

## **Minneapolis Planning Department**

350 South Fifth Street, Room 210

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### **MEMORANDUM**

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DATE: December 4, 2003

TO: Council Member Gary Schiff, Chair, Zoning and Planning Committee  
Zoning and Planning Committee members

FROM: Jim Voll - City Planning Department

SUBJECT: Appeal of the City Planning Commission's decision for property located at  
3013-33 2<sup>nd</sup> Avenue South – BZZ-1348

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Abdiwahab Mohamed has filed an appeal of the City Planning Commission's denial of a conditional use permit for extended hours for a reception and meeting hall at 3013-3033 2<sup>nd</sup> Avenue South. The extended hours were until 2:00 a.m. Friday, Saturday, and Sunday evenings. The Planning Commission denied the conditional use permit on November 17, 2003 and the appeal was filed on November 19, 2003. The Planning Commission voted 6-0 to deny the conditional use permit.

## Minneapolis Planning Department

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### MEMORANDUM

DATE: November 19, 2003

TO: Blake Graham, CPED - Planning Division  
Phil Schliesman, Licenses  
Clara Schmit-Gonzalez, Licenses

FROM: Neil Anderson, Supervisor, CPED - Planning Division, Development Services

SUBJECT: Planning Commission decisions of November 17, 2003

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The following actions were taken by the Planning Commission on November 17, 2003. 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:

#### ATTENDANCE

President Martin, Vice President Hohmann, Krause, Krueger, LaShomb, MacKenzie, and Schiff.

#### INTRODUCTION TO PUBLIC HEARING

#### 12. Sabri Commons (BZZ-1348, Ward 8)

**3013-3033 2<sup>nd</sup> Avenue South** (Jim Voll) *This item was continued from the November 3, 2003 meeting.*

##### **A. Rezoning**

Application by Everado Morfin and Abdiwahab Mohamed for Sabri Commons Phase II for a petition to rezone 3013 – 3033 2<sup>nd</sup> Avenue South from C1 to C2.

**Motion:** The City Planning Commission recommended that the City Council **deny** the petition to rezone 3013 – 3033 2<sup>nd</sup> Avenue South from C1 to C2.

##### **B. Conditional Use Permit**

Application by Everado Morfin and Abdiwahab Mohamed for Sabri Commons Phase II for a conditional use permit for extended hours for the property at 3013 – 3033 2<sup>nd</sup> Ave. S.

**Motion:** The City Planning Commission **denied** the application for extended hours for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

C. **Variance**

Application by Everado Morfin and Abdiwahab Mohamed for Sabri Commons Phase II for a parking variance from 51 to 20 spaces for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

**Motion:** The City Planning Commission **approved** the application for a parking variance from 51 to 20 spaces for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

# CEPD Planning Division Report

Petition to rezone site from C1 to C2, conditional use permit for extended hours,  
and a parking variance (BZZ-1348)

**Hearing Date:** November 17, 2003

**Date Application Deemed Complete:** September 3, 2003

**End of 60-Day Decision Period:** November 2, 2003

**Date Extension Letter Sent:** October 29, 2003

**End of 120-Day Decision Period:** January 1, 2004

**Applicant:** Everado Morfin and Abdiwahab Mohamed 612-296-7887

**Address of Property:** 3013-33 2<sup>nd</sup> Avenue South

**Contact Person and Phone:** Basim Sabri 612-799-4466

**Staff Contact Person and Phone:** Jim Voll 612-673-3887

**Ward:** 8      **Neighborhood Organization:** Central Neighborhood

**Zoning:**

	<u>Existing</u>	<u>Proposed</u>
207 E. Lake St., Sabri Commons Phase I:	C2	no change
3013 – 3033 2 <sup>nd</sup> Ave. S., Sabri Commons Phase II:	C1	C2
3018 3 <sup>rd</sup> Ave. S., adjacent parking lot:	OR1	C2

**Plate Number:** 25

**Legal Description:** Lots 16-21 Bakers 2<sup>nd</sup> Addition to the City of Minneapolis.

**Proposed Use:** Convert space in one of the existing buildings from general retail to a reception hall and a restaurant, and to rezone the entire site comprised of seven lots to C2 and a off-site lot from OR1 to C2. The applicants have withdrawn the rezoning request for the off-site lot at 3018 3<sup>rd</sup> Avenue South.

**Proposed Variance:** To reduce the required parking for the reception hall from 51 to 20 spaces (40 percent). The parking for the entire development would be reduced from 95 to 64 spaces.

**Appropriate Section(s) of the Zoning Code:** Chapter 525, Article VI, Zoning Amendments; Chapter 525, Article VII, Conditional use permits; and Chapter 525, Article IX, Variances, specifically Section 525.520(7) “to reduce the applicable off-street parking requirements up to one hundred (100) percent, provided the proposed use or building serves pedestrian or transit-

oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guests of the use.

**Prior approvals and Background:** This application was continued from the October 7, 2003 and the November 3, 2003 meetings of the City Planning Commission. The building received site plan approval (BZZ-862) in November of 2002. Both prior-approved phases of Sabri Commons share the parking lot behind the existing buildings. The applicant wishes to convert space in one of the two buildings in Phase II (3013 – 3031 2<sup>nd</sup> Avenue South) from general retail to a reception hall and a restaurant, and to rezone the entire site comprised of seven lots to C2, Neighborhood Corridor Commercial District. A parking variance to reduce the required parking for the reception hall from 51 to 20 spaces is necessary.

On September 18, 2003, the applicants informed Planning staff that the project had changed and that an additional lot (3018 3<sup>rd</sup> Avenue South) was to be a part of the project and the rezoning petition to change to C2. This change required the applicant to obtain signatures from 2/3 of the property owners within 100 feet of the entire project site because this lot is zoned OR1. The applicants have withdrawn the rezoning request for this lot at 3018 3<sup>rd</sup> Avenue South.

The applicant had originally proposed the following extension of operating hours:

<u>Hours</u>	<u>Permitted</u>	<u>Proposed</u>
Sunday – Thursday	6 a.m. – 10 p.m.	6 a.m. – 2 a.m.
Friday & Saturday	6 a.m. – 11 p.m.	6 a.m. – 2 a.m.

The applicants have revised the request for extend hours until 2:00 a.m. for Friday, Saturday, and Sunday only. All other days they will comply with the hours of operation in the C2 District.

The 4<sup>th</sup> and Lake Business Association passed a motion supporting the rezoning of the site and the extended hours. Please see the attached letter.

### **REZONING (from C1 to C2 for 3013 to 3033 2<sup>nd</sup> Avenue South)**

#### **Findings As Required By The Minneapolis Zoning Code:**

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

*The Minneapolis Plan* does not have a designation for 2<sup>nd</sup> Avenue South, but shows Lake Street as a commercial corridor. The front part of the site is zoned C2 and C2 is an appropriate zoning district on a commercial corridor. While C2 is appropriate on Lake Street it may not be appropriate on 2<sup>nd</sup> Avenue South and the C1 zoning may provide a better transition from the more intense commercial activity to the north to the residential properties to the south and east.

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

The application is in the interest of the property owner.

- 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 property along Lake Street is zoned C2 and has several commercial uses including retail and fast food restaurants. To the south and east there are residential uses zoned R2B. While C2 zoning would not be completely out of character with the uses on Lake Street, C1 may be a more appropriate district adjacent to the residential properties.

- 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.**

The C1 district allows a wide range of retail, residential, and food and beverage uses.

- 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.**

Under the 1963 code the site was zoned B3S and B2. With the adoption of the 1999 code the site was given the C2 and C1 Districts. While Lake Street has seen much positive redevelopment and improvements in the last several years, the pattern of land use has not changed significantly from 1999 when the site was zoned C1.

### **REZONING (from C1 to C2 for 3018 3<sup>rd</sup> Avenue South)**

This application has been withdrawn.

### **CONDITIONAL USE PERMIT (to allow extended hours on Friday, Saturday, and Sunday)**

#### **Findings as Required by the Minneapolis Zoning Code:**

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. May be detrimental to or endanger the public health, safety, comfort or general welfare.**

While there are other uses operating with late night hours on Lake Street the extended hours for the reception hall may have an impact on the residential properties to the south and east of the site.

**2. May 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.**

Staff uses the following criteria to determine compatibility of extended hours with the surrounding area:

- a) Proximity to permitted or conditional residential uses. The site is bordered by residential uses to the east and south.
- b) Nature of the business and its impacts of noise, light and traffic.  
The business is a reception and meeting hall. There is a potential for large groups of people to be leaving late from events at the site. This could generate noise and traffic that would have an effect on the nearby residential properties.
- c) Conformance of use. The proposed use is a permitted use in the C2 zone. The applicant is requesting a rezoning to the C2 District. If this rezoning is approved the site will be in conformance with the zoning code. The site has received site plan review approval in 2002. The zoning code limits operating hours to 10 p.m. (11 p.m. Fri/Sat).
- d) Complaints received. The proposed use is new. There have been no complaints received.

As has been the consistent policy, staff has recommended denial if there are residential uses located on the block.

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

Roads and utilities are existing and adequate.

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

The applicant cannot provide parking for the use and is requesting a variance from 51 spaces to 20 spaces. Since there is an opportunity for shared parking in the lot at the rear of the buildings, staff is recommending approval of the variance. If the variance is granted the site will be in conformance with code requirements. The parking lot has room for 64 spaces. Since the reception hall operates at different times than the majority of the uses at the site there should be adequate parking available.

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

See finding number 1 under the rezoning section of this report.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, parking variance, and rezoning.**

## **VARIANCE (to reduce the required parking from 51 to 20 spaces)**

### **Findings Required by the Minneapolis Zoning Code:**

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The reception hall requires 51 parking spaces. Adding this to the required parking for the rest of the site the parking requirement is 95 spaces. Sixty-four spaces are provided. Therefore, a variance from 95 space to 64 for the site, or 51 to 20 for the use is required (note that the public notice stated from 31 to zero). This is a reduction of 31 spaces or approximately 40 percent. The reception hall will typically operate from 5:00 p.m. to 2:00 a.m. The majority of the other uses closed between 5:00 and 7:00 p.m. This provides an opportunity for shared parking. While the total required parking can not be met the difference in operating hours makes it likely that there will be adequate parking. This is a reasonable use of the property.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The site is on a major bus route and there is an opportunity for shared parking. These are not conditions generally applicable to properties in the C1 and C2 Districts.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The intent of the ordinance is to provide adequate parking for uses. Since there is a large 64 space lot that will be open during the evening hours, the intent of the ordinance should be met.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The variance should not increase the danger of fire. Since the uses at the site operate at different times, the lot should be adequate for the parking needs and the variance should not increase congestion in the public streets.

### **Recommendations of the CPED Planning Division:**

#### **REZONING**

The CPED Planning Division recommends that the City Planning Commission and City Council **deny** the petition to rezone 3013 – 3033 2<sup>nd</sup> Avenue South from C1 to C2.

### **CONDITIONAL USE PERMIT (to extend hours)**

The CPED Planning Division recommends that the City Planning Commission **deny** the application for extended hours for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

### **PARKING VARIANCE**

The CPED Planning Division recommends that the City Planning Commission **approve** the application for a parking variance from 51 to 20 spaces for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

### **Attachments:**

1. Zoning map
2. Site plan.
3. Floor plan.
4. Letter from business association.
5. Photos.

**Excerpt from the  
Monday, November 17, 2003  
CITY PLANNING COMMISSION  
MINUTES  
317 City Hall  
Minneapolis, MN 55415  
4:30 p.m.**

**12. Sabri Commons (BZZ-1348, Ward 8)**

**3013-3033 2<sup>nd</sup> Avenue South** (Jim Voll) *This item was continued from the November 3, 2003 meeting.*

**A. Rezoning**

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**Motion:** The City Planning Commission recommended that the City Council **deny** the petition to rezone 3013 – 3033 2<sup>nd</sup> Avenue South from C1 to C2.

**B. Conditional Use Permit**

Application by Everado Morfin and Abdiwahab Mohamed for Sabri Commons Phase II for a conditional use permit for extended hours for the property at 3013 – 3033 2<sup>nd</sup> Ave. S.

**Motion:** The City Planning Commission **denied** the application for extended hours for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

**C. Variance**

Application by Everado Morfin and Abdiwahab Mohamed for Sabri Commons Phase II for a parking variance from 51 to 20 spaces for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

**Motion:** The City Planning Commission **approved** the application for a parking variance from 51 to 20 spaces for the property at 3013 – 3033 2<sup>nd</sup> Avenue South.

Staff Jim Voll: This is a proposal for a reception and meeting hall in Sabri Commons at the corner of Lake and 2<sup>nd</sup> Avenue South. Sabri Commons, if you are familiar with the area, was built next to the Roundup, and two buildings along 2<sup>nd</sup> Avenue with the parking behind. The building that is on Lake Street is zoned C-2, but everything south is zoned C-1. This project has a lot of history, it originally came in when it was built without any site plan approval, which was allowed because there weren't any site plan uses. Then some site plan uses located here, and it went from site plan review, so that's been done and that is why site plan review is not being brought in at this time. But reception and meeting halls are not allowed in the C-1 district so the applicant is requesting a rezoning to C-2. The operating hours are 6 to 10 Sunday through Thursday and 6 to 11 on Friday and Saturday and they would like to stay open Friday, Saturday and Sunday until 2 in the morning so they are requesting a CUP for extended hours until 2 a.m. on those three nights. I believe the original application was every night, but they have amended that application to those three nights. Finally, the use would require 51 spaces. They are asking for a variance from 51 to 20 because 20 of the spaces on the lot can be credited to this use because they were using retail space that had parking calculated for it when it was originally developed. Staff is recommending denial of the rezoning basically because we could not make the findings to support rezoning to C-2. We also recommended denial of the extended hours because there is residential on the block, but you have the interstate here, and Lake Street there. There are uses on Lake Street that have extended hours, including the tavern on the corner, but staff's consistent policy has been to recommend denial when there's residential on the block. Staff recommended approval of the parking variance because most of the retail uses in the building close anywhere between 5 and 7 p.m., so at night the 64 space parking lot is available for this use and they plan to be open mainly during evening hours, so it seemed to be a good opportunity for shared parking.

Commission President Martin: Jim, would you just say, if the Commission goes along with your recommendation to deny the rezoning, and leave it at C-1, can they do this?

Staff Jim Voll: No, because a reception hall is not allowed in C-1, so they need the C-2 for a reception hall.

Commissioner Krause: Functionally, what really is the difference between a restaurant and a reception hall? Because a restaurant is an allowable use under the current zoning.

Staff Jim Voll: I guess it is a matter of opinion. I don't know why, when we wrote the code we made reception halls different than restaurants other than the activity you'd see at reception halls would be a bit more intense than at a restaurant because you'd have weddings and so forth so you're going to have a lot more people coming and going.

The public hearing was opened.

Abdul Mohammed: Good evening, I am the applicant. The reason we created this is we felt there is a demand by immigrants for this in that area. We need a place to have a baptism, a wedding and there is no place around that area. All of us, cannot afford to go a Sheraton or a Hilton to pay a lot of money, so we came up with the idea to create a small space where people can have dancing, or a baptism or a wedding and there is no alcohol served. On the west side there's 35W and on Lake Street there is a Taco Bell, and the only places that have houses are on the west side. All those retail places are open until 2 o'clock and that is the main idea behind this is that people can have a small place for a wedding, baptism or birthday. A lot of people we talk to who are Muslim don't have money to go to big hotels or big places so we felt that there is a demand for the community and I ask you to please approve this from C-1 to C-2. I am also not sure why one part of the building is zoned C-1 and the other is C-2.

President Martin: They are on different lots.

Abdul Mohammed: So this is what we ask, for your approval, to have opportunity for immigrants to have a good place where they can have a good time and there is no alcohol served and no violence as we will have our own security, we ask the Minneapolis Police to come over there and it is very low profile.

Greg Leonard: My name is Greg Leonard, and I am a neighborhood resident at 2901 Pleasant Avenue South and regarding the location, it's true that there is residential, but the nearest residential to the north is at least 300 feet and there is one house and then there is a corner house on 31<sup>st</sup> and 2<sup>nd</sup> which has been vacant for quite a few years, to the east again there is residential on 3<sup>rd</sup> Avenue, but again the distance is at least 250 feet. And I've been to a few parties and wedding receptions for the Somalis and it's a fair statement that there are quite a few people there, but it is always quiet, without loud talk or anything like that and they just have their celebration, all are inside and there has never been any concern.

Abdul Kadir Saeed: I am the executive director of the Somali Community of Minnesota located at 207 East Lake Street. I am here to support the program in regard to the reception hall. This is very beneficial to our community as we cannot afford to hire these big facilities and it's also very near our settlement and I request the esteemed council to approve this.

Everado Morfin: My name is Everado Morfin and I am one of the applicants for this project. We created this project about four months ago and the main idea is to create an environment for our culture, for the Hispanic and the Somali community, that is not too expensive for us where our people can go and have fun in a secure environment.

Commissioner LaShomb: I am not quite sure how to phrase this, recognizing that in the Somali community you probably don't have an issue related to use of alcohol, but is this facility also going to be available to those not in the Somali community?

Everado Morfin: Yes.

Commissioner LaShomb: So then my question is more for staff. How do liquor issues get handled in terms of regulation in those situations. It is not a bar, it is not a restaurant, if liquor is there does the facility have to have some kind of licensure to handle that, or is just if I bring my own bottle that I am responsible for it and not the City.

Neil Anderson: I believe they would need to have a license to have liquor, but I cannot say that for sure. I do know that if they wanted to serve liquor, they would need to have a license.

Commissioner Schiff: Committee members will remember that the last Planning Commission meeting I believe we

opened up a totally new zoning category for reception halls, that was a big step that we made Citywide. We opened up the I-1 category, which I believe there are several dozen if not a hundred or more. We made this change because we saw the growing demand for event centers, particularly in new arrival communities and the need for people to create new community spaces, so we definitely see the need and I think we have responded adequately. Commissioner Krause asked the question earlier what's the difference between a restaurant and a reception hall, and when this zoning change came up, what I have decided is the difference is that you don't see a regular traffic of individuals as you do with a restaurant, people may have a place that they visit, perhaps several times a year, but it is not a hundred people coming for a few hours. So restaurants have a more regular flow of traffic, more likely that someplace that has been located in the community for a long time is going to use public transit and other ways to get there rather than a place where people are going to come just once. I also want to remind us that when we rezone, we are not rezoning for a particular use. So, while I want to see this use, I would encourage you to find a parcel that is zoned appropriately. I am worried that the other residential homes on the block will be negatively impacted by increased use on this site and I think we always need to be careful with commercial corridors to balance the needs of the adjacent residential neighborhoods with that of a vibrant community corridor.

Commissioner Schiff: moved staff recommendation for denial (LaShomb seconded).

Commissioner Krause: My concern is having to rezone to accomplish this. I would prefer that we allow this use as part of the C-1. I don't really think the distinctions between a reception hall and a restaurant are that great. I can't vote to rezone it because there are those other issues, and I think this is an appropriate use in this location. I am sad that I can't support the rezoning to support this use.

Commissioner MacKenzie: I need clarification from staff. The request is to rezone all of those parcels 3013 through 3033, but the site plan seems to indicate that the reception hall would take the place of one of the existing retail buildings south of the Roundup parking lot?

Staff Voll: The reception hall would go in this building, they are taking four tenant spaces in this building. Something I talked to them about is you can't have split zoning on a lot so they couldn't give me the information as to where the lot line is, so whether they could put the zoning on the lot? Also, if you took the C-2 to there, I think you are still over 12,000 square feet anyway.

The motion passed 6-0.

Commissioner Schiff: Madame Chair, the staff recommended approval of the variance-is there a variance to approve if A and B of this application are denied?

Staff Voll: Well, I think we should still take an action on it. Carol Lansing has said that we should still take actions on everything. So you may want to deny the variance, or deny it saying you cannot approve it because the other applications have been denied. The other thing you may want to consider is that there may be some other opportunities for the reception hall in the part that is zoned C-2. If that were to happen, it may be worth their while to have the parking variance so you could make it subject to the other stuff being approved, so there's a couple of different ways you could approach it.

Commissioner Schiff: I will move denial for B (MacKenzie seconded).

The motion passed 6-0.

Commissioner Schiff: I will move staff recommendation for C (MacKenzie seconded).

The motion passed 6-0.