

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, August 17, 2017 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: Baker, DeJoy, Edgerton, Fredson, and Lindeke,  
EXCUSED: Makarios, Ochs, and Reveal  
STAFF: Lucy Thompson, Cherie Englund, and Allan Torstenson

The meeting was chaired by Commissioner Edgerton.

**Gary and Elisa Gorman - 17-065-121 - Rezone from R4 one-family to RT1 two-family, 858 Oakdale Ave., SE corner at Wyoming.**

Lucy Thompson presented the staff report with a recommendation of approval for the rezoning. She stated District 3 made no recommendation, and there were no letters in support or opposition.

Commissioner DeJoy asked if the structure was used as an apartment prior to 1985. Ms. Thompson said she did not know and will defer the question to the applicant.

Commissioner Edgerton asked if there are parking requirements for a rezoning. Mr. Torstenson said the parking requirement is 1 ½ spaces per unit for a duplex, so they would require 3 spaces and they have room to accommodate this.

Mr. Torstenson said the committee has recently asked for parking requirements to be added to the findings in all staff reports, but parking is not a required finding for a rezoning.

The applicant, Eric Smith, 858 Oakdale Ave., said the staff report was very thorough.

In response to Commissioner DeJoy's previous question, Mr. Smith said the apartment has one bedroom, a kitchen, bathroom, and a separate entrance. He added that he is not sure if this was used as an apartment prior to the purchase of this property by his in-laws.

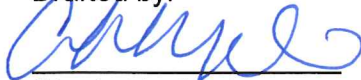
No one spoke in favor or opposition and the public hearing was closed.

Commissioner DeJoy moved approval of the rezoning. Commissioner Lindeke seconded the motion.

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

Adopted                      Yeas - 5              Nays - 0              Abstained - 0

Drafted by:



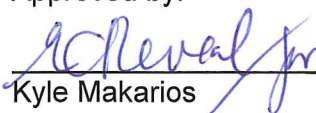
Cherie Englund  
Recording Secretary

Submitted by:



Lucy Thompson  
City Planner

Approved by:



Kyle Makarios  
Chair

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PRESENT: Baker, DeJoy, Fredson, and Lindeke  
RECUSED: Edgerton  
EXCUSED: Makarios, Ochs, and Reveal  
STAFF: Cherie Englund, and Allan Torstenson

The meeting was chaired by Commissioner Lindeke.

**CP Rail - Car Department Building - 17-065-566 - Conditional use permit for elevation of a structure on an alternative to fill in the FF flood fringe district, 1213 Pigs Eye Lake Road, NE of R/R roundhouse.**

Commissioner Edgerton recused himself from this hearing because the firm he works for, Stantec, does work for CP Rail.

Allan Torstenson presented the staff report with a recommendation of approval for the river corridor conditional use permit with conditions. He stated that District 1 made no recommendation, and there were no letters in support or opposition.

The applicant, Patrick Mooney, 396 Linda Ave., Lino Lakes, said he is the manager of facilities. He said the existing building is small and has an inadequate size break room, restrooms and operations area for repairs. He added that the new building will provide a proper facility to support their work.

In response to a question by Commissioner Lindeke, Mr. Mooney said the infrastructure of the rail yard will not be expanding.

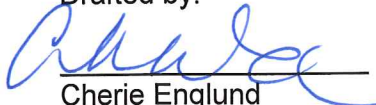
No one spoke in favor or opposition and the public hearing was closed.

Commissioner Baker moved approval of the river corridor conditional use permit with conditions. Commissioner Fredson seconded the motion.


The motion passed by a vote of 4-0-1.

Adopted                      Yeas - 4              Nays - 0              Abstained - 1 (Edgerton)

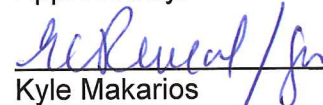
Drafted by:

  
Cherie Englund  
Recording Secretary

Submitted by:

  
Allan Torstenson  
City Planner

Approved by:

  
Kyle Makarios  
Chair

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PRESENT: Baker, DeJoy, Edgerton, Fredson, and Lindeke  
EXCUSED: Makarios, Ochs, and Reveal  
STAFF: Bill Dermody, Cherie Englund, and Allan Torstenson

The meeting was chaired by Commissioner Edgerton.

**Fred Niaz - 17-065-797 - Reestablishment of nonconforming use for auto sales at 847 Hudson Road, NE corner at Plum.**

Bill Dermody presented the staff report with a recommendation of denial for the reestablishment of nonconforming use permit. He stated District 4 made no recommendation, and there were no letters in support, and 2 letters in opposition.

Commissioner DeJoy asked if the building has been designated historic. Mr. Dermody said yes and it is a contributing building within the Dayton's Bluff Historic District.

In response to another question by Commissioner DeJoy, Mr. Dermody said the Department of Safety and Inspections would have to approve whatever use goes in here and most of the 42 items identified in a code compliance inspection report on September 1, 2016 would seem to still be relevant.

In response to questions by Commissioner Lindeke, Mr. Dermody said the Gold Line is proceeding with the next phase of study which will take about four years and will open for service in 2022 or 2023. He said this site was not considered for rezoning in 2015 because of the historic nature of the area and to discourage buildings from being torn down. Mr. Dermody said that the question of whether any nonresidential use should be allowed here is different from whether an auto sales use should be allowed. If this were another use such as office space, the staff recommendation would be different, but the auto sales use is contrary to the plan direction for pedestrian orientation. He added that the pedestrian orientation is required by the Gold Line plans, which is a Comprehensive Plan addendum.

Commissioner Baker asked if the main rationale for the staff recommendation of denial is based on finding 3(4), is there were another type of business staff would support. Mr. Dermody said he only evaluated the auto sales use, which is the subject of this application.

In response to questions by Chair Edgerton, Mr. Dermody said a contributing building within the district is considered to have historic character and add to the district as a whole. Any exterior changes that are made must be reviewed and approved through the Heritage Preservation Commission. He added that the HPC is looking at conformance with the program for preservation to maintain the overall character of the district.

Chair Edgerton said that this has always been an auto related business, zoned RM2 or RT1 since 1975, vacant since 2001, and the business closed in 1999. He said this property went before the Zoning Committee and Planning Commission for a nonconforming use permit for

auto repair in 2014, and was approved. He said in 2015 the Gold Line plan was put into place and established pedestrian friendly goals. Now for the auto sales use staff is recommending denial based on the pedestrian friendly goal of the Gold Line Plans that was established between 2014 and now. Mr. Dermody confirmed that history.

In response to a question by Commissioner Lindeke, Mr. Dermody said that if this were a use going in on a parcel zoned IT; they would need a variance because of the lot size. He added that in the past there have been cases where a conditional use permit and variance were needed for auto sales due to lot size.

In response to a question by Commissioner Baker, Mr. Dermody said that for this use to be reestablished they need approval from the Planning Commission and approval of the site plan and any required permits by the Department of Safety and Inspections (DSI). He deferred to the applicant as to whether or not he has had recent conversations with DSI.

The applicant, Fred Niaz, 847 Hudson Road, said there are a lot of vacancies in St. Paul due to the inconsistencies and restrictions imposed by various City departments. He said he was told that that this property was approved for auto service use and asked if he could be granted a one year extension to fix the issues with the building, but when he did this he was told that he could not get an extension. He said during this same time he received a bill in the amount of \$2,000.00 for a vacant building fee. He said he could not afford to pay this at this time because he had no jobs. When he asked about an auto sales use, he explained that it would not be the size of a regular dealership, because he can only sell more than 4-5 cars per year because he does not have a license. He said he was told for an auto sales use how many cars he could have and what size lot he needed. He said that a person at the Department of Safety and Inspections, who is retired, said that since this property is in a historic district you can purchase this and the City ordinance does not apply in this situation. He said he could have auto sales, but there would be a requirement as to how many cars were parked on the lot.

Mr. Niaz said he conducts his auto sales business online and clients have to make an appointment and at that time he brings the car in to show it. He said that there is not enough traffic to park 10-15 cars on this lot.

Mr. Niaz said that in talking to someone at City Council he explained that he could not afford the vacancy fee and they told him that if he wanted to start work on the building, he could make a payment on it and open his business.

He said he received many signatures from the neighbors who are in favor of his business. He said that District 4 Community Council approved this use at their meeting.

Mr. Niaz brought in bills for \$3,700.00 for 2016 Ramsey County taxes and \$2,127.00 for vacancy fees in 2016. He said he will soon get the 2017 statements.

He noted that Mr. Dermody said this property is located near the Gold bus line. He said that he should have been told about the plan and that he would not be able to do anything until the bus line plans are finalized, and possibly the City could have waived the fees until 2020 when there is a plan.

Mr. Niaz said that since the neighborhood gave him their approval, he needs to move on even though he knows he has parking restrictions. He said he has eight parking spaces, but he would only need parking for two cars during the day. He said because of the crime in the neighborhood, he cannot park his cars here overnight.

Mr. Niaz said due to a call from his neighbor to alert him of garbage in his lot, he cleaned up 7-8 bags of trash, found information on who left this garbage and filed a police report.

Mr. Niaz said that there was talk of tearing the building down, but he asked if the building is of historic significance why this would be considered. He added that he is willing to work with conditions limiting the number of cars and making repairs to the building.

Commissioner DeJoy asked if the initial intention was a use for an auto repair shop, but were not able to comply with the 42 code compliance issues. Mr. Niaz said no and that he wanted to continue to use this as an auto repair shop, and hire a mechanic while working on getting his dealership license, but the nonconforming use permit was not extended for this purpose.

In response to another question by Commissioner DeJoy, Mr. Niaz said this property was used as an auto repair shop until October 2016 and he was told if he fixed the building he could open his business. He said he was also told if he could not complete the code compliance issues before the permit expired in October 2016 he could ask for a one-year extension of the nonconforming use permit as an auto repair shop. He said he purchased the building one month before the permit expired, could not complete the corrections, applied for an extension of the nonconforming use permit, and was denied possibly due to the Gold Line and he wants to know why.

Chair Edgerton asked if he was the applicant for the 2014 nonconforming use permit for auto repair. Mr. Niaz said no and that he asked the City of Saint Paul to see if the use for an auto repair shop would still be allowed and they said yes and when he inquired about a nonconforming use permit for auto sales use, he was told he could apply for that use.

Mr. Niaz said that in discussion about using this as a coffee shop, the location of this property is behind a highway with a big wall in front and no access, so there is no traffic to this location. He said it would not be a good location for any other use, other than his online auto sales business.

In response to a question by Commissioner Lindeke, Mr. Niaz said when he has a car to sell he puts it on a website and potential customers contact him to make an appointment to view the car, so he would bring the car to this location to conduct the transaction. He added that he can currently sell 6 cars per year until he gets his dealer license from the State of Minnesota which would allow him to sell as many cars as he would like, but he anticipates selling one or two cars per week.

Commissioner Baker asked that once he gets his license and able to sell more cars, would there be more cars parked at this location. Mr. Niaz said he plans to park only the number of cars allowed for the space and if his business should grow he would have to look for another location.

In response to a question by Commissioner DeJoy, Mr. Niaz said he has eight parking spaces and would consider parking three or four cars for sale and keep three spaces open for clients. He added that he will not be parking any cars overnight because of the safety of the neighborhood and overnight storage would be located at his home. He said he installed security cameras and it has helped to prevent homeless people from sleeping here and other people from dumping trash.

No one spoke in favor or opposition and the public hearing was closed.

Commissioner DeJoy said this vacant building is not reused in another capacity what will happen. Mr. Dermody said it could remain vacant, but the zoning code would allow for residential use.

Chair Edgerton said he is not sure if a residential use, café, or office would work in this building which has been vacant since 1999, because it has always had an auto related use, and the building is considered historic. He added that the zoning code allows for residential use, but wondered if that could be achieved due to the prior auto related uses that may have contaminated the soil. He noted that staff is recommending denial of the nonconforming use permit as auto sales, but wonders whether this will end up vacant for another 20 years.

Commissioner Baker agreed with Chair Edgerton, saying he is familiar with this property and for someone to want to occupy this location for a business is good. He said he respects the staff recommendation and in particular finding 3(4). He said his concerns are that once he gets his state license to sell cars is how it will change traffic in the area and how many cars would be parked on the lot. Given the Gold Line and Metropolitan Council it will be a while and should not be used as a determination to move forward with a decision on this. He added that given the applicant's testimony, he came into this by working with the City believing that the nonconforming use permit for auto sales would be permitted and now he is being told it is not and if he had known this he could have made a different choice.

In response to a question by Chair Edgerton, Mr. Dermody said that conditions could be imposed if they were to recommend approval. He handed out a list of seven potential conditions and reviewed them.

Chair Edgerton noted that one of the proposed conditions addresses parking restrictions on the lot and street.

Commissioner DeJoy said that gas stations have changed since 1929 and there is a similar one on Payne Avenue where it is being used as auto repair, and is now a charming place. She said she does not understand why Mr. Niaz was not allowed this use, except that possibly he wasn't able to comply with the 42 code compliance items. She said that given the conditions, with only seven cars parked on the lot will this be a pedestrian-friendly environment.

In response to a question by Chair Edgerton, Mr. Dermody said that in speaking with Mr. Warner, if the Zoning Committee were to recommend approval of the nonconforming use permit for auto sales, the motion maker should explain the rationale and amend the finding accordingly.

Commissioner DeJoy said that in order to get a certificate of occupancy the applicant would need to make repairs of all code compliance issues and asked whether this needs to be added to the conditions. Mr. Dermody said there is no need to add a condition that they need to conform to City codes.

Commissioner Baker asked if Mr. Niaz would need to comply with the zoning code in order to open his auto sales business if a condition is not added for code compliance. Mr. Dermody said that is correct.

Commissioner Fredson said he is struggling with the timeline as to how this slipped through the cracks to put us in this position. He said he does not believe that this is the most appropriate use for the property and is in agreement with the staff recommendation, but feels for the applicant. He noted that the sale of the property occurred in June 2016, and asked if that triggered the September 2016 code compliance report. Mr. Dermody said he did not know why the code compliance report was generated at that time.

Chair Edgerton noted that the applicant purchased the property in June 2016, while it was under a two-year nonconforming use permit for auto repair that expired in October 2016 and he believed after discussions with staff that he could get a one-year extension for this permit. He said it is unclear whether the applicant intended to do auto repair and may have felt that auto sales may have been a similar use to auto repair.

Commissioner Fredson said the Gold Line Plans were adopted by the City Council in October 2015. Chair Edgerton noted that it did go through Planning Commission too and would have occurred prior to the sale of the property, but the applicant did not have an understanding of this at that time.

Mr. Dermody said that the Committee might make a motion for approval of the reestablishment of nonconforming use permit subject to seven conditions and amending finding 3(4) to state that the finding is met. He added that they could state that this development is not contrary to the Gold Line Station plan or that the pedestrian issues are mitigated by site plan review closing a curb cut and/or the distance from a planned station.

Commissioner Lindeke suggested that this is not a redevelopment in the same sense as what is meant in the Gold Line plan.

Chair Edgerton said that the rationales are to remove one of the curb cuts to make this site pedestrian friendly, the distance from the Gold Line Station, and it was previously established as a nonconforming use for auto repair, but the extension was denied.

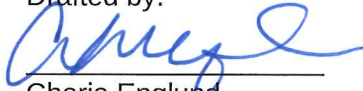
Mr. Dermody said a potential motion would be to recommend approval subject to the seven conditions and amending finding 3(4) to strike the word "not" and to strike the entire sentence that begins with "auto sales" and replace it with "however this is the reestablishment of a nonconforming use, not a development or redevelopment".

Commissioner Baker moved approval of the reestablishment of nonconforming use permit subject to seven conditions and amending finding 3(4) according to Mr. Dermody's suggestion. Commissioner Lindeke seconded the motion.

The motion passed by a vote of 4-1-0.

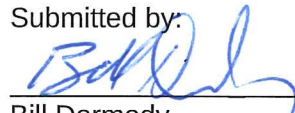
Adopted                      Yeas - 4              Nays - 1 (Fredson)      Abstained - 0

Drafted by:



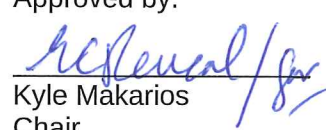
Cherie Englund  
Recording Secretary

Submitted by:



Bill Dermody  
City Planner

Approved by:



Kyle Makarios  
Chair



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STAFF: Tony Johnson, Cherie Englund, and Allan Torstenson

The meeting was chaired by Commissioner Edgerton.

**Selby-Victoria Development - 17-064-027 and 17-061-488 - Rezone from RM2 multiple family and B2 community business to T2 traditional neighborhood and variance for front yard setback (10' max., 12' proposed) and parking (20 required, 19 proposed) at 838-844 Selby Ave., SE corner at Victoria.**

Tony Johnson presented the staff report with a recommendation of approval for the rezoning and two variances with conditions. He stated that District 8 recommended approval, and that there was 1 letter in support and 1 letter in opposition. He noted that the variances are contingent upon approval of the rezoning.

In response to a question by Chair Edgerton, Mr. Johnson said there are different applicants for the rezoning and variance because the parcels are owned by Saint Paul Housing and Redevelopment Authority and the developer is Rondo Land Trust. The rezoning application needs to be initiated by the landowner and the developer has applied for the variances.

Chair Edgerton asked what the required setbacks are for the live-work units. Mr. Johnson said there is a 10' maximum front setback for the whole building. In a T2 zoning district, mixed use buildings have a required front setback of zero to ten feet. Because of the residential nature of the live-work units they want to exceed the maximum setback for the live work portion of the building.

Chair Edgerton asked where the senior housing will be located. Mr. Johnson said it will be on the upper two floors, above the commercial spaces and live-work units.

In response to another question by Chair Edgerton, Mr. Johnson said the live-work units would have commercial space in the front of the unit and residential space in the back. The zoning code requires that business portion of the unit may not exceed 30% of the floor area.

The applicant, Greg Finzell, with the Rondo Community Land Trust, 626 Selby Ave., said they have been working on this community project for six to seven years. They have partnered with several groups including Community Housing Development Corp. for senior housing, PDC Management for management of the entire complex, and Neighborhood Network for Seniors. There will be 34 senior housing units in the two buildings, 3 live-work units in the Victoria Building, and just over 9,000 square feet of commercial space. He added that the commercial space is geared toward small, neighborhood, African-American businesses, and they are working with the training program at the Neighborhood Development Center to help establish more new businesses.

Mr. Finzell said this has been a community driven project that has approval from the Summit-University Planning Council. They have had several neighborhood meetings to keep neighbors informed and ask for their support. He said the live-work units are called for by the Summit-University neighborhood plan. The space could be used as full commercial or residential units and are referred to on the plan as flex units. They are looking for three people who would like to live and operate their business out of these units.

Commissioner DeJoy asked if there is a market for the live-work units. Mr. Finzell said this is a new concept for the Rondo Land Trust, but typically spaces like this are used by artists and they are trying to reach beyond that.

In response to a question by Commissioner Lindeke, Mr. Finzell said the Rondo Land Trust has been involved in single family and duplex housing for 20 years. He said they got involved in the project because Michael Wright, who is a board member and small business owner, wanted to know if the land trust model could work for small commercial development by keeping the housing and commercial space affordable. He added that they know the cost of the building and what potential tenants could afford, and have raised \$550,000.00 to help fund the project and to keep lease's affordable. Rondo Land Trust will own the housing portion and Community Housing Development Corp. will own the commercial space.

No one spoke in favor of the rezoning or variance.

Dwight Buckner, 175 Victoria St., spoke in opposition. He said he is the building manager for a community-based program at 175 Victoria for 30 years and is a pastor at Gospel Temple Church at the corner of Marshall and Grotto. He said he is only in opposition to the parking variance because of the parking conflict this will create. He said that due to a couple of restaurants opening nearby they are having difficulty in operating their after school programs because of parking problems. They are restricted to parking on the west side of Victoria and there are bus stops on the front of their building. He said he would like to see a solution to the parking problem, such as shared parking, before the project begins. In response to a question by Commissioner Edgerton, Mr. Buckner said he is concerned about on street parking because they are restricted to parking on one side of a street, on a very busy corner.

In response to a question by Commissioner Edgerton, Mr. Johnson said the parking variance is only necessary in the event that the live-work unit space is used entirely for commercial uses. If the space is used as live-work units the parking requirement for the whole building would be 17 spaces and the variance would not be necessary. He said the applicant has proposed ideas to help alleviate some of the parking issues, such as cutting into the boulevard to add two on street parking spaces, and in site plan review there was some discussion about moving the bus stop in order to increase the number of on-street parking spaces on Selby.

Commissioner DeJoy asked if moving the bus stop would require action by the Metropolitan Council. Mr. Johnson said yes, and that a representative for the Metropolitan Council is involved with the site plan review.

In response to a question by Commissioner DeJoy, Mr. Finzell said he has been working with Mr. Buckner and others to address parking concerns in the area. He said they co-sponsored a meeting to address the immediate concerns of the restaurants. He said Mr. Buckner is correct that the on street parking demand has increased since the two restaurants opened. In the meeting they came up with a seven-point plan to address the immediate parking issues, and the Summit-University Planning Council has planned additional meetings later this month.

Commissioner Lindeke asked if there will be bicycle parking. Mr. Finzell said they have maxed the number of bicycle parking spaces. He said they are also assessing the existing surface parking lots in the area to explore the idea of shared parking. Commissioner Baker asked if he was talking with Mr.

Buckner regarding the parking issues. Mr. Finzell said that there is a lot of discussion at the City and neighborhood levels, and Mr. Buckner has been at two of the neighborhood meetings addressing these issues.

In response to a question from Commissioner Baker, Mr. Johnson said the parking variance is only necessary if the space for the live-work units is used entirely for commercial uses. He added that if the parking variance is not used in the first two years it will expire.

The public hearing was closed.

In response to a question by Commissioner DeJoy, Mr. Johnson said the minimum parking requirement is 20 spaces if all of the flex unit space is used entirely for commercial uses. If the flex unit spaces are used for live-work units as intended, the parking requirement is 17 spaces and the variance isn't necessary.

Commissioner Lindeke moved approval of the rezoning. Commissioner Fredson seconded the motion.

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

Commissioner Lindeke moved approval of the variance with conditions. Commissioner Fredson seconded the motion.

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

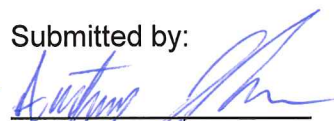
Adopted                      Yeas - 5                      Nays - 0                      Abstained - 0

Drafted by:



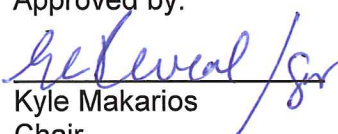
Cherie Englund  
Recording Secretary

Submitted by:



Tony Johnson  
City Planner

Approved by:



Kyle Makarios  
Chair

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**Selby-Milton Development - 17-061-494 and 17-061-506 - Rezone from T1 traditional neighborhood to T2 traditional neighborhood and variances for trash enclosure setback (3' required, 1' proposed) and using the alley to access 8 off street parking spaces in a non-residential zoning district abutting residentially zoned land across from an alley (7 spaces permitted, 8 proposed) at 934-940 Selby Ave., between Milton and Chatsworth.**

Tony Johnson presented the staff report with a recommendation of approval for the rezoning and two variances with conditions. He stated that District 8 recommended approval, and that there were 2 letters in support and no letters in opposition.

The applicant, Greg Finzell, 626 Selby Ave., said this is the second phase of the project. He said that in order to get the turning ratio for garbage trucks they had to reconfigure the parking lot and this is in agreement with the neighbors that would be most affected. Rezoning to T2 will allow the building proposed.

In response to a question by Chair Edgerton, Mr. Johnson said the alley is unimproved and gravel. The alley will be paved just beyond their parcel to provide a turnaround for garbage trucks.

Mr. Finzell said the Summit-University Planning Council has reviewed this and they have had a number of meetings with the neighbors that would be directly affected. He said the neighbors are happy because it is currently a gravel alley that will be paved. He said the neighbors are also in favor of the setback variance for the trash enclosure.

No one spoke in favor or opposition and the public hearing was closed.

Commissioner Baker moved approval of the rezoning. Commissioner DeJoy seconded the motion.

The motion passed by a vote of 4-0-0.

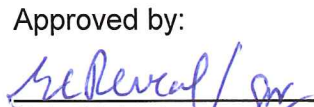
Commissioner DeJoy moved approval of the variances with conditions. Commissioner Baker seconded the motion.

The motion passed by a vote of 4-0-0.

Adopted                      Yeas - 4                      Nays - 0                      Abstained - 0

Drafted by:  
  
Cherie Englund  
Recording Secretary

Submitted by:  
  
Tony Johnson  
City Planner

Approved by:  
  
Kyle Makarios  
Chair