

## **Minneapolis Planning Department**

350 South Fifth Street, Room 210

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### **MEMORANDUM**

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DATE: October 16, 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  
4414 Humboldt Avenue North (Humboldt Kowalski's) – BZZ-925

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George Johnson on behalf of Kowalski's Companies has filed an appeal of the City Planning Commission's approval of a site plan for property located at 4414 Humboldt Avenue North. The Planning Commission approved the site plan on September 8, 2003 and the appeal was filed on September 18, 2003. The Planning Commission voted 7-0 to approve the site plan with conditions.

The Planning commission also approved setback variances. The decision for the variances is not being appealed.

## Minneapolis Planning Department

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### MEMORANDUM

DATE: September 9, 2003

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

FROM: Neil Anderson, Planning Supervisor, Development Services

CC: Chuck Ballentine, Planning Director

SUBJECT: Planning Commission decisions of September 8, 2003

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The following actions were taken by the Planning Commission on September 8, 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:

#### **8. Kowalski's (BZZ-925, Ward 4)**

##### **4414 Humboldt Avenue North** (Jim Voll)

##### **A. Variance**

Application by George Johnson on behalf of Kowalski's Companies for a variance for a grocery store at 4414 Humboldt Avenue North

**Motion:** The City Planning Commission adopted the findings and **approved** the variance application to reduce the required five foot setback on the north and east sides to zero for Kowalski's for property located at 4414 Humboldt Avenue North subject to the approval of the site plan review.

##### **B. Site Plan Review**

Application by George Johnson on behalf of Kowalski's Companies for a site plan review for a grocery store at 4414 Humboldt Avenue North.

**Motion:** The City Planning Commission adopted the findings and **approved** the site plan review application for Kowalski's for property located at 4414 Humboldt Avenue North subject to the following conditions:

1. Approval of the variance.
2. Staff review and approval of the final site, landscaping, and snow storage and removal plans before exterior building permits may be issued. All fencing and landscaping site improvements shall be completed by September 30, 2005 (unless extended by the Zoning Administrator).
3. If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvements by September 30, 2004.
4. The site is subject to the specific development standards of the zoning code for grocery stores.
5. Alley access be closed off with the installation of bollards.
6. The landscaped yard along the Humboldt frontage be increased by two feet and the landscaped yard on the 44<sup>th</sup> Avenue frontage be increased by approximately eight feet. The landscaped area along 44<sup>th</sup> shall be designed to act as a stormwater filtration area.
7. Three additional trees be provided along Humboldt, one additional tree be provided along 44<sup>th</sup>, and two tree islands be installed on the north side of the parking lot.
8. Provision of an amenity such as a decorative wrought iron type fence along the street frontages or additional landscape plantings in lieu of 20 percent landscaping.

## **Minneapolis City Planning Department Report**

### **Site Plan Review & Variance (BZZ-925)**

**Date:** September 8, 2003

**Applicant:** George Johnson on behalf of Kowalski's Companies.

**Address of Property:** 4414 Humboldt Avenue North

**Date Application Deemed Complete:** July 23, 2003

**End of 60-Day Decision Period:** September 20, 2003

**Contact Person and Phone:** George Johnson – Harriss Architects 612-339-2190

**Planning Staff and Phone:** Jim Voll 612-673-3887

**Ward:** 4      **Neighborhood Organization:** Webber-Camden

**Existing Zoning:** C2 Neighborhood Corridor Commercial District

**Existing Use:** Grocery store.

**Proposed Variances:** Variance to reduce the required five foot setback along the east and north sides of the site to zero.

**Appropriate Section(s) of the Zoning Code:** Article IX Variances, specifically Section 525.520(1) "to vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations." Chapter 530 Site Plan Review.

**Background:** Kowalski's has moved into the Super Valu site at 4414 Humboldt Avenue North. They do not own the site, but rather are tenants. The owner of the store site also owns two residentially zoned lots north of the store that are used as a parking lot and are connected to the store site. Staff has made the determination that the two residential lots are not part of the same site for the purposes of this site plan review. However, this does not mean that these lots are exempt from zoning code compliance. Staff is not sure if the parking lot on the residential lot is legal or if it meets zoning code requirements, but has determined that it will be the owners responsibility to bring these lots into compliance, since the zoning code prohibits Kowalski's (or any commercial use) from utilizing these lots. Grocery stores are subject to site plan review, so Kowalski's is required to bring the site into compliance with the site plan review chapter of the zoning code. The existing drive aisles are located into the required five foot setback along the north and east sides of the site, so a variance has been requested to allow the existing conditions to remain.

### **VARIANCE (to allow a drive aisle in the north and east setbacks)**

**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.**

A five foot setback is required on the north side of the site along the part of the site where the alley has been vacated and on the entire east side. The variance would allow an existing driveway to remain that is necessary to facilitate safe access to the site for vehicles and deliveries. Elimination may make deliveries and maneuvering more difficult and this could be a hardship. Allowing the drive aisles to remain is a reasonable use of the property. Screening is and will be provided by a six foot high wood screen fence.

- 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.**

Requiring the five foot landscaped setbacks will make access and maneuvering more difficult for trucks making deliveries. This condition is not generally applicable to other properties in the C2 Districts. Even with the variances the site will still have the required six foot screening.

- 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 setback variances is to provide a buffer between commercial and residential properties. In this case a six foot high screen fence will be provided in lieu of the five foot wide yard. This will not circumvent the intent of the ordinance.

- 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 variances will allow better vehicular access for vehicles and deliveries. Granting the variance should have no impact on congestion in the public streets. Granting the variance should not increase the danger of fire and should not be detrimental to the public welfare and safety.

### **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.

The building is existing and is located up to the property line on 44<sup>th</sup> Avenue North. The area between the building and the sidewalk on 44<sup>th</sup> will contain landscaping. The principal entrances face the parking lot. The exterior materials are compatible on all sides and have recently been cleaned and repainted.

### **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.

The site is very small and irregular shaped. Public Works and the Fire Department have reviewed the access and circulation and find it acceptable. However, Public Works and the zoning code require that alley access be closed from the parking lot. This can be done with bollards. The entrance is connected to the public sidewalk by walkways. The site is required to

have 37 parking spaces and 70 are provided. The site is required to have two (one has to be van accessible) handicapped accessible spaces and two are provided. There is adequate room for snow storage, so snow will need to be removed from the site. Snow from the site is prohibited from being stored on the two residential lots to the north.

#### **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.**

Approximately 6 percent of the site, which includes the interior boulevard on Humboldt Avenue, is landscaped. The required five-foot landscaped yard will be provided between the parking and the public sidewalk, but on Humboldt it is almost entirely in the interior boulevard. Staff recommends increasing the landscaped yard on Humboldt by two feet. This will provide landscaping on the site in case the street is widened in the future and the interior boulevard is no longer available for landscaping. If the yard is increased further it will cause the elimination of the entire row of parking.

To facilitate drainage into the landscaped areas, staff recommends the elimination of the required concrete curbing in some areas of the parking lot along the 44<sup>th</sup> Avenue frontage. In addition, this area should be widened by approximately eight feet to allow for a stormwater filtration area. This will require that this area is designed to accept and hold stormwater and that it have

plantings that will be appropriate.

The plan does not show the required number of trees. Seven trees are required on the Humboldt frontage and one more tree is required on the 44<sup>th</sup> Avenue frontage. Staff recommends that one additional tree be planted on the 44<sup>th</sup> Avenue frontage. Staff recommends that three, rather than seven, trees be planted on the Humboldt frontage due to the location of the boulevard trees. In addition, staff recommends the addition of two tree islands in the parking lot on the north end of the site in lieu of the five foot buffer yard required along the alley.

If the increased landscaping is provided the site will have approximately 10 percent landscaping. An amenity such as a decorative fence, or additional landscape planting is required to reduce the landscaping to 10 percent from the required 20 percent.

An encroachment permit is necessary to allow landscaping in the interior boulevard (right-of-way). Please see attached staff recommendation.

#### **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.**

The lighting will comply with Chapters 535 and 541 including the following standards:

**535.590. Lighting.** (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance. (b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.
- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional

residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.

(5) Lighting shall not create a hazard for vehicular or pedestrian traffic.

(6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

The building is existing. The City's CPTED officer has recommended that all plantings follow the 3' – 7' rule to allow visibility into the site and that lighting be provided for security purposes.

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

#### **ZONING CODE:**

#### **Section 536, Specific Development Standards for grocery stores, requires:**

- 1) The premises, all adjacent streets, sidewalks, and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purposes of removing litter.

**Hours of Operation:** Hours of operation allowed under the C2 zoning are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. Kowalski's is open from 6:00 a.m. to 10:00 p.m. every day.

**Window obstructions:** 543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330.

**Dumpster screening:** Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. A dumpster enclosure is provided.

**Signage:** All existing signage is subject to Sections 531 and 543 of the Zoning Code. All new signage is required to meet the requirements of the code and requires a permit from the zoning office.

**MINNEAPOLIS PLAN:** *The Minneapolis Plan* identifies this part of 44<sup>th</sup> Avenue North as a community corridor. The plan states the following about community corridors: “Community Corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented towards the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass-through traffic.”

**The proposed site improvements are in conformance with these polices of the comprehensive plan.**

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

There are no development plans or objectives approved by the City Council for this specific area beyond the Comprehensive Plan.

### **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 necessary to allow the elimination of curbing and to allow the landscaping to be reduced to 10 percent. Staff recommends the elimination of some of the curbing to better facilitate drainage and stormwater management. The applicant has not provided an amenity in lieu of the reduction of the landscaping to 10 percent. If an amenity such as a decorative wrought iron type fence or additional landscape plantings are provided, staff would recommend alternative compliance be granted for the reduction in landscaping.

## **Recommendation of the Minneapolis City Planning Department:**

### VARIANCE

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the required five foot setback on the north and east sides to zero for Kowalski's for property located at 4414 Humboldt Avenue North subject to the approval of the site plan review.

### SITE PLAN REVIEW

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for Kowalski's for property located at 4414 Humboldt Avenue North subject to the following conditions:

- 1) Approval of the variance.
- 2) Staff review and approval of the final site, landscaping, and snow storage and removal plans before exterior building permits may be issued. All fencing and landscaping site improvements shall be completed by September 30, 2005 (unless extended by the Zoning Administrator).
- 3) If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvements by September 30, 2004.
- 4) The site is subject to the specific development standards of the zoning code for grocery stores.
- 5) Alley access be closed off with the installation of bollards.
- 6) The landscaped yard along the Humboldt frontage be increased by two feet and the landscaped yard on the 44<sup>th</sup> Avenue frontage be increased by approximately eight feet. The landscaped area along 44<sup>th</sup> shall be designed to act as a stormwater filtration area.
- 7) Three additional trees be provided along Humboldt, one additional tree be provided along 44<sup>th</sup>, and two tree islands be installed on the north side of the parking lot.
- 8) Provision of an amenity such as a decorative wrought iron type fence along the street frontages or additional landscape plantings in lieu of 20 percent landscaping.