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MEMORANDUM

DATE: January 24, 2011
TO: Planning Commission Members
FROM: Jim Voll - CPED Planning Division
SUBJECT: Agenda Item #5 – 2853 Columbus Avenue South

Staff is recommending denial of the change of a legal nonconforming use and site plan review to allow major automobile repair. Please see the staff report for the background and findings. Since the writing of the staff report, the applicant for A-Plus Auto Body has decided not to pursue the major automobile repair use, so they would no longer be the tenant. The building owner has requested that the applications still be considered, but for a minor automobile repair use. There is not a specific business identified, but they are in discussions with possible tenants. The owner is aware that if the City Planning Commission (CPC) approves a change of a legal nonconforming use and a site plan review for minor automobile repair, then the proposed tenant would have to comply with the floor plan and site plan approved by the CPC with the conditions of approval.

The building owner has submitted a letter and a revised floor plan that are attached to this memo. The site plan would remain the same as shown in the staff report.

The revised comparison of the uses is as follows:

CHANGE OF A LEGAL NONCONFORMING USE:

Findings As Required By The Minneapolis Zoning Code:

The Community Planning and Economic Development Planning Division has analyzed the application and makes the following findings:

There has not been a legal nonconforming use operating in the building since the change to the R4 District in April of 2010, so it is not possible to have a change from a specific use. The zoning administrator has indicated that the building has rights to apply for a change of a legal nonconforming use until April of 2011. The change would be evaluated against the general uses allowed in the C2 District, rather than the previous use, as there is no record of it being legally established. A more strict interpretation would be that the building has lost all nonconforming rights because it did not have a legally established use in the building at the time of the zoning change. For the following findings the proposed use is compared against the last legally established use, the last use in the building (which staff can find no record of being legally established), and the general requirements of the C2 District, but the change is from the uses allowed in the C2 District.

The Planning Commission may approve a proposed change in use if the use meets the following standards as specified in section 531.80 of the Zoning Code:

(1) The proposed use is compatible with adjacent property and the neighborhood.

To the north is the Midtown Greenway. Directly to the west is a commercial building that appears to be used as a place of assembly (church). To the south along both sides of Columbus Avenue South are single and two-family homes. To the east are commercial properties facing Chicago Avenue South including a book store, a dental office, a fast-food restaurant, and other storefront buildings. There has historically been residential adjacent to this commercial/industrial building. It is the opinion of staff that a minor automobile repair business has the potential to generate traffic and noise, but not at a level that would be more intense than the previous uses. Minor automobile repair is allowed as a conditional use permit in the C2 District.

(2) The proposed use is less intense than the existing, nonconforming use.

(a) Hours of operation: From 1998 to 2005, the dry cleaner/laundry operated from 6:00 a.m. to 3:00 p.m. with nightly deliveries between 8:00 p.m. and 10:00 p.m. From 2006 to October of 2010, Protouch Restoration, a contractor's office, was open Monday through Saturday 8:00 a.m. to 6:00 p.m. with 24 hour service calls. Staff can find no record that the contractor's office was legally established, so the change in use is from the general uses allowed in the C2 District. In the C2 District, uses may be open to the public during the following hours: Sunday through Thursday from 6:00 a.m. to 10:00 p.m. and Friday and Saturday from 6:00 a.m. to 11:00 p.m. The site is currently in the R4 Multiple-family District. Uses located in the residential districts, uses may be open to the public during the following hours: Sunday through Thursday from 7:00 a.m. to 10:00 p.m. and Friday and Saturday from 7:00 a.m. to 11:00 p.m. Any minor automobile repair use would comply with the hours of operation in the R4 District.

(b) Signage: Nonconforming uses are allowed one nonilluminated, flat wall identification sign, not to exceed 16 square feet in area and 14 feet in height. The applicant proposes a 32 square foot sign that is externally illuminated. The applicant did not provide the proposed height to the top of the sign. The proposed sign will conform with these regulations and the applicant is aware a sign permit is required before any signage is installed.

(c) Traffic generation: The applicant indicated in their submitted material that the traffic generation for the previous uses is unknown. Staff can not make a determination of the traffic generation for a potential uses. The proposed floor plan will have three service bays and parking inside the building.

(d) Off-street parking and loading: The information supplied by the applicant indicates that the parking and loading information for the previous uses is unknown, but the new use will require no additional parking. The zoning code does not require a loading space for an automobile repair use of this size. It requires one parking space per 500 square feet of gross floor area excluding the service bays plus two spaces for each service bay. Service bays can not count as parking spaces. At approximately 1,271 square feet of area (exclusive of parking and service bays) and three service bays, nine spaces are required. Five spaces are in the parking lot outside of the building and five are provided inside of the building. It appears that only three of the interior spaces can be counted as legal spaces that have the required drive aisle. The five spaces in the parking lot do not meet the dimension requirements and drive aisle requirements of the code, but were approved by the city in 1998, so they will continue to be counted as legal spaces. Further, a handicapped accessible space is required to be provided. The last legally established use (the dry cleaner/laundry) had a parking requirement of 10 spaces, so even though this use has a requirement of nine spaces and only provides seven legal spaces (one of which is will be an accessible space), the remaining two spaces are grandfathered. Two of the substandard inside spaces can be used for parking, but do not count as legal parking spaces. It is difficult to predict the parking demand and management of a future business, but automobile repair uses usually have high parking and vehicle storage needs, so there may be issues with parking due to limited amount and the substandard maneuvering areas.

(e) Nature of business operations: From 1998 to 2006, a dry cleaner/laundry was located in the building which processed clothing items for eight to ten stores. The building had three dry cleaning machines, three commercial laundry machines and dryers, six dry cleaning presses and two laundry presses. The cleaners used chemicals in the machines and to remove stains. The site generated 55 gallons of hazardous waste every three to four months. From 2006 to October of 2010, Protouch Restoration operated at the building. Their operations included warehousing, repair, painting, sealing, and the use of power tools and compressors to repair damaged items from commercial and residential structures. Staff can find no record that Protouch was legally established at the building, so the change in nonconforming use is from the general uses in allowed in the C2 District.

An automobile repair facility may have noise, dust, and odor impacts. While the applicant has indicated that all work will be performed inside the building, there could be noise if the overhead door is left open. Staff was concerned with the previously proposed major automobile repair use, as there would be body work performed on vehicles and a spray booth would be utilized. This activity has typically had a greater impact on surrounding properties than minor automobile repair. Also, major automobile repair is first allowed in the C4 District, so allowing that use would allow a more intense use than the previous C2 zoning allowed. A minor automobile repair use is allowed as a conditional use permit in the C2 Districts.

(f) Number of employees: The dry cleaner/laundry had 15 to 20 employees and the contractor's office had approximately 10 employees. Staff can find no record of the contractor's office being legally established at the site. It is not possible to determine the exact amount of employees for a potential future use, but the building will be limited to three service bays, so that will limit the number of employees.

(g) Building Bulk: The building bulk will not change.

(h) Aesthetic impacts on surrounding property: The landscaping as required on the approved 1998 site plan has been installed. The applicant proposes no changes or reductions to the installed landscaping. The landscaping is required to be maintained in an orderly manner and the number of trees and shrubs shall not be reduced.

(i) Noise, odor, heat, glare and vibration: The applicant has noted that the previous uses and the proposed use had or will have their operations indoors. While the applicant has indicated that all work will be performed inside the building, there could be noise if the overhead door is left open.

Staff has provided information about the previous uses as background and context. However, because there has not been a legal nonconforming use operating in the building since the change to the R4 District in April of 2010, it is not possible to have a change from a specific use. The zoning administrator has indicated that the building has rights to apply for a change of a legal nonconforming use until April of 2011. A more strict interpretation would be that the building has lost all nonconforming rights because it did not have a legally established use in the building at the time of the zoning change.

The change in nonconforming use is from the general uses in the C2 Neighborhood Corridor Commercial District, because staff can find no record of the last use, the contractor's office, being legally established at the site. Minor automobile repair is first allowed in the C2 District as a conditional use permit. It is the opinion of staff that a minor automobile repair use that is limited to three service bays, maintains the existing site plan and landscaping, and operates under the residential hours of operation, would be similar to the previous uses in the building and would be a reasonable use of this building. Staff recommends approval of the change of a legal nonconforming use, subject to the following condition:

1) The hours of operation shall be those allowed in the R4 District. Uses located in the residential districts, uses may be open to the public during the following hours: Sunday through Thursday from 7:00 a.m. to 10:00 p.m. and Friday and Saturday from 7:00 a.m. to 11:00 p.m.

SITE PLAN REVIEW:

If the CPC approves the change of a legal nonconforming use to allow minor automobile repair, then staff would recommend approval of the site plan review. Please see the staff report for findings. The approval would be subject to the following conditions:

- 1) CPED Planning staff review and approve the site plan and landscaping plan before any permits or licenses may be issued or operations at the site may begin.
- 2) All site improvements shall be completed by January 24, 2012, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 3) The use shall comply with the specific development standards for minor automobile repair listed in Chapter 536 of the zoning code.
- 4) The site landscaping shall be maintained as required by Section 530.210 of the zoning code.
- 5) Accessible parking, as required by code, shall be shown on the final site plan.