

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)**

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MEMORANDUM

DATE: November 12, 2015

TO: Zoning and Planning Committee

FROM: Jason Wittenberg, Manager, Community Planning & Economic Development – Land Use, Design and Preservation

SUBJECT: Planning Commission decisions of October 19, 2015

The following actions were taken by the Planning Commission on October 19, 2015. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Committee Clerk

Lisa Kusz - 612.673.3710

Commissioners present

Matthew Brown, President | John Slack, Vice President | Alissa Luepke Pier, Secretary
Lisa Bender | Meg Forney | Ben Gisselman | Ryan Kronzer | Nick Magrino | Sam Rockwell

Not present

Rebecca Gagnon

7. Karmel Plaza and Square, 2910 - 2936 Pillsbury Ave S, Ward 10.

This item was continued from the September 8 and September 21, 2015 meetings.
Staff report by [Andrew Liska](#), BZZ-7324

The City Planning Commission adopted staff findings for the application by Basim Sabri of Karmel Properties, LLC.

A. Expansion of a Non-Conforming Use.

Action: **Approved** the application for an expansion of non-conforming use to allow the proposed expansion to the 1st, 2nd, 3rd, and 4th floors, subject to the following conditions:

- I. Unless otherwise authorized or required by the City Planning Commission, the conditions of approval for BZZ-1361, BZZ-4801, BZZ-5482, and BZZ-6524, BZZ-6921, and BZZ-7113 shall remain in effect.

Not Approved by the Commission

1. The easternmost 65 feet of the 4th floor shall be set back not less than 42 feet from the north property line. The remainder of the 4th floor shall be set back not less than 62 feet from the north property line.
2. CPED staff review and approval of the final site, floor, and building elevation plans.
3. The exterior materials shall match the existing structure in material, color, and texture.
4. All site improvements shall be completed by October 19, 2017, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.
5. The expansion of nonconforming use shall be limited to the square footage on the south side of the building, internal to the site, which is referenced on page two of the staff report.

B. Site Plan Review.

Action: **Approved** the application to expand the 1st floor approximately 451 square feet, the 2nd floor approximately 993 square feet, the 3rd floor approximately 6,607 square feet, and the 4th floor approximately 820 square feet, subject to the following conditions:

1. Unless otherwise authorized or required by the City Planning Commission, the conditions of approval for BZZ-1361, BZZ-4801, BZZ-5482, and BZZ-6524, BZZ-6921, and BZZ-7113 shall remain in effect.
2. The easternmost 65 feet of the 4th floor shall be set back not less than 42 feet from the north property line. The remainder of the 4th floor shall be set back not less than 62 feet from the north property line.
3. All walls shall comply with the minimum window requirements from section 530.120 of the Zoning Code.
4. CPED staff review and approval of the final site, floor, and building elevation plans.
5. The exterior materials shall match the existing structure in material, color, and texture.
6. All site improvements shall be completed by October 19, 2017, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

President Brown: We held the public hearing on this item on September 21, 2015 so the public hearing is now closed. We asked for some additional clarification from staff, specifically related to our ability to limit the specific uses within the addition that is proposed on this property. Perhaps, Mr. Liska, you can speak to that item and anything else that has come up in the last few weeks.

Staff Liska presented the staff report.

Commissioner Kronzer: If the Planning Commission were to limit the uses, how would the city ensure that that the uses were in fact limited per the recommendations we make? What's the mechanism to ensure compliance?

Staff Poor: Staff has concerns about coming up with a complicated condition of approval. This is a shopping center. We typically do not go into shopping centers and check all the tenants all the time, we don't require them to amend CUPs, think of how that would stifle the marketplace. What has to happen is they will generally be out there checking that the building is constructed to the building plan, there are license inspectors that go by and do period checks on the licenses that are held and that typically involves seating area and other things. Generally these are on a complaint basis. Some properties generate more complaints than others, but after those complaints, we're typically not going to be out checking these things. I think I encourage the Planning Commission to come up with a clean workable set of conditions of approval if that's what you want to do. The zoning inspectors don't routinely go through these uses they're in compliance with the plans.

Not Approved by the Commission

Robert Speeter (120 S 6th St): I'm representing Sabri Properties. Some of the commissioners weren't at the last hearing. Everyone that spoke there were all for this project. The main issue was parking. I hope you received a new TDMP that shows that this will not have anything more than a minimal impact on traffic and parking numbers. I think the major concerns have been addressed. At no time has the parking garage been full, but it is a well used garage with spaces left for more. The applicant has reasonably addressed the parking and traffic issues and I think staff's recommendations are appropriate. We meet all of the six criteria for a conditional use permit. For those that weren't here last time, this project was first approved as a farmer's market in 2003. It was a unique concept, this mall catering to the Somali community at that time. It has been wildly successful. Since 2003, the definition of farmer's market changed and it was no longer a farmer's market. It became a legal nonconforming use. There were applications in 2010 and 2012 where a third floor expansion was approved. It was an expansion of a legal nonconforming use for additions to the shopping center. With regard to the third floor, I think things are clear, it has been approved as a nonconforming use. To go and revisit that would be something unprecedented. The fourth floor, with the site plan approval in 2014...it said the conditions of approval for the previous approvals shall remain in effect and that included nonconforming use for the shopping mall. I think a reasonable interpretation of that is that it was an expansion of the shopping mall otherwise we would have this unique situation where we'd basically have vertical zoning. Everything up to the third floor would be shopping mall and then the fourth floor would be something else. Staff has found that each of the criteria is met for a nonconforming use expansion. Each time this body has looked at this issue in the past, it has found the nonconforming use expansion was appropriate. Nothing has changed. If anything, it's better. There's now a four story parking ramp, there's 311 parking spaces which exceeds the requirements. The ins and outs of the parking ramp have been expanded from one to three. There are people there at all hours of operation controlling it. All of these concerns have been met by the applicant. The uses between the shopping mall usage and industrial usage wouldn't change parking. Any increase is one per 500 square feet. This is a wonderful mall that has been greatly successful. Thank you.

Commissioner Luepke-Pier: I can't find the TDMP, do we have a copy of that?

Staff Liska: Before this application even went to you on the 21st, I brought it to Public Works and they are satisfied with the TDMP on file. They said this proposal doesn't exceed the 10,000 square feet that a normal TDMP would be subject to.

Commissioner Slack: Just some clarification on the parking tickets within the area, can you explain the graphic on page two as it relates to three and four? The numbers on two don't reflect the numbers that we're seeing on page three and four. Could you explain the differences we're seeing between parking tickets in August and September on page three as it relates to the September number on page four, they're greatly different.

Staff Liska: I did contact traffic control and I believe something was lost in translation there. Specifically on page three and four. The main request of mine was regarding page two, to just break the tickets down per month.

Commissioner Slack: Are the most accurate numbers the numbers on page two?

Staff Liska: Correct.

Commissioner Magrino: Page two has it on there broken up by street, but if you add up June and July for both streets, it does equal 461 which is the June and July on page three. It's an odd chart.

Not Approved by the Commission

Commissioner Kronzer: I'd like to make a motion to approve staff recommendation for item A with the addition of a sixth condition (Gisselman seconded). That condition would be that the expansion of the nonconforming use be limited to the square footage on the south side of the building only, as noted on page two of the staff report.

Staff Wittenberg: Is that the floor area internal to the site? Ok.

Aye: Slack, Rockwell, Magrino, Luepke-Pier, Kronzer, Gisselman, Forney and Bender

Absent: Gagnon

Commissioner Kronzer: I'd like to move staff recommendation for the site plan with the six stated conditions (Gisselman seconded).

Aye: Slack, Rockwell, Magrino, Luepke-Pier, Kronzer, Gisselman, Forney and Bender

Absent: Gagnon