Department of Community Planning and Economic Development – Planning Division
Rezoning, Conditional Use Permit, Site Plan Review, Minor Subdivision, Vacation
BZZ – 2137

Minor Subdivision
MS – 125

Vacation of Public Right of Way
Vac – 1420

Date: January 24, 2005

Applicant: City of Minneapolis

Address of Property: Various addresses in the vicinity of E. 37th St. and Columbus Ave. S. (see below)

Project Name: 37th and Columbus Flood Mitigation Basin

Contact Person and Phone: Rhonda Rae, (612) 673-3627

Planning Staff and Phone: Jason Wittenberg, (612) 673-2297

Date Application Deemed Complete: November 18, 2004

End of 60-Day Decision Period: January 17, 2005

End of 120-Day Decision Period: On January 14, 2005, staff sent a letter to the applicant extending the decision period to no later than March 18, 2005

Ward: 8 **Neighborhood Organization:** Central Neighborhood Improvement Association; Powderhorn Park Neighborhood Association

Existing Zoning: R5, C2, OR1 (see below)

Proposed Zoning: R4, OR1 (see below)

Zoning Plate Number: 25 & 26

Legal Descriptions:

1) Descriptions of Parcels to remain Zoned R4

a) Lot 6, Block 2, George W. Small's Sub. Of Elisha Morses Outlots in SW 1/4 of SW 1/4 of Section 2, Township 28, Range 24.

02-238-24-33-0019
3648 Columbus

b) Lots 5 and 6, Block 2, Irving A. Dunsmoor's Addition to Minneapolis

02-028-24-33-0072
3708 Columbus
c) Lot 4 and the East ½ of Lot 3, Block 2, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0222
3704 Columbus
d) East ½ of Lots 1 and 2, Block 2, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0070
3700 Columbus
e) West ½ of Lots 1, 2 and 3, Block 2, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0221
711 37th St. E.
f) Lots 18 and 19, Block 2, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0080
3711 Park Ave.
g) Lots 20 and 21, Block 2, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0081
3707 Park Ave.
h) Lots 22, 23 and 24, Block 2, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0082
3701 Park Ave.

2) Descriptions of Parcels Zoned R5 to be Rezoned as R4

a) Lots 20 and 21, Block 1, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0067
3707 Columbus
b) Lots 22, 23 and 24, Block 1, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0068
3701 Columbus
c) The West 44 ½ feet of the East 84 ½ feet of Lots 7 and 8, Block 1, George W. Small's Sub. Of Elisha Morses Outlots in SW 1/4 of SW 1/4 of Section 2, Township 28, Range 24.
02-028-24-33-0008
726 37th St. E
d) The West 44 ½ feet of Lots 7 and 8, Block 1, George W. Small's Sub. Of Elisha Morses Outlots in SW 1/4 of SW 1/4 of Section 2, Township 28, Range 24.
02-028-24-33-0006
722 37th St. E.

3) Description of Parcel Zoned C2 to be rezoned as R4

a) Lots 1, 2 and 3 and the North 8 1/3 feet of Lot 4, Block 1, Irving A. Dunsmoor's Addition to Minneapolis
02-028-24-33-0056
3700 Chicago Ave.
b) The West 20 feet of the East 40 feet of Lots 7 and 8, Block 2, Irving A. Dunsmoor's Addition to Minneapolis.

4) Description of Parcel Zoned OR1 to be rezoned as R4

a) Lot 5 and the South 16 2/3 feet of Lot 4, Block 1, Irving A. Dunsmoor's Addition to Minneapolis

02-028-24-33-0057
3708 Chicago Ave.

5) Description of Parcel Zoned C2 to be rezoned as OR1

a) Lots 4, 5, 6 and the East 40 feet of Lots 7 and 8, Block 1, George W. Small's Sub. Of Elisha Morses Outlots in SW 1/4 of SW 1/4 of Section 2, Township 28, Range 24.

02-028-24-33-0226
3644 Chicago Ave.

Proposed Use: Stormwater retention pond

Concurrent Review:
Rezoning: Rezone from R5 to R4; C2 to R4; OR1 to R4; and C2 to OR1
Conditional use permit: Required for a stormwater retention pond the in the Residence Districts
Site Plan Review: Required for Public Services and Utilities Uses
Minor Subdivision: Required as part of land exchange between the City of Minneapolis and the Spiritual Assembly of Baha'i.
Right of Way Vacation: Required as part of land exchange between the City of Minneapolis and the Spiritual Assembly of Baha'i.

Applicable zoning code provisions:
525.260. Initiation of Zoning Amendments
Table 546-1, Principal Uses in Residence Districts
Table 530-1, Uses Subject to Site Plan Review

Background: The City of Minneapolis Public Works Department has constructed a stormwater retention pond in the vicinity of Columbus Avenue South and East 37th Street. The land use applications noted in this report were not obtained prior to construction of the facility. This matter came to the attention of Zoning staff during discussion of a minor subdivision that is needed to facilitate a land swap between the City of Minneapolis and the Spiritual Assembly of Baha'i. The City would obtain approximately 2,411 square feet from the western portion of 3644 Chicago Avenue and the Spiritual Assembly of Baha'i would obtain approximately 2,809 square feet from the City (which is essentially the southern half of the to-be-vacated portion of E. 37th Street. The northern half of the to-be-vacated portion of the street would accrue to the Spiritual Assembly of Baha'i. The newly routed portions of 37th Street would be on City property.

The minor subdivision and land swap would have resulted in individual parcels with split zoning—a violation of the subdivision regulations. The Public Works Department requests that the City Planning Commission and City Council grant the rezoning application to place the entire

facility in the R4 District. On behalf of the Spiritual Assembly of Baha'i, the Public Works Department requests a rezoning of the parcel at 3644 Chicago Avenue from the C2 District to the OR1 District.

REZONING –

Required Findings for the Zoning Amendment (Rezoning):

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The site is on and adjacent to a Community Corridor. The rezoning request includes downzoning from high to medium density districts and rezoning from a district that allows automobile-oriented uses to one that allows office and medium density residential uses.

Planning staff has identified the following goals and policies of the Minneapolis Plan as being relevant to the rezoning and finds that the request is consistent with the relevant policies of the comprehensive plan:

Relevant Policy: **4.2** Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on the streets.

Relevant Implementation Step:

- Discourage the conversion of existing residential uses to commercial uses, but encourage the development of mixed use residential dwelling units in commercial buildings where appropriate.
- Ensure that commercial uses do not negatively impact nearby residential uses.

Staff comment: The proposed zoning would preserve the right to develop the site with medium density residential uses and would also result in a zoning district that allows fewer uses that are disruptive to residential uses. Further, while the use in question is not to be a driving force in requests to rezone, staff recognizes that the rezoning helps accomplish City goals related to managing stormwater.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The rezoning would facilitate public infrastructure improvements related to the management of stormwater, which is in the public interest and not solely in the interest of the applicant.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the

proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The proposed zoning classifications are indeed more compatible with the existing zoning pattern and existing uses in the area than the current zoning classifications.

4. **Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.**

   While there are reasonable uses for the properties in question under the existing zoning classifications, the public infrastructure improvements in question would be more challenging to accomplish without rezoning property.

5. **Whether 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 its present zoning classification, where the amendment is to change the zoning classification of particular property.**

   Staff is not aware of a substantial change in the character or trend of development in the immediate area.

CONDITIONAL USE PERMIT -

Required Findings for the Conditional Use Permit for the Stormwater Pond:

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

   The applicant has indicated that the project "is the culmination of more than five years of study, community planning, engineering design, and construction" and that "(t)he purpose of the basin is to mitigate flooding, which will enhance the public health, safety, comfort and general welfare."

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.**

   Because the project is intended to mitigate flooding in the area, it's expected that the basin will improve enjoyment of area properties and improve normal and orderly development of the area.

3. **Will have adequate utilities, access roads, drainage and/or other necessary facilities.**

According to the Public Works Department, adequate utilities, access roads, drainage, and other facilities have been designed and constructed for the project. Sanitary sewer connections to the stormwater system have been disconnected.

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

   The project is not expected to affect traffic congestion on area streets.

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

   The project is consistent with following statement from page 1.7.3 of the Minneapolis Plan:

   "The goals of city efforts to protect residents from flood damage are not only to eliminate the threat of flooding, but to maintain high standards of visual quality, to bolster property values, and often to strengthen a sense of community by providing attractive, multi-use areas."

   Staff is concerned that the project is not consistent with City goals and policies related to maintaining and restoring the traditional street grid. However, the unique nature of the public infrastructure project likely made interruption of the street grid unavoidable.

6. **And, does in all other respects conform to the applicable regulations of the district in which it is located, with the approval of this c.u.p.**

   The project is consistent with all other zoning code regulations.

MAJOR SITE PLAN REVIEW -

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.**

Conformance with above requirements:

There are existing buildings or proposed buildings on the site. Note that the site plan review application does not encompass the Spiritual Assembly of Baha'i property.

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.**

Conformance with above requirements:

Clear and well-lighted walkways at least four feet in width ring the perimeter of the site. There are no on-site parking facilities. A berm also allows pedestrians to walk through the middle of the project in a north-south manner aligned with Columbus Avenue.

There are no transit shelters in the project.

Vehicles do not circulate within the pond and there are no alleys adjacent to the site.

There is no need for snow storage or removal.

The site plan minimizes use of impervious surfaces.

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.**

Conformance with above requirements:

According to staff calculation, the project encompasses roughly 132,595 square feet of area. This includes sections of the rerouted E. 37th Street. At least 20 percent of the net site area (26,519 sq. ft.) should be landscaped. As one would expect with the nature of the facility, landscaping exceeds 20 percent of the net site area. Based on the estimated site area, Chapter 530 would require not less than 27 trees and 132 shrubs. The project includes deciduous 45 trees (not including boulevard trees along Park Avenue) and four coniferous trees along with 263 shrubs and 156 perennials. Note that the Public Works Department has used decorative, wrought iron-style fencing in lieu of the chain link fencing indicated on the site plan.

There are no on-site parking facilities that trigger the landscaped yard and screening requirements.

Any areas not covered by buildings, walkways, driveways, seating, and parking and loading would be covered with landscaping.

Landscaping must be installed and maintained properly.

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.**

Conformance with above requirements:

Ornamental lighting has been included within the project.

No residential properties would be affected by headlights glare.

Views would not be blocked.

The project would have no significant impact on shadowing of the public sidewalk and would have no impact on wind speed or direction in the vicinity.

Staff has not identified any significant issues with the development from crime prevention standpoint.

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

ZONING CODE: Stormwater retention ponds require a conditional use permit in residence districts. With approval of the c.u.p. that the applicant has requested, the project would be in conformance with the zoning code.

MINNEAPOLIS PLAN: For conformance with the City's comprehensive plan, see the analysis in the conditional use permit and site plan review sections above.

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

Staff has not identified conflicts between the proposal and any applicable development plans or objectives adopted by the City Council.

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.**

Alternative compliance is not needed for the project.

MINOR SUBDIVISION -

Required Findings for a Minor Subdivision:

1. Subdivision is in conformance with the land subdivision regulations including the requirements of section 598.100 relating to protection of natural resources, applicable regulations of the Zoning Code, and policies of the Comprehensive Plan.

The minor subdivision results from a land swap between the City and the Spiritual Assembly of Baha'i and essentially would relocate a property line 24 feet east of its current location. The subdivision is in conformance with the design requirements of the zoning code and the land subdivision regulations.

2. Subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.

The subdivision would facilitate the land swap that provides the City of Minneapolis needed land for a public infrastructure improvement and would allow the Spiritual Assembly of Baha'i additional area on which to construct a parking lot.

3. All land intended for building sites can be used safely without endangering the residents or uses of the subdivision and the surrounding area by peril from floods, erosion, high water table, severe soil conditions, improper drainage, steep slopes, utility easements, rock formations, or other hazard.

The land west of the proposed property line would be used for a flood mitigation project and the land east of the property line would be continue to be used for a religious institution place of assembly. The subdivision would pose no hazards related to use of the properties in these ways.

4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.

Planning and Public Works staff anticipate none of the above difficulties would result from the subdivision.

5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control. The storm water drainage system shall be separate and independent of any sanitary sewer system. All plans shall be designed in accordance with rules, regulations and standards of the city engineer. Facilities intended to be dedicated to the City shall be located in perpetual, unobstructed easements of a width determined to be adequate and necessary by the city engineer. To the extent practicable, the amount of stormwater runoff from the site after development does not exceed the amount occurring prior to development.

The utility and drainage provisions are adequate for the existing and proposed development and indeed have been upgraded as they relate to the stormwater basin.

VACATION OF PUBLIC RIGHT OF WAY -

Required Findings for the Street Vacation:

Responses from Utilities and Affected Property Owners: Xcel Energy and Qwest have requested easements associated with the vacation.

Findings: The Public Works Department and City Planning Department find that the area proposed for vacation is not needed for any public purpose, and it is not part of a public transportation corridor, and that it can be vacated if any easements requested above are granted by the petitioner.

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Zoning Amendment (Rezoning):

The Community Planning and Economic Development Department – Planning Division recommends that the City Council and City Planning Commission adopt the above findings and **approve** the application for a zoning amendment (rezoning) to rezone the following parcels as noted:

- 3701 Columbus Avenue, 3707 Columbus Avenue, 722 E. 37th St., 726 E. 37th St. from the R5 District to the R4 District.
- 3700 Chicago Avenue from the C2 District to the R4 District.
- 3708 Chicago Avenue from the OR1 District to the R4 District.
- 3644 Chicago Avenue from the C2 District to the OR1 District.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit for a stormwater retention pond in the vicinity of Columbus Avenue South and E. 37th Street.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a site plan review for a stormwater retention pond in the vicinity of Columbus Avenue South and E. 37th Street.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Minor Subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a minor subdivision of property at 722-726 E. 37th St. and 3644 Chicago Ave.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Street Vacation:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the vacation, subject to retention of easements by Xcel Energy and Qwest.

Attachments:

1. Information about the flood mitigation basin from the Public Works Department web site
2. Letter from the applicant to the council office and neighborhood groups
3. Legal descriptions, property identification numbers and addresses of the properties in question.
4. Zoning map
5. Limits of project area with current zoning map
6. Limits of project area with proposed zoning changes
7. Map showing structures prior to demolition for pond
8. Site plan
9. Grading plan
10. Landscape plan
11. Basin cross sections
12. Aerial photo following demolition of structures
13. Minor subdivision
14. Aerial photo indicating proposed street vacation
15. Memo from PW Department
16. Diagram indicating property exchange
17. Diagram with street pattern and zoning districts
18. Photos