



**CITY OF SAINT PAUL**  
Christopher B. Coleman, Mayor

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DATE: May 10, 2013  
TO: Planning Commission  
FROM: Zoning Committee  
SUBJECT: Results of May 9, 2013, Zoning Committee Hearing

**NEW BUSINESS**

		<u>Staff</u>	<u>Recommendation</u> <u>Committee</u>
1.	<b>Icy Cup Farmers Market ( 13-170-946 )</b> Conditional use permit for outdoor sales	Approval with conditions	Approval with conditions ( 5 - 0 )
	<b>Address:</b> 63 George St W NE corner at Stryker		
	<b>District Comment:</b> District 3 recommended approval		
	<b>Support:</b> 3 people spoke, 1 letter		
	<b>Opposition:</b> 0 people spoke, 2 letters		
	<b>Hearing:</b> Hearing is closed		
	<b>Motion:</b> Approval with conditions		
2.	<b>Pope Automotive ( 13-174-966 )</b> Establishment of nonconforming use as vehicle parking accessory to auto repair garage at 991 Front Avenue, with variance of paving requirement	Denial	Approval of nonconforming use with conditions, and denial of the variance ( 5 - 0 )
	<b>Address:</b> 977 Chatsworth St N between Front and Hatch		
	<b>District Comment:</b> District 6 recommended approval		
	<b>Support:</b> 1 people spoke, 1 letter		
	<b>Opposition:</b> 0 people spoke, 0 letters		
	<b>Hearing:</b> Hearing is closed		
	<b>Motion:</b> Approval of nonconforming use with conditions, and denial of the variance		

		<u>Staff</u>	<u>Recommendation</u> <u>Committee</u>
3.	<p><b>Macalester College shared parking ( 13-173-821 )</b> Conditional Use permit for shared commercial parking in an institutional parking lot</p> <p><b>Address:</b> 1655 Grand Ave between Cambridge and Macalester</p> <p><b>District Comment:</b> District 14 recommended approval</p> <p><b>Support:</b> 0 people spoke, 1 letter</p> <p><b>Opposition:</b> 0 people spoke, 0 letters</p> <p><b>Hearing:</b> Hearing is closed</p> <p><b>Motion:</b> Approval with conditions</p>	Approval with conditions	Approval with conditions ( 5 - 0 )

		<u>Staff</u>	<u>Recommendation</u> <u>Committee</u>
4.	<p><b>Old Home Plaza ( 13-172-049 )</b> Conditional use permit to allow a maximum height of 45 feet for new construction</p> <p><b>Address:</b> 370 University Ave W between Western and Virginia</p> <p><b>District Comment:</b> District 8 recommended approval</p> <p><b>Support:</b> 0 people spoke, 1 letter</p> <p><b>Opposition:</b> 0 people spoke, 0 letters</p> <p><b>Hearing:</b> Hearing is closed</p> <p><b>Motion:</b> Approval with a condition</p>	Approval with a condition	Approval with a condition ( 5 - 0 )

city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, Pompeyo Sanchez, File # 13-170-946, has applied for a conditional use permit for outdoor sales under the provisions of §65.525 of the Saint Paul Legislative Code, on property located at 63 George St W, Parcel Identification Number (PIN) 072822140031, legally described as West St Paul Blks 1 Thru 99 S 30 Ft Of W 90 Ft Lot 4 & W 90 Ft Of Lot 5 Blk 84; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 9, 2013, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant is seeking a conditional use permit for outdoor uses, commercial at 63 W. George Street to allow a farmers market. According to the application, the market will operate every Saturday from 9 a.m. to noon from June to September. Vendors will be allowed to set up beginning at 8 a.m. and will have until 1 p.m. to tear down the market. The market will primarily sell fruits and vegetables. Some specialty vendors may sell meat, honey, and baked goods and will follow all Saint Paul licensing and health codes.
2. §65.525 lists standards and conditions for outdoor commercial uses not otherwise allowed in the district. It states: *the use shall not conflict with off-street parking, off-street loading and the system of pedestrian flow. The planning commission, in determining that the use is harmonious with adjacent uses, shall require the submission of a site plan including a floor plan and all uses within three hundred (300) feet of the boundary of said site superimposed on said site plan.*

This finding is met. The use will not conflict with off-street parking, off-street loading and the system of pedestrian flow. Vendors will load and unload prior to the market's opening and will park in on-street spaces. The system of pedestrian flow will not be disturbed because the sidewalks will not be used for the market and internal flow of pedestrians will be maintained. In addition, the building requires two off-street spaces. The property currently has 10 off-street spaces. Six off-street spaces will be used for the farmers market/outdoor sales use and three, including one handicapped space, will be available to patrons of the Icy Cup use and the market. The applicant has provided two site plan options. The applicant/owner of the property is proposing two site plans one with and one without an arbor that is proposed to be constructed in the parking lot in the near future. The first site plan outlines 10 eight x eight tents for vendors to the rear of the lot, adjacent to the store. The second site plan outlines 10 eight x eight tents for vendors adjacent to the store to the front of the lot and partially under the proposed arbor. In both situations required parking for vehicles on the site will be maintained.

moved by \_\_\_\_\_  
seconded by \_\_\_\_\_  
in favor \_\_\_\_\_  
against \_\_\_\_\_

3. §61.501 lists five standards that all conditional uses must satisfy:

- (1) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The West Side Community Plan in Urban Agriculture objective #1 seeks to “promote locally grown food to address food security issues on the West Side.” This farmers market would provide locally grown food to the neighborhood.
- (2) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. Vehicular access to and from the site will be from the George Street side of the property in one scenario and on the Stryker side in the other scenario. There are three parking spaces, including one handicapped space, for the patrons of the market and the Icy Cup establishment in both scenarios. For both scenarios, this will provide adequate ingress and egress and will minimize traffic congestion in the public streets.
- (3) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The existing character of development in this area is general business uses (zoned B3) and one- and two-family homes (zoned RT1). A farmers market will not be detrimental to the existing character or endanger the public health, safety and general welfare; rather it will add value to the neighborhood by providing access to healthy food.
- (4) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use is seasonal, on Saturday mornings, and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- (5) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The use is a conditional use in the B3 district

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Pompeyo Sanchez for a conditional use permit for outdoor sales at 63 George St W is hereby approved, subject to the following additional conditions:

1. Final plans approved by the zoning administrator for this use shall be in substantial compliance with the plans submitted and approved as part of this application.
2. There will be adequate trash collection facilities provided and there will be no debris left on the boulevard.
3. Vendors must follow all licensing and health codes established by the City of Saint Paul.
4. The market will be limited to 9 a.m. to noon on Saturdays. Vendors are to arrive at the site no earlier than 8 a.m. and depart the site no later than 1 p.m.

city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, Justin Pope, File # 13-174-966, has applied for an establishment of nonconforming use as vehicle parking accessory to auto repair garage at 991 Front Avenue, with variance of the paving requirement under the provisions of §62.109(b) and §61.202(b) of the Saint Paul Legislative Code, on property located at 977 Chatsworth St N, Parcel Identification Number (PIN) 262923230141, legally described as Como Park Second Addition Lot 10 Blk 1; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 9, 2013, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The application requests establishment of a nonconforming use (parking lot) and a variance from the requirement to pave the site. The application includes a site plan with seven(7) 9' x 18' parking spaces, a 25' x 22' area along Chatsworth that will contain a visual screen, and the dumpster moved within the storage building (labeled jointly as "dumpster" on the site plan). The site plan does not show a boat or a pile of dirt that currently exist on the property because they are proposed to be removed.

2. Section 62.109(b) of the Zoning Code provides that the Planning Commission may grant legal nonconforming use status to allow the use of land without completely enclosed buildings as a parking lot to serve abutting property in OS-B5 Business and IR-I1 industrial districts if the commission makes six findings. The findings and the applicant's ability to meet them are as follows:

(a) *The commercial or industrial parking lot has been paved, maintained and used for commercial or industrial parking for at least ten (10) consecutive years prior to the date of the application.* This finding can be met under the circumstances. No complaints about the lot have been identified over the past 10 years. Aerial photographs indicate the site has been used for a parking lot since at least 1985. Site inspection has revealed that the seven (7) proposed spaces are primarily rock and compacted sand, with a small amount (~5%) of exposed dirt. The rock and compacted sand come closer to meeting the old (pre-2009) standards for parking surfaces. The area east of the proposed spaces has substantially more exposed dirt due to winter snowplowing activities. Therefore, the area dedicated to the seven (7) spaces is the portion of the lot closest to meeting the paving requirement, the intent of which can be substantially met under these circumstances if the area dedicated to the seven (7) parking spaces is paved according to current city standards.

(b) *The parking lot occupies a legally subdivided parcel that is too small for development and has not been owned by a different adjoining property owner for at least ten (10) years prior to the date of the application.* This finding is met. The approximately 25' x 126' lot is too small to be developed for uses allowed in the R4 district. The owner testifies that he has owned the property since the 1980s, and there is no evidence to the contrary.

(c) *The parking lot is to serve abutting commercially or industrially zoned property.* This finding is met. The parking lot is to serve the abutting commercial use to the south at 991 Front Ave., which is zoned B2.

moved by \_\_\_\_\_

seconded by \_\_\_\_\_

in favor \_\_\_\_\_

against \_\_\_\_\_

(d) *The parking lot will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding could be met if landscaping is provided in order to create visual screening. The fact that the use is existing and has received neighbor support indicates that the use is not detrimental to the surrounding area.

(e) *The parking lot is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan designates the site as an Established Neighborhood, as shown in the Generalized 2030 Future Land Use Map (Figure LU-B). The Comprehensive Plan states, "Established Neighborhoods are residential areas of predominately single-family housing and adjacent neighborhood-serving commercial uses. These are areas of stability where the existing character will be essentially maintained." The District 6 Plan does not contain any provisions specific to the site or surrounding area.

(f) *A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the parking lot.* This finding is met. The petition information is as follows: 17 parcels eligible; 12 parcels required; 12 parcels signed.

3. The application requests a variance from the requirement in §63.316 for paving of off-street parking: "All parking spaces, driveways and off-street parking facilities shall be paved with standard or pervious asphalt or concrete, or with brick, concrete or stone pavers, or material comparable to the adjacent street surfacing..." MN Stat. 462.357, Subd. 6 was amended to establish new grounds for variance approvals effective May 6, 2011. Required findings for a variance consistent with the amended law are as follows:

- (a) *The variance is in harmony with the general purposes and intent of the zoning code.* This finding could be met if the area east of the proposed parking spaces is not used for parking. The area proposed for parking is compacted in a manner similar to asphalt, with very limited dust and mud anticipated compared to a dirt lot.
- (b) *The variance is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan calls for neighborhood-serving businesses in the Established Neighborhoods that are compatible with existing character. The unpaved lot is existing and is therefore part of the existing character. Also, it has demonstrated compatibility with the surrounding character as evidenced by neighbor support.
- (c) *The applicant has established that there are practical difficulties in complying with the provision and that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.* This finding is not met. The lot has no practical difficulties that prevent it from being paved.
- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* This finding is not met. The property has no unique circumstances that prevent it from being paved.
- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.* This finding is met if the associated Establishment of Nonconforming Use Permit is approved.
- (f) *The variance will not alter the essential character of the surrounding area.* This finding is met. The unpaved lot is existing.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Justin Pope for an establishment of nonconforming use

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seconded by \_\_\_\_\_

in favor \_\_\_\_\_

against \_\_\_\_\_

Planning Commission Resolution

ZF #13-174-966

Page 3 of 3

as vehicle parking at 977 Chatsworth St N accessory to an auto repair garage at 991 Front Avenue is hereby approved subject to the following conditions:

1. A final site plan is approved by the Zoning Administrator that is in substantial compliance with the updated site plan showing seven (7) parking spaces.
2. The applicant shall pave the portion of the lot used for parking in accordance with city regulations.

BE IT ALSO RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Justin Pope for a variance of the paving requirement at 977 Chatsworth St N is hereby denied.

## APPLICATION FOR ZONING VARIANCE

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977 Chatsworth Street Saint Paul MN 55103

### Sec. 63.316. Paving

All parking spaces, driveways and off-street parking facilities shall be paved with asphalt or other durable, dustless surfacing, or of material comparable to the adjacent street surfacing, in accordance with other specifications of the zoning administrator. The parking area shall be paved within one (1) year of the date of the permit.

### Supporting Information

991 Front Avenue has been an automotive repair garage since 1979, the abutting lot 977 Chatsworth Street (see attached site plan) has been used for the parking of serviced vehicles since that time. The business is being sold and in the process of applying for a business license it came to my attention that the lot used for vehicle parking is zoned R4. I have completed the application to use the lot for a non-conforming use – vehicle parking. The lot is currently paved with heavily packed pulverized limestone and due to the age is virtually dustless. I propose a variance to allow the parking lot to remain pulverized limestone.

### VARIANCE REQUESTS

- 1) ***The Variance is in harmony with the general purposes and intent of the zoning code.***

After reading the zoning code, I believe the intent is to create a dustless, stable platform for parking to take place while keeping the neighborhood uniform in appearance. The pulverized limestone that is currently used as pavement is very compacted and is virtually dust free. The lot is in a somewhat residential neighborhood and the pulverized limestone blends in with the surrounding properties and supports the existing character. I had a chance to speak with almost all of the neighbors within 100 feet of the proposed parking lot while circulating my petition, all welcomed me to the neighborhood and had no issue with the continued use of the lot for vehicle parking, although a few mentioned they did not want to look out and see a paved black and yellow striped lot.

- 2) ***The variance is consistent with the comprehensive plan.***

I have reviewed a good deal of the City of Saint Paul comprehensive plan and can comment on this as need be.

- 3) ***The applicant has established that there are practical difficulties in complying with the provision and that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.***

The lot sits on the corner of two alley ways and is continually plowed during the winter. In addition I will be maintaining (plowing) both alleys on a good will basis, as the alleys were not plowed this past winter and the neighbors had concerns. This being a zero set back neighborhood there is no room to pile plowed snow from the alleys, so it will be piled at the east end of the proposed parking lot. This being said, a permeable surface is best suited for storm water runoff, melted snow etc. After researching the adverse effects of snow piles on permeable asphalt (clogging of the open grade and cracking) I have

## APPLICATION FOR ZONING VARIANCE

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concluded that the current crushed limestone will allow a permeable surface for water runoff that will not clog nor crack.

- 4) *The plight of the landowner is due to circumstances unique to the property and not created by the land owner.*

The lot dimensions are 25'x126' and currently zoned R4. Due to current residential property line setbacks of 4' and a minimum house width of 22 feet, this lot is not suitable to build within its current zoning (R4). In addition there is a telephone pole and guy wire on the east end of the property that would further complicate that construction of a residence if the lot were to be used in conjunction with its current zoning.

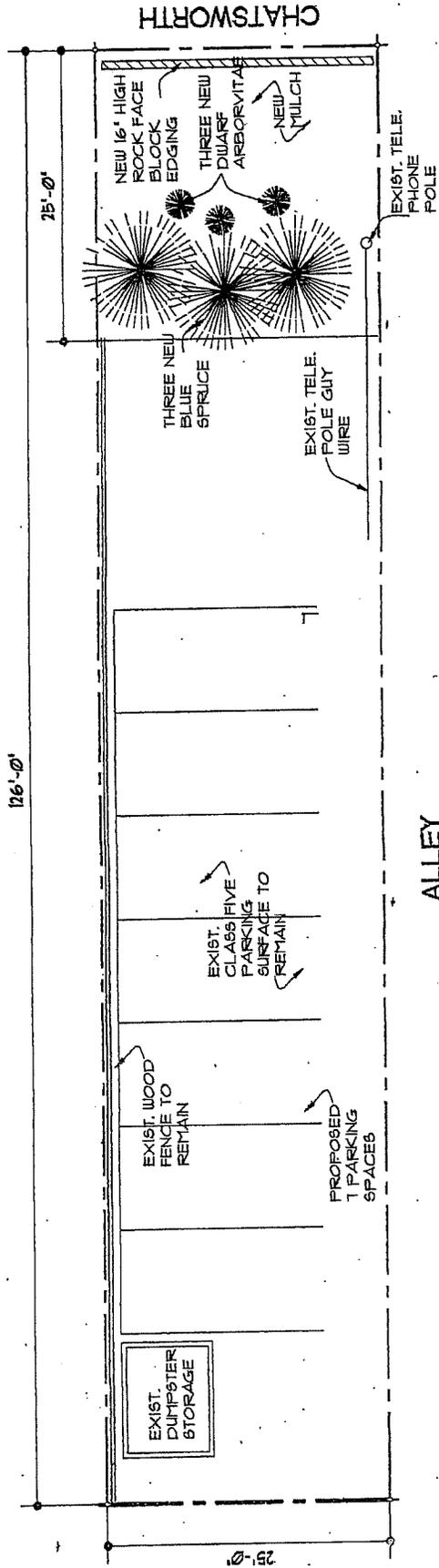
- 5) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

To the best of my knowledge I believe that parking lots are allowed in this zoning district.

- 6) *That variance will not alter the essential character of the surrounding area.*

I feel as though keeping the parking lot in its current form (pulverized limestone) as it has been for the previous 34 years is the best way to protect the character of the surrounding area. Given the somewhat residential location of the parking lot I believe that the crushed limestone is on par with the existing character of the neighborhood more so than would an asphalt parking lot. In addition I also propose to add a visual screen to the first 25 feet of the property. I have attached a site plan and layout of the proposed visual screen.

POPE AUTOMOTIVE  
SITE PLAN FOR:  
977 CHATSWORTH  
ST. PAUL, MN





city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, Macalester College (shared parking), File # 13-173-821, has applied for a conditional use permit for shared commercial parking in an institutional parking lot under the provisions of §61.501 of the Saint Paul Legislative Code, on property located at 1655 Grand Ave, Parcel Identification Number (PIN) 042823410068, see file for legal description; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 9, 2013, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. Macalester College owns the existing 24-stall surface parking lot at 1655 Grand. The parking lot is currently leased to the Patagonia retail store at 1648 Grand. The college also owns the parcel immediately to the north of the existing parking lot (16 Cambridge), where a residence hall, an alumni house, and a small apartment building are located. Macalester is seeking to expand the parking lot at 1655 Grand eastward, adding 9 (net) new stalls. Macalester intends to lease spaces in the expanded lot to both Patagonia and the French Meadow, a bakery and café seeking to open at 1662 Grand. Macalester is also seeking an adjustment of common boundary for the property line shared by 1655 Grand and 16 Cambridge. This would expand the parcel (1655 Grand) on which the existing parking lot is located to accommodate the expanded parking lot on a single parcel.
2. The proposed expanded parking lot will have 33 stalls, including 2 handicapped-accessible stalls. Under agreed terms, during business hours Patagonia would have exclusive usage to 16 stalls and French Meadow exclusive usage of 15 stalls, with the 2 handicapped accessible stalls shared. Business hours are limited to 10 am 7 pm daily for Patagonia and 7 am to 10 pm daily for French Meadow. Agreements have not yet been executed, and in the case of Patagonia, will replace the existing agreement with Macalester College for use of the existing lot.
3. Macalester College has sufficient campus parking as of the most recent parking update, using Fall 2012 enrollment and employment numbers. The lot at 1655 Grand is not included in these calculations. The French Meadow bakery and café will require 8 off-street spaces in addition to the 4 that will remain in the rear of the building at 1662 Grand after renovations. Patagonia requires 16 parking spaces.
4. The proposed expanded parking lot will have 33 stalls, including 2 handicapped accessible stalls. Under agreed terms, during their respective business hours, Patagonia would have exclusive usage to 16 stalls and French Meadow exclusive usage of 15 stalls, with the 2 handicapped accessible stalls shared. Business hours are limited to the hours of 10 am to 7 pm daily for Patagonia and 7 am to 10 pm daily for French Meadow. Agreements have not yet been executed, and in the case of Patagonia, will replace the existing agreement with Macalester College for use

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in favor \_\_\_\_\_

against \_\_\_\_\_

of the existing lot.

5. Macalester has submitted a site plan review application for the expanded parking lot to the Zoning Administrator for approval.
6. §65.732 lists standards and conditions for use of an institutional parking lot in a residential district by a business:
  - (a) *Each business using such lot shall be located within five hundred (500) feet of the shared parking lot measured from the property line of the business to the property line of the parking lot; except that the five-hundred-foot distance requirement may be waived if the principal use leases off-street parking for employees only, requires permit parking for employees using such parking lot or uses some other system to ensure that employees really park in the remote lot. This condition is met. The shared parking lot is located approximately 80 feet from each business establishment.*
  - (b) *There shall be no outdoor storage on the parking lot. This condition is met. The applicant has agreed to this condition, and no outdoor storage is indicated on the site plan currently under review by the city.*
  - (c) *Application for a shared commercial parking permit on an institutional lot must be accompanied by proof of the underutilization of the institutional lot during periods of peak business demand in a report showing:*
    - (1) *The off-street parking need of the institution during the peak demand periods of the business(es).*
    - (2) *The off-street parking need of the business(es) during peak demand periods.*
    - (3) *Extent of parking shortfall for the business(es) during peak demand period(s).*
    - (4) *The number and location of the parking spaces in the institutional lot that may be used by business(es) during peak demand periods.*
    - (5) *The existence, if any, of prior commitments for use of the institutional lot by other businesses or other noninstitutional users.*
    - (6) *The shared parking lease arrangement is not an attempt to avoid liability for property taxes. This condition is met. The shared lot owned by Macalester is not used by the college to meet the off-street parking requirement for the campus. Institutional use of the lot will be limited to use of the Patagonia spaces for parking for special events, and will occur only outside of Patagonia business hours.*
  - (d) *If the shared parking is required by the zoning code, each business use shall provide proof of at least a ten-year lease agreement with the institution for the shared parking arrangement. If the shared parking is not required, each business shall provide proof of at least a two-year lease agreement. Each lease will be reviewed annually. This condition can be met. The applicant has provided draft lease documents running for more than 10 years and agreed to by the lessees. The leases will be executed upon approval of the conditional use permit by the city.*
  - (e) *The lease agreement must delineate the number of spaces and the specific hours of operation of the parking lot for each day of the week that the lot is to be used by the business. The business lessee must indicate in the lease agreement that it recognizes its responsibility for property taxes imposed under Minnesota Statutes, section 272.01, subdivisions 2(a) and 2(c). This condition will be met upon execution of the leases for the shared parking lot. The lease documents specify that the lessees will be responsible for ½ of annual property taxes for their respective portions of the shared parking lot. As the owner, Macalester College has acknowledged responsibility for payment of property taxes due on an annual basis.*
  - (f) *The zoning application must include the submittal of a site plan drawn to scale showing the*

*layout of the parking lot, all access and egress locations, and the surrounding buildings within one hundred (100) feet of the lot. This condition is met.*

- (g) *Only passenger vehicles will be allowed in shared parking spaces in institutional lots. This condition is met. The applicant has agreed to limit usage of the shared lot to passenger vehicles.*

7. §61.501 lists five standards that all conditional uses must satisfy:

- (1) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council. This condition is met. Policy T 2.8 of the Comprehensive Plan is for the city to create incentives for development in which off-street parking is voluntarily reduced, structured, pervious, or heavily landscaped. The policy goes on to recommend zoning code provisions that would reduce required required parking in cases where development, among other things, includes bicycle facilities, makes use of a shared parking agreement, and/or provides space for a car-sharing program. Patagonia, which leases commercial space from the applicant, is voluntarily reducing its parking and entering into a shared parking agreement in order to facilitate the expansion and redevelopment of a nearby storefront where French Meadow will locate. The shared lot will also provide bicycle parking as well as hosting a shared car (Hour Car). In addition, the surface of the new areas of the expanded parking lot will be permeable pavers rather than standard asphalt. The District 14/Macalester-Groveland Community Plan includes the land use policy to work to resolve parking problems in order to lessen tension caused by conflict between residential, institutional, and commercial uses.*
- (2) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. This condition is met. The expanded lot will have dedicated one-way ingress and egress points that are properly located to minimize the potential for traffic congestion or conflicts.*
- (3) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare. This condition is met. The proposed use is substantially similar to the existing use. While the project will involve some expansion of surface parking, it will also include substantial upgrades to landscaping, including decorative fencing and screening shrubs.*
- (4) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. This condition is met. The proposed shared parking facilitates investment in and expansion of the nearby neighborhood-serving commercial district.*
- (5) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. This condition is met. The use will conform to all other applicable regulations of the district in which it is located.*

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Macalester College for a conditional use permit for shared commercial parking in an institutional parking lot at 1655 Grand Ave is hereby approved subject to the following additional conditions:

1. Site plan approval.
2. Final plans approved by Zoning Administrator for this use shall be in substantial compliance with the plans submitted and approved as part of this application.
3. Applicant shall submit to the Department of Safety and Inspections copies of executed agreements for leasing of shared parking no later than July 15, 2013.

## PARKING LEASE AGREEMENT

THIS PARKING LEASE AGREEMENT (the "Lease") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between Macalester College, (the "Lessor") and Lowry Hill Cafes, Inc., d/b/a French Meadow Bakery & Cafe (the "Lessee").

### RECITALS

A. Lessor is the Lessor of a parking lot located at \_\_\_\_ Grand Avenue, St. Paul, Minnesota (the "Parking Lot").

B. Lessee leases the property located at 1662-66 Grand Avenue, St. Paul, Minnesota, from Lessor pursuant to a written Lease Agreement dated December \_\_\_\_, 2012 (the "Lease").

C. Lessee desires to use a portion of the Parking Lot for a term which is co-terminus with the Lease.

**NOW, THEREFORE**, for good and valuable consideration, the parties hereto agree as follows:

1. **Premises.** Lessor grants to Lessee, and Lessee takes from Lessor, an exclusive Lease to use, during the Term (as defined in Section 2 below), those fifteen (15) non-handicap parking stalls, and a non-exclusive Lease to use, during the Term, the two (2) handicap parking stalls, as depicted on Exhibit A attached hereto (collectively the "Leased Stalls"). At each of the Leased Stalls (except the handicap parking stalls), Lessor shall install a sign containing the phrase "Reserved Parking for Customers of Patagonia" or similar language.

2. **Term.** The term of this Lease (the "Term") commences on the first (1<sup>st</sup>) day of August, 2013, and it terminates on the 31<sup>st</sup> day of May, 2023. Lessee shall have the option to renew this Lease for one (1) additional period of ten (10) years, provided Lessee timely exercises its right to renew the Lease and further provided Lessee is not in default hereunder or under the Lease beyond any applicable cure period.

3. **Lease Fee.** Lessee shall pay to Lessor, at such place as Lessor may direct, (i) the sum of \$346.70 per month, payable in advance, for the first ten (10) months during the Term, which fee shall increase each subsequent lease year thereafter during the Term at the rate of two and one half percent (2.5%) per year, and (ii) one-half (1/2) of the property taxes and special assessments due and owing during the Term for the Parking Lot, payable as and when due, upon demand from Lessor (collectively, the "Lease Fee").

4. **Use.** Lessee shall use the Leased Stalls for vehicle parking purposes by Lessee's employees, agents, contractors and invitees, and for no other purpose without the consent of Lessor. Parking shall be limited to automobiles, SUVs, passenger vans, motorcycles, and light four wheel pickup trucks. There shall be no overnight parking without the consent of Lessor. Lessee shall comply with all parking regulations requested by Lessor from time to time for the safe and orderly use of the Parking Lot. Lessor reserves the right to tow any vehicle which is parked in violation of any such parking regulations.

5. **Maintenance.** Lessor shall be responsible for the cost of repairing and maintaining the Parking Lot and for snow removal.

6. **Assumption of Risk.** All vehicles using the Leased Stalls shall do so at their own risk. Lessor shall not be responsible for any damage, destruction, vandalism or theft of any vehicle or personal property.

7. **Relocation.** Lessor reserves the right to relocate the Leased Stalls within the Parking Lot, or relocate the Leased Stalls to any new parking lot located within \_\_\_\_\_ ( ) feet of any portion of the existing Parking Lot, provided any such new parking lot is comparable in quality, with frontage on Grand Avenue.

8. **Insurance.** Lessee, at its expense, shall keep in effect commercial general liability insurance with an insurer acceptable to Lessor, including blanket contractual liability insurance, covering Lessee's use of the Leased Stalls, with such coverages and limits of liability of not less than a \$1,000,000 combined single limit with a \$5,000,000 general aggregate limit (which general aggregate limit may be satisfied by an umbrella liability policy) for bodily injury or property damage; provided, however, such limits shall not limit Lessee's liability under this Lease. The policy shall name Lessor as an additional insured, shall include a waiver of subrogation against Lessor, and shall be endorsed to provide that it is primary to and not contributory to any policies carried by Lessor. Said policy shall further provide that it shall not be cancelable or reduced without at least 30 days prior notice to Lessor. Lessee shall deliver to Lessor, prior to the beginning of the Term, and at least 30 days prior to the date of each policy renewal, a certificate of insurance evidencing such coverage.

9. **Indemnification.** Lessee will indemnify and hold Lessor harmless from and against any claims, actions, damages, liability and expense in connection with loss of life, personal injury or damage to property in or about the Leased Stalls or arising out of the access to and/or use of the Leased Stalls by Lessee or its employees, agents, contractors, or invitees, except to the extent such loss, injury or damage was caused by the gross negligence or willful misconduct of Lessor or its employees, agents, contractors, or invitees. This indemnification shall survive the expiration or termination of this Lease.

10. **Assignment.** Lessees shall not assign this Lease or any interest in this Lease. Lessee shall not sub-Lease any right to use the Leased Stalls

11. **Default.** If a party defaults in the performance of any of its obligations under this Lease and such default continues for 5 days after written notice to the defaulting party, the other party may, in addition to existing any other rights and remedies available to it at law or in equity, terminate this Lease. A breach under the Lease shall be deemed a breach of this Lease, and a breach under this Lease shall be deemed a breach under the Lease.

12. **Notices.** All notices, requests and other communications under this Lease shall be in writing and addressed to Lessor or Lessee at their respective addresses as specified in the Lease (or to such other address as either may designate by notice to the other). Each notice or other communication shall be deemed given if sent by prepaid overnight delivery service or by

certified mail, return receipt requested, postage prepaid or in any other manner, with delivery in any case evidenced by a receipt, and shall be deemed to have been given on the day of actual delivery to the intended recipient or on the business day delivery is refused.

13. **Waiver of Trial by Jury.** If suit is brought to enforce any provision of this Lease, the parties hereto agree to waive trial by jury and hereby consent to trial by the court and further agree that the losing party shall pay to prevailing party's reasonable attorneys' fees and disbursements as fixed by the court.

14. **Successors and Assigns.** The terms and conditions of this Lease shall inure to the benefit of the parties hereto and to their respective successors in interest and permitted assigns of the parties hereto.

15. **Amendment.** This Lease may not be altered, changed, or amended except in writing and signed by the parties.

16. **Governing Law.** This Lease and the terms and conditions thereof shall be governed by the laws of the State of Minnesota.

17. **Severability.** If any provision of this Lease shall be held invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each remaining provision shall be valid and enforceable to the fullest extent permitted by law.

18. **Entire Agreement.** This Lease constitutes the entire agreement between the parties with respect to the Parking Lot and Leased Stalls and supersedes all prior representations, understandings and agreements, both oral and written, heretofore made between the parties, and is solely for the benefit of the parties hereto and is not intended to extend any rights or benefits to any third parties.

IN WITNESS WHEREOF, to evidence their agreement with this Lease, Lessor and Lessee have caused this lease to be signed as of the date first above written.

Lessor:  
**Macalester College**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Lessee:  
**Lowry Hill Cafes, Inc., d/b/a French Meadow Bakery & Cafe**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, Old Home Plaza, File # 13-172-049, has applied for a conditional use permit to allow a maximum height of 45 feet for new construction at the southwest corner of University Avenue and Virginia Street under the provisions of §66.331 and §61.501 of the Saint Paul Legislative Code, on property located at 370 University Ave W, Parcel Identification Number (PIN) 362923420104, legally described as Elfelt Bernheimer arnolds A Vac Alley Accruing & Lots 7 Thru 12 & Subj To Rd; Lots 1 Thru 6 Blk 1; and

WHEREAS, the Zoning Committee of the Planning Commission, on May 9, 2013, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The property at 370 W. University Avenue had been in operation as Old Home Foods (formerly Minnesota Milk Company) until 2006. The building has been listed as a Vacant Building Category II since 2012. A new building on the northeast portion of the site (site of the former filling station) is proposed to be forty-five (45) feet in height, which is subject to approval of a conditional use permit.
2. The proposed compact, pedestrian-oriented residential/commercial development is consistent with the intent of the T2 traditional neighborhood district, for use in transit nodes with a variety of uses and housing types, and careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods.
3. §66.331(f) provides that “a maximum height of forty-five (45) feet may be permitted with a conditional use permit when the structure is within six hundred (600) feet of an existing or planned transit stop on a designated transit street.” The property is located on University Avenue, a designated transit street, within 600 feet of the Western Avenue Light Rail Station. The proposed height of the building is 45 feet. A “typical building section” submitted with the conditional use permit application shows the highest point of the roof surface to be more than 45 feet above ground level at the building wall. The architect indicated their intent to design the building to be within the 45 foot height limit and on May 6 submitted a revised “typical building section.” The “typical building section” dated 5-6-13 still shows the top of the roof surface to be slightly more than 45 feet above ground level at the building wall. The architect reiterated that the conditional use permit application is for a maximum height of 45 feet, and their intent to develop more detailed plans accordingly.

moved by \_\_\_\_\_

seconded by \_\_\_\_\_

in favor \_\_\_\_\_

against \_\_\_\_\_

4. §61.501 lists five standards that all conditional uses must satisfy:

- (a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* The proposed 4 story mixed-use development meets this condition. The property is located on a Mixed Use Corridor as identified in the Saint Paul Comprehensive Plan Land Use Chapter Strategy 1.20, Figure LU-B. The proposed height is consistent with Land Use Chapter Strategy LU 1.2, "Permit high density residential development in Neighborhoods Centers, Mixed-Use Corridors, the Central Corridor and Downtown." The proposed height also addresses Land Use Strategies LU 1.21, "Balance the following objectives for Mixed-Use Corridors through the density and scale of development: accommodating growth, supporting transit use and walking, providing a range of housing types, and providing housing at densities that support transit" and LU 1.25, "Promote the development of more intensive housing on Mixed-Use Corridors, where supported by zoning that permits mixed-use and multi-family development." The Central Corridor Development Strategy (2007) calls for increased densities along University Avenue on full depth sites, to make development fit by providing a mix of 2-4 story buildings (Section 3.3 "Towards a Transit Supportive Corridor").

The Western Avenue Station Area Plan, adopted by the City Council on October 11, 2011, calls for new development along the Avenue to be three to four stories in height (4.1.1a) and encourages reuse of the Old Home site (4.1.1f, 6.0, Figure 4.5). The Plan also suggests possible development of a new park/open space along the west side of Virginia Street between University and Aurora Avenue (Figures 3.1, 3.2, 4.3, 4.4). Section 6.0 "Getting There" states that "The development concepts illustrated in this plan, including the location of new open spaces, represent possible development scenarios... They are not intended to be prescriptive for evaluating future development proposals..." and "Until such time as the City is able to secure necessary resources, either through public investment or through negotiation with private developers for desired new open spaces or other public infrastructure, private property may be used for any legal use permitted under the current zoning classification, provided that the proposed use meets all applicable conditions and/or standards." The exact locations of parks and parkland are being comprehensively looked at along University Avenue and options for open space on the site are currently being explored. The final site plan may provide options for open space on the site.

- (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. Based on the preliminary site plan submitted, the single curb cut and entrance to the parking structure from Aurora and structured parking will provide adequate ingress and egress and minimize traffic congestion in the area by keeping cars off of the street.
- (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The use will not be detrimental to the existing character of development. The property is located on a commercial corridor that has developed with transit oriented uses lining University Avenue. To the northeast, northwest, west and east are one to two story commercial buildings, and a three story commercial building is one block east. On the site, the Old Home building is immediately west of the location of the proposed building. The Old Home building is two stories and steps up to three stories at the corner of Western and University. The use will not endanger the public health, safety and general welfare.

- (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use will not prevent the development and improvement of the other properties in the area, nor will it impact the development and improvement of the commercial and residential uses in the districts surrounding it.
- (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The proposed use conforms to all applicable regulations of the T2 district.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Old Home Plaza for a Conditional use permit to allow a maximum height of 45 feet for new construction at 370 University Ave W at the southwest corner of University Avenue and Virginia Street is hereby approved subject to the following condition:

1. Zoning administrator approval of a final site plan, essentially consistent with the site plan submitted with the conditional use permit application, along with building elevations, clearly delineating average ground level at the building wall and building height as defined in Zoning Code section 60.203 and meeting the height requirement.

## ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Old Home Plaza **FILE #** 13-172-049  
2. **APPLICANT:** Old Home Plaza **HEARING DATE:** May 9, 2013  
3. **TYPE OF APPLICATION:** Conditional Use Permit  
4. **LOCATION:** 370 University Ave W, between Western and Virginia  
5. **PIN & LEGAL DESCRIPTION:** 36-29-23-42-0104, Elfelt Bernheimer Arnolds A Vac Alley  
Accruing & Lots 7 Thru 12 & Subj To Rd; Lots 1 Thru 6 Blk 1  
6. **PLANNING DISTRICT:** 8 **PRESENT ZONING:** T2  
7. **ZONING CODE REFERENCE:** § 66.331; § 61.501  
8. **STAFF REPORT DATE:** April 29, 2013; Revised May 9, 2013 **BY:** Hilary Holmes  
9. **DATE RECEIVED:** April 8, 2013 **60-DAY DEADLINE FOR ACTION:** June 7, 2013
- 

- A. **PURPOSE:** Conditional use permit to allow a maximum height of 45 feet for new construction
- B. **PARCEL SIZE:** 69,696 sq. ft.
- C. **EXISTING LAND USE:** vacant industrial
- D. **SURROUNDING LAND USE:**  
North: Commercial (T2)  
East: Commercial with VP parking (T2)  
South: Single family and multi-family residential (RT2)  
West: Commercial (T2)
- E. **ZONING CODE CITATION:** §66.331(f) provides for a maximum height of forty-five (45) feet with a conditional use permit in T2 districts when the structure is within 600 feet of a transit stop on a designated transit street; §61.501 lists general conditions that must be met by all conditional uses.
- F. **HISTORY/DISCUSSION:** 370 University Avenue West is the site of the Old Home Foods building. The block previously had an address range of 350-376 University Avenue, with multiple parcels and historic uses of dwellings and an auto service shop (City of St. Paul Sandborn Insurance Map 1925). The site as it exists today is one parcel, with Old Home Foods buildings occupying the property in the northwest portion. According to a building permit index card for 350 University Avenue West (the northeast corner of the site, at University and Virginia), a filling station was built on that parcel in 1929. According to zoning records, a filling station was approved for remodel and relocation in 1954 on that site (Z.F. 3058). The filling station has since been demolished (other structures on the site were demolished in 1967). A Site Plan Review was approved for 370 W. University for the Old Home site in June 1993 (Z.F. 93-102).  
The Old Home/Minnesota Milk Company building at 370 W. University has been determined eligible for listing on the National Register of Historic Places (SHPO Inventory #RA-SPC-3877).
- G. **DISTRICT COUNCIL RECOMMENDATION:** The District 8 Council had not commented at the time this staff report was prepared.
- H. **FINDINGS:**
1. The property at 370 W. University Avenue had been in operation as Old Home Foods (formerly Minnesota Milk Company) until 2006. The building has been listed as a Vacant Building Category II since 2012. A new building on the northeast portion of the site (site of the former filling station) is proposed to be forty-five (45) feet in height, which is subject to approval of a conditional use permit.
  2. The proposed compact, pedestrian-oriented residential/commercial development is consistent with the intent of the T2 traditional neighborhood district, for use in transit nodes with a variety of uses and housing types, and careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods.

3. §66.331(f) provides that *"a maximum height of forty-five (45) feet may be permitted with a conditional use permit when the structure is within six hundred (600) feet of an existing or planned transit stop on a designated transit street."* The property is located on University Avenue, a designated transit street, within 600 feet of the Western Avenue Light Rail Station. The proposed height of the building is 45 feet. A "typical building section" submitted with the conditional use permit application shows the highest point of the roof surface to be more than 45 feet above ground level at the building wall. The architect indicated their intent to design the building to be within the 45 foot height limit and on May 6 submitted a revised "typical building section." The "typical building section" dated 5-6-13 still shows the top of the roof surface to be slightly more than 45 feet above ground level at the building wall. The architect reiterated that the conditional use permit application is for a maximum height of 45 feet, and their intent to develop more detailed plans accordingly.
4. §61.501 lists five standards that all conditional uses must satisfy:
  - (a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* The proposed 4 story mixed-use development meets this condition. The property is located on a Mixed Use Corridor as identified in the Saint Paul Comprehensive Plan Land Use Chapter Strategy 1.20, Figure LU-B. The proposed height is consistent with Land Use Chapter Strategy LU 1.2; "Permit high density residential development in Neighborhoods Centers, Mixed-Use Corridors, the Central Corridor and Downtown." The proposed height also addresses Land Use Strategies LU 1.21, "Balance the following objectives for Mixed-Use Corridors through the density and scale of development: accommodating growth, supporting transit use and walking, providing a range of housing types, and providing housing at densities that support transit" and LU 1.25, "Promote the development of more intensive housing on Mixed-Use Corridors, where supported by zoning that permits mixed-use and multi-family development." The Central Corridor Development Strategy (2007) calls for increased densities along University Avenue on full depth sites, to make development fit by providing a mix of 2-4 story buildings (Section 3.3 "Towards a Transit Supportive Corridor").

The Western Avenue Station Area Plan, adopted by the City Council on October 11, 2011, calls for new development along the Avenue to be three to four stories in height (4.1.1a) and encourages reuse of the Old Home site (4.1.1f, 6.0, Figure 4.5). The Plan also suggests possible development of a new park/open space along the west side of Virginia Street between University and Aurora Avenue (Figures 3.1, 3.2, 4.3, 4.4). Section 6.0 "Getting There" states that "The development concepts illustrated in this plan, including the location of new open spaces, represent possible development scenarios... They are not intended to be prescriptive for evaluating future development proposals..." and "Until such time as the City is able to secure necessary resources, either through public investment or through negotiation with private developers for desired new open spaces or other public infrastructure, private property may be used for any legal use permitted under the current zoning classification, provided that the proposed use meets all applicable conditions and/or standards." The exact locations of parks and parkland are being comprehensively looked at along University Avenue and options for open space on the site are currently being explored. The final site plan may provide options for open space on the site.
  - (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. Based on the preliminary site plan submitted, the single curb cut and entrance to the parking structure from Aurora and structured parking will provide adequate ingress and egress and minimize traffic congestion in the area by keeping cars off of the street.

- (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The use will not be detrimental to the existing character of development. The property is located on a commercial corridor that has developed with transit oriented uses lining University Avenue. To the northeast, northwest, west and east are one to two story commercial buildings, and a three story commercial building is one block east. On the site, the Old Home building is immediately west of the location of the proposed building. The Old Home building is two stories and steps up to three stories at the corner of Western and University. The use will not endanger the public health, safety and general welfare.
- (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The use will not prevent the development and improvement of the other properties in the area, nor will it impact the development and improvement of the commercial and residential uses in the districts surrounding it.
- (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The proposed use conforms to all applicable regulations of the T2 district.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the application for a conditional use permit to allow a maximum height of forty-five (45) feet for new construction at the SW corner of University Avenue and Virginia Street subject to the following additional condition:
1. Zoning administrator approval of a final site plan, essentially consistent with the site plan submitted with the conditional use permit application, along with building elevations, clearly delineating average ground level at the building wall and building height as defined in Zoning Code section 60.203 and meeting the height requirement (~~this does not~~ limit the right to apply for a height variance).



**Sand Architects, LLC**  
 a Member of Sand Companies, Inc.  
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 White Park, MN 56387-0727  
 Office: (320) 262-3100  
 Fax: (320) 262-3139  
 Website: www.sandcompanies.com  
 E-Mail: SC@SandCompanies.com

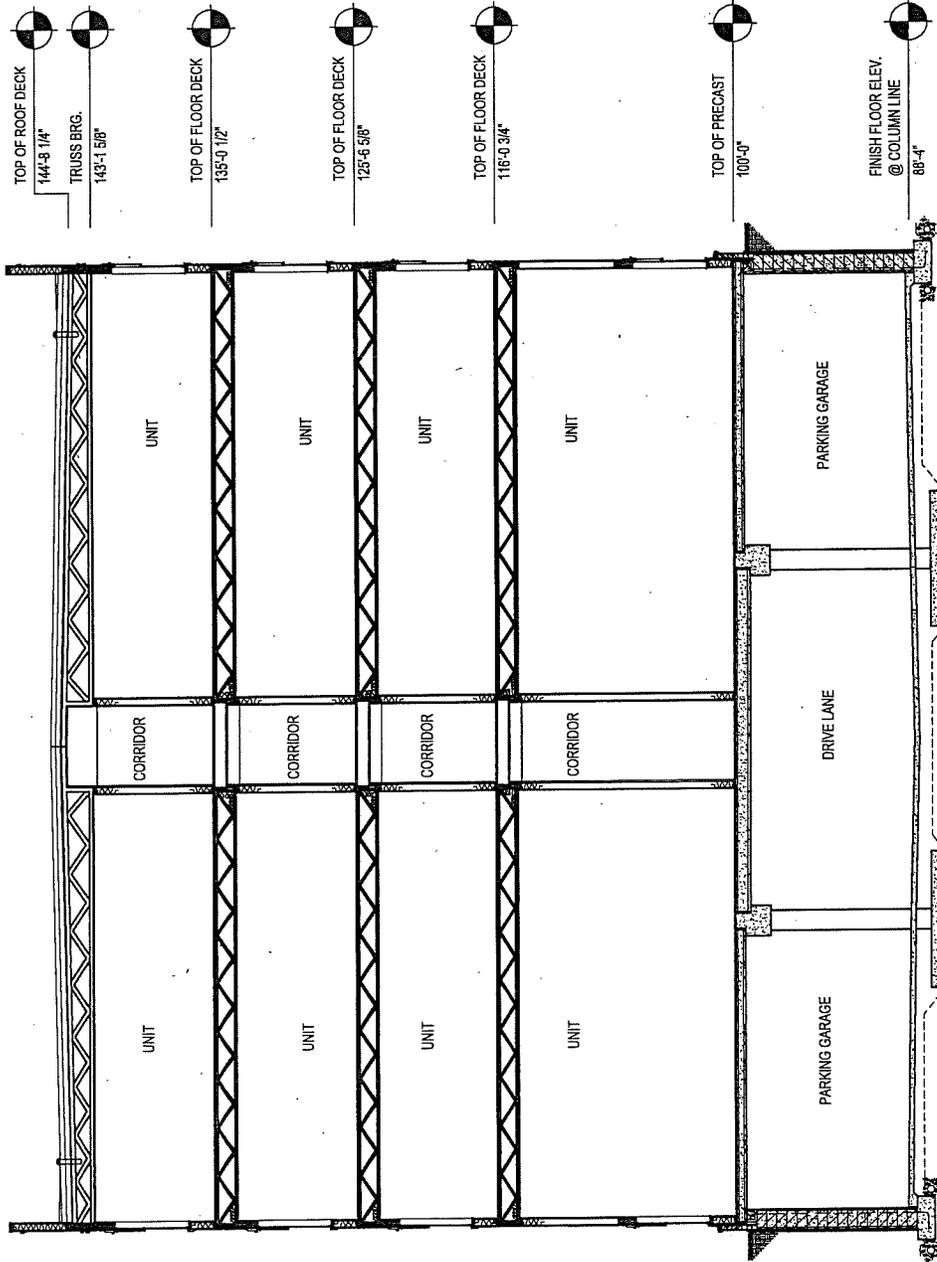
**OLD HOME PLAZA**

ST. PAUL, MN

SECTION

**A-3.1**

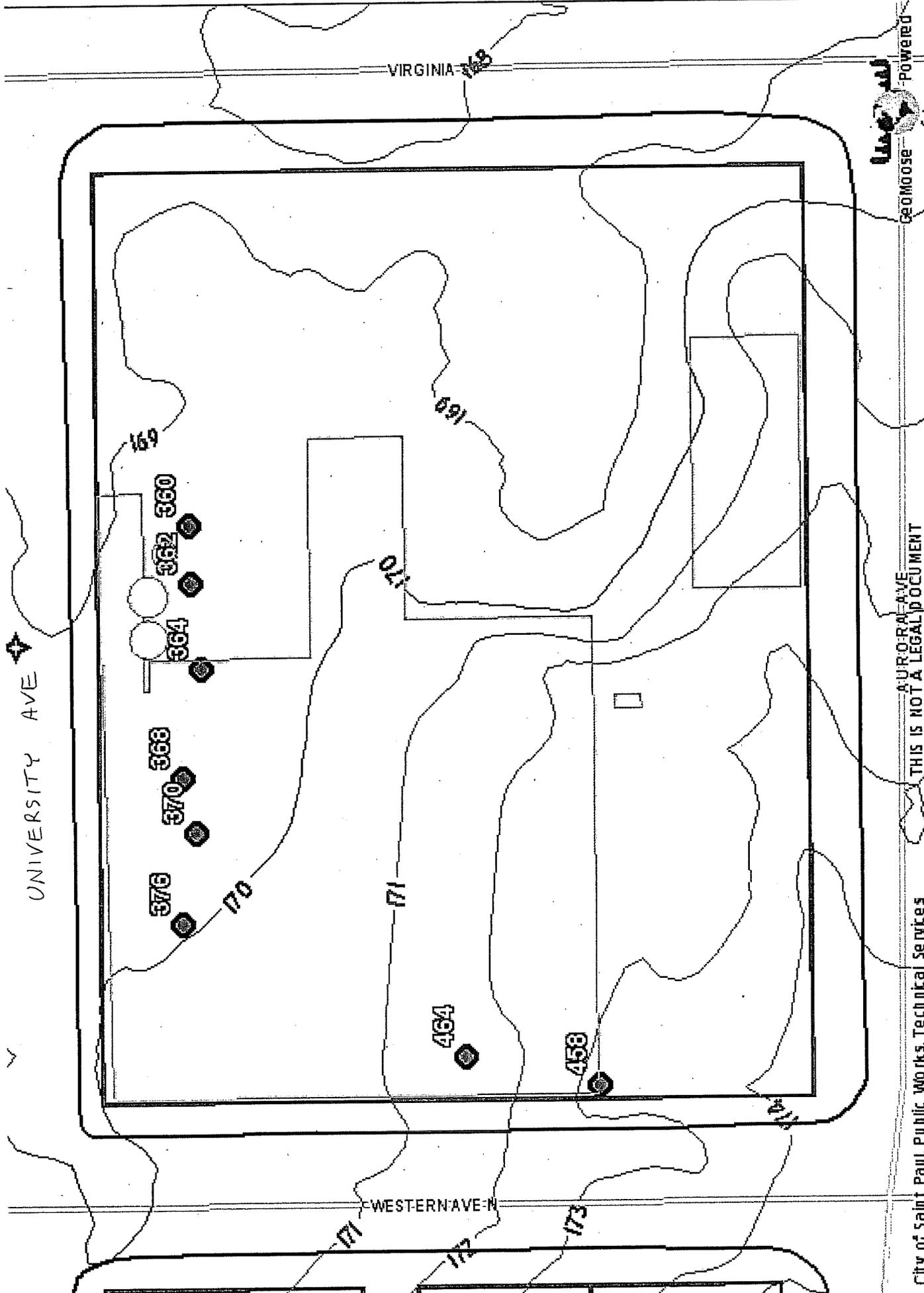
5-6-13  
 -1-1-13-  
 -1-1-13-



**TYPICAL BUILDING SECTION**

SCALE: 1/8" = 1'-0"

1  
 A-3.1



UNIVERSITY AVE

VIRGINIA



AURORA AVE  
THIS IS NOT A LEGAL DOCUMENT

City of Saint Paul, Public Works, Technical Services



**SUMMIT-UNIVERSITY**  
PLANNING COUNCIL

May 9, 2013

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Harry Oda

Stephanie Stoessel

Diannè Moore

Hilary Holmes  
Department of Planning and Economic Development  
25 West Fourth Street  
Saint Paul, MN 55102

Re: Conditional Use Permit for Old Home Plaza

Ms. Holmes,

Thank you for inquiring about Summit-U's position on the conditional use permit for Old Home Plaza, for additional building height. The Summit-University Planning Council Neighborhood Development Committee reviewed this application and has no objections.

SUPC is generally inclined to support this project in moving forward.

If you have any questions, please feel free to contact me at 651-228-1855 or [irna@summit-u.com](mailto:irna@summit-u.com).

Sincerely,

Irna L. Landrum  
Executive Director