



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: March 25, 2004

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Prepared by: Hilary Watson, Senior City Planner, (612) 673-2639

Approved by: Barbara Sporlein, Director, Planning

Subject: Appeal of the decision of the City Planning Commission by Howard Roston, attorney representing James Cashman

Previous Directives: At the February 23, 2004 City Planning Commission meeting, seven of the Planning Commission members were present. All seven Planning Commissioners voted to approve the site plan review for a restaurant located at 3118 West Lake Street.

Financial Impact: Not applicable

Community Impact:

Ward: 7

Neighborhood Notification: The applicant notified the CIDNA on January 27, 2004 of the proposed development. Staff has not received a response from the neighborhood organization.

City Goals: See staff report

Comprehensive Plan: See staff report

Zoning Code: See staff report

Living Wage/Job Linkage: Not applicable
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Other: Not applicable

Background/Supporting Information: Howard Roston, an attorney representing James Cashman, has filed an appeal of the decision of the City Planning Commission. The appeal is associated with the decision of the City Planning Commission to approve the site plan review for a restaurant located at 3118 West Lake Street. The minutes from the February 23, 2004 City Planning Commission meeting are attached.

The appellant has stated that he does not object to the project but is appealing the decision because a condition of approval was not added that ensures access to his property. The appellant has stated that there are several reasons why access must be maintained. The appellant's complete statement and reasons for the appeal are attached.

**Community Planning and Economic Development Department – Planning
Division**
Major Site Plan Review
BZZ-1584

Date: February 23, 2004

Applicant: Tryg's Tuelson for Tryg's Restaurant

Address of Property: 3118 West Lake Street

Contact Person and Phone: Aaron Roseth, from Shea Architects, (612) 339-2257

Planning Staff and Phone: Hilary Watson, (612) 673-2639

Date Application Deemed Complete: January 28, 2004

End of 60-Day Decision Period: March 28, 2004

End of 120-Day Decision Period: Not applicable

Ward: 7 Neighborhood Organization: **Cedar-Isles-Dean Neighborhood Association (CIDNA)**

Existing Zoning: C2

Proposed Use: Restaurant

Previous Actions: None

Concurrent Review:

Major site plan review

Background: The applicant is proposing to construct a new restaurant on the site located at 3118 West Lake Street. The proposed restaurant will be named Tryg's. The former Nora's restaurant operated at this location for the past forty-plus years until it was demolished in late 2003. Tryg Truleson, Nora Truleson's son, is the owner of the property and will be the operator of the new restaurant. The construction of the restaurant requires site plan review.

Neighborhood Review: The applicant notified the CIDNA on January 27, 2004 of the proposed development. Staff has not received a response from the neighborhood organization.

Attachments:

1. Letter from the property owner
2. Statement of proposed use and description of the project
3. January 27, 2004 letter to CM Lisa Goodman and CM Dan Niziolek

4. January 27, 2004 letter to CIDNA and the West Calhoun Neighborhood Council
5. Zoning Map
6. Site plan, floor plans and elevations
7. Photographs of the site

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- **The building is setback approximately 23 feet from the front property line along West**

Lake Street. Between the front wall of the building and West Lake Street there is a patio with a fire pit and additional seating for restaurant patrons. Although the building is not located within eight feet of the front property line the building is located closer to West Lake Street than the two adjacent buildings. Because of the greater setback the building does not reinforce the street wall. This building does maximize natural surveillance as large windows and patio doors extend along the front wall of the building and during the warmer months of the year restaurant patrons will be able to dine on the outdoor patio located near the front of the site. This building also facilitates pedestrian access. Although the principal entrance to the building is setback approximately 65 feet from the front property line along West Lake Street, there is a walkway provided between the public sidewalk and the principal entrance.

- **The building is one-story in height (approximately 27 feet at the highest point). The exterior materials being used include stone, stucco, textured concrete and glass. The roof is made out of copper. The walls of the building have been broken up into smaller sections through the use of varying rooflines, varying window configurations, an emphasized entrance and different exterior materials. The sides and back of the building are compatible with the front of the building and plain face block is not visible from the street.**
- **The window requirement along West Lake Street and the parking lot is thirty percent. Both of these elevations exceed this requirement.**
- **All of the required parking for the development is located to the side and rear of the building. There are landscaped beds located between the front property line and the parking lot.**

ACCESS AND CIRCULATION

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- **The development conforms with the zoning code and with the requirements of the Public Works Department in regard to pedestrian and vehicular access and circulation.**
- **Excess snow will be stored on the back portion of the lot.**

LANDSCAPING AND SCREENING

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
- Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).
- Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in

required front yards where such screening shall be three (3) feet in height.

- Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
- A decorative fence.
- A masonry wall.
- A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).
- Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).
- The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.
- Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.
- All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.
- All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- **The landscaping requirement for this development is twenty percent. According to the applicant, once the project is complete approximately 42 percent of the site will be landscaped (please see the attached landscaping plan). The tree requirement is 47 and the shrub requirement is 236. The applicant is providing 47 trees and 239 shrubs. In addition, 262 perennials will be provided on the site.**

ADDITIONAL STANDARDS

- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- Site plans shall minimize the blocking of views of important elements of the city.
- Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- Buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260.
- Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated.

Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- **The lighting plan conforms with the requirements of the zoning code.**
- **This development should not block views of important elements within the city.**
- **This development should not cast shadows on surrounding properties.**
- **This development should not contribute to the wind tunnel effect.**
- **The Crime Prevention Specialist had no comments regarding this site in regards to crime prevention design elements.**
- **This site is neither historic nor located in a historic district.**

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE

With the approval of the major site plan review this development will be in conformance with the applicable regulations of the zoning code.

THE MINNEAPOLIS PLAN

The site is located in a general commercial area. In addition, the site is located along West Lake Street which is a designated Commercial Corridor. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support urban design standards that emphasize a traditional urban form in commercial areas.
- Promote design solutions for automobile parking facilities that reflect principles of traditional urban form.
- Support development in commercial corridors where is enhances the street's character, improves its ability accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services.

The building that is being constructed interacts with the street and is creating a visually appealing street presence through the use of landscaping and an outdoor dining area. In addition, the parking lot that is being constructed is located to the side and rear of the building and is buffered from the street by landscaping.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

The City adopted the Lake Street Midtown Greenway Corridor Framework Plan in 1999. The plan does not specifically call out anything for this site. However, generally the plan indicates that more greenery should be added to sites along the Midtown Greenway and that parking should be located to the side or the rear of buildings. This development meets both of these goals.

ALTERNATIVE COMPLIANCE

The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities

or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.

- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
- The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- **Staff recommends that the City Planning Commission grant alternative compliance to allow the front wall of the building to be set back more than eight feet from the front property line along West Lake Street. The greater setback allows for landscaping and a patio with a fire pit that provides an outdoor dining area and additional seating for restaurant patrons.**

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the site plan review:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review for Tryg's Restaurant located at 3118 West Lake Street subject to the following conditions:

1. The Community Planning and Economic Development Department – Planning Division shall approve the final site, landscaping and elevation plans.
2. The applicant shall obtain an encroachment permit from the Public Works Department for any work done in the right-of-way.
3. All site improvements shall be completed by February 23, 2005, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before exterior building permits are issued.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division
350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD**

MEMORANDUM

DATE: February 24, 2004

TO: Blake Graham, Community Planning & Economic Development - Planning Div.
Phil Schliesman, Licenses

FROM: Neil Anderson, Supervisor, Community Planning & Economic Development -
Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development
Planning Division

SUBJECT: Planning Commission decisions of February 23, 2004

The following actions were taken by the Planning Commission on February 23, 2004. 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:

ATTENDANCE

President Martin, Vice President Hohmann, G. Johnson, Krause, Kummer, LaShomb, MacKenzie, and Schiff – 8

Note: Due to a previously scheduled meeting running over its allotted time in 317 City Hall, the City Planning Commission was moved to room 220 City Hall.

5. Tryg's Restaurant (BZZ-1584, Ward 7)

3118 West Lake Street (Hilary Watson)

A. Major Site Plan Review

Application by Tryg Tuelson for Tryg's Restaurant for a major site plan review for the property located at 3118 West Lake Street.

Motion: The City Planning Commission adopted the findings and **approved** the site plan review for Tryg's Restaurant located at 3118 West Lake Street subject to the following conditions:

1. The Community Planning and Economic Development Department – Planning Division shall approve the final site, landscaping and elevation plans.
2. The applicant shall obtain an encroachment permit from the Public Works Department for any work done in the right-of-way.
3. All site improvements shall be completed by February 23, 2005, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before exterior building permits are issued.

Staff Hilary Watson introduced the staff report. Ms. Watson stated information received since the printing of the staff report that: Jim Cashman, the owner to the east, called to say he may have some site access issues. Thirty or forty years ago, Tryg's father and Mr. Cashman came to a handshake agreement to allow one single point of access to both of the sites. Mr. Cashman has semi trucks that deliver products to the building. There is a letter that came from Mr. Cashman's representative as he is in Florida until May that was passed out earlier. The reconfigured site plan at Tryg's would actually remove that single point of access to Mr. Cashman's property. She did receive an e-mail from John Wertges in Public Works and apologized she did not distribute that this evening, but John Wertges and staff have come to an agreement that we will be able to come to an agreement, we really just need time to sit down and look at the site plan. It may take Xcel Energy to remove a pole that they placed right in the middle of Mr. Cashman's driveway which shifted the driveway, but we believe that we'll be able to come to some resolution. Mr. Cashman's representatives want to speak tonight for the public record.

Commissioner LaShomb: So what are you proposing? Are we going to defer this a cycle while you fix it, or are we going to instruct staff to fix this, what do you want us to do?

Staff Watson: I'm proposing that John Wertges or Janine Ryan and myself and the applicant and Mr. Cashman or his helpers sit down and come to an agreement. John Wertges believes that both parties can have their own access points-it may limit access eastbound on Lake Street to the Tryg's Restaurant site, and that is something that needs to be discussed with the applicant, but I think something can be worked out-I don't believe we need to work it out in this forum because I think Public Works will be able to do that in the final review of the site plan if that is acceptable to Commission this evening.

Commissioner LaShomb: So the language that is presently on the green sheets [agenda] does not need to be amended?

Staff Watson: It would not need to be amended.

Commission President Martin: We would add an additional condition that said 'subject to staff approval'.

Staff Watson: I think that condition is already on there.

President Martin opened the public hearing.

Howard Roston (representing Mr. Cashman): I have been involved in this since Friday of last week, so I've done my best to get up to speed, but I won't promise to you that I fully understand all of the nuances here. It sounds like the concerns are being addressed by Public Works. It is very critical that Mr. Cashman be able to maintain his full access, both east and west, on West Lake Street to and from his property. This was worked out a long time ago with MNDOT as I understand it, where the parties agreed to a single access point in order for MNDOT to put a break in the center median, so we would request, again as I set forth in my letter, we have absolutely no objection to the project, we want to see the project go forward. Where we would request a condition of approval, full access left in, left out, right and right out be maintained and worked on at least by the City in order to provide access to Mr. Cashman's property. Thank you and I will be happy to entertain any questions.

Aaron Roseth (Project architect representing Tryg's): As the architect and as a representative of the Tuelson family, we definitely would like to work something out with the adjacent property owner. We understand that there was a handshake agreement between the two property owners, that there was a single point of access. We do not plan on taking any property away from the adjacent property owner although we do plan to make a green partition between the certain point of access that he is talking about, so I don't know if I should submit another photo of this that may clarify this a little bit better, or if we just deal with this with Hilary.

President Martin closed the public hearing.

Commissioner Krause: Madame Chair, it looks like the resolution of this issue could possibly result in a loss of some of the parking spaces. I didn't see any reference in the report, obviously they meet the parking requirements now. Are they right at the number, or what would the loss of one or two spaces if necessary to accommodate this issue mean?

Staff Watson: They have more parking on the site than what they need but they are providing as much parking as they think that they need based on Nora's level of traffic and business. I guess at this point the belief is that Tryg wants to really establish his site from the industrial site next door because he is investing a significant amount of money into giving some nice cover to the landscaping and a new building front, that he really wants to establish a separate point of entry from his site to the industrial site next door that doesn't have any landscaping, that's basically pavement around the building and his business plan is for an upscale, nice, sit-down restaurant. He really wants to have that barrier and so I think that could be accomplished through that way, but I think the results are going to be two separate driveway's so he can have his separate points of entry into his own site.

Commissioner Krause: You mentioned that this gentleman has requested that we maintain full left-in, right-out access and you said there might be some loss of access, but I don't know how exactly...

Staff Watson: What happened is MNDOT put in a median on Lake Street, when [tape unclear] the City actually removed a portion of that median to allow that access into Mr. Cashman's site, that median could be readjusted so all the access is on to Mr. Cashman's site which would make any patrons that are heading eastbound on Lake Street to Tryg's Restaurant go down to Dean Parkway and make a U-turn to come back. That is one solution. I guess Public Works and I had our first discussion about this today and so there is a solution we believe, I just can't tell you what it is at this moment until we sit down with the plans. I know Tryg's representative Aaron was also going to do some turning radiuses on to the site, but again we had such short notice that we need to really have a meeting.

Commissioner LaShomb: Madame Chair, with the understanding that additional language is not required to accomplish this issue of access for the two properties, I will move the staff recommendation for 5A (Hohmann seconded).

The motion passed 7-0.