



PLANNING COMMISSION
City Hall—Council Chambers, 590 40th Ave NE
Tuesday, November 01, 2022
6:00 PM

MINUTES

CALL TO ORDER/ROLL CALL

The meeting was called to order at 6:03 pm by Chair Sahnaw.

Commissioners Present: Laurel Deneen, Stan Hoium, Tom Kaiser, Mike Novitsky, Eric Sahnaw, Mark Vargas, Clara Wolfe, Council Liaison John Murzyn, Jr.

Also Present: Aaron Chirpich, Community Development Director; Bob Kirmis, Planning Consultant; Alicia Howe, Administrative Assistant; Stephen Bona, Bona Management Company

APPROVE MINUTES

1. Approval of September 7, 2022 Planning Commission Meeting Minutes

Motion by Wolfe, seconded by Novitsky, to approve the Planning Commission Meeting Minutes of September 7, 2022. All ayes. MOTION PASSED.

PUBLIC HEARINGS

2. Conditional Use Permit to Allow Accessory Outdoor Storage at 660 39th Avenue NE

Chirpich introduced Kirmis, Planning Consultant, and stated he would be speaking on this item.

Introduction: Kirmis reported that Bona Management Company, LLC has requested approval of a conditional use permit to the allow accessory outdoor storage of vehicles in conjunction with an automobile repair use (Din Auto, Inc.) located at 660 39th Avenue NE.

Vehicles to be stored outdoors will be those awaiting repairs or pick-up following repair work and will be parked south of the repair shop building. A maximum of 79 vehicles are proposed to be stored outdoors at one time.

The subject one-acre site is zoned I-2, General Industrial. Accessory outdoor storage activities are listed as a conditional use in the district and are therefore subject to conditional use permit processing. Automobile repair uses (the principal use of the property) are listed as permitted uses in the I-2 District.

The subject 3,120 square foot building located on the site is presently occupied by an auto repair shop operated by Din Auto. Din Auto will also have towing vehicles onsite that are used to tow customer vehicles to the shop for repair. While not formally permitted by the City, the outdoor storage of vehicles has historically taken place upon the subject property.

The subject site is bordered on all sides by industrial uses, several of which include outdoor storage.

Comprehensive Plan: The City's 2040 Comprehensive Plan directs industrial use of the subject site. This land use directive is implemented via the application of the I-2, General Industrial zoning designation upon the subject property. The proposed principal and accessory uses upon the site are consistent with the land use goals of the Comprehensive Plan.

Zoning Ordinance: Within the applicable I-2, General Industrial District, outdoor storage is allowed by conditional use permit. In this regard, Section 9.107(C)(35) of the Zoning Ordinances imposes certain conditions upon outdoor storage uses. The following is a listing of the required conditions followed by a Staff comment:

- a) The outdoor storage area shall be accessory to a commercial or industrial use.
Staff Comment. Outdoor storage activities upon the site must be accessory to the principal use (the automobile repair business). In this regard, the storage of vehicles which are not awaiting repair and/or pick-up on the site are not considered an accessory to the principal use and therefore are not allowed to be stored upon the property. It is recommended that this requirement be made a condition of conditional use permit approval.
- b) Outdoor storage within the public right-of-way is prohibited.
Staff Comment. The proposed location for the outdoor storage is south of the building and within property boundaries. As a condition of conditional use permit approval, it is recommended that the outdoor storage of vehicles within the public right-of-way be prohibited.
- c) All outdoor storage areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located. The setback requirements for principal buildings within the I-2 District are as follows: Front yard: 20 feet Side yard: 12 feet Rear yard: 24 feet
Staff Comment. Except for the west side yard where a 2-foot structure setback exists, all applicable principal building setback requirements have been satisfied. To be noted is that the existing 2-foot side yard setback was legally established and is therefore considered a legal nonconforming condition which holds grandfather rights. Also, to be noted is that parking areas in the I-2 District are subject to a minimum side yard setback requirement of 5 feet. Presently, the proposed outdoor storage area on the site extends to perimeter property lines with no setbacks. Again, such setback condition is considered a legally nonconforming condition.
- d) Outdoor storage areas shall be located in rear yards or in the side yard behind the front building line of the principal structure.

Staff Comment. The submitted site plan and accompanying conditional use permit application indicate that the outdoor storage area will be located south of the building and contained in the rear yard.

- e) The storage area shall be fenced and screened from adjacent uses and the public right-of-way. Required screening shall consist of a fence, wall, earth berming and/or vegetation no less than six (6) feet in height and no less than 80% opaque on a year-round basis.

Staff Comment. The proposed outdoor storage area is currently secured and screened via a chain link fence with a mesh fabric cover (see photograph below). The fence appears to measure six feet in height.

- f) All goods, materials and equipment shall be stored on an impervious surface.
Staff Comment. The site plan and accompanying the conditional use permit application indicate that the proposed outdoor storage area is currently surfaced in asphalt. Thus, this condition has been satisfied.

- g) All goods, materials and equipment shall be stored in an orderly fashion, with access aisles of sufficient width to accommodate emergency vehicles as needed.
Staff Comment. Appropriately, the submitted site plan illustrates individual outdoor vehicle parking stalls and drives aisles. In total, 79 vehicle parking spaces are illustrated. The proposed vehicle parking stalls (9' x 20') and drive aisles (24' in width) are appropriately dimensioned. As a condition of conditional use permit approval, all individual vehicle parking stalls within the outdoor storage area should be delineated with pavement striping such that they are easily identifiable. In addition, drive aisles within the outdoor storage area, as depicted on the submitted site plan dated August 29, 2022, shall be maintained to ensure proper site circulation and emergency vehicle access.

- h) The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the screening provided.

Staff Comment. It is recommended that this condition be imposed as a condition of conditional use permit approval.

Other issues.

1. Access: Primary access to the site is provided from the north along 39th Avenue NE. A secondary, gated access is also provided on the south side of the site along 38th Place NE. To ensure emergency vehicle access to the site, it is recommended that the Fire Department be provided a means to access the site from the south (from 38th Place NE). This issue should be subject to further comment and recommendation by the Fire Department.

2. Parking: According to the Zoning Ordinance, automobile repair facilities must provide one parking space per 300 square feet of gross floor area, plus two spaces per service bay. The existing automobile repair shop measures 3,120 gross square feet in size. As a result, a

total of 11 spaces are required, plus one space per service bay. Of the required spaces, one shall be designated as a disability parking stall. The submitted site plan does not illustrate customer and employee parking stalls. Based upon the aerial photograph below, it appears that 10 off-street parking stalls exist on the north and east sides of the building. As a condition of conditional use permit approval, the site plan should be modified to illustrate required offstreet parking stalls.

3. Signage: The applicants have not indicated whether new signage is proposed upon the site. Signs are required to have a building permit and are subject to review for compliance by City Staff. As a condition of conditional use permit approval, all new signage shall be subject to sign permit and must be reviewed and approved by the City.

4. Trash: Handling and Loading It is unclear where trash handling and loading activities will occur on the site. As a condition of conditional use permit approval, it is recommended that the submitted site plan be modified to illustrate trash handling and loading locations.

5. Lighting: According to the submitted application materials, outdoor lighting presently exists on the south side of the repair shop building. It is assumed such lighting illuminates the outdoor storage area to the south for security purposes. Section 9.106(K) of the Zoning Ordinance imposes the following conditions upon exterior lighting: (1) In general. No use shall be operated or occupied so as to create light or glare in such an amount or to such a degree of intensity as to constitute a hazardous condition or a public nuisance. Lighting shall not create a sense of brightness that is substantially greater than the ambient lighting conditions so as to cause annoyance, discomfort, decreased visibility or a hazard for vehicular or pedestrian traffic. (2) Lighting fixtures. Lighting fixtures shall be of a downcast with flat lens, cut-off type that conceals the light source from view and prevents light from shining on adjacent property. At no time should a fixture be aimed and/or tilted above a horizontal plane in commercial or industrial districts, with the exception of architectural up-lighting or landscape lighting. (3) Lighting intensity. Lighting shall not directly or indirectly cause illumination or glare in excess of one-half footcandle as measured at the closest residential property line and three footcandles as measured at the closest street curb line or non-residential property line. Lighting shall be maintained stationary and constant in intensity and color, and shall not be of a flashing, moving or intermittent type. As a condition of conditional use permit approval, all exterior lighting on the site must comply with the preceding requirements as provided in Section 9.106(K) of the Zoning Ordinance.

6. Neighborhood Notification: As required, neighborhood notification of the conditional use permit application has been provided to property owners within 350 feet of the subject property. At the time of this report, City Staff has not received any comments from neighboring property owners regarding the development proposal.

7. Staff Review: The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials. No concerns with the development plan were conveyed to Planning Staff regarding this application.

Findings of Fact: In addition to the conditions cited earlier which are specific to “outdoor storage” uses, the Zoning Ordinance also outlines certain requirements that all conditional use permits must meet in order to be considered for approval. The following is a listing of such requirements and related Staff findings:

(a) The use is one of the conditional uses listed for the zoning district in which the property is located, or is a substantially similar use as determined by the Zoning Administrator.

Staff Comment: “Outdoor storage” as an accessory use is specifically listed as a conditional use in the I-2, General Industrial District under Section 9.111(E)(3)(c). This requirement has been satisfied.

(b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.

Staff Comment: The City’s 2040 Comprehensive Plan guides the subject site for “industrial use.” The proposed use is permitted within the applicable I-2, General Industrial zoning district and will, with conditions, be in harmony with the general purpose and intent of the 2040 Comprehensive Plan.

(c) The use will not impose hazards or disturbing influences on neighboring properties.

Staff Comment: Provided certain conditions of conditional use permit approval are imposed and satisfied, Staff does not believe the proposed use will have disturbing influences on neighboring properties.

(d) The use will not substantially diminish the use of property in the immediate vicinity.

Staff Comment: The site is located in an area which is characterized by industrial uses. The proposed use is not expected to negatively impact properties in the immediate vicinity.

(e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

Staff Comment: The propose outdoor storage use will occupy an of the site which has historically been used for the outdoor storage of vehicles. With the possible exception of new site signage at some point, no significant exterior changes to the site and building design are proposed. It is the opinion of Staff that the placement of vehicles in a more organized manner on the site (in accordance with the submitted site plan) will serve to improve the appearance of the site. In this regard, it is believed the character of the neighborhood may improve.

(f) The use and property upon which the use is located are adequately served by essential public facilities and services.

Staff Comment: The site is presently serviced by adequate utilities and services. No changes to public services or facilities are proposed.

(g) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.

Staff Comment: Traffic generated by the proposed use is not expected to result in congestion along either 39th Avenue NE to the north or 38th Place NE to the south.

(h) The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.

Staff Comment: The proposed accessory outdoor storage use is not expected to have a negative cumulative effect on the area.

(i) The use complies with all other applicable regulations for the district in which it is located.

Staff Comment: Recognizing that the existing building setback to the west and zero lot line parking setback within the outdoor storage area represent legal nonconforming conditions, the proposed use will comply with all other applicable I-2, General Industrial District regulations.

Summary/Recommendation: The applicant has requested approval of a conditional use permit to allow accessory outdoor storage in association with an automobile repair business upon property located at 660 39th Avenue NE.

In review of the conditional use permit application materials, Staff finds the request to be a reasonable use of the property which, with conditions, will not negatively impact the health, safety, or welfare of the City, its residents, and property owners.

As a result, Staff recommends that the Planning Commission recommend that the City Council approve of the conditional use permit as presented subject to the conditions outlined below:

1. Outdoor storage upon the subject site shall be limited to vehicles which are accessory to the principal use of the property (automobile repair) and awaiting repair and/or pick-up. Vehicles which are not awaiting repair and/or pick-up on the site are not considered an accessory to the principal use and therefore are not allowed to be stored upon the property.
2. There shall be no storage of junk vehicles used for parts on the premises.
3. There shall be no vehicles for sale on the property, and customers shall not buy vehicles from the site.
4. All vehicles stored on the premises shall be currently licensed, registered and insured.
5. The outdoor storage of vehicles within the public rights-of-way shall be prohibited.
6. All vehicles to be stored outdoors shall be located on an impervious surface.
7. In accordance with the submitted site plan dated August 29, 2022, a maximum of 79 vehicles shall be stored upon the site at one time.
8. Outdoor storage activities shall be limited to the rear yard of the site (south of the automobile repair building).

9. All individual vehicle parking stalls within the outdoor storage area shall meet the required dimensions outlined in Section 9.106(L) of the Zoning Ordinance, and be delineated with pavement striping, as depicted on the submitted site plan dated August 29, 2022.
10. Drive aisles within the outdoor storage area, as depicted on the submitted site plan dated August 29, 2022, shall be maintained to ensure proper site circulation and emergency vehicle access.
11. The Fire Department shall be provided a means to access the site from the south (from 38th Place NE) in the event of emergency. This issue shall be subject to further comment and recommendation by the Fire Department.
12. The site plan shall be modified to illustrate required off-street parking stalls (11 spaces, plus one space per service bay). Of the required spaces, one shall be designated on the site plan and on the property as a disability parking stall.
13. All new signage shall be subject to sign permit and shall be reviewed and approved by the City.
14. The submitted site plan shall be modified to illustrate trash handling and loading locations.
15. All exterior lighting on the site shall comply with the preceding requirements as provided in Section 9.106(K) of the Zoning Ordinance.
16. All required state and local codes, permits, licenses and inspections shall be met and be in full compliance.

Kaiser asked what triggered the need for a Conditional Use Permit (CUP). Chirpich stated that this area had been identified previously as an area where there were concerns about outdoor storage on several properties in the industrial district; Staff notified property owners in violation of City ordinance. He said that the previous tenant at this property and the owner were notified that there was not a CUP for outdoor storage. Since then, the tenant has moved out, and Stephen Bona, came in to notify the City of the new plans for their new tenant's business which triggered the evaluation of outdoor storage and the need for a CUP again.

Chirpich said there are some additional properties that are still not compliant in the vicinity and those properties are next on the list for compliance check-ins, but there are also some properties in the area that do have CUP's for outdoor storage but are violating the conditions. He further stated that with a CUP with conditions, they can hold property owners accountable.

Kaiser asked how long the CUP would be in effect. Chirpich stated that CUP's run with the property, they do not expire, unless it is revoked or discontinued for a period of one year. He further stated that if an owner violates the conditions, the City notifies the owner and they have a certain amount of time to correct the issue, and then it goes to revocation, if necessary, which needs to be approved by Council.

Vargas asked about the test well on the survey and stated it is close to the newly classified flood zone on Huset. Chirpich deferred to the applicant and said that Staff hasn't received any Minnesota Pollution Control Agency (MPCA) correspondence recently, but he is aware of monitoring wells throughout the City. Bona said he did not have any other information to provide on the well.

Vargas made comment on the grading and storm drainage for the property. Chirpich stated that to regulate stormwater at the watershed level, you need to disturb a certain amount of the site area; Staff also relies on Public Works for the evaluation of that and they have reviewed the plans.

Vargas asked about the turnarounds for emergency vehicles and if it applies to outdoor storage. Chirpich said that they have code compliant drive aisles, and the fire department did evaluate the plans. Vargas made note of the two fire hydrants near the property.

Vargas asked about the opaqueness of the fence. Chirpich mentioned the condition within the CUP, "the fence must be no less than six feet in height and no less than 80 percent opaque". Chirpich stated that the standard could be evaluated in the future, but it is of Staff's opinion that the current fence material is compliant, and the current standard is working.

Hoium said that it states that the surface is already paved and questioned if that was fact and if it was in reasonable condition. He also mentioned that there wasn't discussion about unlicensed or junk vehicles. Chirpich said that the pavement is acceptable, and Staff has conveyed to the applicant that there has been a significant amount of time spent trying to clean up this property and other properties in the area, and specifically discussed with the owner what is acceptable for outdoor storage. He also referenced similar issues with the Jeff, Bobby, and Steve's (JBS) impound lot nearby, and explained how JBS, does not have a principal use in comparison to the subject property. Chirpich stated that Staff has laid out the conditions and this CUP allows for the City to hold them to compliance; he further noted the specific conditions for unlicensed or junk vehicles.

Hoium asked about how the enforcement will work and if the lot is accessible. Chirpich stated that these conditions have been tested and held up by the courts. He noted that enforcement can be challenging but aerial photos are a resource, but the City isn't going to send enforcement in for compliance checks if it's orderly and improved according to the CUP conditions.

Novitsky asked for clarification on what type of auto repair business it was. Bona stated it would be a salvage operation, buying for repair and selling the vehicles. He said there is a towing component with auto repair; they would do body, vehicle, and mechanical repair and detailing.

Novitsky asked how big the body shop was. Chirpich stated it was approximately 3,000 square feet.

Novitsky further asked why 75 outdoor spots are needed for that small of a shop. Bona stated that realistically they did not need that many spaces, but if they were going through the CUP, they wanted to maximize the space.

Novitsky asked about turnover time of a vehicle. Bona provided some history of the businesses that have been in that space and stated that there was a tenant in there for 10 years most recently that vacated in 2021. He said when the turnover of the space happened, they saw it as an opportunity to clean it up and make sure that operations were following the requirements of the City. He further stated that this business is going to operate differently than the previous business and will not be an impound lot.

Wolfe asked about the lease and how they plan to enforce the tenant keeping to the standards. Bona said they have language within the lease but they have communicated clearly about the expectations and he stated he is there frequently as well.

Chirpich noted the Bona lives close to the property and can easily keep an eye on it.

Sahnaw asked about condition 15 about lighting. Chirpich said they have the specifics for lighting in the Staff report; Staff's view is if there is a nuisance complaint, then they would go in to investigate and enforce it if needed.

Sahnaw made comment on the back of the lot and stated it would be very dark. Further discussion ensued about current lighting and lighting on the businesses nearby.

Chirpich stated that the police department said that lighting is a general concern for outdoor storage, however, they didn't see that it was something that needed to be addressed currently.

Sahnaw opened the public hearing.

No one wished to speak.

Motion by Hoium, seconded by Wolfe, to waive the reading of draft Resolution 2022-98, there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Kaiser, seconded by Hoium, that the Planning Commission recommends that the City Council approve draft Resolution 2022-98, approving a Conditional Use Permit for

*accessory outdoor storage within the I-2, General Industrial District in the City of Columbia Heights, Minnesota, subject to certain conditions stated in the resolution. All ayes.
MOTION PASSED.*

OTHER BUSINESS

Chirpich stated that there was no other business and Staff was not aware of any potential applications for December 2022; therefore, a meeting would not be held.

ADJOURNMENT

Motion by Wolfe, seconded by Novitsky, to adjourn the meeting at 6:47 pm. All ayes. MOTION PASSED.

Respectfully submitted,



Alicia Howe, Administrative Assistant