Department of Community Planning and Economic Development – Planning Division

Rezoning and Variance

BZZ-4206

Date: October 6, 2008

Applicant: The Main Group, 2911 West 71st Street, Richfield, MN 55423, (612)866-1486

Address of Property: 2440 Oakland Avenue

Project Name: Big E's Restaurant / Literary Cafe

Contact Person and Phone: Ms. Deborah Coker, 2911 West 71st Street, Richfield, MN 55423, (612)866-1486

Planning Staff and Phone: Becca Farrar, (612)673-3594

Date Application Deemed Complete: September 11, 2008

End of 60-Day Decision Period: November 9, 2008

End of 120-Day Decision Period: On September 18, 2008, Staff sent a letter to the applicant extending the decision period to no later than January 8, 2009.

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

Existing Zoning: R4 (Multiple-family) District

Proposed Zoning: C1 (Neighborhood Commercial) District

Zoning Plate Number: 20

Lot area: 6,076 square feet or .14 acres

Legal Description: Lot 9, Block 1 Park Ave Addition to Minneapolis

Proposed Use: Conversion of a duplex to a restaurant/literary café.

Concurrent Review:

- Petition to rezone the subject parcel from the R4 (Multiple-family) District to the C1 (Neighborhood Commercial) District in order to convert a duplex to a restaurant.
- Variance of the off-street parking requirement for a sit down restaurant.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments and Article IX, Variances.

Background: The applicant proposes to rezone the subject property located at 2440 Oakland Avenue in order to convert a duplex dwelling unit into a restaurant. The property is currently zoned R4 and a rezoning to the C1 district is necessary in order to use the property as proposed. In order to change the zoning classification of the property from R4 to C1 the applicant had to obtain signatures from two-thirds of the property owners within 100 feet of the property. On September 8, 2008, the City Attorney's Office sent a letter indicating that all requirements had been met. The parking requirement for restaurant uses is equal to thirty percent of the capacity of persons. The size of the proposed seating area as outlined in the attached floor plans is 440 square feet on the first floor and 676 square feet on the second floor for a total seating area of approximately 1116 square feet. Based on these numbers the parking requirement for the proposed use is 23 off-street parking spaces. The applicant is proposing to vary the required parking to zero as no legal off-street parking spaces can be accommodated on the premises for the proposed restaurant use.

The applicant has been made aware that the conversion of a residential structure to a commercial structure often results in complex building code related issues.

Staff has received correspondence from the Phillips West Neighborhood Organization which has been attached for reference. Any additional correspondence received after the printing of this report will be forwarded on to the Planning Commission for further consideration.

REZONING – from the R4 district to the C1 district

Findings as Required by the Minneapolis Zoning Code:

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

The property is designated as multi-family in the comprehensive plan. The property is located approximately three blocks south of Franklin Avenue East which is a designated Commercial Corridor and near the designated Wells Fargo/Hospitals Area Growth Center. According to the principles and polices outlined in *The Minneapolis Plan,* the following apply to this proposal:

- Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city (Policy 4.14)
- Minneapolis will maintain and strengthen the character of the city's various residential areas (Policy 9.8)

- Minneapolis will protect residential areas from negative impact of non-residential uses by providing appropriate transitions (Policy 9.14)
- Protect residential areas from the negative impact of non-residential uses by providing appropriate transitions between different land uses (Policy 9.15).
- Minneapolis will preserve and enhance the quality of living in residential neighborhoods, regulate structures and uses which may affect the character or desirability of residential areas, encourage a variety of dwelling types and locations and a range of population densities and ensure amenities including light, air, privacy and open space.

The Planning Division does not believe that the rezoning is supported by the policies of the comprehensive plan. The site is not located in or adjacent to a designated land use feature (e.g., Community Corridor, Commercial Corridor, Neighborhood Commercial Node) that would support rezoning the site to a commercial district. The entire block on which the zoning change is proposed is residential in nature (multiple-family, single-family and supportive housing) with Lutheran Social Services located immediately north of the site. With the exception of the institutional uses located within the general vicinity (and across Oakland Avenue to the east), the area is still predominantly residential. Changing the zoning classification of this property from residential to commercial would allow for a much wider range of uses on the property than currently would be permitted on the site which could have a negative impact on the surrounding residential uses. Further, there are no other commercial uses or zoning classifications located within this vicinity.

The Phillips/Central/Powderhorn Park Small Area Plan was adopted by the City Council in 1997. The subject site is located in Zone 4 of the small area plan. The subject parcel is located within a region with residential uses in which the recommendation is to prioritize the rehabilitation and protection of existing housing (p. 31b). The adopted small area plan does not support the conversion of the existing duplex into a commercial use or restaurant.

Therefore, neither adopted plan supports the proposal to rezone the subject parcel from the R4 district to the C1 district.

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

Restaurants are not an allowed use in the R4 zoning district. In order to convert the existing duplex into a restaurant the parcel must be rezoned to the C1 district. This application is clearly in the interest of the property owner. There does not appear to be a public interest in rezoning the property to a commercial district.

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 Planning Division does not believe that it would be appropriate to rezone this property to C1 as it is not compatible with the surrounding area and there is no policy basis for the rezoning. The site is bordered by R4 zoning on the north, south and west, and by OR2 and OR3 zoning to the east. Surrounding uses include a mixture of residential buildings of various densities as well as institutional/office uses. There are no commercial uses located within the immediate vicinity. Given the surrounding zoning classifications and uses in the area, Staff believes that the proposed C1 zoning district is a spot rezoning and therefore, incompatible in this location. If commercial uses are desired within the neighborhood a larger contextual study should be conducted in order to place commercial uses in the most appropriate locations. A piecemeal approach to the location of commercial uses without proper policy guidance and thorough study is an inappropriate way to integrate commercial uses into a primarily residential/institutional based neighborhood.

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.

There are reasonable uses of the property permitted under the R4 zoning district. The R4 zoning district is a multiple-family district. Permitted uses in the R4 district include, but are not limited to, the following:

- Single-family dwelling
- Two-family dwelling
- Multiple-family dwelling, three (3) and four (4) units
- Community residential facility serving six (6) or fewer persons
- Community garden
- Park, public
- Place of assembly

Planning Staff has included an attachment to the staff report which further details the differences between the existing and proposed zoning classification for the site.

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 Zoning Code, the subject properties and the surrounding area were zoned similarly to what they are zoned today (the properties located across Oakland were zoned B1-2 or office residence district, so the name of the district was changed but generally the allowed uses were similar). There has been a change in the character and trend of

development within the general area due to the expansion of Lutheran Social Services located north of the site as well as with proposed expansions to the St. Mary's University campus (which have yet to be constructed). Further, the former Honeywell campus was purchased by Wells Fargo. The financial institution renovated several of the existing buildings and also added a new parking structure and an office building to the campus. In addition, mixed-use developments have been constructed/are under construction at the intersection of Franklin Avenue and Portland Avenue. The Children's Hospital and the Phillips Eye Institute have both had additions added to their buildings. Although there has been a lot of change in the area, the development trends do not suggest that the current zoning of the property is inappropriate or obsolete. Due to the complete lack of policy basis, as well as the lack of commercial uses or zoning classifications within the immediate vicinity, Staff believes that the rezoning request is unreasonable, inappropriate and inconsistent with the City's adopted policy.

VARIANCES –Variance of the off-street parking requirement from 23 spaces to zero.

Findings as Required by the Minneapolis Zoning Code for the Variance:

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.

Variance of the off-street parking requirement: Staff would argue that the property could be put to a reasonable use under the conditions allowed and strict adherence to the regulations of the zoning ordinance would not cause undue hardship. Based on the Chapter 541 standards, a total of 23 parking spaces would be required for the proposed restaurant. The current use of the property as a duplex requires two off-street parking spaces which are accommodated in the detached garage located on the premises. The existing use of the property is a reasonable use of the site. Allowing a reduction in parking on the premises due to the applicant's proposal to convert a residential use to a potentially intensive commercial use within an existing residential neighborhood is not a reasonable request.

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.

Variance of the off-street parking requirement: The circumstances are not unique to the parcel of land for which the variance is being sought and have been created by the persons presently having an interest in the property. The applicant is proposing to convert a residential use located within a residential neighborhood that currently has adequate parking into a commercial use which will provide no off-street parking. The circumstances necessitating the variance have clearly been created by the applicants.

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.

Variance of the off-street parking requirement: The granting of the parking variance would likely not be in keeping with the spirit and the intent of the ordinance and would likely alter the essential character of the locality and be injurious to the use and enjoyment of other property in the vicinity. The applicant is proposing to provide no parking for the proposed restaurant use. The applicant has submitted a letter from the Swedish Institute which is located at 2600 Park Avenue, nearly 900 feet from the proposed restaurant, which indicates that they will allow the applicants to temporarily use their parking lot for a monthly fee. The Swedish Institute is proposing to expand their structure and all parking on the premises will be needed for that building addition. In addition, the Swedish Institute site is zoned OR2 and Chapter 541 of the Zoning Code does not allow a use in the C1 district to have their parking located in the OR2 district or other residence or office residence district. Additionally, the special provisions section of Chapter 541 limits the distance that required off-site parking can be located from the principal use served. In this circumstance with a proposed use of a restaurant, the furthest the parking can be from the use is 300 feet. If the Planning Commission were to approve the rezoning request and parking variance to allow a restaurant on the premises the implications from the parking variance perspective is that the parking lease from the Swedish Institute would not be in perpetuity. This would only be a temporary solution provided patrons are willing to walk the long distance from the parking lot to the site.

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.

Variance of the off-street parking requirement: Staff believes that the granting of the off-street parking variance could potentially have an impact on the congestion of the public streets but would likely not increase the danger of fire or be detrimental to the public welfare or safety. As previously mentioned, the applicant may be able to temporarily provide off-street parking for the proposed restaurant; however, the provision for parking at the Swedish Institute would only be temporary and not legal. Eventually the surrounding residential neighborhood would need to absorb the additional parking created as a result of placing an arbitrary commercial use into the neighborhood.

RECOMMENDATIONS:

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

The Department of Community Planning and Economic Development - Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **deny** the rezoning petition to change the zoning classification of the property located at 2440 Oakland Avenue from the R4 (Multiple-family) District to the C1 (Neighborhood Commercial) District.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for a variance of the off-street parking requirement from 23 spaces to zero spaces for the property located at 2440 Oakland Avenue.

Attachments:

1. Rezoning Matrix
2. Statement of use / description of the project
3. Findings - Variance
4. Correspondence
5. Zoning map
6. Plans – Site and floor plans
7. Photos
8. Oblique aerial