health, safety, comfort or general welfare of the surrounding area. The surrounding area is primarily residential in nature with a mixture of housing developments of varying densities. Scattered throughout the area, mostly along the Midtown Greenway, there are commercial developments in the area including auto-related uses and a shopping center. A preschool would benefit those who live and work in the surrounding area and are in need of early education for their children.

There is not a good connection between the parking spaces and the building entrances. To alert drivers to the fact that pedestrians may be walking through the parking area the Planning Division is recommending that a walkway be striped along the south side of the building. The walkway should be four feet in width and connect the south building entrance to the east side of the parking area.

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.

The Planning Division does not believe that a preschool would be injurious to the use and enjoyment of other property in the vicinity or impede the normal or orderly development and improvement of surrounding property. The building was originally built in 1940 as an office. Reusing the building for a preschool is a good retrofit for an existing non-residential building in a primarily residential area.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements for converting the existing commercial building into a preschool.

As for vehicular access, there is an existing curb cut along Pleasant Avenue South that leads to a surface parking area located towards the back of the building. This curb cut and parking area will remain.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

The parking requirement for a preschool is one space per two employees plus two drop off spaces. The drop off spaces can be located either off-street or on-street with permission by the City's Public Works Department. The applicant has indicated that there will be a total of ten employees working at the preschool. Given this the parking requirement is five spaces plus two drop off spaces. On the site there will be a total of nine parking spaces. Two of the spaces within the parking lot or space on the street in front of the building should be designated as short-term parking for drop-off purposes. If the drop-off spaces are located on the street the applicant shall work with the Public Works Department prior to such designation.

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

The site is located on the designated Midtown Greenway and one block north of West Lake Street which is a designated Commercial Corridor. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- 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 (Policy 4.4).
- Support the Minneapolis Public School's efforts to restructure its curriculum and instruction to improve student achievement (Policy 5.1).
- Provide equity of resources that enable students to achieve goals and acquire new skills (Implementation Step for Policy 5.1).
- Invest human and financial resources in nurturing healthy children and providing them with a safe school environment (Policy 5.2).
- Encourage the further development of community connections to public schools (Policy 5.3).
- Continue to explore solutions to space shortages and an increased student population with local businesses, cultural institutions and other participating institutions (Implementation Step for Policy 5.3).

The Planning Division believes that the proposed project is in conformance with the above policies of *The Minneapolis Plan*. Reusing the existing commercial building as a preschool is a good retrofit for an existing non-residential building in a primarily residential area. Although the proposed preschool is not part of the City's public school system it will focus on core subjects as well as Somali language and culture.

In the *Midtown Greenway Land Use and Development Plan*, which was adopted by the Minneapolis City Council in February of 2007, the site is called out as a high-density housing site ranging between 40 and 120 dwelling units per acre. In addition, the site is located in an Urban-Oriented development district which permits apartment buildings between three and five stories. Although the proposed use of the site is not high-density housing as called for in the plan the Planning Division believes that the proposed development does not conflict with the *Midtown Greenway Land Use and Development Plan*. Educational uses such as a preschool are allowed in all residential districts. Reusing the existing commercial building as a preschool is a good retrofit for an existing non-residential building in a primarily residential area. In addition, unless additional parcels of land were assembled to make a larger development site it would be difficult to construct high density housing on the 11,880 square foot lot.

The *Midtown Greenway Land Use and Development Plan* calls for a public promenade along the north edge of the Greenway. The applicant is not proposing to provide general public access to this site. The Planning Division believes that the promenade is an important feature to implement but that it is impractical to implement the promenade in conjunction with an adaptive reuse project that does not extend between two north-south streets.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

- **Use:** Preschools are a conditional use in the R2B zoning district.

- **Off-Street Parking and Loading:**

Parking: The parking requirement for a preschool is one space per two employees plus two drop off spaces. The drop off spaces can be located either off-street or on-street with permission by the City's Public Works Department. The applicant has indicated that there will be a total of ten employees working at the preschool. Given this the parking requirement is five spaces plus two drop off spaces. On the site there will be a total of nine parking spaces. Two of the spaces within the parking lot or space on the street in front of the building should be designated as short-term parking for drop-off purposes. If the drop-off spaces are located on the street the applicant shall work with the Public Works Department prior to such designation.

Loading: There is no loading requirement for a preschool.

- **Maximum Floor Area:** The maximum FAR for a preschool in the R2B zoning district is 0.5. The lot in question is 11,880 square feet in area. The applicant proposes a total of 4,906 square feet of gross floor area, an FAR of .41.
- **Building Height:** The height requirement in the R2B zoning district is two stories or 35 feet, whichever is less. The building is two stories or 17 feet in height.
- **Minimum Lot Area:** The minimum lot area for a preschool in the R2B zoning district is 5,000 square feet. The lot is 11,880 square feet in size.

- **Yard Requirements:** The site has two front yards; Pleasant Avenue South and West 29th Street. The front yard setback in the R2B zoning district is 20 feet. The building is setback between six and nine feet from Pleasant Avenue South and nine feet from West 29th Street. The building setbacks are grandfathered. The parking lot is located 20 feet from West 29th Street. The east and south interior setbacks are equal to $5+2x$ where x equals the number of stories above the first floor. The building is a one story building so the resulting setback along these two sides of the site is five feet. These setbacks are being met.
- **Maximum lot coverage:** The maximum lot coverage in the R2B zoning district is 50 percent. The lot is 11,880 square feet in size. The footprint of the building is 2,453 square feet or 21 percent of the site.
- **Maximum impervious surface:** The maximum impervious surface in the R2B zoning district is 65 percent. There is a total of 7,697 square feet of green space on the site or 65 percent of the site.
- **Specific Development Standards:** Preschools are subject to specific development standards:

Preschool:

- In the residence and OR1 Districts, the use shall be located in a nonresidential structure existing on the effective date of this ordinance.
- A designated area for the short-term parking of vehicles engaged in loading and unloading children shall be provided, as specified in Chapter 541, Off-Street Parking and Loading. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.
- Play equipment shall not be located in required front, side or rear yards and shall be effectively screened from any adjacent residential use located in a residence or office residence district or from a ground floor permitted or conditional residential use, as specified in Chapter 530, Site Plan Review.
- To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.
- An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.

The development is in or will be in compliance with the above specific development standards for a preschool through the approval of the conditions placed on this application. Please note that the applicant is not proposing to have play equipment on site. If in the future play equipment is installed it should be located in the green space behind the building and more than 20 feet from the front property line along West 29th Street.

- **Hours of Operation:** The hours of operation for the R2B District are Sunday through Thursday, 7 am to 10 pm, and Friday and Saturday, 7 am to 11 pm. The applicant has indicated that the use will be open from 8 am until 7 pm seven days a week.

- **Signs:** Signs are subject to the requirements of Chapter 543, On-premise Signs. The sign allowance for a preschool in the R2B zoning district is one nonilluminated, flat wall identification sign not exceeding 16 square feet with a maximum height of 12 feet or top of wall, whichever is less. On a corner lot, two such signs per building are allowed.

The applicant has indicated that there will not be any signage on the building. If there is signage placed on the site it shall conform to what is allowed in the R2B zoning district for a preschool.

- **Refuse storage:** The refuse storage containers will be located along the east wall of the building. The Planning Division is recommending that the containers be located within an enclosure.
- **Lighting:** Lighting exists at the site. There are wall mounted lights on all four sides of the building and three pole lights located along the north property line.
- **Fencing:** There is an existing five-foot high decorative metal fence located along Pleasant Avenue South and West 29th Street. The permitted fence height in a required front yard is four feet for an open, decorative fence. The applicant has indicated that the existing five-foot high fence will be reduced in height by one foot. In addition, there is a six-foot high fence with barbed wire on it located along the east property line. The fence extends from the front property line to the south property line. The permitted fence height in the interior side yard is six feet as long as the adjacent property has maintained an interior side yard of five feet. The adjacent property is vacant. Barbed wire is not a permitted fence material in the residence district. The Planning Division is recommending that the portion of the six-foot high fence located in the front yard be removed and replaced with the same decorative metal fence located along the front property line. In addition, the barbed wire and the brackets should be removed from the remaining portion of the existing chain link fence.
- **Parking area design and maintenance:** There are a total of nine parking spaces located in the on-site parking area. Parking lots of four to nine spaces are subject to the requirements of Chapter 530, Site Plan Review for screening purposes. The parking lot is required to be screened from West 29th Street and along the east and south property lines. The applicant is proposing to plant a hedge row of Japanese Red Barberry along the front property line, adjacent to the public sidewalk along West 29th Street. This specific plant material can grow as tall as five or six feet. The Planning Division is recommending that the same species be planted along the east property line for screening purposes. Along the south property line is the retaining wall that is part of the Midtown Greenway. This existing retaining wall screens the parking lot from the Midtown Greenway and other properties located on the south side of the Midtown Greenway. There is a five-foot wide green space located between the retaining wall and the parking area. In order to protect vehicles from driving over the green space the Planning Divisions is recommending that plant materials be located in this space.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:

Department of Community Planning and Economic Development – Planning Division
BZZ-4249

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application to allow for a preschool located at 2901 Pleasant Avenue South subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. A walkway shall be striped along the south side of the building. The walkway shall be four feet in width and connect the south building entrance to the east side of the parking area.
3. Two of the spaces within the parking lot or space on the street in front of the building shall be designated as short-term parking for drop-off purposes. If the drop-off spaces are located on the street the applicant shall work with the Public Works Department prior to such designation.
4. If signage is placed on the site it shall conform to what is allowed in the R2B zoning district for a preschool.
5. If in the future play equipment is installed it shall be located in the green space behind the building and more than 20 feet from the front property line along West 29th Street.
6. That portion of the six-foot high fence along the east property line located in the front yard shall be removed and replaced with the same decorative metal fence located along the front property line. In addition, the barbed wire and the brackets shall be removed from the remaining portion of the existing chain link fence.
7. Japanese Red Barberry shall be planted along the east property line for screening purposes.
8. Plant materials shall be located in the five-foot wide green space between the retaining wall and the parking area.
9. The refuse storage containers shall be located within an enclosure.
10. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development – Planning Division.

Attachments:

1. Written description of the project
2. Written description of the school
3. Conditional use permit findings
4. October 14, 2008, letter to Council Member Lilligren and the Whittier Alliance

Department of Community Planning and Economic Development – Planning Division
BZZ-4249

5. Zoning Map
6. Site plan and floor plans
7. Aerial photos of the site and photos of the property

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2526 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: December 22, 2008

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of December 8, 2008

The following actions were taken by the Planning Commission on December 8, 2008. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners present: President Motzenbecker, Gorecki, Huynh, LaShomb, Luepke-Pier, Norkus-Crampton, Schiff, Tucker and Williams – 9

Not present: Nordyke

Committee Clerk: Lisa Baldwin (612) 673-3710

4. Karmel-ElHikmah Preschool (BZZ-4249, Ward: 6), 2901 Pleasant Ave S ([Hilary Dvorak](#)).

A. Conditional Use Permit: Application by Sheik (Adam) Abdisalam for a conditional use permit for a preschool for the property located at 2901 Pleasant Ave S.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application to allow for a preschool located at 2901 Pleasant Ave S subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. A walkway shall be striped along the south side of the building. The walkway shall be four feet in width and connect the south building entrance to the east side of the parking area.
3. Space on the street in front of the building shall be designated as short-term parking for drop-off purposes. The applicant shall work with the Public Works Department prior to such designation.
4. If signage is placed on the site it shall conform to what is allowed in the R2B zoning district for a preschool.
5. If in the future play equipment is installed it shall be located in the green space behind the building and more than 20 feet from the front property line along W 29th St.
6. That portion of the six-foot high fence along the east property line located in the front yard shall be removed and replaced with the same decorative metal fence located along the front property line. In addition, the barbed wire and the brackets shall be removed from the remaining portion of the existing chain link fence.
7. Japanese Red Barberry shall be planted along the east property line for screening purposes.
8. Plant materials shall be located in the five-foot wide green space between the retaining wall and the parking area.
9. The refuse storage containers shall be located within an enclosure.
10. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development – Planning Division.
11. An advisory committee to study traffic and parking resolutions shall be established for one year and is to include neighborhood residents, City staff and the applicant.

Staff Dvorak presented the staff report.

Commissioner Norkus-Crampton: I seem to remember when we were reviewing this site to begin with from the review process, there was mention of the possibility of some contaminated land on this because of its proximity to the old rail corridor and I was just curious...the process moving forward, if this was approved and they did want to, for instance add a playground to some of the greenspace surrounding that, would there automatically be a requirement to do some soil testing around there to make sure that that's safe for children or to deal with some part of some...or figure out some mitigation processes to make sure that it will be safe for children?

Staff Dvorak: My recollection of the contaminated soil conversation that we had that dealt with Karmel Village across the street, the contaminated soil was actually located on the northern edge of that property. I don't recall that it was related in any way to the former use of the Greenway as a rail corridor. Nothing has been mentioned about contaminated soil on this site.

Commissioner Norkus-Crampton: As far as you know, has there been any sort of testing? I just know that along that rail corridor, it's come up several times on several different developments so it makes sense that there were a lot of industrial sites in that area, I don't know about this particular spot. Would there be any sort of...I guess what I'm asking, is moving forward would there be an automatic process to make sure there are no contaminants in that area since there is a history of contaminated soil in that area and we've certainly seen that in other parts of the city.

Staff Dvorak: Not that I would be aware of. I don't know what Licensing would require, but I can't imagine that they'd require soil testing, but I'm not sure.

President Motzenbecker opened the public hearing.

Doreen Hartzell (218 W 29th St): I'm directly across the street on the north side of this property. I'm also a member of a taskforce in the neighborhood, working on traffic and congestion and safety issues with the Whittier Alliance. I want to specifically address some of the CUP findings that were in the staff report. One of them, there is discussion that use of this site would not endanger public safety or would not be injurious to public use of adjacent properties. Right now, the traffic and congestion situation has gotten severe enough that we've had an incident where an MPD squad car was trapped on an adjacent street and was unable to respond if they had been called by emergency dispatch. That's the point where we've already got that level of congestion and trouble for getting these emergency response vehicles through. Ambulances and fire trucks would be even larger and I imagine have even more trouble responding to any sort of incident in the area. As neighbors we're concerned about adding to that load by bringing additional cars into the neighborhood and additional traffic on top of the situation we already have. What's not listed in here as well is that that lot is currently in use for cars from adjacent businesses. I don't know whether that's a licensed use or not, but anywhere between three to 12 cars a day will be parking in there during hours that the school will be in operation. Turning this lot into the preschool, having that parking reserved for that use, will drive additional traffic out into the streets right now. Some of the other questions, there is a discussion about having adequate roads, traffic, currently there. Right now our streets are really at capacity for the number of cars we can have passing through them on a daily basis. The intersections are not particularly safe for small children to be crossing in largely unmarked walks, not all of them are four-way stops, especially right at this corner. We've already had some accidents where people have been injured by some of the erratic driving that we're having problems with right now, rather seriously. I know that this committee is also interested in creating demand for public transit, but I did want to point out that over the last seven years, our public transit service to this immediate vicinity has been severely diminished. We've lost our 180 express when the light rail came through. That was our rapid north/south transit. The nearest bus stop on Lake Street and Pillsbury for the 21 has been eliminated. The closest southbound stop on the 18, which is one of the servicing bus lines that's been eliminated at 29th and Nicollet. While we do have transit in there, the actual stops have been reduced or a lot of them moved further away from this site. It's really becoming less practical for us to use public transit as the transit and congestion demands here have increased. We have some serious concerns about that standard being applied to us when we're facing increased prices and less service if you live in this area or need to go to businesses or work here. I don't know about

the soil testing requirements, but I do know that the adjacent property on 29th Street is an active auto body shop. I don't know if that's relevant to soil testing or...

President Motzenbecker: There's not any...

Doreen Hartzell: That's been a long standing industrial site as well, immediately adjacent to that property.

President Motzenbecker: There's no proposed disturbance of the site and because of that it's not on the table for the soil testing. If they're going to be digging up...

Doreen Hartzell: If there's going to be a playground...

President Motzenbecker: I understand, but if they were going to be digging up, then there may be some opportunity for people to look into that. I don't want to take this into this whole discussion about soil testing because it's not what we're talking about today.

Doreen Hartzell: That was a completely green lot about three years ago. This parking lot was already dug up and put in and it's going to be partially torn back up again to meet this proposed plan so there will be some work going on there.

President Motzenbecker: You said the parking lot is going to be torn up?

Doreen Hartzell: Parts of it are.

Staff Dvorak: The asphalt that's in this location will be removed.

Doreen Hartzell: The section that's immediately on the 29th Street side was just pulled out a few weeks ago with inspectors visiting the site because it has been paved all the way to the edge as well.

Marian Biehn (Whittier Alliance): The Whittier board voted to request denial of the CUP for 2901 Pleasant Ave based on the existing traffic and congestion issues. I have also been in conversation with Sheik Abdisalam about trying to find other locations within the neighborhood. We have not been successful with that yet, but there are conversations going on. Since the question before us is whether a CUP is appropriate for this site, we would ask that you deny the CUP and there are several reasons. I have a map here...this is an older map so this is Park Square and this is the block under consideration with the building 2901 Pleasant at that location. Elroy has been vacated as has this alley and all of this is Karmel Plaza and Square. Karmel Village is here and then there are additional businesses here. On September 29, Officer Erik B (tape unclear) emailed Kris Arneson of the fifth precinct and cited that there is a serious issue with traffic at the Karmel Mall at night and has identified the area that this is a serious officer safety and public safety issue. That, I guess, is the premise of asking for the denial of the CUP. This issue is serious enough that Council Member Lilligren has created a taskforce to address the multiple faceted issues of the traffic in that area and to place a school in that area I think would be injurious to both the residents who are there currently, as well as the students who might be attending. By adding an additional potential 75 students and 10 staff people that would be at maximum 150 trips per day added to the already congested area. The area has been identified as a safety concern and adding those trips per day would intensify the traffic. There are currently,

according to an article in the St Paul Legal Ledger on 12/07/07, 2000 cars per day circulating in that area. They continually circulate the entire block looking for parking. In addition, there is Miller Towing, which is located at that location and they travel Pleasant Ave very quickly with double-sized flatbed trucks. The parking area in front of 2901 isn't sufficient to allow for safe drop off and pick up of children at that site. We feel it would be injurious based on just the traffic conditions as they exist now and the potential school added traffic. The site, I believe, also is maybe not the best site for pick up and drop off. The site has as single curb cut. A car would pull in here and this I believe is going to be the main door on the south side...there is a very narrow turn around area in here and then you would have to come back out. With the number of trips that could potentially be generated by the number of students at this school, and only two drop off spots back in the parking lot, there would be a queuing up of parking and cars idling along 29th Street or along Pleasant Ave. Twenty-Ninth Street has restricted parking so cars cannot park there. Since it's a preschool, cars would have to park because you'd have to go in and get your child. The two parking places, plus the limited drive aisle and not much parking on the west side, I think we'd end up with added traffic congestion at that site based on the school occupancy and staff. Finding number two, injurious to the enjoyment of other property in the vicinity, this is a residential area, or at least this corner is. Karmel Village is being developed across the street. Further up, on the west and north side, it is residential, duplexes and four-plexes. Schools generally operate on a five day basis, this one is proposing to operate on a seven day basis and pretty much 11 hours a day. It would not give any relief to any of the residents in the area from the activity of the school or the traffic and any of the things are associated with the operation of the school. I have a question of whether it's a preschool or preschool and daycare or a preschool with use as a religious school during the weekend and what those requirements might be if it goes beyond the preschool use. We do not feel that adequate measures have been or will be provided to minimize the traffic congestion. The number of trips per day, Pleasant Avenue carries a high level of traffic along with the industrial traffic of Miller Towing. If there is queuing up or a child comes out of the car on the street side with the traffic that goes by there, it could be injurious. There isn't a curb cutaway to pull from. There is a narrow driveway and the parking area is limited. This is a residential area. The school, the way it's proposed, adding the traffic and congestion on to what's already existing would really be a hardship and add to the tensions that are already there. I think it would just be delinquent to add to that current situation being as dangerous as it is. The loading and unloading is an issue. I believe that's it. I encourage you to deny the CUP. I did drop off a DVD to Council Member Schiff and I don't know if that's available to be shown or not, but it does show the critical situation in that area and how a school could just add to that issue and be a danger to the kids and really add more distress to the residents who are trying to live peacefully in that area now. Karmel Village, it's not on line yet. There are 77 units of two, three and four bedroom apartments there. With parking, 103 parking places were approved, it doesn't look like that many will be on site. Adding that within a year or so will add to everything on top of what's already existing.

Commissioner LaShomb: Can you suggest a use that would not cause congestion on this site other than an empty building or a park?

Marian Biehn: It's zoned for a duplex. It was redone about a year ago to be a duplex. A duplex would not add to the problem. The parking is for the use of the building alone so that would not, if the parking was used by the residents of the duplex, that would not affect it.

Commissioner LaShomb: Maybe I missed something in the presentation that Hilary made, but I thought I heard Hilary say that this site and maybe some other parcels could be used to provide up to 120 units.

Marian Biehn: The other parcels are not for sale. The other parcel is the car detailing place.

Commissioner LaShomb: I'm having trouble trying to figure out a use that wouldn't cause congestion. This whole area has been an issue in front of the Planning Commission in my six years and we've seen actions to keep approving things down there. I'm glad Council Member Lilligren is looking at this as Public Works should be looking at it. My other reaction is that the only thing that would probably not cause congestion would be not doing anything with the building at all and leaving it sit empty. I can't imagine anybody tearing down a building to build two duplexes, that's pretty expensive. Then the whole issue of mitigation might kick in.

Marian Biehn: It was a former office building, but it was redesigned into a duplex about a year ago. It was rehabbed on the interior to be occupied by two families.

Commissioner Norkus-Crampton: Has there been any discussion within your community or with the city regarding setting up a loading zone on the street, some reserved area on the street so there wouldn't be so much traffic that wouldn't have to enter in and out of the site?

Marian Biehn: No, there hasn't been. The area right in front of the building, you reach the greenway and there is approximately a half block or so before you reach the greenway so there is maybe parking for three vehicles stepping back from the intersection and back from the curb cut, but no other discussion has happened regarding finding a drop off place. By the way, the task force does include Police, Public Works, Zoning, the neighborhood, etc.

Commissioner Schiff: Mr. Chair, do we have the video testimony?

President Motzenbecker: No, it was not submitted. I did check on that.

President Motzenbecker closed the public hearing.

President Motzenbecker: I have a question about traffic. Hilary, traffic always comes up with these sites. Just because of this and knowing the past history, did staff do any due diligence with traffic? This is the first time I've heard about emergency vehicles being in gridlock and not being able to get anywhere. Just knowing what we know, in part of your study for this report, could you talk a little about that?

Staff Dvorak: No. Because they had more parking than what was required for the use and given that it's a preschool and that with a Somali community living across the street or what's been said would be a Somali community across the street and one that works, I guess staff agreed that the school children would be walked to this site from across the street so no, there was no in depth analysis done to evaluate increased traffic that may result from the preschool. I do have one photo that shows the site. This is Pleasant Ave and you can see the front of the building and there are four cars that can park in front. If there were to be a drop off space, and Public Works has the authority to create that, they would need to get involved. That's one of the conditions of approval if you so choose to do that this evening, they would have to work with them to get the drop off spaces signed on the street.

President Motzenbecker: It just might be something staff in the future, if there is anything else in these areas, just knowing how ridiculous this traffic is in these spaces. Hearing testimony and having been over there myself... it might just be something we automatically start considering regardless of if it fits the profile or not. I would tend to agree that it would be bad if kids were stuck in traffic and someone was trying to get there with an ambulance. That doesn't bode well with me.

Commission Luepke-Pier: I have two concerns. The first one is in regard to the traffic for the loading and unloading, primarily because this is serving three to five year olds. Generally you can't just drop a three year old off and expect them to find their way into a building. Having 50-75 three to five year olds means their parents or a parent or somebody is parking, taking them in, going back out and doing that twice a day. I'd be very worried about the safety of these kids, especially if there is a four foot striped area in the drive aisle, but then you also have cars coming and going and turning around in there with short little people. My second concern is simply from a point of view of where are these kids going to be playing? There's not any gym or interior room that they can really roughhouse in and at three to five, they need room to run, especially since we were talking earlier about childhood obesity and there doesn't seem to be adequate play area at least not designated on the plan as approved and I would be hesitant to say they don't really need a playground or any interior room to run around in. I guess I'm not so sure this facility is adequate for it either, especially if they're there all day, I don't see any sort of kitchen facilities that would provide any sort of meals for these children, whether it is a daycare or a school or what have you. I don't know if those things are necessities or not, but I have questions about the adequacy of this site for this purpose, especially given the fact that little kids are prone to not being seen by traffic anyway. To stick them in the midst of this just seems really...I don't know if I'd say negligent, but it seems really like something we should give extra weight to I think.

President Motzenbecker: Do we have a motion before we discuss this any further?

Commissioner LaShomb: I will support approving this conditional use permit (Tucker seconded).

Commissioner Norkus-Crampton: I appreciate Commissioner Luepke-Pier's comments on this. The other thing I was thinking of it just in terms of just sort of problem solving, if there was a way to make this work, possibly there could be some school staff or something on the street to help usher the kids in and out from the car or something along those lines. I have some concerns about all this too and I hear exactly what you're saying about little kids running around. To even get to that side of the street could be problematic too if things are congested in the morning and parents are in a hurry to get to work and kids are late for school and the usual drama. I also wanted to thank Barb Sporlein for clarifying the soil contamination issues and I just wondered if you might share that with the public so everybody understands where we're at on that. I asked simply because I have no idea how that process actually works.

Staff Sporlein: Sure, I pointed out to her in a note, that generally speaking we do not regulate pollution issues through our land use approval process. That's done either through Regulatory Services or the Pollution Control Agency. However, if issues have been identified and are related to some of the site plan elements for example, this is why the parking lot has to be here or this is

why the building has to be situated here, then it's relevant. Otherwise we don't require investigation or testing.

Commissioner Norkus-Crampton: That was my main concern, just to make sure that moving forward that there could be something else that could kick in if it was necessary. Thank you.

Commissioner Schiff: I appreciate the comments by Commissioner Luepke-Pier, but in remembering the directions in reviewing a conditional use permit, it's pretty clear that when the base zoning allows a use and the use is only regulated through a conditional use permit, we're allowed to add conditions to that use, but a strict prohibition of the use would violate the rights of the property owner so I don't think we're in a position here to just say that it's in a bad location and you can't do it, but rather, as staff has suggested, we should be looking at a list of conditions for the property that could help make it work better. I'm as surprised as you are about a lack of a playground and I was trying to think back, but I don't think we had an outdoor playground in my preschool. I think those issues we should refer to our Planning Department and ask them perhaps to come up with either outdoor or indoor play space as a requirement for this type of use because there should be some common space and physical activity opportunity for these kids. If there is some way we could address the parking, I think we should look for some version of a Travel Demand Management Plan where we're asking for information on the number of busses and numbers of cars to be expected loading and unloading and how information about use of transit is going to be shared with families or opportunities for carpooling, all those types of things that any type of business can do if they want to be innovative and make it easier for their customers. I think we should work with the applicant to have them take some of these tactics up.

Commissioner LaShomb: I think this whole area has been here in several variations and congestion and parking has been a big piece of that so I'm kind of glad that Council Member Lilligren is stepping up to the plate and taking a look at this. When we did the Minnehaha Academy renovation some years ago, one of the conditions was that they would create a special advisory committee including people in the neighborhood to work out congestion and parking issues. I would certainly be willing to put that condition on there as a condition of approval of the conditional use permit, that they create an advisory committee that would at least have a duration of a year to look at that. I'll make an amendment to my original motion to require that. I think the fundamental issue is that every time a school proposal comes in front of the Planning Commission, people in the community talk about congestion and parking and ruckus. Living next to Minnehaha Academy, I can appreciate that. The one thing I have noticed about Minnehaha Academy, when they're letting their kids out of there, it's a real staff management issue. If you've got 75 kids and you've got five teachers, what that means that is when that school is closing down, those teachers have to be on the street. A school doesn't want to have a situation where there's a fatality or injury because they weren't out on the street making sure it didn't happen. There are some standards for conditional use permits that compel us to support this, but I think one of the things they need to do is work with people in the neighborhood about how you're going to do some of this mitigation. I think if the school does that, they'll get a far higher degree of support from the community than they presently have. The other side of it to me is that I can't imagine what would go on this site that isn't going to create congestion. I'm just not buying the duplex deal, I don't know why. My sense is that this school isn't going to be any worse in terms of congestion than anything else that would go on that site.

President Motzenbecker: We need a vote on Commissioner LaShomb's amendment to the conditions; an advisory committee be established for one year and includes neighborhood, city and applicant to study traffic and parking resolutions. All those in favor? Opposed?

The motion carried 8-0.

Commissioner Tucker: I wanted to second some of the comments that Commissioner Schiff made about this being a conditional use in R2B where preschools are allowed as a condition and also that the specific development standards were generally met. I think the problem is with this access for unloading. I'm wondering if we can't change condition number three suggested by staff which reads "two of the spaces within the parking lot or space on the street in front of the building shall be designated as short term parking." If we eliminated the "two of the spaces in the parking lot" but required the on-street unloading, would this not be a much safer way to handle the situation? I think Commissioner Luepke-Pier suggested that traffic going in and coming out would be very dangerous for preschools. I would suggest that we amend the staff recommendation on condition three to eliminate "two of the spaces within the parking lot or" and just say "space on the street" becoming available for unloading will be a condition of this approval (Norkus-Crampton seconded).

President Motzenbecker: All those in favor of that amendment? Opposed?

The motion carried 8-0.

Commissioner Norkus-Crampton: When we did the rezoning on this based on the Midtown Greenway Land Use Plan, it was with the idea that we were going to have much more enhanced transit infrastructure in the greenway itself in terms of light rail or street car or something along those lines as well as convenient bus access on Lake St and the other bus routes along there. The information we've gotten tonight, we know that at some point we hope that there's going to be money to get the rail going in the greenway and we're all hoping for that, but the zoning is based on the fact that it's going to happen, but at this point we don't really know exactly when and then I guess I wasn't aware of some of the bus stops being moved around, which again makes it less convenient especially for families with younger children and if a family is going to be using a bus with younger children they are probably on their way to a job too so I just think that I understand where these policies have come from, but we also might need to get a little more real about what we're actually working with now. I think some flexibility might be in order and some understanding might be in order moving forward and I think that's the reason we keep running into these issues. The infrastructure that we're hoping is eventually going to be there or should be there, isn't quite where we'd like it to be to support the kind of land uses and rezoning that we passed with the understanding that that kind of infrastructure could support it. Thanks.

President Motzenbecker: The motion before us is to support staff recommendation and approve the conditional use permit for the preschool with the two amendments that we have added to this. All those in favor? Opposed?

The motion carried 8-0.