**Community Planning and Economic Development Planning Division Report**
Change of a Legal Nonconforming Use & Site Plan Review
BZZ - 5008

**Date:** January 24, 2011

**Applicant:** Ahmed Hirsi Hassan dba A-Plus Auto Body

**Address of Property:** 2853 Columbus Avenue South

**Project Name:** A-Plus Auto Body

**Contact Person and Phone:** Mark Krogh – Java Properties 952-403-9595

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

**Date Application Deemed Complete:** December 10, 2010

**End of the 60 Day Review Period:** February 8, 2011

**Date Extension Letter Sent:** January 11, 2011

**End of 120 Day Decision Period:** April 9, 2011

**Ward:** 6 **Neighborhood Organization:** Phillips West

**Existing Zoning:** R4 Multiple-family District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 26

**Legal Description:** Not applicable for this application.

**Proposed Use:** Automobile repair, major.

**Concurrent Review:**

**Change of a legal nonconforming use:** To allow a major automobile repair facility.
**Site plan review:** To allow a major automobile repair facility.

**Applicable zoning code provisions:** Chapter 531, Nonconforming Uses and Structures and Chapter 530, Site Plan Review.

**Background:** This item was continued from the January 10, 2011, meeting of the City Planning Commission. The applicant proposes to locate a major automobile repair facility in the building located

at 2853 Columbus Avenue South. The site is currently zoned R4 Multiple-family Residential and contains a 9,200 square foot commercial/industrial building.

The zoning code defines automobile repair, major as, "an establishment engaged in performing repairs to, and the servicing of, passenger automobiles, where gasoline or other automobile engine fuel (store only in underground tanks), motor oil, lubricants, grease and minor accessories may be sold. Major repair may include all activities or repair or servicing of automobiles allowed in a minor automobile repair establishment, and rebuilding or reconditioning of passenger automobiles, body, frame or fender straightening, replacement or repair, painting or rust-proofing, or other similar repair or servicing of automobiles. Such work excludes commercial wrecking or dismantling, scrap/salvage yards, tire recapping and truck-tractor repair. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold." This use is first allowed as a conditional use permit in the C4 General Commercial District.

Based on City building permit records it appears that the original part of the building was constructed in 1925, with additions in 1940, 1945, and 1968. The site was zoned Light Industrial under the 1924 zoning code. In 1963, the site was rezoned to the M1-2 Light Manufacturing District as a part of the general remapping of the City with the adoption of the 1963 zoning code. The site was downzoned to the R2B District as a part of the 29th Street 40-Acre Study on August 7, 1982. In 1993, a conditional use permit application was made for a for a "cartage and express" use, which appears to have been a moving and storage business, but no record of its approval or denial is in the City records maintained in the zoning office.

In 1998, a change of a legal nonconforming use (NCC-32) to change from the cartage and express use to dry cleaner/laundry was applied for, but withdrawn. Instead, the property owner instead applied to rezone from the R2B District to B3C-1 Community Commercial District (P-1029). This application was approved on March 6, 1998. A variance (V-4344) to reduce the required front yard from 20 feet to zero feet, for the front yard, and 5 feet to 2½ feet, for the south side yard, for a parking lot and to allow a 6 foot high black-vinyl mini-mesh chain-link fence with landscaping in lieu of a screening fence was approved in August of 1998. The parking lot was constructed to the approved plan, but the fencing does not match the approved plan on the west side. It is a regular chain-link fence rather than the approved black-vinyl mini-mesh chain-link fence. The dry cleaner/laundry was a permitted use in the B3C-1 District.

The site was rezoned to the C2 Neighborhood Corridor Commercial District in 1999, as a part of the general remapping of the City with the adoption of the 1999 zoning code. The 1999 zoning code allows dry cleaning establishment and laundries as conditional use permits in the C2 District. In 2005, the dry cleaner/laundry ceased operating at the site. From 2006, until October 2010, Protouch Restoration and Cleaning operated at the site. They restored fire, water, and mold damage to furniture, home, buildings, and equipment. They used the building for warehousing, repair, and painting. Based on the information staff has about this use it would be classified as a contractor's office, which requires a conditional use permit in the C2 District. Staff can find no record of a conditional use permit being approved for this use or site, so it appears that the use was not legally established. The site was downzoned from the C2 District to the R4 Multiple-family District as a part of the Midtown Greenway Rezoning Study on April 2, 2010. The contractor's office was operating (but not legally established) until October of 2010.

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.

As of the writing of this report, staff has not received any correspondence from the neighborhood group, but will forward comments, if any, at the Planning Commission meeting.

## CHANGE OF A LEGAL NONCONFOMING 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. While there has historically been residential adjacent to this commercial/industrial building it is the opinion of staff that an major automobile repair business has the potential to generate significant traffic, noise, and odors that would not be compatible with the nearby residential uses.

**(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. The proposed major automobile repair use proposes 7:00 a.m. to 7:00 p.m. Monday through Thursday and Saturday and Sunday.

**(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.

**(c) Traffic generation:** The applicant indicated in their submitted material that the traffic generation for the previous uses is unknown, but for the new use it will be less. Staff can not make a determination if this will be true or not, but in general automobile repair uses have significant automobile traffic.

**(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 the 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. The proposed major 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 doors are left open. While the applicant has indicated that the spray booth will be vented out the roof and will have filters, no information besides a general statement the there will be no odors has been provided to demonstrate that there will not be fumes or odors related to the spray booth.

**(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. The proposed use will have four employees daily.

**(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 doors are left open. While the applicant has indicated that the spray booth will be vented out the roof and will have filters, no information, beyond a general statement the there will be no odors, has been provided to demonstrate that there will not be fumes or odors related to the spray booth.

Major Automobile repair is not an allowed use in the C2 Neighborhood Corridor Commercial District and would require the C4 General Commercial District or one of the industrial zoning districts. 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. Even if it was legally established, a contractor's office is allowed a conditional use permit in the C2 District. Major automobile repair is first allowed in the C4 General Commercial District. Major automobile repair is considered a more intensive use, due to the noise, odor, and dust generated by bodywork and therefore, is allowed only in the C4 District and the industrial districts as a recognition of the more impacts of the use on adjacent properties.

If this change in nonconforming use were approved, it would allow a use on the site that would not be allowed if the zoning had not been changed. While the change of a legal nonconforming use process can allow this scenario, it is usually when the proposed use is a change from a use that is also allowed in

similar or more intensive zoning districts than the proposed use. Major automobile repair is a more intensive use than the uses in the C2 District, by definition, as it is first allowed in the C4 District; therefore the change would be more intensive and staff does not recommend approval.

## SITE PLAN REVIEW:

A variance (V-4344) to reduce the required front yard from 20 feet to zero feet, for the front yard, and 5 feet to 2½ feet, for the south side yard, for a parking lot and to allow a 6 foot high black-vinyl mini-mesh chain-link fence with landscaping in lieu of a screening fence was approved in August of 1998. Staff approved a site plan with this application (please see the attached plan). This was not site plan review, so the applicant is now required to complete site plan review, as major automobile repair uses are subject to site plan review. However, the site was improved largely in conformance with this approved plan and the improvements that are in conformance with the approved plan have durability as being established and maintained. The parking lot and landscaping was constructed to the approved plan, but the fencing does not match the approved plan on the west side. It is a regular chain-link fence rather than the approved black-vinyl mini-mesh chain-link fence.

Staff is not recommending approval of the change of a legal nonconforming use, so with out that approval the use could not located at the site and site plan review would not be needed. Therefore, staff is not recommending approval of the site plan review.

## Required Findings for 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 and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

## Section A: Conformance with Chapter 530 of Zoning Code

### BUILDING PLACEMENT AND DESIGN:

- **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. In the case of a corner lot, the principal entrance shall face the front lot line.**
- **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 walls shall provide architectural detail and shall contain windows as required**

**by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.**

- **In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.**
- **Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.**
- **Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.**
- **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 fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.**
- **Entrances and windows, and active functions:**
    - **Residential uses:**
      **Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**
      **a. Windows shall be vertical in proportion.**
      **b. Windows shall be distributed in a more or less even manner.**
    - **Nonresidential uses:**
      **Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**
      **a. Windows shall be vertical in proportion.**
      **b. Windows shall be distributed in a more or less even manner.**
      **c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.**
      **d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.**
      **e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.**
      **f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.**
      **g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.**
      **Minimum window area shall be measured as indicated in section 530.20 of the zoning code.**
    - **Ground floor active functions:**
      **Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.**
- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls**

**and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restricitve parking garage provisions of chapter 549, Downtown Districts, shall apply.**

The building is existing and no changes are proposed. There is landscaping between the building and the public street.

## 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 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

The entrance of the building is connected to the public sidewalk on Columbus Avenue South by a four foot wide walkway.

There are no transit stops on the site.

There are residential properties across the street and to the south. The parking area is screend to minimize the impact of the parking area.

There is an alley to the rear of the building, but there is no vehicular alley access to the parking lot or to the interior of the building from the alley.

Access is exisitng and will not change.

All areas that are not covered by buildings, pedestrian access, and paved areas necessary for parking, loading, and the associated maneuvering are pervious surfaces used for landscaping and stormwater management.

## 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, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**
- **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.**

- **Except as otherwise provided, 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 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**
- **The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.**
- **In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.**
- **All other areas not governed by sections 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 530.210.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materia**ls, **landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.**

The site plan shows 29 percent landscaping. The lot area is 11,573 square feet and the footprint of the building is 8,200 square feet. This leaves 3,373 square feet, of which 20 percent (675 square feet) is required to be landscaped. The site has approximately 2,300 square feet of landscaped area on site. Approximately 1,800 square feet of the landscaped area is the hill adjacent to the Midtown Greenway. Approximately 500 square feet is in front of the building and along the south side with shrubs and trees. There is an additional 250 square feet in the interior boulevard that contains screening shrubs.

The site is required to provide one tree per 500 square feet and one shrub per 100 square feet of required green space. This translates into a requirement of one tree and seven shrubs. The site plan shows two trees and approximately 21established on-site shrubs with an additional 14 in the interior boulevard.

The required one tree per 25 liner feet of parking lot frontage is not provided for the parking lot that fronts on Columbus Avenue South. If the change of a legal nonconforming use is approved, staff recommends alternative compliance as there is not room for a tree between the parking lot and the public sidewalk and the landscaping was installed in conformance with the approved 1998 variance site plan.

The seven foot wide landscaped yard between the parking lot drives and the public sidewalk is not provided. If the change of a legal nonconforming use is approved, staff recommends alternative compliance as there is not room for seven feet of landscaping between the parking lot and the public sidewalk and the landscaping was installed in conformance with the approved 1998 variance site plan.

The three foot high landscaping screening is provided between the parking and the public sidewalk and street.

All parking spaces are within 50 feet of an on-site deciduous tree.

All other areas not occupied by buildings, walks, plazas, parking, loading, and associated drives are landscaped.

## ADDITIONAL STANDARDS:

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **To the extent practical, site plans shall minimize the blocking of views of important elements of the city.**
- **To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **To the extent practical, 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 related to:**
  - **Natural surveillance and visibility**
  - **Lighting levels**
  - **Territorial reinforcement and space delineation**
  - **Natural access control**
- **To the extent practical, 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.**

Curbing is not shown around the surface parking area and the water drains in to the landscaping areas and out the curb cut.

The building is existing and there are no changes proposed that would block important views of the city, shadow public spaces and adjacent properties, or significantly generate wind currents at ground level.

The plan does not meet the CPTED guidelines. While the site is designed to delineate between public and private space and to control access, it does not allowing views into and out of the site north of the curb cut. The landscaping is overgrown in this area and needs to be trimmed. If the change of a legal nonconforming use is approved, then staff recommends that the landscaped area be trimmed to follow the three-foot seven-foot rule to allow proper views into and out of the site.

There are no historic structures on the site.

## Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

**ZONING CODE:** Major automobile repair is first allowed in the C4 General Commercial Districts. For the proposed use to be located at this site, in the R4 Multiple-family District, a change of a legal nonconforming use is required. Staff does not recommend approval of the change of a legal nonconforming use.

**Off-Street Parking and Loading:** *Minimum automobile parking requirement:* The minimum parking requirement for a major automobile repair facility is 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 the 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.

*Maximum automobile parking requirement:* The maximum required parking for a major automobile repair facility is one space per 200 square feet of gross floor area plus two spaces per each service bay. At approximately 1,271 square feet of area (exclusive of parking and service bays) and three service bays, a maximum of 12 spaces is allowed.

*Bicycle parking requirement:* Major automobile repair facilities do not require bicycle parking.

*Loading:* Major automobile repair facilities less than 10,000 square feet of gross floor area do not require a loading space.

**Maximum Floor Area:** There is no maximum floor area for a major automobile repair facility in the residential zoning districts, as the use is not allowed in the residential districts. The building is existing and no additions are proposed. The zoning lot in question is 11,573 square feet in area. The site will contain approximately 9,200 square feet of gross floor area on the lot, an FAR of 0.79.

**Building Height:** There is no maximum height limit for a major automobile repair facility in the residential zoning districts, as the use is not allowed in the residential districts. The building is existing and no additions are proposed. Building height limits in the R4 District range from 2.5 stories, or 35 feet, whichever is less, for single and two-family homes up to 4 stories or 56 feet, whichever is less, for multiple-family structures. The existing building is one floor with a mezzanine level. The applicant did not provide the building height in feet.

**Minimum Lot Area:** There is no minimum lot size for a major automobile repair facility in the residential zoning districts, as the use is not allowed in the residential districts. If the site were still zoned commercial, there would not be a minimum lot size either.

**Dwelling Units per Acre:** There are no residential units proposed.

**Yard Requirements:** The R4 District requires a 15 foot front yard setback and five feet plus two feet for every floor above the first for rear and interior setbacks. The building and parking are existing and legally nonconforming. No expansion is proposed. A variance (V-4344) to reduce the required front

yard from 20 feet to zero feet for the front yard and 5 feet to 2½ feet for the south side yard for a parking lot was approved in August of 1998. Please not that this variance was for the district standards at the time, which are different than the current required setbacks of the R4 District; however, the variance is till applicable and the parking lot location is now legally nonconforming.

**Specific Development Standards:** The Specific Development Standards for a major auto facility are as follows:

(1) All vehicles waiting for repair or pick-up shall be stored on the site in an enclosed building or in parking spaces in compliance with Chapter 541, Off-Street Parking and Loading.

(2) Except in the I3 District, all repairs shall be performed within a completely enclosed building.

(3) All vehicles parked or stored on-site shall display a current license plate with a current license tab. Outdoor storage of automotive parts or storage of junk vehicles shall be prohibited.

(4) The sale of vehicles shall be prohibited.

(5) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.

(6) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

(7) In the I1, Light Industrial District, the use shall be located at least three hundred (300) feet from a residence or office residence district.

(8) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

**Hours of Open to the Public:** 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. The proposed major automobile repair use proposes 7:00 a.m. to 7:00 p.m. Monday through Thursday and Saturday and Sunday.

**Signs:** Signs are subject to Chapter 531 and Chapter 543 of the Zoning Code. All new signs are required to meet the requirements of the zoning code and permits are required from the Zoning Office. 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 applicant is aware that signs require zoning office approval and permits.

**Refuse storage:** 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. The site plan does not show the trash storage area. The final site plan shall show refuse storage locations and any outdoor storage shall be screened per code.

**Lighting:** The lighting will comply with Chapter 535 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 arranged so as not to directly or indirectly cause illumination or glare in excess of one-half (½) 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 source.

(2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source form an observer at the closest property line of 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 to a person of normal sensitivities when viewed form any permitted or conditional residential use.

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

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

**MINNEAPOLIS PLAN FOR SUSTAINABLE GROWTH:** The *Minneapolis Plan for Sustainable Growth* has the following applicable narratives and polices regarding site design:

**Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.**

1.2.2 Ensure that lighting and signage associated with non-residential uses do not create negative impacts for residential properties.

1.2.3 Lessen the negative impacts of non-residential uses on residential areas through controls on noise, odors, and hours open to the public.

**Policy 1.7: Limit new and expanded auto-oriented uses in the city so impacts on the form and character of commercial areas and neighborhoods can be minimized.**

1.7.1 Discourage new and expanded high traffic, auto-oriented uses in neighborhood commercial nodes.

1.7.2 Direct auto-oriented uses to locations on Commercial Corridors that are not at the intersection of two designated corridors, where more traditional urban form would be appropriate.

1.7.3 Auto-oriented uses should be designed with aspects of traditional urban form, to minimize the impact on the pedestrian realm.

**Policy 10.18: Reduce the visual impact of automobile parking facilities.**

10.18.1 Require that parking lots meet or exceed the landscaping and screening requirements of the zoning code, especially along transit corridors, adjacent to residential areas, and areas of transition between land uses.

10.18.2 Parking lots should maintain the existing street face in developed areas and establish them in undeveloped areas through the use of fencing, walls, landscaping or a combination thereof along property lines.

10.18.3 Locate parking lots to the rear or interior of the site.

10.18.4 Provide walkways within parking lots in order to guide pedestrians through the site.

10.18.17 Minimize the width of ingress and egress lanes along the public right of way in order to provide safe pedestrian access across large driveways.

**Policy 10.19: Landscaping is encouraged in order to complement the scale of the site and its surroundings, enhance the built environment, create and define public and private spaces, buffer and screen, incorporate crime prevention principles, and provide shade, aesthetic appeal, and environmental benefits.**

10.19.1 In general, larger, well-placed, contiguous planting areas that create and define public and private spaces shall be preferred to smaller, disconnected areas.

10.19.2 Plant and tree types should complement the surrounding area and should include a variety of species throughout the site that include seasonal interest. Species should be indigenous or proven adaptable to the local climate and should not be invasive on native species.

10.19.3 Landscaped areas should include plant and tree types that address ecological function, including the interception and filtration of stormwater, reduction of the urban heat island effect, and preservation and restoration of natural amenities.

10.19.4 Landscaped areas should be maintained in accordance with Crime Prevention Through Environmental Design (CPTED) principles, to allow views into and out of the site, to preserve view corridors and to maintain sight lines at vehicular and pedestrian intersections.

10.19.5 Landscaping plans should be designed to facilitate future maintenance including the consideration of irrigation systems, drought and salt-resistant species, ongoing performance of storm water treatment practices, snow storage, access to sun, proximity to buildings, paved surfaces and overhead utilities.

While the proposed use may not be in conformance with all of the above noted policies, the site plan, with staff recommendations, is in conformance with the above noted policies of the comprehensive plan.

**SMALL AREA PLANS ADOPTED BY COUNCIL**: The *Midtown Minneapolis Land Use and Development Plan* was adopted by the City Council on December 23, 2005. The plan designates this parcel as medium density residential (10-50 du/ac). The plan does not have specific guidance for nonconforming uses but promotes pedestrian friendly streetscapes (pages 33-36). While the proposed use is not in conformance with the future land use plan, the site plan, with staff recommendations, is in conformance with this goal of the plan.

**Alternative Compliance. The Planning Commission may approve alternatives to any 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, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, 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 requested by the applicant to meet the following standards:

- One tree per 25 linear feet of parking lot.

  The required one tree per 25 liner feet of parking lot frontage is not provided for the parking lot

that fronts on Columbus Avenue South. If the change of a legal nonconforming use is approved, staff recommends alternative compliance as there is not room for a tree between the parking lot and the public sidewalk and the landscaping was installed in conformance with the approved 1998 variance site plan.

- Parking lot screening.

  The seven foot wide landscaped yard between the parking lot drives and the public sidewalk is not provided. If the change of a legal nonconforming use is approved, staff recommends alternative compliance as there is not room for seven feet of landscaping between the parking lot and the public sidewalk and the landscaping was installed in conformance with the approved 1998 variance site plan.

- CPTED.

  While the site is designed to delineate between public and private space and to control access, it does not allowing views into and out of the site north of the curb cut. The landscaping is overgrown in this area and needs to be trimmed. If the change of a legal nonconforming use is approved, then staff recommends that the landscaped area be trimmed to follow the three-foot seven-foot rule to allow proper views into and out of the site.

## RECOMMENDATIONS:

**Recommendation of the Community Planning and Economic Development Department - Planning Division for a change of a legal nonconforming use:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application to allow a change of a legal nonconforming use for property located at 2853 Columbus Avenue South.

**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 **deny** the application for site plan review for a major automobile repair facility for property located at 2853 Columbus Avenue South.

## Attachments:

1. Statements from the applicant.
2. Zoning map.

3. Historical maps.
4. Survey, site plan, and floor plan.
5. Photos.