MINUTES OF THE ZONING COMMITTEE
Thursday, December 10, 2015 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Edgerton, Merrigan, Nelson, Padilla, Reveal, Wencl, and Wickiser
EXCUSED: Makarios
STAFF: Mike Richardson, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

CVS Pharmacy - 15-180-427 - Conditional use permit for drive through service with modification of special conditions requiring drive through lanes and service windows to be at least 60 feet from residential property and requiring drive through lanes not to be between the principal structure and a public street, 30 Fairview Ave S, NE corner at Grand Avenue

Mike Richardson presented the staff report with a recommendation of denial for the conditional use permit. He noted additional details on operation, submitted per Brian Alton, stating the hours of operation and that there will not be a separate speaker box, but rather a microphone and small speaker at the window. The volume would not be loud, as there is potentially sensitive information communicated. He stated District 14 recommended denial, and there were 5 letters in support, and 7 letters in opposition.

Upon questions from the Commissioners, Mr. Richardson explained that while the use of the building as a pharmacy would be consistent with the character of the neighborhood the drive-through would not. He stated that it is only the drive-through in this specific location with this specific design that is inconsistent, not drive-throughs in general in this area.

Based on questions from the Commissioners regarding the loading dock and its location, Mr. Torstenson stated that the staff report is only addressing the drive-through because that is the application that was submitted. At this point a site plan has not been submitted for review so how the loading is handled is not known. The final site plan will most likely be based on what the Planning Commission decides about the drive-through, and the loading dock would be designed accordingly and go through site plan review.

Commissioner Nelson stated he was interested in the past permit for Whole Foods. He asked about the drive-through frequency of operation verses the loading dock operation and if there were conditions added to the loading dock operation with regard to hours and frequency of use that would come to bear upon their discussion. Commissioner Reveal added concerns about site plan review in the future and whether or not those conditions would be satisfactory if the loading dock is moved to a different location on the property.

The applicant, Wayne Shores, Velmeir Companies, 5757 West Maple Road, West Bloomfield, Michigan, stated they have been working with the property owner on behalf of CVS Pharmacies. They are looking to obtain approval on a single lane drive-through service at the south side of the building facing Grand Avenue. He said the drive through is much less obtrusive than what has been built in the past and is nothing like what fast food restaurants or banks currently use. The design for this project will be a single window with a small canopy, low volume speaker and

a sliding window. It is much different than the Walgreens down the street at Snelling and Randolph which has a larger canopy, overhead structure, and pneumatic tubes. CVS has gone away from that design and moved to a single drive up window. The drive through is strictly for drop off and pick up only; customers do not sit in their cars and wait. It is designed as a convenience to customers who may be elderly, physically challenged or potentially parents with a sick child in the car. Not allowing the drive-through services would be a severe hardship to many of CVS customers and to CVS. They are looking forward to being part of this community.

Vicki VanDell, Loucks Associates, 365 E. Kellogg, Saint Paul, stated the traffic at this site for the existing grocery store, based on the Institute of Transportation Engineers Trip Generation Manual, consists of approximately of about 125 vehicles per 1,000 sq. ft. of store which equates to 2,000 vehicles per day. The CVS use is approximately 88 vehicles per 1,000 sq. ft. which equates to about 1,100 vehicles per day, which is close to half of the vehicles generated by the current use. CVS reduction in traffic will improve the traffic in the streets as well as the traffic circulation within the site. She explained the site layout. She noted that CVS will be leasing the building and therefore there only option was to use the existing building and site as it is today. They do not have an option to tear down and rebuild. The location of the drive through is the only location that they could make work. She explained improvements that will be made to the site. There is an existing curb cut at Grand and Fairview and in their proposed scenario they will be eliminating that curb cut and replace it with landscaped buffer. Eliminating this curb cut will reduce the pedestrian-vehicular conflicts between the bus stop and the intersection. It will be a major improvement to the area and will improve safety. They have added the green space between the drive-through and Grand with shrubs and flowers that will soften the look and make it greener in that area. They have added a pedestrian connection between the front of the store and Grand Avenue. It crosses the drive-through and they will be striping it with a crosswalk. She stated that there are approximately 6 to 10 cars in the drive through per hour on a peak time. There will not be a lot of cars going through the drive through compared to those going through the drive isles on the site. They have proposed moving the loading from Grand Avenue to the north and there is only one semi-truck per week that comes to the site with dry goods. The liquids delivered are loaded through the front door on the west side. They have added a lot of green space and reduced the impervious coverage on site. They have improved the screening too, with lower canopy trees and shrubs to screen the drive-through from Grand Avenue.

Based on questions from the Commissioners, Ms. VanDell explained that the drive-through can stack at least five cars before it gets into the drive isle, but before it gets to the crosswalk at least three cars. Ms. VanDell went over the traffic numbers at the site and noted that CVS did a study of their Twin Cities area stores and the numbers generated are actual study data as opposed to guideline standards. However, the numbers are very similar to the nationwide numbers. Ms. VanDell explained why they located the drive-through where they did and why it isn't possible to move it to another location. They had to keep the existing building where it is and there is not enough room for the store itself to get enough square footage if they were to put it on the north side. A vehicle would have to loop to make that work and there would not be enough square footage to have that function. If it were located at the front of the building it would be a lot more complex with people entering and exiting the building. It would reduce the parking too. She stated that moving the front door to the Grand Avenue side wouldn't work because it would disrupt the flow of the internal operations. Ms. VanDell stated that they did not

factor in any vehicle trips for the future tenant of the 2,000 square foot space located on the site. It is possible a lot of trips could be generated from that location depending on what tenant is occupying the site. She does not know the current trip generations for the Whole Foods currently at the site.

Brian Alton, 951 Grand Avenue, Saint Paul, stated he is representing Velmeir Companies. He spoke in response to the two findings that staff indicated were not met in the staff report including Finding 3c and 4 (see attached).

Upon inquiry by the Commissioners, Mr. Alton expanded on why not having a drive-through would be a hardship. The conditional use permit is for the use of a drive-through and without the modifications they cannot have that use. The use they are seeking is the use of a drive through. The hardship in this instance would be the inability to use what the customers are looking for and have come to expect in CVS Pharmacies. CVS would not be able to provide that service to their customers. Mr. Alton said that if CVS left and a coffee shop went into this location he couldn't say if the location of the drive-through would be appropriate. That would have to be a new conditional use permit. Mr. Alton also replied to the concerns regarding the loading dock. He said CVS uses one truck per week for delivery of dry goods. RC Dicks made the addition of the loading dock before Whole Foods went into that location. Whole Foods only needed site plan review when they moved into the site. As to moving it to the north side of the building, it is a situation where there is not convenient alley access. There is going to be a wall built on the northeast corner of the property. There is also an existing fence that will be improved to comply with site plan review requirements. They fully intend to go through site plan review and will address any issues at that time.

Anne White, 1731 Portland Avenue, Saint Paul, spoke in opposition. She stated that she agrees with the staff report. It does not fit with the zoning. She is very concerned with pedestrian access and said it is a huge challenge to get across the parking lot at Whole Foods. There appears to be very little thought given to pedestrians and how they will get into the future pharmacy. It is a top value for Union Park and Macalester Groveland to make their neighborhoods more walkable and this does not work towards their intent. She urges the Committee to deny this application based on the report from staff.

Tom Scott, 1909 Fairmount Avenue, Saint Paul, spoke in opposition. He stated he agrees with the staff report. Generally what CVS is trying to do is gerrymander into an existing building a prototype suburban building that just doesn't work with the drive-through. Obviously it is undisputed that it doesn't meet the zoning code criteria. In regards to the modification, the applicant has already stated the fact clearly that they can have a pharmacy without a drive-through. It is interesting that the use of the drive-through is minimized by the applicant from the standpoint of the number of vehicles and that it is such a minor component of the operation, but then they also say they have to have it. The language in the ordinance states, "strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship." This isn't just the drive-through component, but it is the overall use of the property as a pharmacy and clearly there is no way that this would meet the criteria. He doesn't believe that you can grant this kind of variance from these requirements without the applicant going through the variance process. You can't plug a modification into the ordinance and not require a variance.

Cynthia Hill, 161 Amherst Street, Saint Paul, spoke in opposition. She stated that their neighborhood does not need another pharmacy. They are already well served by two small pharmacies and several corporate pharmacies. It puts the locally owned pharmacies at great risk. The CVS is not consistent with the character of the neighborhood.

Gary Riedl, 1800 Summit Avenue, Saint Paul, spoke in opposition. He has lived in his home since 1971. The loading dock is his main concern. The conditional use permit for the drive-through does not meet the specifications that the city requires.

Audrey Bailey, 1798 Summit Avenue, Saint Paul, spoke in opposition. She stated she agrees with what other people have already stated. She chooses to live in the city because she likes a neighborhood with a mixture of residences and businesses. Fundamentally she doesn't have an objection to CVS, but she does object to the drive-through. She doesn't see how it is possible to have four cars stacked in the drive-through, and by necessity there will be cars sticking out into Grand Avenue. Macalester Groveland is a walking neighborhood. She strongly opposes the drive-through, not only as a drive-through, but also in relationship to movement of the loading dock because that is right behind her back door. It is a very narrow alley and very loud.

Wayne Shores commented on the testimony. He would encourage Ms. VanDell to look into the pedestrian access to the north, and improve pedestrian access to both major thoroughfares. He would like to accommodate another safe way into the property. He also stated they want to include a drive-through as a convenience to their customers for the reasons already stated. He referred to comments about the noise in the loading area and stated it will be one non-refrigerated truck per week delivering dry goods. The refrigerated trucks will deliver to the front of the store. They will also be adding an eight-foot concrete wall and updating the current fence. That should eliminate some of the noise concerns.

Commissioner Padilla said currently she doesn't see adequate pedestrian access on the site plan. In addition, she doesn't see signage or have an understanding of how wayfaring through the site will be improved. She is also unsure of the landscaping plan along the drive-through because it may block visibility. She asked if Mr. Shores would be willing to lay over the case to address these concerns.

Mr. Shores stated he would be open to laying over the case. In response to Committee questions he said that 90% of CVS Pharmacies ~~do not~~ include a drive-through. These are stores that are located in downtown urban corridors with very high pedestrian counts. If there is a large number of vehicular traffic in a neighborhood they would like to include a drive through. He said the drive-through is intended for drop off or pick up only. Customers cannot wait for the prescription to be filled in the drive through lane. He said the separate tenant space is a revenue generator for CVS. CVS does not want to occupy that space. The future tenant is unknown at this time.

No one spoke in support. The public hearing was closed.

Commissioner Julie Padilla moved to lay over the conditional use permit with modification to December 29, 2015, to allow the applicant time to address the concerns she mentioned earlier. Commissioner Dan Edgerton seconded the motion.

Commissioner Padilla clarified her concerns. She said currently there is only one pedestrian access point that cuts through a drive-through and she would like to give the applicant time to consider whether they can create a pedestrian-friendly site or include pedestrian access other than crossing the drive through lane.

Commissioner Edgerton stated he would also like to see a more pedestrian-friendly site plan.

Upon questions from the Commissioners, Mr. Torstenson said that if a drive-through is approved and the loading dock needs to be moved, it is an issue that will be addressed through site plan review.

Commissioner Wickiser said it seems to him that the loading dock and pedestrian access are both site plan review issues. What they have before them is the drive-through issue and that is why he is in opposition to the motion on the table.

Commissioner Padilla said that in the staff report they cite a rationale for denial of the conditional use permit based on pedestrian safety. If it is part of their consideration of health safety and general welfare of the neighborhood and that is sited as walkability as being part of the problem and the reason for lack of modification than she would like to see if that can be addressed.

Commissioner Reveal said she doesn't see an extraordinary hardship for the applicant not having a drive-through and would like more discussion on that topic.

Commissioner Wencl stated her concern was the fact that the curb cut is so close to residential property.

The motion passed by a vote of 5-2-0.

Adopted Yeas - 5 Nays - 2 (Wickiser and Wencl) Abstained - 0

Drafted by:	Submitted by:	Approved by:
Samantha Langer	Mike Richardson	Gaius Nelson
Recording Secretary	Zoning Section	Chair

APPLICANT RESPONSE. Staff Report list 2 findings that were not met.

I. CUP. Drive-through for prescription drop-off and pick-up will not alter the character of the neighborhood.

- **Drive-throughs on Grand Avenue exist**. Just because it is uncommon does not mean it will degrade character of the area.
  Examples of Grand Avenue drive-throughs within 60 feet of residential
  - 985 Grand BankCherokee
  - 1071 Grand US Bank
  - 1827 Grand Wells Fargo

- There are no places along Grand Avenue where a loading dock, trash compacter and/or dumpsters are located between a building and the street.

- The proposed new drive through facility will accommodate customers who desire to have the convenience of a drive through for filling prescriptions. There will be more open space along Grand Avenue that will improve the appearance for the neighboring property. The improved landscaping, and other amenities will improve the appearance of the site. Neighboring property owners support it.

  The redesigned drive through will improve on the existing conditions.
  The amount of impervious surface will be decreased. The amount of landscaping will be increased. The number of parking spaces in the parking lot will be decreased.

- **Pedestrian safety will be improved** by eliminating the busy curb cut closest to the intersection. There is very low traffic associated with the drive-through. Any issues of safety can be addressed as part of site plan review.

II. Modification of Conditions. Strict application of the conditions would prevent the drive-through use.

- **Existing pharmacies without drive-throughs are not comparable**. Walgreens is much smaller (12,000sf) and the existing CVS is part of a much larger mixed use building.

- Recent examples of CUP with modifications of condition on distance on commercial streets.
  - 1585 Randolph (Randolph & Snelling) Walgreens
  - 1180 Arcade (Arcade & Maryland) Walgreens
  - 522 Snelling BMO Harris

- **Pedestrian safety will be improved** by eliminating the busy curb cut closest to the intersection. There is very low traffic associated with the drive-through. Any issues can be addressed as part of site plan review.

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PRESENT: Edgerton, Merrigan, Nelson, Reveal, Wencl, and Wickiser
EXCUSED: Markarios and Padilla
STAFF: Anton Jerve, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Nelson.

MN Farmhouse Fraternity - 15-180-927 - Conditional use permit for off-campus fraternity with variances for lot coverage (35% permitted, 38% proposed), and building height (40 ft. permitted, 45 ft. proposed), 1505 Cleveland Ave N, between Dudley and Hendon

Anton Jerve presented the staff report with a recommendation of approval of the conditional use permit for an off-campus fraternity with a variance for building height (40 ft. permitted, 45 ft. proposed) and denial of the requested variance for lot coverage (35% permitted, 38% proposed), subject to a condition. He stated District 12 recommended approval of the conditional use permit and both variances, and there was 1 letter in support, and 0 letters in opposition.

Upon questions from the Commissioners, Mr. Jerve stated that the additional 3% lot coverage is roughly 450 to 500 square feet. He said the lot is about 15,000 square feet.

Mr. Torstenson referred to the Summary of Work for Zoning Approval document that was included within the packet. It states that the lot area coverage is 16,000 square feet, the allowed principal structure coverage (including porch) is 5,600 square feet, and the total lot coverage proposed is 6,000 square feet making the project 400 square feet over the lot coverage.

At questions from the Commissioners, Mr. Jerve stated that the covered terrace square footage, noted on the Summary of Work for Zoning Approval document, is included in the total lot coverage proposed of 6,000 square feet.

Tom LaSalle, 2001 Killebrew Drive, Bloomington, MN, spoke to the variance they are requesting regarding the lot coverage. The neighbor to the north is a water tower and the next neighbor is a parking lot. Evidenced by the lack of people here to testify against the project, you can see they have worked closely with the neighborhood, and have come up with a plan that is favorable. One of the things they have requested is making this building look as residential as possible. They have worked very closely with the neighborhood group, and they are very happy with what they have been able to accomplish. Where they are at on the lot coverage is really what affects that residential look. Creating a scale and a neighborhood feel has been very important to the neighborhood. They have been working to get in under that 35% lot coverage and since their submittal they have been able to reduce the variance request to 1% over. They have reduced the corridors and tightened the building. Unfortunately, the next step would be to remove the covered porch, but that would hurt the functionality and look of the building. They would like to keep the proportions, and the neighborhood is also in support. It will be a great addition to the neighborhood.

Jay Beyer-Kropuenske, 1550 Grantham Street, Saint Paul, stated he is Chair of the Construction Committee and an alumnus. Their goal has always been to work with the neighborhood. He is not only a member of the organization, but also a neighbor. They want to make a welcoming usable space outside and that is why they would like to include the porch. It allows them to have some flexibility to have some outside space away from the interior of the building. They are one of the few dry fraternities in the University of Minnesota system and they also have a house mother. The members are very well behaved and very well respected. They tried very hard to work within the requirements.

Upon questions from the Commissioners, Mr. Beyer-Kropuenske stated they have ten foot ceiling to allow for lofted beds with private study space beneath. There will be two occupants per room.

Sylvia Frank, Carlson and Frank Architects, 524 Selby Avenue, Saint Paul, stated they have been working closely with the Farmhouse trying to come up with a solution for the fraternity house and the design has been refined since they submitted their application. They have tightened the building up so that they now come in at 36% of lot coverage as opposed to 38%. They have a lot area of 16,000 sq. ft. as opposed to 15,000 sq. ft. because they can count half of the alley area. The covered terrace and the porch are all the same thing. There is no difference so the numbers that are listed on the Summary of Work for Zoning Approval can be added together. They have tightened those numbers as well. The porch is really important to the Farmhouse and they have raised funds from their alums for the project. The image of a farmhouse that includes a porch has been very popular and people would hate to see that disappear. A porch also doesn't have the same impact as a solid structure.

No one spoke in support or opposition. The public hearing was closed.

Commissioner Barbara Wencl moved approval of the conditional use permit and both variances with a condition. Commissioner Elizabeth Reveal seconded the motion.

Commissioner Merrigan stated that based on discussion she would like to have the resolution reflect that the variance for lot coverage should state 35% permitted, 36% proposed.

The motion passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:	Submitted by:	Approved by:
Samantha Langer	Anton Jerve	Gaius Nelson
Recording Secretary	Zoning Section	Chair