

Department of Community Planning and Economic Development – Planning Division
Certificate of NonConforming Use, Variances, Site Plan Review
BZZ-2031

Date: November 8, 2004

Applicant: Terrance Rock, dba, Rusty's Tire Service

Address of Property: 2329 West Broadway Avenue

Project Name: Rusty's Tire Service

Contact Person and Phone: Terry Rock, Business applicant (612) 529-9611
Kaye Anderson, CPED (612) 673-5051

Planning Staff and Phone: Lonnie Nichols, Senior Planner (612) 673-5468

Date Application Deemed Complete: October 6, 2004

End of 60-Day Decision Period: December 5, 2004

End of 120-Day Decision Period: February 3, 2005

Ward: 5 Neighborhood Organization: Northside Residents Redevelopment Council

Existing Zoning: C1 (Neighborhood Commercial) and PO (Pedestrian Overlay) for building; and OR2 (High Density, Office Residence), PO (Pedestrian Overlay), and TP (Transitional Parking Overlay) for parking area serving the building.

Proposed Zoning: No Change proposed, not applicable for this application.

Zoning Plate Number: Seven (7)

Legal Description: Not applicable for this application, no rezoning proposed

Proposed Use: Automobile repair minor, tire service repair shop

Concurrent Review: Nonconforming use certificate for an automobile repair minor-tire repair shop, variance to reduce the required side yard setback from 5 feet to 0 feet, variance to reduce the required front yard setback for the first 40 feet adjacent to residential to the first 10 feet adjacent to residential, variance to reduce the two-way drive aisle width from the required 22 feet to 18 feet, and variance to reduce off-street parking from 14 to 10 stalls, and major site plan review for an existing building and parking lot.

Applicable zoning code provisions: Chapter 520 Introductory Provisions, Chapter 521 Zoning Districts and Maps, Chapter 525 Administration and Enforcement-specifically Section

525.520(6,7,8) “to reduce the applicable off-street parking requirements....”, Chapter 530 Site Plan Review, Chapter 531 – Nonconforming Uses and Structures, Chapter 535 Regulations of General Applicability, Chapter 536 Specific Development Standards, Chapter 541-Off Street Parking and Loading, Chapter 543 On-premise Signs, Chapter 547 Office Residence Districts, Chapter 548 Commercial Districts, Chapter 551 Overlay Districts.

Background: This structure located at 2329 West Broadway was built in 1928. The building owner has submitted a one-page narrative (attached) rebutting abandonment of the property and the loss of nonconforming rights. The current owner, Keith Reitman, purchased the property in September 2001. Since the time of purchase, Mr. Reitman has indicated the property (building and adjacent parking lot) has been used continually for a number of auto related storage uses on an informal basis. Mr. Reitman has also indicated that he ran classified ads in the Star Tribune and has regularly entertained and reviewed business proposals for potential tenants. Prior to September 2001, the applicant has indicated the property was operated as a Tire Mart by the Stein family for over 50 years. The CPED community development division has helped facilitate this land use application in an effort to move Rusty’s Tire Service from its current location at 2306 West Broadway to 2329 West Broadway to provide the space required for the St. Anne’s Senior Housing project. According to the Hennepin County webpage, the parcel size (building and adjacent parking lot) is 10,368 sf (81 x 128).

Findings as Required By The Minneapolis Zoning Code for a Nonconforming Use Certificate for an automobile repair minor use located at 2329 West Broadway Avenue.

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

- 1. Former City Council action:** In 1970 (R-587) and again in 1980 (P-463), the City Council denied applications by the previous owners of the site to rezone the property from the B3S-1 (Community Service District) (building parcel) and B3SP-1 (Community Service Parking District) (parking lot parcel) to the B3C-1 (Community Commercial District) to allow building expansions. This site was rezoned from B3S-1 and B3SP-1 to C1 and OR1 in 1999 when the City Council adopted the new zoning code. As a result of the West Broadway rezoning study, the parking lot parcel was rezoned from OR1 to OR2 and TP, and the entire parcel was included in a Pedestrian Overlay District. Neither the C1 nor the PO allow automobile repair minor.
- 2. Period between the Council’s action and the present:** The Zoning Code [Section 531.30 (2)] states the “A property owner may rebut the presumption of abandonment....and.... shall bear the burden of proof” that discontinuance of the nonconforming use or structure for a specified period was due to circumstances beyond the property owner’s control. The letter from the applicant establishes a good faith effort and clear intent to continue to market and use the nonconforming property for an automobile repair minor use.

- 3. Nonconforming rights:** Based on the above, the Department of Community Planning and Economic Development Planning Division concludes the applicant has established the previous and current property owners did not abandon the property since the City Council action to adopt the new zoning code in 1999 and subsequent City Council action in 2003 for the West Broadway Rezoning study, and that, nonconforming rights for an automobile minor use on the property located at 2329 West Broadway have been retained.

Findings Required by the Minneapolis Zoning Code for a variance to reduce the required side yard setback from 5 feet to 0 feet:

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

The property has a limited amount of space available for parking and maneuvering vehicles located on the East side of the building. The applicant has applied for setback, drive aisle width, and parking variances in an effort to make the lot functional and bring it into closer compliance with the zoning code. Requiring the full 5 foot setback would not allow the use of the parcel. 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.

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

The building was constructed in 1928 and the existing footprint of development (building and parking area) on the site was established approximately 50 years ago. The circumstances are unique to the parcel of land for which the variance is sought in that it fronts a commercial corridor and is adjacent to a dead end alley at the rear. The immediate area has also recently been studied for development opportunities by the CPED community planning division and experienced zoning changes. These conditions were not created by the applicant.

- 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 parking area on the East side of the building has been historically used (without striping) in a similar manner as to the proposed parking configuration of the applicant's site plan. The building was constructed in 1928 and the existing footprint of development on the site was established approximately 50 years ago. The granting of the variance will recognize current conditions and will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality.

- 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 proposed variance should 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.

Findings Required by the Minneapolis Zoning Code for a variance to reduce the required front yard setback for the first 40 feet adjacent to residential to the first 10 feet adjacent to residential:

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

The applicant's site plan shows that a landscaped area will be provide for the first 10 feet adjacent to the neighboring residential structure. See finding #1 in the setback variance section of this report for additional information.

- 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.**

See finding #2 in the setback variance section of this report for additional information.

- 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.**

See finding #3 in the setback variance section of this report for additional information.

- 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.**

See finding #4 in the setback variance section of this report for additional information.

Findings Required by the Minneapolis Zoning Code for a variance to reduce the two-way drive aisle width from the required 22 feet to 18 feet:

- 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.**

See finding #1 in the setback variance section of this report for additional information.

- 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.**

See finding #2 in the setback variance section of this report for additional information.

- 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.**

See finding #3 in the setback variance section of this report for additional information.

- 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.**

See finding #4 in the setback variance section of this report for additional information.

Findings Required by the Minneapolis Zoning Code for a variance to reduce off-street parking from 14 to 10 stalls:

- 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.**

See finding #1 in the setback variance section of this report for additional information.

- 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.**

See finding #2 in the setback variance section of this report for additional information.

- 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.**

See finding #3 in the setback variance section of this report for additional information.

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.**

See finding #4 in the setback variance section of this report for additional information.

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 located approximately five feet back from the property along West Broadway Avenue, and has the principal entrance facing the street. The area between the building and the lot line does not include amenities. During Preliminary Plan Review (PPR), the Licensing department suggested landscaping and others mentioned decorative fencing, a bicycle rack or art sculpture be located at the NE corner of the building to prevent vehicles from parking in that area. The front of the building is brick with windows that need cleaning and/or replacement. The rest of the building is bare or painted concrete block. Staff is requiring that the applicants repair and paint the concrete block sections of the building, including the walk through and overhead garage doors on the East side of the building. The property owner has indicated they will replace the front windows, remove existing signage, tuck point the brick façade, and provide exterior lighting to the site. During PPR, the Crime Prevention Through Environmental Design Officer suggested the applicant cover the building with an anti-graffiti coating. Public Works staff questioned the accuracy of the scale of the site plan. Planning staff is requiring the final site plan be supported by a survey, since the Hennepin County Webpage indicates the lot is 81.4 feet wide and the site plan indicates there is only 77.6 feet of available space.

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.**

A clear and well-lighted walkway of at least four (4) feet in width is provided at the front of the building. The property has a limited amount of space available for parking and maneuvering vehicles located on the East side of the building, and the applicant has applied for variances due to the physical constraints of the site. There is a dead end alley at the rear of the building. During Preliminary Plan Review, Public Works recommended that vehicles do not exit into the alley because of the residential mix on the block, but that sliding gates along the alley could be acceptable. Staff is recommending that the proposed sliding gate be allowed as a secondary outlet to the site, provided it remains locked at night and is monitored and used sparingly during the day. The applicant will need to work with their garbage hauler to determine whether the gates screening the dumpster should open to the interior of the lot as proposed or be replaced with a sliding gate opening to the alley. Snow storage is shown on the map. The proposed use requires 14 parking stalls ($3003/300 = 10 + 2$ parking stalls per (2) service bays = 4). The applicant has proposed nine standard size stalls and one HC van accessible stall, and applied for a parking variance. The parking area will need to be repaired, resurfaced, and striped.

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.**
- **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.**

The total lot area is 10,368 sf and the building footprint is 4720 sf. Section 530.150 of the zoning code requires that not less than twenty (20) percent of the site not occupied by buildings (or in this application 1130 sf) shall be landscaped, (calculation: lot area – building footprint x 20% = 10,368 sf – 4720 = 5648 x .20 = 1129.6). Section 530.150 of the code also requires not less than one (1) canopy tree for each one thousand (1000) sf and not less than one (1) shrub per each two-hundred (200) sf of the site not occupied by buildings. In order to be in compliance, the required plant count for this site is one (1) tree and six (6) shrubs. The applicants have proposed one (1) tree and four (4) shrubs of undeclared variety. Due to the requested realignment of the curb cut by Public Works, the applicant now has the opportunity to provide some additional square footage of landscaping by enlarging the front yard setback area adjacent to residential. Planning staff is recommending approval of alternative compliance on

landscaping area, but believes the applicant can provide the required number of trees (1) and shrubs (6) on the final site plan. Staff recommended a minimum of a one foot setback variance on the east side of the lot adjacent to the neighboring residential structure. Staff is requiring a 4 foot high solid wood fence be provided along this interior lot line from the dumpster enclosure next to the alley up to the established front yard, where decorative fencing three feet in height be provided and wrapped around to the front lot line over to the curb cut. At PPR, Public Works-Sewer Design requested that the pavement actually drains as shown on the plans.

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.**

Lighting shall comply with the requirements of Chapter 535 and Chapter 541 of the zoning code. In order to block headlights from shining onto a residential property, staff is requiring a 4 foot high solid wood fence be provided along this interior lot line from the dumpster enclosure next to the alley up to the established front yard, where decorative fencing three feet in height be provided and wrapped around to the front lot line over to the curb cut. The proposed site plan does not block views of important elements of the city, generate wind currents at ground level, or shadow public spaces or adjacent properties. The City's crime prevention through environmental design (CPTED) specialist has reviewed the plan and recommends that all vegetation should follow the 3 foot - 6 foot rule, which states that screening should not exceed three feet in height and that the canopies of trees should be over seven feet in height allowing a window of visibility into the site. The site plan is an adaptive re-use of a former automobile repair minor, Tire Mart use.

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

The comprehensive plan shows this area of West Broadway Avenue as a commercial corridor. Chapter four of *The Minneapolis Plan* states the following applicable objectives and implementation steps about commercial corridors:

4.1 Minneapolis will encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods.

Implementation Steps

Develop standards based on a recognition of the qualities that make urban corridors desirable, viable and distinctly urban, including; diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements which add interest at the scale of the pedestrian.

Designate certain streets as commercial corridors with the adoption of this Plan.

4.3 Minneapolis will support development in Commercial Corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.

Implementation Steps

Ensure that commercial uses do not negatively impact nearby residential areas.

Develop economic development incentives for the rehabilitation, re-use and revitalization of older or historic commercial buildings and districts.

Ensure that parking structures and surface lots conform with identified design principles.

Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

Require that street design for Commercial Corridor streets provide automobile access and parking in keeping with traditional urban form

Require that street designs provide high quality access to Commercial Corridors for pedestrians and cyclists, as well as facilitate transit service and through passage of traffic.

4.4 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

Implementation Steps

Provide for a range of commercial districts that provide the services required by the residents and businesses.

Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

Encourage coordination and communication between business associations and neighboring residents groups.

ZONING CODE:**Specific Development Standards:**

The proposed development is subject to the following specific development standards from Chapter 536 of the zoning code:

Automobile repair, minor.

(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 is prohibited.

(4) The sale of vehicles shall be prohibited.

(5) In the C1, C2 and C3S Districts, all service vehicles associated with the establishment shall be parked or stored in an enclosed structure after business hours.

(6) 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.

(7) 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.

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

Hours of Operation:

Regular hours of operation for the C-1 district are from 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.

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.

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.

Signage:

There is existing signage on the building that staff is recommending be removed from the building. All new signage is subject to meet the requirements of Sections 531 and 543 of the Zoning Code.

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

Staff is not aware of any other applicable development plans or objectives adopted by the city council applicable to this application.

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.**

Staff is recommending alternative compliance be granted on landscaping area in exchange for fencing at the rear of the lot, wood fencing on the interior lot line to screen headlights, and decorative fencing at the NE corner of the lot as an amenity. The applicants will also remove and maintain the weeds in the parking lot and sidewalk in front of the building.

Recommendation of the Department of Community Planning and Economic Development Planning Division for the Nonconforming Use Certificate:

The Department of Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the Nonconforming Use Certificate for an automobile repair minor use located at 2329 West Broadway Avenue in the C-1 (Neighborhood Commercial), PO (Pedestrian Overlay), and TP (Transitional Parking Overlay) zoning districts.

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 **approve** the variance to reduce the required side yard setback from 5 feet to a minimum of 1 foot.

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 **approve** the variance to reduce the required front yard setback for the first 40 feet adjacent to residential to the first 18 feet adjacent to residential, to be in line with the approved curb cut and west end of the parking stalls.

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 **approve** the variance to reduce the two-way drive aisle width from the required 22 feet to 18 feet.

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 **approve** the variance to reduce off-street parking from 14 to 10 stalls.

Recommendation of the Department of Community Planning and Economic Development Planning Division for the site plan review:

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for Rusty’s Tire Service, an automobile repair minor use located at 2329 West Broadway Avenue in the C-1 (Neighborhood Commercial), PO (Pedestrian Overlay), and TP (Transitional Parking Overlay) zoning districts; with the following conditions:

- 1) The approval of a nonconforming use certificate and applicable variances for the automobile repair minor business proposed at 2329 West Broadway Avenue.
- 2) The Community Planning and Economic Development Planning Division shall review and approve the final site and landscaping plans.
- 3) The final site plan shall show fencing with sliding gate(s) along the alley, wood fencing on the interior lot line to screen headlights, decorative fencing at the NE corner of the lot as an amenity, and be supported by a boundary survey confirming the location of the lot lines.

- 4) The concrete block sections of the building, including the walk through and overhead garage doors on the East side of the building shall be repaired and painted. The applicant will consider the use of anti-graffiti coating on the building.
- 5) The property owner has indicated and the site plan will state that the front windows will be replaced to provide the same amount of glazing on the building, the existing signage will be removed, the brick façade will be tuck pointed, and exterior lighting will be added to the site.
- 6) The parking area shall be repaired, resurfaced, and striped, and the property will be maintained for weeds.
- 7) The existing signage will be removed from the building. New signage shall comply with the requirements of the code.
- 8) The applicants will consider adding an amenity near the NE corner of the building.
- 9) The applicant shall provide a performance bond in an amount equal to 125% of the cost of site improvements or the permit may be revoked for noncompliance.
- 10) All site improvements shall be completed by November 1, 2005 unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

Attachments:

1. Staff report including zoning code information
2. Statement of use
3. Findings
4. Correspondence
5. Zoning maps
6. Site Plan
7. Photos