

REQUEST FOR COUNCIL ACTION

DATE April 24 1980

AGENDA SECTION: NO. DEVELOPMENT BUSINESS	ORIGINATING DEPARTMENT COMMUNITY DEVELOPMENT Division of City Planning	Approved For Agenda By:
ITEM: NO. Conditional Use Permit	By:	

Item 5

Case 7984A-80

GENERAL INFORMATION

Applicant: Burger King
Location: 9056 Penn Avenue South
Request: Conditional use permit for restaurant

PROPOSAL

The applicant is proposing to construct a sit-down and take-out Burger King with drive-up window, between the Sear's Surplus store and Winchell's Donut Shop

Existing Land Use and Zoning: Vacant and parking lot; zoned B-2

Surrounding Land Use and Zoning: North--Winchell's Donut House and gas station/superette; zoned B-2
South--Sear's Surplus Store; zoned B-2
East--gas station, retail shops and animal clinic; zoned B-2
West--multiple-family dwellings; zoned R-4

Comprehensive Plan: The Interim Comprehensive Land Use Plan and Central Area Plan recommend retail and commercial uses

Applicable Regulations: Section 19.31(d)(21)(22)

Findings Required: Section 19.22(2)(A)(B)(C)(H) and (I)

HISTORY

City Council Action: June 16, 1975--approved a conditional use permit for a Winchell's take-out restaurant at 2325 West 90th Street after the Planning Commission recommended approval (Case 3308B-75)

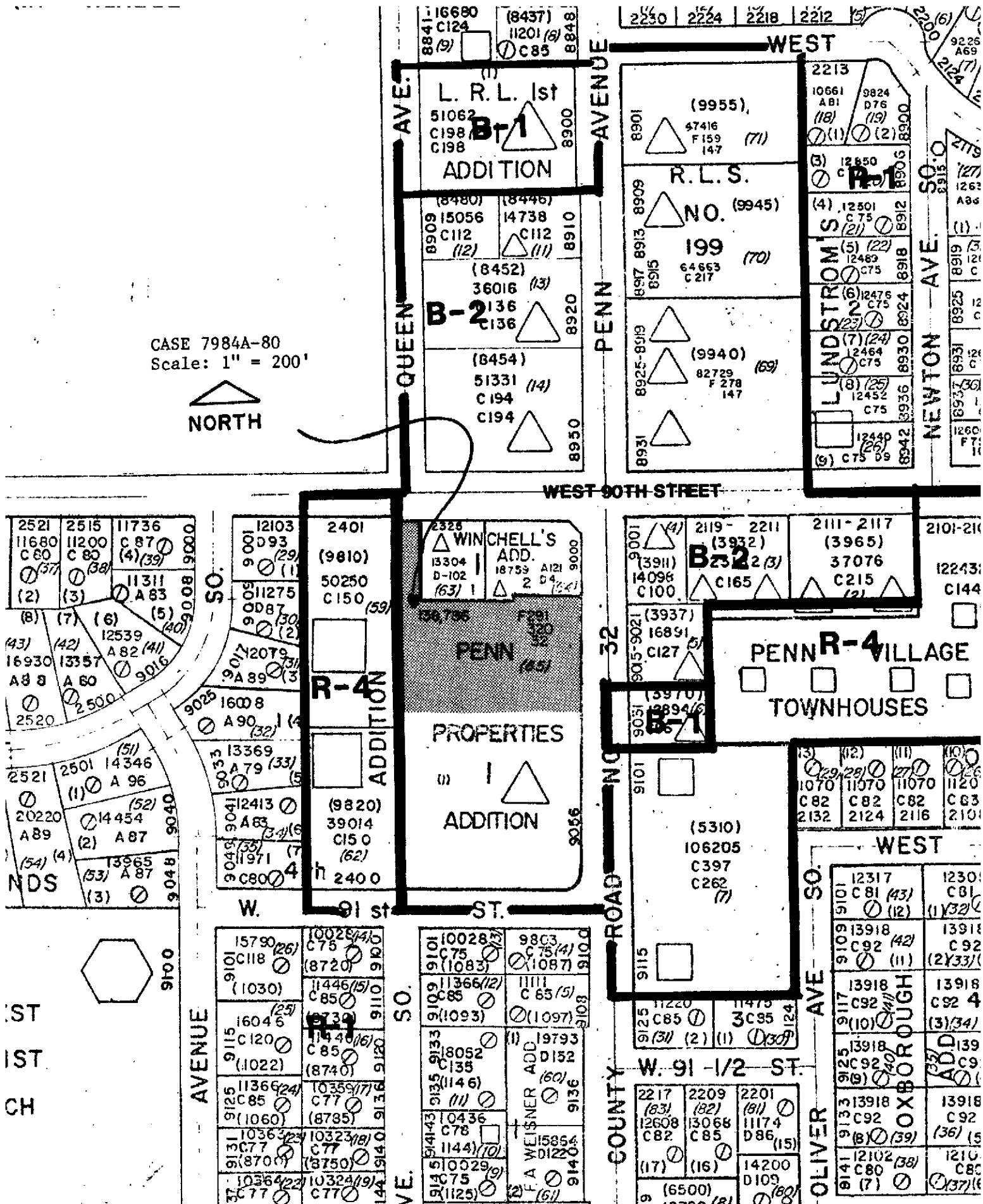
COUNCIL ACTION: Motion by _____ Second by _____ to _____

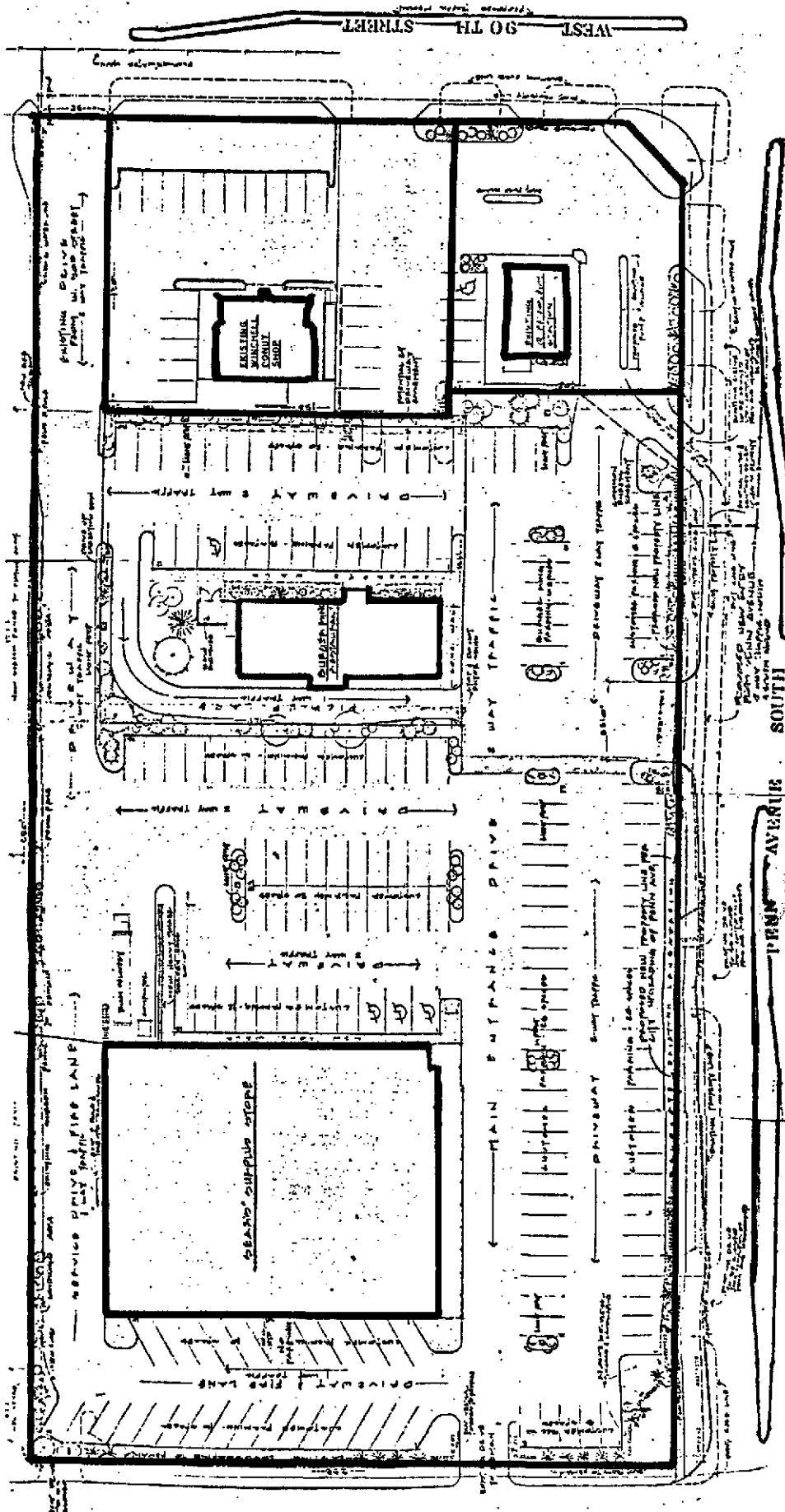
- City Council Action: September 29, 1975--approved a final site plan and building plans for Winchell's Donut House at 2325 West 90th Street after the Planning Commission recommended approval (Case 3308A-75)
- City Council Action: November 10, 1975--approved the preliminary and final plat of Winchell's Addition at 90th Street and Penn Avenue (Case 3308E-75)
- City Council Action: February 7, 1977--approved three variances to greenstrip/landscape yard requirements for Penn Properties at 9056 Penn Avenue after the Variance Board recommended approval (Case 7984BCD-77)
- City Council Action: June 26, 1978--approved a conditional use permit and final site plan and building plans for a self-service gas station and convenience food store after the Planning Commission recommended approval (Case 3412A-78)

CHRONOLOGY

- Planning Commission Agenda: April 24, 1980--hearing was advertised in the official newspaper on April 9, 1980. Notices were mailed to adjacent property owners on April 11, 1980.

CASE 7984A-80
Scale: 1" = 200'





CASE 7984A-80
Scale: 1" = 72'



1. sidewalks be built at the developer's expense 39 feet to 45 feet from the centerline of 90th Street and Penn Avenue in accordance with specifications set forth by the City Engineer,
2. landscape plan, including sign locations and design be approved by the Director of Planning,
3. copies of common driveway easement agreements with adjacent property owners be provided to the City,
4. street right-of-way be dedicated at the intersection of 90th Street and Penn Avenue for turning movement as required by the Traffic Engineer,
5. driveway access to be constructed per approved plan with appropriate permits,
6. only one reserved handicapped parking space be provided with location of the space, access ramp and reserved parking sign to be approved by the Director of Planning.

Following discussion, motion was made by Darr, seconded by Blessum, and all voting aye to approve the conditional use permit, final site plan and building plans based on making the required City Code findings and on compliance with the conditions set forth by the Planning Commission.

Revised Preliminary
Development Plan
Case 7765C-78
Item 5.5

The Council was requested by the Marvin H. Anderson Construction Company to consider approving the revised preliminary development plan for Hyland Hills 7th Addition at 9801, 9821 and 9921 Nesbitt Road. The applicant is proposing to review the recently approved development plan for 18 acres to accommodate 15 single-family lots and two condominium structures with 66 units per structure for a density of about eight units per acre.

The Planning Commission at its meeting of June 15 recommended approval of the revised preliminary development plan for Hyland Hills 7th Addition based on the ability to make the findings in City Code Section 19.38(g)(1) through (7) as required and with the following conditions:

1. condominium structures be limited to three stories and not more than 150 living units be included in these structures,
2. Briar Road be completed with the first phase of construction,
3. final site plans and building plans for the condominium structures and two-family dwellings be reviewed by the Planning Commission and approved by the City Council,
4. landscape plan be approved by the Director of Planning.

Following discussion, motion was made by Mahon, seconded by Peterson, and all voting aye to approve the revised preliminary development plan based on making the required City Code findings and on compliance with the conditions set forth by the Planning Commission.

Consider Project
Budget for 1978 Park
Improvements
Item 6.6

The Council was requested to consider approving an appropriation of \$92,000 undesignated Park Development Fund monies and \$4,600 from Tennis Court Repair and Boards for a total of \$96,600 for the implementation of the 1978 Park Improvement Program. Background information concerning the request was submitted to the Council with the agenda material. Following discussion, motion was made by Mahon, seconded by Lindau, and all voting aye to approve the appropriation of the funds as proposed.

Consider Amendment
to Architect's Contract,
Park Improvement
Program
Item 6.10

The Council was requested to approve an amendment to the contract for architectural services for the construction of two tennis courts at Wright's Lake Park for \$1,500 and design drawings and construction documents for parking, ballfield backstops and benches, playlot and two tennis courts at Reynold's Playground for \$5,600. Following discussion, motion was made by Mahon, seconded by Lindau, and all voting aye to approve the appropriation of \$7,100 to the architectural contract as proposed.

Final Plat Approval
of Forest Haven 2nd
Addition
Case 8393A-77
Item 6.11
R-78-76

The Council was requested by Joseph Hutton, Jr., to consider approving the final plat of Forest Haven 2nd Addition located at 8910 and 8920 Southwood Drive. The preliminary plat was approved by the Council on September 19, 1977, with a number of conditions which have been or are being met.

Following discussion, motion was made by Mahon, seconded by Blessum, and all voting aye to approve the final plat of Forest Haven 2nd Addition, approve the subdivision agreement, and adopt a resolution granting final approval.

Set Hearing for
Ordinance re Stop
and Yield Inter-
sections
Item 6.13

The Council was requested to consider ordering an ordinance and set a hearing date to amend Section 8.24 of the City Code by adding items designated 8.24 a-99 through 101 relating to stop and yield intersections in the City. Following discussion, motion was made by Darr, seconded by Blessum, and all voting aye to set a public hearing for 7:30 p.m. July 31 on this proposed ordinance.

Boards and Commissions'
Communications
Item 7.1

The Council was requested to consider a communication from the Park and Recreation Advisory Commission regarding the proposed plans for tennis court improvements at Valley View Playfield, the tennis court project at Wright's Lake Park, and the development plans for the Reynold's Playground as presented by the architect. At its meeting of June 14 the Park and Recreation Advisory Commission made the following motion:

Item #3
Mrs. Liiste
Case 4034A-78
8036 Lyndale Avenue
Temporary conditional use
permit for Montessori
school

8:15 p.m.

Mr. Hawbaker said the applicant is requesting renewal of a conditional use permit to operate a Montessori school at this location. He said the school has been in operation since 1962 and that all requirements have been complied with during this time. He said the Fire and Life Safety Committee has recommended approval, and staff recommends approval with one condition.

Mr. Fillbrandt stated he has seen an excess of cars parked in the applicant's parking lot. Mr. Bartels recalled the sketch of the site which showed parking spaces for 12 cars.

Mr. Matt Liiste, the applicant, said there has been no problem with parking.

The Planning Commission reviewed the findings in Section 19.22(5)(A)(i) through (iv), as required for a temporary conditional use permit.

M/Wofford, S/Fillbrandt, to close the hearing. Motion carried 5-0.

M/Wofford, S/Fillbrandt, in Case 4034A-78, to recommend approval of a two-year temporary conditional use permit for a Montessori school based on the ability to make the required findings in Section 19.22(5)(A)(i) through (iv), with the following condition:

all pick-up and drop-off activities shall occur in the off-street parking area.

Motion carried 5-0.

Item #4
Q Petroleum Corporation
Case 3412A-78
9000 Penn Avenue
Conditional use permit,
final site plan and
building plans for self-
serve gas station and
convenience food

8:25 p.m.

Mr. Hawbaker stated the City Council approved a conditional use permit, final site plan and building plans for alterations to this service station and convenience food store on September 20, 1976. Because of delays in the applicant's obtaining driveway easement agreements from the adjacent property owner, he said the construction has not begun; it is now felt an agreement is near. He said plans submitted for the present proposal are the same as were approved in 1976. Mr. Hawbaker said staff feels this proposal will be a major improvement at this intersection and recommends approval with conditions.

Mr. Hawbaker said the applicant may be required to obtain a variance to the greenstrip requirement and to pump island setbacks, but it would be appropriate for the Planning Commission to take action before the variances are considered.

In referring to Condition 4, Mr. Hawbaker said the amount of right-of-way required by the Traffic Engineer at 90th Street and Penn Avenue is minimal and will not affect the development.

Mr. Andruss asked if there is still an easement at this location from the Sears Surplus Store parking lot. Mr. Hawbaker said when Sears put their landscaping in, they did allow for the common driveway to be built for the two properties.

Mr. Marlin Besler, representing the applicant, said there had been difficulty in reaching an agreement with Sears, but agreement is expected to be reached soon.

Mr. Bartels asked if the easement agreement will be available before going to the City Council. Mr. Hawbaker answered if it is not, a condition of approval would cover the requirement.

The Planning Commission reviewed the required findings in Section 19.22(2)(A), (C), (H) and (I).

M/Bartels, S/Wofford, to close the hearing. Motion carried 5-0.

M/Bartels, S/Fillbrandt, in Case 3412A-78, to recommend approval of the conditional use permit, final site plan and building plans for a self-serve gas station and convenience food store, based on the ability to make the findings in Section 19.22(2)(A), (C), (H) and (I), as required, with the following conditions:

- 1) sidewalks be built at the developer's expense 39 feet to 45 feet from the centerline of 90th Street and Penn Avenue in accordance with specifications set forth by the City Engineer;
- 2) landscape plan, including sign locations and design, be approved by the Director of Planning;
- 3) copies of common easement agreements with adjacent property owners be provided to the City;
- 4) street right-of-way be dedicated at the intersection of 90th Street and Penn Avenue for turning movement as required by the Traffic Engineer;
- 5) driveway access to be constructed per approved plan with appropriate permits;
- 6) only one reserved handicapped parking space be provided with location of the space, access ramp and reserved parking sign to be approved by the Director of Planning.

Motion carried 5-0.

Mr. Fillbrandt reiterated that this project will be an improvement to this intersection.

Following discussion, motion was made by Spier and seconded by Belanger to close the hearing and approve the conditional use permit based on compliance with the conditions set forth by the Planning Commission, plus an additional condition that the hours of operation will be from 5 a.m. to 11 p.m. and based on making the required City Code findings. All voted aye, except Mahon, who voted nay, and the motion carried 7-1.

View Decisions of
the Variance Board
Item 6.2

The Council was requested to review the decisions of the Variance Board on the following variances at their meeting of January 26:

Case 7984B,C,D-77	Penn Properties, 9056 Penn Avenue	Variance to greenstrip/landscape requirements.
Case 7612D-76	Mike Cox, 9626 Lyndale Avenue	Variance to have a sign over maximum height.

Following discussion, motion was made by Darr, seconded by O'Neil, and all voting aye to uphold the recommendation of the Variance Board and approve a variance to the greenstrip/landscape requirements but to also require that the other landscaping requirements previously required be complied with. Steven Davidson, attorney for the applicant, asked what the conditions were and was told by the City Attorney that what was being asked was compliance with previous landscaping requirements which haven't been met. He said his letter of transmittal will set forth these conditions.

Discussion was held on the request for variance for the building at 9626 Lyndale Avenue and question was raised by Darr as to whether or not this was the proposed site of an Arby's Restaurant which has been approved by the Council. The Director of Licenses and Environmental Inspection said he did not know if Mr. Cox was still in the building but that the sign is still existing on the building. Following discussion, motion was made by Darr, seconded by Mahon, and all voting aye to uphold the recommendation of the Variance Board and deny the request for variance.

Specifications for
rental Uniform
Service
Item 6.11

The Council was requested to consider approving the specifications and schedule for rental uniform bids for the Public Works Department. The estimated cost of this uniform rental service is \$7,000 with the employee contribution about 40%.

The following schedule was proposed:

Council approve specifications	February 7
First advertisement	February 11
Open bids	February 22
Council consider bids	February 28

The Director of Public Works said that because more persons are participating in this program than had in the past, he felt it would be better to secure bids rather than to negotiate a price. In response to a question as to whether the wearing of uniforms was mandatory or optional, the City Manager said it is optional in most departments but mandatory in the Utilities Division where the employees are going into private homes and businesses.

Following discussion, motion was made by O'Neil, seconded by Malone, and all voting aye to approve the specifications and authorize the call for bids in accordance with the schedule.

Final Plat Approval,
Spring Valley 5th
Addition
Case 8179A-76
Item 6.8

The Council was requested to consider approving the final plat of Spring Valley 5th Addition located at 10733-10735 Hopkins Road. The preliminary plat was approved on November 1, 1976, and the conditions of preliminary approval have been or are being met.

Following discussion, motion was made by Darr, seconded by Belanger, and all voting aye to approve the final plat of Spring Valley 5th Addition, approve the subdivision agreement, order the necessary improvements for construction, and adopt a resolution granting final approval.

Final Plat Approval,
Bayridge 2nd Addition
Case 8174A-76
Item 6.9

The Council was requested by Pentom, Inc., to consider approving the final plat of Bayridge 2nd Addition, originally submitted as Bayridge, located at 9028 West Bush Lake Road. The preliminary plat was approved by the Council on October 25, 1976, and conditions of preliminary approval have been or are being met.

Discussion was held on the road alignment in the plat and question raised as to whether the streets in the development would be of standard or substandard width. The Public Works Director indicated they would be of substandard width, and for this reason, there would be no parking allowed on those streets. He also noted that in previous discussions of drainage from this development, it had been requested that efforts be made to keep storm water from going into the cranberry bogs. He said in correspondence with the Horticulture Department in Wisconsin they informed him that water draining into the cranberry bog is necessary to keep it a bog. For this reason, he said the final drainage plans will be revised and will be submitted to the Natural Resources Commission and the Council for final approval.

Penn Properties who are proposing development changes at 9056 Penn Ave. in a retail business (B-2) district requests approval of a variance to:

- B) Have an 8 ft. greenstrip along Penn Ave.
- C) Have an 8 ft. greenstrip along W. 91st St.
- D) Have a 7 ft. landscaped yard along the west property line which is adjacent to a residential district.

The variance considerations are:

B & C) Section 19.52(E)(1)(A) which states that in all districts a landscaped yard shall be provided and maintained along all streets and traveled rights-of-way. The yard shall be at least 20 ft. in depth along all streets as measured from the street right-of-way. The yard shall extend along the entire frontages of the lot except for driveways, and shall be kept clear of all storage, structures and off-street parking.

D) Section 19.52 (e) (2) which states that along zoning district boundary lines where lots or parcels in any nonresidential zoning district are adjacent to a residential zoning district and not separated by a street, landscaping equivalent to that described in this Section 19.52 (e) (1)(A) shall be provided and maintained on the lot or parcel in the non-residential zone along the boundary line adjacent to the residential district.

No landscaping or green area now exists in any of the areas described above.

Steven Davidson, attorney on behalf of the petitioner, introduced Mr. George Kolinsky, architect in developing this plan. Mr. Kolinsky explained that at the present time there is an opening access to Penn Avenue South which is indicated as closed on the plans. This was the City Traffic Engineer's suggestion. Mr. Kolinsky explained in great detail the plans for the greenstrip along Penn Avenue and along West 91st Street as well as the landscaped yard along the west property line. Mr. Kolinsky said that basically, what is being presented is an addition of approximately 15,000 square feet which would more than likely be used for small shops. The Sears store will be repainted and refurbished. The essential reason they are asking for the variance along Penn Ave. is because the County is asking to take an extra 7 feet in right-of-way to eventually widen Penn Ave. Eventually, the actual curb would be moved in. If 7 feet were taken by the County and another 20 feet taken for greenstrip, this would reduce the parking area, eliminating one row of parking. There would be service entrances in the back. Most of the parking, etc. would be in the front.

There have been complaints from the neighbors regarding the trucks parked by Sears. The petitioner is working with Sears and the City to design an enclosure so that the trucks could back in an area behind the store and not be seen. This area would be completely enclosed. Considering this type of use, there would be sufficient parking.

Mr. Gasterland pointed out that Mr. Kolinsky is not proposing a particular building but only the architects plans on how it will be built. No applications for building permits have been made. All they are asking for

are the variances. They are merely trying to find out if they will eventually be able to accommodate this proposal. Mr. Kolinsky explained that they are in no position to apply for a building permit. They are only presenting the actual layout. Mr. Kolinsky said that if there is a problem with parking, they would modify the plan slightly so that it would not be necessary for them to come back for a variance in the parking.

Schaeppi pointed out that a memo had been received from Mr. Lyle Berg, City Traffic Engineer, regarding this case. The gist of the letter is that Mr. Berg thinks that the variances requested will expedite improvements of the property and would probably be within reason.

John Hayek, 9100 Penn Avenue South, expressed his opposition to the variances being requested. He presented pictures of the area as it was existing in 1973 and as it now exists. At present, there does not appear to be any greenstrip. There is an existing row of dead trees. It is not very pleasant to look at. A privacy fence had been built, however, the area can still be seen and is an eyesore. Schaeppi asked Mr. Hayek what he would suggest for screening. Mr. Hayek said he would like to see a row of evergreens or something that would block the area. The building is not maintained. When the Sears store has sales, the parking becomes out of hand. Mr. Hayek explained that the parking is bad now, and he is wondering what it will be like if additional stores are built in the area. Trucks are not able to make the turn and are running over neighboring properties. Gasterland pointed out that all of these complaints are well documented and both the owner and the City are aware of them. That is what perpetrated this variance. As far as the actual design of the greenstrip area is concerned, code requires a 3 foot high barrier. There are specific items that will have to be approved. They are presently looking at the requirement for a 20 foot greenstrip which the petitioner is asking to be reduced to 7 feet.

Mr. Hayek said he would like the record to show that he would like to see a 20 foot greenstrip. Schaeppi said they appreciate Mr. Hayek's comments, however, if the variances are not granted, there will not be any improvements on the property. At the present time, there does not appear to be a greenstrip. If an 8 foot greenstrip were put in, this would be better than no greenstrip at all.

Mr. Frank McCarthy, owner of the apartment building at 9101 Penn Avenue South, said that he would like to see a greenstrip along Penn Avenue. Mr. McCarthy said he felt that that area was not maintained and kept up. He would like to see some thing done to clean the area up.

Mr. Bob Bergfeld expressed his opposition to the variances. It was pointed out that the owners of this property are currently under order to bring the property in compliance to code. That is why they are requesting the variances. They need the variances in order to develop the property as shown. These variances would allow them to provide parking in an orderly manner and provide spaces for loading and unloading trucks. The only issue is if the Variance Board will allow them to reduce their greenstrip in order to develop their property. The plan cannot be accepted for a conditional use permit unless the variances are granted.

Mr. George Ricker, 9101 Queen, said that there are trucks that come and back up on his property. Schaeppi explained that the way the plan is designed, it would stop the trucks from coming out the back. The City Council will do the actual deciding. Schaeppi said he would have to vote

in favor of these variances because it would improve the property for the neighbors. Mrs. George Ricker also appeared before the Board stating that the trucks were driving on her property.

Following lengthy discussion, it was pointed out that this case would have several public hearings before any final plan would be approved. The neighbors may at that time again express their opposition to any of the proposals. This case will be going before the City Council and Planning Commission at a later date and neighbors within 500 feet of the property will be notified of these hearings.

Schaeppi read the required criteria for Case 7984B-77 stating that they have heard a lot of testimony about the granting of these variances but most of the testimony did not specifically concern whether the 8 or 20 foot size greenstrip would be the best. Most of the testimony had to do with the screening. This is a minimum variance since it will enable the petitioner to go from a more or less non-existing 20 foot to 8 foot greenstrip along Penn Avenue. Since the variance would upgrade the property not just for the owner of the property but specifically for the neighbors, it is in harmony with the general purpose and intent of the ordinances and would not be injurious to the neighborhood or detrimental to the public welfare. It would provide for better screening. If the property is upgraded as indicated, the trucks will also be screened. They will also no longer be pulling out through the exit on the southwest corner of the lot. They would have to find another way to get out of the lot. This would take care of those objections expressed by the neighbors regarding the trucks running over their property. There would be wider entrances and exits so that the trucks could turn out at an angle. The special circumstances result only to the extent that the petitioner is trying to improve his property and is a pre-existing condition which is not up to code. The area is run down. Some action has to be taken to improve the area.

Motion was made by Schaeppi, seconded by Anderson with all present voting aye to recommend approval of Case 7984B-77 to the City Council. Motion to recommend approval carried, 5-0.

Schaeppi read the required criteria for Case 7984C-77, stating that for basically the same reasons as stated in the previous case, this case should also be recommended for approval. The 91st Street greenstrip seems to be causing even more problems than the greenstrips on the other streets.

Motion was made by Schaeppi, seconded by Wanglie, with all members voting aye, to recommend approval of Case 7984C-77 to the City Council. Motion to recommend approval carried, 5-0.

Schaeppi read the required criteria for Case 7984D-77 stating that they really haven't had much testimony about this particular variance. This would be reasonable use of the land and a minimum variance because this would be upgrading the rear sections of the property. Proper screening would be put in and the building would be upgraded and brought closer into compliance with the City Code.

Motion was made by Schaeppi, seconded by Anderson, with all present voting aye to recommend approval of Case 7984D-77 to the City Council. Motion to recommend approval carried, 5-0.

The petitioner was advised that these cases would go before the City Council on February 7, 1977, for their final approval or denial.

CITY OF BLOOMINGTON
2215 WEST OLD SHAKOPEE ROAD
HENNEPIN COUNTY, MINNESOTA 55431

CITY COUNCIL MEETING

Approved Minutes
Study Meeting
Meeting #55

7:00 p.m.
November 10, 1975
Council Chambers

Call to Order The meeting was called to order by Mayor Robert M. Benedict.

Pledge to Flag Mayor Benedict led the Council and the audience in the pledge of allegiance to the flag.

Roll Call Present: Mayor Benedict, Councilmen C. Allen, J. Anderson, W. Belanger, R. Darr, J. Malone, and J. O'Neil.

Approval of Minutes The Council was requested to consider approving the minutes of the September 17, September 24 and October 1 budget hearings and the October 6 regular meeting. Motion was made by Belanger and seconded by Allen to approve the minutes of the September 17 and September 24 budget hearings. All voted aye, except O'Neil, who abstained on the September 17 minutes because of absence at that meeting, and the motion carried 6-0-1 on the September 17 minutes and 7-0 on the September 24 minutes. Motion was made by Darr, seconded by Allen, and all voting aye to approve the October 1 and October 6 minutes.

Proclamation - Youth Appreciation Week The Council was requested to consider adopting a proclamation naming the week of November 10-16 as Youth Appreciation Week in Bloomington. The president of the Optimist Club was present to accept the proclamation inasmuch as the Optimists International have for the past twenty-one years promoted and conducted a program entitled Youth Appreciation Week. Also present were members of the Youth Commission of Bloomington. The Mayor made the presentation of the proclamation on behalf of the Council.

Preliminary and Final Plat of Winchell's Addition
Case 3308E-75
Item 3.1 The Council was requested to consider approving the preliminary and final plat of Winchell's Addition located at 2325 West 90th Street and 9000 Penn Avenue. The plat was submitted in order to change the two lots, described by metes and bounds, to lot and block description, allowing issuance of building permits.

The Council had considered this plat at its November 3 meeting and had laid over for one week pending resolution of the problems concerning dedication of right-of-way by the service station property owner.

Richard Evans, representing the petitioner, said that platting of the property was one of the conditions of the conditional use permit for Winchell's Donut House, and that the applicant was agreeable to the conditions set forth by the Administrative Subdivision Review Committee at its meeting of October 29, 1975. However, Alvin Currier, owner of the property who was selling a portion of it to the Donut House and 50 feet to the service station owner, said the condition of seven foot dedication for right-of-way on Penn Avenue and 90th Street was causing him to lose \$15,000.

Motion was made by Belanger and seconded by Malone to lay over for one week to determine if anything can be worked out by those involved. The motion was withdrawn by Belanger because of further discussion on the necessity for the acquisition of the right-of-way for future improvement of Penn Avenue and 90th Street. The City Manager said the ideal time for the acquisition of this right-of-way is at the time of platting.

Following discussion, motion was made by O'Neil, seconded by Malone, and all voting aye to approve the preliminary and final plat of Winchell's Addition, to approve the subdivision agreement, and to adopt a resolution granting final approval.

Hearing on Ordinance Revising Water Rates
Item 4.1 The Council was requested to consider adopting an ordinance adjusting the charges for water service and thereby amending Section 30.06 of the City Code. The City Manager said that the Utility Operating Budget for 1976 should be considered at the same time (Study Item 1).

Benedict asked how much money would be lost if there was no minimum or base charge. William Lloyd, Utilities Superintendent, said if the basic charge was dropped, the cost would be \$240,000 a year which would have to be regained by an overall increase in the water rates. He said the basic charge is not a minimum charge because no water is provided for in the basic charge rate. He said this fee covers items such as meter reading and billing, which costs as much for a person using 5,000 gallons as it does for a person using 50,000 gallons, and is not related to water usage.

Mark Mahon, 8430 Portland Avenue, asked for a breakdown of the basic charge and requested that the ordinance be tabled until interested residents can be furnished this information. He said the \$2.25 per month basic charge was high for what is said to be included.

Following discussion, motion was made by Allen, seconded by Delanger, and all voting aye to close the hearing, to approve the preliminary and final plat of E. P. Gunderson Addition, to approve the subdivision agreement, and to adopt a resolution granting final approval.

Preliminary and Final
Plat of E. P. Gunderson
Addition
Case 8091A-75
Item 4.2

A public hearing was scheduled for consideration of the preliminary and final plat of E. P. Gunderson Addition located at 207 West 90th Street. The plat was submitted in order to change a metes and bounds description to a lot and block description to allow the issuance of a building permit.

The plat was reviewed by the Administrative Subdivision Review Committee on October 22 and was recommended for approval with conditions all of which have been met.

Following discussion, motion was made by Darr, seconded by Allen, and all voting aye to close the hearing, to approve the preliminary and final plat of E. P. Gunderson Addition, to approve the subdivision agreement, and to adopt a resolution granting final approval.

Preliminary and Final
Plat of Winchell's
Addition
Case 3308E-75
Item 4.3

A public hearing was scheduled for consideration of the preliminary and final plat of Winchell's Addition located at 2325 West 90th Street and 9000 Penn Avenue. The plat was submitted in order to change the two lots, described by metes and bounds, to lot and block description to allow issuance of building permits.

The proposed plat was reviewed by the Administrative Subdivision Review Committee on October 29 and the minutes of that meeting were furnished to the Council with the agenda material.

The Public Works Director indicated that Hennepin County has reviewed this plat and has requested additional right-of-way along Penn Avenue and also requested a common driveway to serve the Donut House and the service station.

Richard Evans, representing Winchell's Donut House, said that platting of the property was one of the conditions of the conditional use permit they received for the Donut House. He said they are agreeable to the conditions as imposed but the owner of the service station property is opposed to giving up seven feet of right-of way along Penn Avenue because it would necessitate moving the pump islands. Mr. Evans asked if it would be possible to approve the plat subject to compliance with all of the conditions.

Following discussion, motion was made by Anderson and seconded by Malone to table this plat for one week to 7 p.m. November 10. All voted aye, except O'Neil, who voted nay, and the motion carried 6-1.

Ordinance Licensing
Roller Skating Rinks
Item 4.4

The Council was requested to consider adopting an ordinance to add a new Chapter 128A to the City Code to license roller skating rinks. The City Attorney indicated that there are approximately four of these rinks that have come before the City Council for conditional use permits and it was felt that such an ordinance should be adopted before the rinks go into operation. He indicated that the proposed ordinance has been reviewed by the Bloomington Police Department and the Department of Community Development, which both concurred in the need for such regulation and recommended adoption.

Allen noted three sections of the proposed ordinance on which he had questions, specifically 128A.05b, c and h. In b, concerning the lighting, he questioned who would determine what was suitable; in c, regarding curfew ordinance violations, he said he wouldn't want the operator to have this responsibility for individuals, and in h, he questioned the necessity of having a police officer or guard on duty unless problems were being experienced by the operator. He said this requirement would prejudice the operation or installation. There was general concurrence by the other Councilmen that these particular points should be reviewed. It was also questioned whether Burnsville and Edina, who have roller rinks operating in their community, have ordinances regarding their operation. The City Attorney said he would review this with the applicable authorities in those communities.

Peter Boo, 826 South Syndicate, St. Paul, said he presently has a rink under construction on West 84th Street across from Holiday Village. He said he has rinks in So. St. Paul, Maplewood, Roseville and Edina and to his knowledge none of these communities have ordinances regulating the operation of the rinks. He said it has been his practice to have a uniformed policeman on duty and said his operators work hard to keep a rapport with the police in the community in which they are operating.

Dawn Adams, 8308 Lyndale Avenue, agreed with the adoption of the ordinance and said she felt there should be a police officer on duty when the rink is in operation. She cited the particular area in which the roller rink will be located near Holiday Village with its large parking lots and said it would be a temptation for persons leaving the rink to drive around these lots. She asked for a copy of the ordinance so she could review it.

Following discussion, motion was made by Malone, seconded by Anderson, and all voting aye to table this ordinance for one week with the City Attorney to review the sections of the ordinance on which questions had been raised as well as to review with the communities who have roller rinks to determine what their licensing or ordinance requirements are.

Public Recess

A short recess was declared after which the meeting was reconvened at 8:55 p.m.

Ordinance - Vacation
of Drainage and
Utility Easement,
Colonial Car Wash 1st
Addition
Item 4.4

The Council was requested to consider adopting an ordinance vacating a drainage and utility easement along the north line of Colonial Car Wash 1st Addition between Lyndale and Grand Avenues north of 93rd Street. Request for the easement vacation was made by the owners of the Colonial Car Wash so that they can replat their property incorporating a part of the lot to the north into one new lot. This would allow them to expand their building to the north across the easement under consideration.

Adoption of the ordinance was recommended subject to submission of a suitable agreement between the owners and Northern States Power Company that provides for the overhead power line usage by NSP.

Following discussion, motion was made by Anderson, seconded by O'Neil, and all voting aye to close the hearing and adopt the ordinance.

Conditional Use Permit
to Operate a Search-
light
Case 5147C-75
Item 4.5

The Council was requested to hold a public hearing to consider a request for a conditional use permit to operate a searchlight at 9700 Lyndale Avenue South on September 26, October 2 and 3. The applicant was the Schubert Outdoor Advertising Company representing Freeway Ford.

Following discussion, motion was made by Darr, seconded by Belanger, and all voting aye to close the hearing and approve the conditional use permit based on making the required City Code findings in Section 11.13.E.1.a-d.

Hearing - Traffic
Control, Vincent
Avenue from 80th to
82nd
Item 4.8

The Council was requested by Mayor Benedict to consider a petition submitted by homeowners in the vicinity of Vincent Avenue between 80th and 82nd Streets asking that a permanent barrier be built for the control of traffic. A copy of the petition was submitted to the Council with the agenda.

Samuel Marsh, 8012 Thomas Avenue South, distributed information to the Council and reviewed the traffic in the area and the accidents that have occurred.

The City Attorney indicated that one of the persons who had submitted the petition to the City requesting the hearing had called and asked that it be postponed to a later date.

The City Traffic Engineer reviewed the traffic in this area and said a printed report could be prepared for review at a later date.

Following discussion, motion was made by Malone, seconded by Allen, and all voting aye to continue this hearing to December 8 in the Council Chambers.

Conditional Use Permit,
Final Site Plan and
Building Plan
Case 5485D-75
Item 5.1

The Council was requested by Red Barn Restaurants to consider approving a conditional use permit, and the final site plan and building plans for an addition to and alteration of an existing Red Barn Restaurant at 8901 Penn Avenue as part of a shopping center in a Retail Business B-2 zoning district.

The Planning Commission at its meeting of September 18 recommended approval of the conditional use permit, final site plans and building plans based on making the required City Code findings in Section 11.13.B.1, 2, 3, 8 and 9 and with the following conditions:

1. the property owner plat the land in accordance with Chapter 20 of the City Code,
2. existing and proposed lighting standards be limited to 16 feet in height,
3. landscaping and exterior lighting plan be approved by the Planning Commission, with particular emphasis to the 89th Street side and that such landscaping be accomplished by June 1, 1976,
4. security system be reviewed and approved by the Crime Prevention Officer of the Bloomington Police Department,
5. patio area closing time be no later than 10 p.m.

An additional condition was imposed to read that prior to issuance of a building permit, conditions #2 and #3, including permanent repair of the fence and landscaping, be accomplished.

Robert Lafferty, representing Red Barn Restaurants, was present and said they agree with the conditions imposed by the Planning Commission.

Following discussion, motion was made by Darr, seconded by Anderson, and all voting aye to approve the conditional use permit based on making the required City Code findings and the final site plan and building plans based on compliance with the conditions set forth by the Planning Commission.

Final Site Plans and
Building Plans
Case 3308D-75
Item 5.2

The Council was requested by Robert N. Hurd to consider approving the final site plans and building plans for a take-out restaurant (Winchell's Donut Shop) at 2325 West 90th Street in a Retail Commercial B-2 zoning district. The conditional use permit for this restaurant was approved by the Council on June 16, 1975.

The Planning Commission at its meeting of September 18 recommended approval of the plans with the following conditions:

1. brick and wood be used in a similar manner around the entire building,
2. plans and specifications for an odor filtering system shall be submitted to the Environmental Services Section for review and approval,
3. "cross-easement" agreements be filed at the time of application for a building permit,
4. approval of landscaping and exterior lighting plans by the Director of Planning,
5. dumpster be locked,
6. lighting plan and security system be reviewed and approved by the Crime Prevention Officer of the Bloomington Police Department,
7. provide one-hour rated building construction for sprinklering,
8. maintain joint access with adjacent properties for fire lane access,
9. grading, drainage and utility plans be approved by the City Engineer,
10. the advertising sign used be the planter-pedestal type instead of the larger design.

Following discussion, motion was made by Allen, seconded by Anderson, and all voting aye to approve the final site plans and building plans subject to compliance with the conditions set forth by the Planning Commission.

Revised Preliminary Development Plan, Final Development Plan and Final Site Plans and Building Plans
Case 69588-75
Item 5.3

The Council was requested by the Southgate Development Corporation to consider approving a revised preliminary development plan, a final development plan and final site plans and building plans for the second phase of Pebblebrook a residential planned development at about 9800 France Avenue in an R-1 (PD) zoning district.

The Planning Commission at its meeting of September 18 recommended approval of the revised preliminary development plan and final development plan based on making the required City Code findings in Section 7.14.G.1-7 and with the following conditions:

1. a right-of-way of 60 feet be dedicated for the public street,
2. the property be replatted in accordance with Chapter 20 of the City Code,
3. provided parking be brought up to ordinance requirements,
4. building setbacks of 35 feet minimum from the interior public street be maintained for Building B and the recreation building.

At the same meeting the Planning Commission recommended approval of the final site plans and building plans for Phase II with the following conditions:

1. approval of grading, drainage and utility plans by the Engineering Division,
2. approval of a landscaping and exterior lighting plan by the Director of Planning,
3. provision of at least 60 per cent of the required parking with adequate turnarounds with this phase,
4. approval of access and circulation by the Traffic Engineer,
5. compliance with the September 17, 1975 recommendation of the Fire and Life Safety Committee as follows:
 - a. parking meet the minimum required by ordinance (2.2 spaces per unit),
 - b. fire lanes and cul-de-sacs be posted "no parking, fire lane,"
 - c. Harrison Road should be posted for no parking,
6. holding pond elevation be reviewed and approved by the City Engineer.

Question was raised as to why the private street is to be made a public street and the Council was advised by the Planning Director that this is because of FHA financing regulations.

Al Okerman and Jerry Okerman, the developers, reviewed what is proposed.

O'Neil questioned the density and asked if it was as originally approved because it is of concern to residents living in the area. He was told that the density remains the same and the changes are in shifting of the location of the buildings.

Following discussion of the plans, motion was made by Darr and seconded by Malone to approve the revised preliminary development plan, the final development plan, and the final site plans and building plans for the second phase of Pebblebrook based on compliance with the conditions set forth by the Planning Commission and based on making the required City Code findings. All voted aye, except O'Neil, who voted nay, and the motion carried 6-1.

The Council was requested by the Southgate Development Corporation to consider approving the preliminary plat of Pebblebrook West 2nd Addition at about 9800 France Avenue in an R-1 (PD) zoning district.

The Planning Commission at its meeting of September 18 recommended approval of the preliminary plat based on the fact that none of the findings in Section 20.05(A) through G could be made and with the following conditions:

Preliminary Plat of Pebblebrook West 2nd Addition
Case 69588-75
Item 5.4

Item #2 continued
Case 5536A-75

M/Houle, in Case 5536A-75, to recommend approval of a temporary conditional use permit for a period of two years based on the fact that findings were made as required in Section 11.13.E.1.a through d. Motion died for lack of second.

M/Andruss, S/Reiter, in Case 5536A-75, to recommend denial of the conditional use permit based on the inability to make the finding in Section 11.13.E.1.b as required. Motion carried 5-1, with Houle opposed.

Mr. Reiter expressed his concern about two recent requests for new operations of this type. He said he does not feel that the City Council should approve this request simply because it has been in existence for several years.

Item #3
Bloomington Speedy Car Wash
Case 4772A-75
9201-05 Lyndale Avenue
Expansion of existing use,
final site plans and
building plans

Mr. Walton read a letter received from Mr. Stuart Pihlstrom, representing the applicant, requesting an indefinite continuation of the item. The letter stated that the plans will be resubmitted sometime after January 1, 1976.

M/Houle, S/Fillbrandt, in Case 4772A-75, to continue the item indefinitely. Motion carried 6-0.

9:55 p.m.

Item #4
Robert N. Hurd
Case 3308D-75
2325 West 90th Street
Final site plans and
building plans for
restaurant (Winchell's
Donut Shop)

Mr. Walton said the proposed plans indicate that a small structure, with seating capacity for 24 persons, will be located on the southeast portion of the site. He noted that 15 parking spaces have been provided. He stated that one requirement of the conditional use permit was to provide a filtering system for elimination of cooking odors; a preliminary review of the submitted plans by the Environmental Services Section indicates that this condition has yet to be fulfilled. He said the staff considers common driveways to be an asset to the 90th Street and Penn Avenue business area and, therefore, agreements should be received to allow permanent access to the site from both the east and west. He added that the staff recommends approval of the request with conditions.

9:56 p.m.

Mrs. Houle asked if there are any plans for upgrading the existing parking lot, particularly the portion next to the existing building. Mr. Richard Evans, representing the applicant, stated that the entire parking lot will be resurfaced and upgraded.

Mr. Reiter questioned the landscaping to be provided on the north edge of the property. Mr. Walton replied that the staff has not received specific plans for landscaping, as none have been submitted to date.

Mr. Reiter inquired about the proposed signage of the building. Mr. Evans described the proposed signage and added that the sign on the building will not be illumi-

nated. Chairman Hancer suggested that the freestanding sign be lowered, as it will not be in competition with any other businesses in the area and a lower sign would be more attractive.

In answer to a question from Mr. Campion, Mr. Walton confirmed that only one sign is allowed, according to the City Code.

Mrs. Houle asked about the odor filtering system which still must be included on the plans. Mr. Evans commented that the company's odor filtering system is very effective. He said that the next set of plans to be submitted will include details of the system.

Mrs. Houle inquired about the proposed hours of operation. Mr. Evans replied that the facility will initially be open 24 hours a day, but as the amount of business received is determined, the hours of operation will probably be reduced to approximately 5:00 a.m. to 11:00 p.m.

Mrs. Houle stated that she does not believe the shop should be open 24 hours a day, since it is located so close to a residential area. Mr. Evans said the initial hours will be used as a test to determine the amount of business the facility will generate.

Mr. Evans stated that there are always at least two persons in the building during business hours. Chairman Hancer indicated that the use may have a problem with young persons loitering on the premises.

M/Houle, S/Campion, to close the hearing. Motion carried 6-0.

M/Houle, S/Fillbrandt, in Case 3308D-75, to recommend approval of the final site plans and building plans with the following conditions:

- 1) brick and wood be used in a similar manner around the entire building;
- 2) plans and specifications for an odor filtering system shall be submitted to the Environmental Services Section for review and approval;
- 3) "cross-easement" agreements be filed at the time of application for a building permit;
- 4) approval of landscaping and exterior lighting plans by the Director of Planning;
- 5) dumpster be locked;
- 6) lighting plan and security system be reviewed and approved by the Crime Prevention Officer of the Bloomington Police Department;
- 7) provide one-hour rated building construction for sprinklering;
- 8) maintain joint access with adjacent properties for fire lane access;

Item #4 continued
Case 3308D-75

- 9) grading, drainage and utility plans be approved by the City Engineer;
- 10) the advertising sign used be the planter/pedestal type instead of the larger design.

Motion carried 4-0-2, with Reiter and Andruss opposed as they feel that the location of the proposed use is undesirable.

Items #5 and 6
Southgate Development
Corporation
Case 6958B-75
Case 6958D-75
9800-9900 France Avenue
4001 West 98th Street
4000 Pebblebrook Drive
Revised preliminary develop-
ment plan, final development
plan, final site plans and
building plans
Preliminary plat of
Pebblebrook 2nd Addition

10:40 p.m.

Mr. Walton said the applicant is ready to proceed with Phase II of the development, which consists of the second 84-unit building, the recreation facilities and the necessary parking, since the first building is completed and the single-family lots are platted with five homes under construction. He noted that the applicant proposes to dedicate the approved north/south private street at a public street with a basic 60 feet of right-of-way which results in several minor shifts in future building locations. He pointed out that the three major structures in the revised final development plan have been pivoted to the north and east to provide at least a 35-foot setback to the internal street; unit count and building style have not changed.

Mr. Walton stated that final site plans and building plans have also been submitted for the recreation building and Building "B", which is almost the same as the existing structure. He noted that the proposed total parking is short by about 30 required spaces for Buildings "B" and "C" and was lost as a result of the altered building locations. He said the staff recommends approval of the revised preliminary and final development plans and final site plans and building plans with conditions.

Mr. Walton said the applicant proposes to replat the existing Lots 1, 10, 11, 12 and 13 of Block 1 and Outlots A and B of Pebblebrook West into seven lots in one block and dedicate Harrison Road as a public street with a basic 60 feet of right-of-way. He said the seven lots resulting from this proposal consist of one lot for the recreation building and facilities, two lots for the multiple buildings and four single-family lots fronting onto Pebblebrook Drive. He noted that provision of the additional right-of-way for the public street has some effect on minor lot size reductions and future building locations, but conformance with the originally approved development plan is maintained. He stated that the Administrative Subdivision Review Committee formally reviewed the proposed plat on September 17, 1975 and recommended approval with conditions. He said the staff recommends approval of the preliminary plat with conditions.

Chairman Hancer acknowledged receipt of a letter from Allen Okerman, Southgate Development Corporation,

Marion Newman, speaking on behalf of the applicant, reviewed the plans for the business and indicated there should be no problem with the parking because there would be very few retail customers. He said the bulk of the business is in rentals through apartment house managers.

Following discussion, motion was made by Darr and seconded by Malone to approve a temporary conditional use permit as recommended by the Planning Commission. There was no vote because of further discussion. Following discussion, motion was made by Malone, seconded by Anderson, and all present voting aye to table this case for one week.

Conditional Use Permit
for Off-Street Parking
for Contiguous Business
Use

Case 8047A-75

Item 4.8
and Variances for Less
Than Required Side
Yard Setback and Less
Than Required Green-
strip Requirements
Cases 8049-A & 80
item 6.8

The Council was requested by the France Avenue South Company to consider approving a conditional use permit for off-street parking for a contiguous business use at 10609 France Avenue in a single-family residential (R-1) zoning district. In addition, the Council was requested to consider approving two variances for the same location, for less than required side yard setback and for less than required greenstrip requirement.

The Planning Commission at its meeting of May 29 recommended approval of the conditional use permit, final site plans and building plans based on making the required findings in Section 11.13.A.1-8 of the City Code and with the following conditions:

1. grading, drainage and utility plans be approved by the Engineering Division prior to the issuance to a grading permit,
2. circulation, parking and access points be approved by the Traffic Engineer and Director of Planning,
3. landscape plan, planting schedule and exterior lighting plans be approved by the Director of Planning,
4. property be replatted in accordance with Chapter 20 of the City Code,
5. site plan be reviewed by the Fire and Life Safety Committee,
6. site plan be approved by the Planning Commission and City Council.

The Variance Board at its meeting of May 28 has recommended that both variances be approved.

Stuart Nowlan, speaking for the applicant, described what is proposed. He said the adjacent residents have approved the plans for placing a 25-foot addition to the building presently on the B-2 property, and placing the parking lot next to that building. The house now located there will be removed and there would be landscaping between the parking lot and the residential area.

Following discussion, motion was made by Anderson and seconded by Darr to approve the conditional use permit based on making the required City Code findings and based on compliance with the conditions set forth by the Planning Commission plus the addition of an eighth condition to require a 20-foot greenstrip adjacent to the residential property. There was no vote because of further discussion. Following discussion, motion was made by Malone, seconded by Anderson, and all present voting aye to table this case for one week.

Motion was made by Allen and seconded by Darr, with all present voting aye to table the variances for one week.

Public Hearing for
Variance Denial
Case 6448B-75
Item 4.9

The Council was requested to hold a public hearing to consider a request for a variance by Harold Kaeding, 8449 15th Avenue, to have a 17.5 foot rear yard setback. The Variance Board at its meeting of May 28 had denied the variance request and the applicant had appealed that decision.

The applicant explained what is proposed and said he has received unanimous consent from all eight of his adjoining neighbors. In response to a question by the Council, he indicated no business will be conducted in the garage he intends to build, and there will be no commercial use of the property.

Following discussion, motion was made by Anderson, seconded by Allen, and all present voting aye to close the hearing and grant the variance, based on making the required findings, and on the applicant's statement that there will be no commercial use of the property.

Conditional Use Permit
for Take-Out Restaurant
Case 3308D-75
Item 5.2

The Council was requested by Robert N. Hurd to consider approving a conditional use permit for a take-out restaurant at 2325 West 90th Street in a Retail Commercial B-2 zoning district.

The Planning Commission at its meeting of May 29 recommended approval of the conditional use permit based on making the required City Code findings in Section 11.13.B.1, 2, 3, 8 and 9 and with the following conditions:

1. approval of the final site plans and building plans by the Planning Commission and City Council,
2. approval of landscape plan and planting schedule by the Director of Planning,
3. property be platted in accordance with Chapter 20 of the City Code,
4. provide half right-of-way to 40 feet from the centerline along West 90th Street,
5. a filtering system be used to eliminate cooking odors both inside and outside the structure.

Richard Evans, representing Winchell's Donut House, was present.

Following discussion, motion was made by Anderson, seconded by Allen, and all present voting aye to approve a conditional use permit for this restaurant based on compliance with the conditions set forth by the Planning Commission and based on making the required City Code findings.

Conditional Use Permit
for Open Storage
Case 7522B-75
Item 5.3

The Council was requested by C. S. McCrossan, Inc., to consider approving a conditional use permit for open storage at 901 West 79th Street in a General Industrial I-3 zoning district. The applicant proposes to use this parcel of land for temporary parking and storage of office trailers and vans while working on a state road project. The request was considered by the Council on June 2 and was referred to the Planning Commission for review.

The Planning Commission at its meeting of June 12 recommended approval of a temporary conditional use permit for six months based on making the required City Code findings in Section 11.13.E.1.a-d and with the following conditions:

1. performance bond be required to ensure that the site is restored after usage to equal or better than its original condition,
2. access points and travel routes to and from the site be approved by the Traffic Engineer,
3. no on-street equipment storage, loading or parking be permitted on the site's perimeter,
4. all stored materials and equipment shall be set back a minimum of 20 feet from all property lines,
5. maintain clean streets adjacent to the site and avoid abuse to utility and drainage facilities,
6. construct temporary drives to 80th Street with approval of and permit from the Department of Public Works,
7. site be maintained in a clean and orderly manner.

Following discussion, motion was made by Allen, seconded by Anderson, and all present voting aye to approve a temporary conditional use permit for this open storage based on making the required City Code findings and based on compliance with the conditions set forth by the Planning Commission. Anderson, in seconding the motion, said he did so with the stipulation that the City will enforce the conditions that are imposed.

Councilman O'Neil arrived at 9:50 p.m. and assumed charge of the meeting.

Revised Building and
Site Plans for Two-
Family Dwelling
Case 7980A-75
Item 6.1
(See Page 9)

The Council was requested by Councilman Allen to consider the request of Gilbert Feig for approval of a change in approved building and site plans for a two-family dwelling at 9724-26 Utica Road. It was agreed to lay over consideration of this case until after completion of the other items on the agenda.

Conditional Use Permit
to Sell Vegetables
Case 7984A-75
Item 4.10

The Council was requested by Steve Shones to consider approving a conditional use permit to sell vegetables from a truck during the summer months between the hours of 8 a.m. and 9 a.m.

Following discussion, motion was made by Allen, seconded by Belanger, and all present voting aye to close the hearing and to approve the temporary conditional use permit based on making the required City Code findings in Section 11.13.E.1.a-d.

Conditional Use Permit
for Tent
Case 2801H-75
Item 4.11

The Council was requested by Olson's Planned Interiors to consider approving a request for a conditional use permit for a concession test at 7800 Dupont Avenue for a special three-day sale on July 4-6.

- Following discussion, motion was made by Malone, seconded by Allen, and all present voting aye to close the hearing and approve the conditional use permit based on making the required City Code findings in Section 11.13.E.1.a-d.

Resolution Authorizing
Payment to MN&S Railway
Item 4.12

The Council was requested to consider adopting a resolution regarding payment for grade crossing improvement work on Lyndale Avenue near 95th street. The work was previously approved by the Council as a part of the Lyndale Avenue TOPICS Project No. T-TG 5011 (002). The work has received railroad certification and approval for payment by the City has been received from the Railway Negotiations Section of the Minnesota Highway Department. The City will receive reimbursement for approximately 90% of this expenditure through federal funds administered by the State.

Am #2

Robert N. Hurd
Case 3308D-75
2325 West 90th Street
Conditional use permit
for restaurant

8:33 p.m.

Mr. Walton said the proposal is for location of a Winchell's Donut House on this site. He stated that documentation substantiating the proposed use's qualification as a take-out restaurant, rather than a restaurant, will be submitted by the applicant. He said that since the retail commercial development at the intersection of West 90th Street and Penn Avenue does not meet the requirements of a planned development, the applicant must be able to qualify as a take-out restaurant in order to retain a valid application for a conditional use permit in this zoning district. He said that if the use does not qualify as a take-out restaurant, either a rezoning or an ordinance change would be required for the use to locate on this site.

Mr. Walton noted that area residents have been opposed to past applications for similar uses on this site, mainly due to the concerns of noise, odors, and unsightliness resulting from trash and litter. He said the staff is particularly concerned with traffic factors relating to this type of use as a donut shop at this location must generate a considerable number of vehicle trips in order to be successful. He said the staff recognizes the hazardous and congested situation of the intersection of West 90th Street and Penn Avenue and said the impact of an additional number of vehicle turning movements to this site must be considered.

Mr. Walton said that, if the proposed use does qualify as a take-out restaurant, the staff would then recommend approval of the conditional use permit.

Mr. Richard Evans, representing the applicant, said the main products for sale are several varieties of donuts and beverages. He said the proposed shop is part of a national operation, some shops of which are open 24 hours a day. He stated that take-out sales constitute the majority of their business and presented figures, taken from an audit the company conducted of its shops in California to determine the percentage of take-out business, which illustrated the fact that the operation is mainly a take-out operation. He said the company generally maintains that 80 percent of their business is take-out and 20 percent is consumed on the premises.

In answer to a question from Mr. Hancer, Mr. Evans said the average sale is approximately 80 cents. He added that about 70 percent of their business is conducted between the hours of 5:00 a.m. and 12:00 noon in a freestanding operation.

Mr. Fillbrandt asked how much parking will be provided on the site. Mr. Evans said the average number of parking spaces they have found to be necessary is

12, but they have not yet determined how many spaces will be required in this location.

Mr. Reiter asked if the staff now feels that the use will qualify as a take-out restaurant. Mr. Walton said he is satisfied that the proposed use qualifies as a take-out facility.

Mr. Robert Richards, 9001 Russell Avenue, objected to the proposal due to the amount of litter already in the area from other uses and the amount of existing traffic. He expressed concern that the proposed store's location may encourage students from nearby Lincoln High School to loiter in the area.

Mrs. Houle asked if Mr. Richards had any objections to the previously existing retail sales use at this location. Mr. Richards said he had no objections to that use, but added that little traffic was generated by that use.

Ms. Carole Kenny, 9009 Russell Avenue, said she objects to the proposal and stated that there were many problems with the restaurant that was previously located on this site due to loitering students and the trash and litter. She asked how the traffic could be controlled. Chairman Hancer replied that the Traffic Engineer will examine the final site plans and building plans when they are submitted and will make recommendations at that time.

Mr. Edwin Cribb, 9000 Russell Avenue, said he also objects to the proposed use because of the litter and other problems that resulted from the previous restaurant locating on this site. He said he feels that there is a traffic problem in the area, but it is not severe.

Mr. Andruss asked if Mr. Cribb has ever submitted a complaint to the City about the litter in the area. Mr. Cribb replied that he has not complained about the litter. Mr. Andruss said he recognizes that the retail commercial development in this area has an unkept appearance.

Mr. John Granoien, 9017 Russell Avenue, discussed the possible traffic controls that may be used and the traffic pattern of the area.

Mr. Jim Feilzer, 8910 Penn Avenue, stated that the small grocery store and take-out restaurant in the area are the big offenders with regard to the amount of litter found in the neighborhood. He said that he has contacted the City health division concerning the litter in the area and the response has been that each property owner is responsible for removing the litter from his property.

Mr. Evans acknowledged that litter is a big problem with this type of use and said they strive to keep the litter controlled. He concurred that numbers of young people loitering on the premises discourages the family trade that they attempt to build with the operation. Concerning the odor, Mr. Evans stated that the store will use a filtering system which will eliminate odors both inside and outside the store.

The Planning Commission reviewed the findings as required in Section 11.13.B.1, 2, 3, 8 and 9. Regarding the finding in 11.13.B.1, Mr. Andruss said he feels that traffic may be a problem during the morning peak period. Mr. Campion stated that such a use is a low traffic generator. Mr. Reiter stated that he has difficulty with the finding in 11.13.B.2 as he does not feel that the proposal is an appropriate land use for this location. Mr. Fillbrandt concurred. Mr. Reiter said that he also has difficulty with the findings in Section 4.01.4, 5 and 6. Mr. Andruss stated his difficulty with the finding in Section 11.13.B.2 as he said he feels the residents' comments concerning nuisance characteristics are such that he cannot make the finding.

Chairman Hancer suggested that area residents write letters of complaint to the City concerning litter in the area. Mrs. Houle observed that the main problem of litter is not with the use, but rather with the customers dropping litter after making a purchase.

Chairman Hancer read a list of uses which are currently permitted in the B-2 zone.

M/Andruss, S/Reiter, to close the hearing. Motion carried 7-0.

M/Andruss, S/Houle, in Case 3308D-75, to recommend denial of the conditional use permit based on the fact that findings were unable to be made in Section 11.13.B.2 and Section 4.01.4 as required. Motion failed 3-4, with Fillbrandt, Campion, Bartels and Hancer opposed.

Mrs. Houle stated that the only finding she could not make was in Section 11.13.B.2. Mr. Campion stated that he also could not make the finding in 11.13.B.2 because of the litter problem, but said he does not feel that the storekeeper should be held responsible for the litter. Mr. Fillbrandt expressed his concern about the problem of litter in the area. Mr. Andruss said he feels that the subject location is a poor one for the proposed use. Mr. Bartels said he believes that litter is a nuisance generated by the customer, which has no relation to the use, and said he could not support the motion for denial because of his beliefs.

M/Bartels, S/Campion, in Case 3308D-75, to recommend approval of the conditional use permit based on the fact that findings were made as required in Section 11.13.B.1, 2, 3, 8 and 9 and with the following conditions:

- 1) approval of the final site plans and building plans by the Planning Commission and City Council,
- 2) approval of landscape plan and planting schedule by the Director of Planning,
- 3) property be platted in accordance with Chapter 20 of the City Code,
- 4) provide half right-of-way to 40 feet from the centerline along West 90th Street, and
- 5) a filtering system be used to eliminate cooking odors both inside and outside the structure.

Motion carried 4-3, with Houle, Reiter and Andruss opposed.

Mr. Reiter said he opposed the location of the proposed use on this site due to the nature of the surrounding land uses and the nearby high school, as students from the school will loiter in the area.

Item #3
Bloomington Self-Service
Car Wash
Case 5638E-75
600 West 93rd Street
9225 Lyndale Avenue
Conditional use permit,
final site plans and
building plans for
expansion

10:15 p.m.

Mr. Walton said the applicant proposes to add four additional self-service wash bays and a mechanical room to the north end of the existing building. He said the exterior treatment would match the existing structure and vehicle circulation drives and stacking areas will be extensions of the existing facilities. He noted that the expansion of the existing use should cause little difficulty with regard to development of or use of adjacent properties and further noted that no change in the site's access is proposed. Mr. Walton stated that the Traffic Engineer recommends that the use occupying the western portion of 9225 Lyndale Avenue be provided an access to West 93rd Street or to the future Garfield Circle. He noted that it would be desirable for the applicant to retain the vegetation along the present north line of the property and said that it would also be desirable to extend the existing solid fence at least 30 feet north if not all the way along the eastern property line. He added that the staff recommends approval of the conditional use permit, final site plans and building plans.

Mr. Clarence Hilbert, representing the applicant, said the proposed extra bays are greatly needed as there is often an hour's wait for patrons during times of peak usage. He stated that there is a heavy demand for this type of facility.

April 24, 1980

Item #5

GENERAL INFORMATION

Applicant: Burger King (Case 7984A-80)
Location: 9056 Penn Avenue
Request: Conditional use permit for
a restaurant

PROPOSAL

The applicant proposes to erect an 86-seat fast food restaurant, with a drive-up service window, on a vacant area between the Sears Surplus Store and Winchell's Donut Shop. The applicant would lease a portion of the property on which the Sears store is located. The total size of the parcel is 3.2 acres.

Changes to site access are proposed to be completed with the pending improvements to Penn Avenue and 90th Street. Two existing driveways in front of the Sears store would be closed, and a new ingress/egress drive, with a left-turn bay on Penn Avenue, to be located closer to 90th Street. The property extends to 90th Street to the west of Winchell's. This neck is currently used as a driveway for the donut shop, and will also service the proposed restaurant, as well as Sears.

The drive-up window is to be located on the south side of the restaurant. Traffic using this facility would enter a lane located to the rear (west) of the restaurant, then turn easterly to the service window.

The site plan indicates a shared parking arrangement with the Sears building. The Sears store, based on retail floor area, requires 134 parking spaces. The 86-seat restaurant would need 35 spaces, or a total of 169 spaces. The site plan indicates 178 spaces being provided on the entire site.

Submitted plans also show changes to the Sears portion of the property. The existing driveway to 91st Street, at the southwest corner of the property, would be closed, and a one-way, northbound driveway established along the west boundary. A truck loading dock would be located on the west end of the north wall. The plan shows a "heavy timber screen wall" screening one trailer space and a gargage compacter from 90th Street.

The site plan also indicates additional parking lot landscaping being installed, and relocation and replacement of existing landscaping along Penn Avenue. The existing screening fence to the west of Sears would be extended northerly to a point 130 feet from Penn Avenue.

April 24, 1980

Item #5 continued
Case 7984A-80

ANALYSIS

In general, the staff feels this restaurant is a suitable use, consistent with other existing businesses in the area. The staff's primary concerns are the integration of the commercial uses on this corner, and a substantial visual improvement of the Sears store. For example, all of the landscaping along Penn Avenue was incorrectly installed, and will have to be replaced. The concrete block on the Sears store must be painted, along with the sign band area facing Penn Avenue. The existing screen fence between the Sears store and the apartment building to the west is proposed to be extended to the north along the driveway. The existing fence should be entirely replaced with a vertical board-on-board fence and extend along the entire west property line.

The staff supports the proposal to move the truck loading area to the northwest corner of the Sears store; however, three specific problems should be noted. First, the screening walls shown on the plan are inadequate. The wall to the west of the docking area must extend the entire length of the truck, about 60 feet, not the 20 feet as shown. This wall must be 14 feet in height in order to completely screen parked trailers. Second, a note on the plan indicates the screen wall is to be heavy timber. The staff feels these walls should be break-off block, painted to match the Sears building. Third, the staff foresees some problem with trucks being able to reach the loading dock. If the driveway to 91st Street at the southwest corner of the lot is closed, as is proposed, trucks will have to enter through the parking lot where turning movements are difficult.

The staff has had considerable discussion with the developer regarding the construction materials of the restaurant. Original plans were for a wood frame building with brick veneer, and a substantial amount of wood facing. Wood is not an acceptable material in the B-2 district, although up to 15 percent of the total surface area may be wood trim. Revisions to the exterior treatment have been discussed with the applicant, and modification to limit wood to 15 percent have been agreed to. Construction plans have also been altered for a steel frame building, which is acceptable in the B-2 district.

RECOMMENDATION

The staff recommends approval of a conditional use permit, final site plan and building plans for a restaurant, subject to the following conditions:

- 1) a maximum of 15 percent wood trim be permitted on the exterior of the restaurant, as approved by the Director of Planning;
- 2) either one freestanding sign or two building-mounted signs be permitted for the restaurant;

April 24, 1980

Item #5 continued
Case 7984A-80

- 3) restaurant be totally sprinklered, as approved by the Fire Marshal;
- 4) trash facility be enclosed within the building;
- 5) water line and fire hydrant locations be as approved by the Fire Marshal and City Engineer;
- 6) lighting and security plans be as approved by the Crime Prevention Officer, Bloomington Police Department;
- 7) handicapped parking facilities be located adjacent to the front entrance and provided with standard handicapped signs, as required by Bloomington City Ordinance;
- 8) front entrance curb be totally accessible to wheelchair users;
- 9) fire lanes be provided and posted, as approved by the Fire Marshal;
- 10) landscape plan for both the restaurant and Sears site be approved by the Director of Planning. Bonds sufficient to cover costs of all landscaping be posted;
- 11) Sears building be repainted, as approved by the Director of Planning;
- 12) incinerator adjacent to the Sears building be removed;
- 13) truck loading dock be completely screened from the residential property to the west and from Penn Avenue, as approved by the Manager of the Building and Inspection Division;
- 14) parking and circulation be approved by the Traffic Engineer;
- 15) common parking, circulation and access agreements be provided, as approved by the Traffic Engineer;
- 16) rights-of-way be provided for 45 feet from centerline along Penn Avenue, and 55 feet from centerline along 90th Street;
- 17) five-foot sidewalk and utility easements be provided along Penn Avenue and 90th Street;
- 18) underground electrical service be provided at the developer's expense to both the restaurant and Sears building. All utility poles along the west property line be removed;
- 19) concrete curb be provided on all driveways and parking islands;
- 20) a six-foot-high vertical board-on-board fence be provided along the entire length of the west property line of the lot;
- 21) drainage, grading utility and erosion control plans be approved by the City Engineer;
- 22) no truck or semi-trailers shall be parked unscreened on the site.

Item #3 Gittleman Corporation, 9901 and 10025 Penn Avenue (Case 8689A-80)

The Committee discussed the proposal to construct two three-story condominium units with 132 units and underground parking.

Recommendations of the Committee:

- 1) dimensions for turnaround facilities be as approved by the Traffic Engineer and Fire Marshal;
- 2) underground parking be sprinklered as approved by the Fire Marshal;
- 3) further review by the Fire and Life Safety Committee at time of final site plan and building plans consideration.

(PC 4/24/80--rezone R-1 to R-1(PD) and preliminary development plan)

Item #4 Burger King, 9056 Penn Avenue (Case 7984A-80)

The Committee discussed the proposal to construct a Burger King restaurant with drive-up window, between the Sear's Surplus Store and Winchell's Donut Shop.

Recommendations of the Committee:

- 1) building be totally sprinklered as approved by the Fire Marshal;
- 2) trash facility be enclosed within the building;
- 3) water line and fire hydrant locations be as approved by the Fire Marshal and City Engineer;
- 4) lighting and security plans be as approved by the Crime Prevention Officer, Bloomington Police Department;
- 5) handicapped parking facilities be provided with standard handicapped signs as required by Bloomington City Ordinance;
- 6) front entrance curb be totally accessible to wheelchairs;
- 7) joint access and parking agreement be provided with the Winchell's Donut Shop and Q Petroleum;
- 8) fire lanes be provided and posted as approved by the Fire Marshal.

(PC 4/24/80--conditional use permit)

Item #5 Stranik, Inc., 9211 Lyndale Avenue (Cases 6849AB-80 and 6849C-80)

The Committee discussed the proposal to construct a 2,556 square foot addition to the east side of the existing Midas Muffler Shop. Hawbaker said the applicant has also applied for a variance to a five-foot side yard setback instead of a zero-foot or ten-foot setback and also to surface the north and east faces of the building with decorative concrete masonry.

(continued)

REQUEST FOR COUNCIL ACTION

DATE April 24 1980
May 22 1980

AGENDA SECTION: NO. DEVELOPMENT BUSINESS	ORIGINATING DEPARTMENT COMMUNITY DEVELOPMENT Division of City Planning	Approved For Agenda By:
ITEM: NO. Conditional Use Permit		

Item 2

Case 7984A-80

GENERAL INFORMATION

Applicant: Burger King
Location: 9056 Penn Avenue South
Request: Conditional use permit for restaurant

PROPOSAL

The applicant is proposing to construct a sit-down and take-out Burger King with drive-up window, between the Sear's Surplus store and Winchell's Donut Shop

Existing Land Use and Zoning: Vacant and parking lot; zoned B-2

Surrounding Land Use and Zoning: North--Winchell's Donut House and gas station/superette; zoned B-2
South--Sear's Surplus Store; zoned B-2
East--gas station, retail shops and animal clinic; zoned B-2
West--multiple-family dwellings; zoned R-4

Comprehensive Plan: The Interim Comprehensive Land Use Plan and Central Area Plan recommend retail and commercial uses

Applicable Regulations: Section 19.31(d)(21)(22)

Findings Required: Section 19.22(2)(A)(B)(C)(H) and (I)

HISTORY

City Council Action: June 16, 1975--approved a conditional use permit for a Winchell's take-out restaurant at 2325 West 90th Street after the Planning Commission recommended approval (Case 3308B-75)

COUNCIL ACTION: Motion by _____ Second by _____ to _____

City Council Action: September 29, 1975--approved a final site plan and building plans for Winchell's Donut House at 2325 West 90th Street after the Planning Commission recommended approval (Case 3308A-75)

City Council Action: November 10, 1975--approved the preliminary and final plat of Winchell's Addition at 90th Street and Penn Avenue (Case 3308E-75)

City Council Action: February 7, 1977--approved three variances to greenstrip/landscape yard requirements for Penn Properties at 9056 Penn Avenue after the Variance Board recommended approval (Case 7984BCD-77)

City Council Action: June 26, 1978--approved a conditional use permit and final site plan and building plans for a self-service gas station and convenience food store after the Planning Commission recommended approval (Case 3412A-78)

CHRONOLOGY

Planning Commission Agenda: April 24, 1980--hearing was advertised in the official newspaper on April 9, 1980. Notices were mailed to adjacent property owners on April 11, 1980.

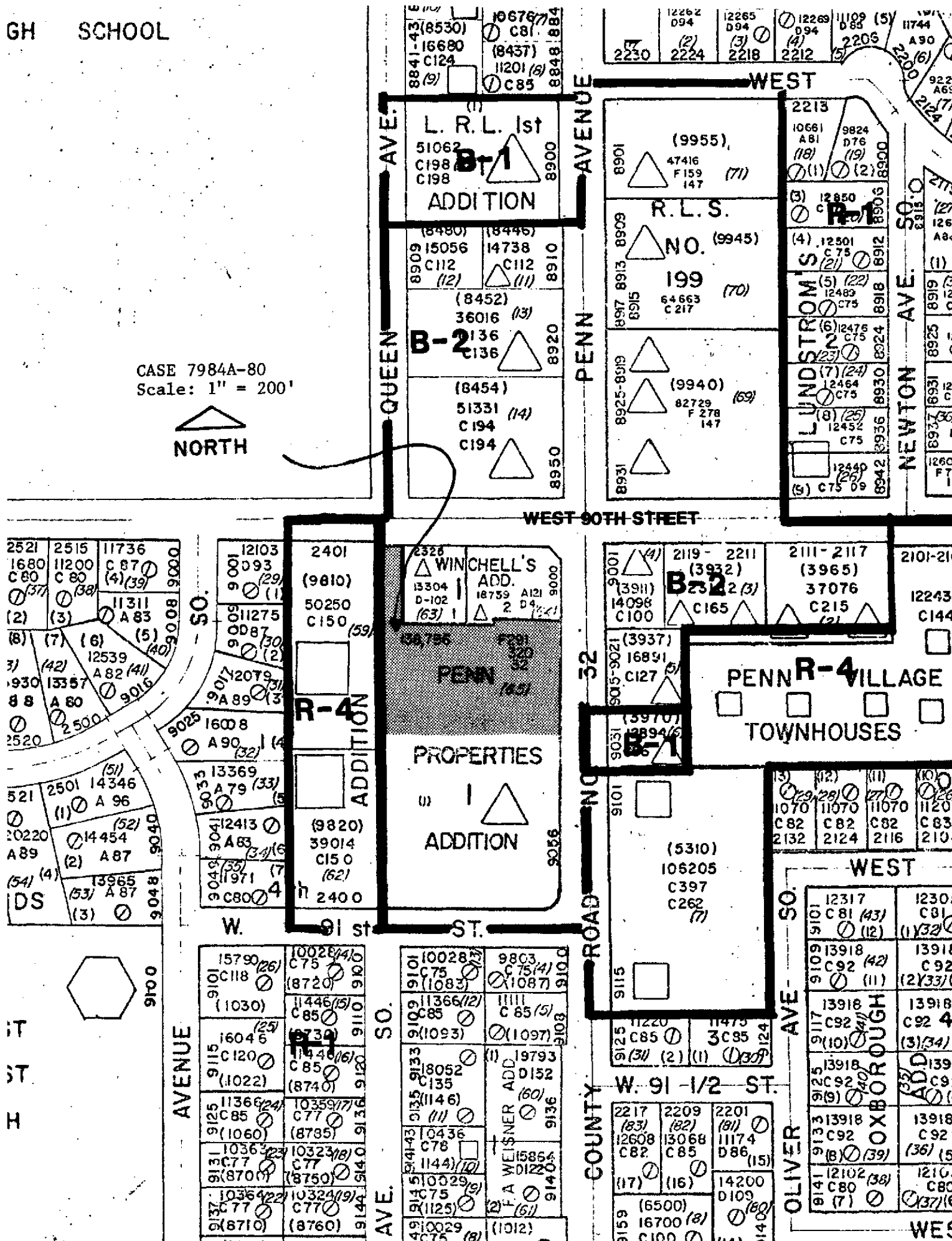
Planning Commission Action: April 24, 1980--continued item to the meeting of May 22, 1980

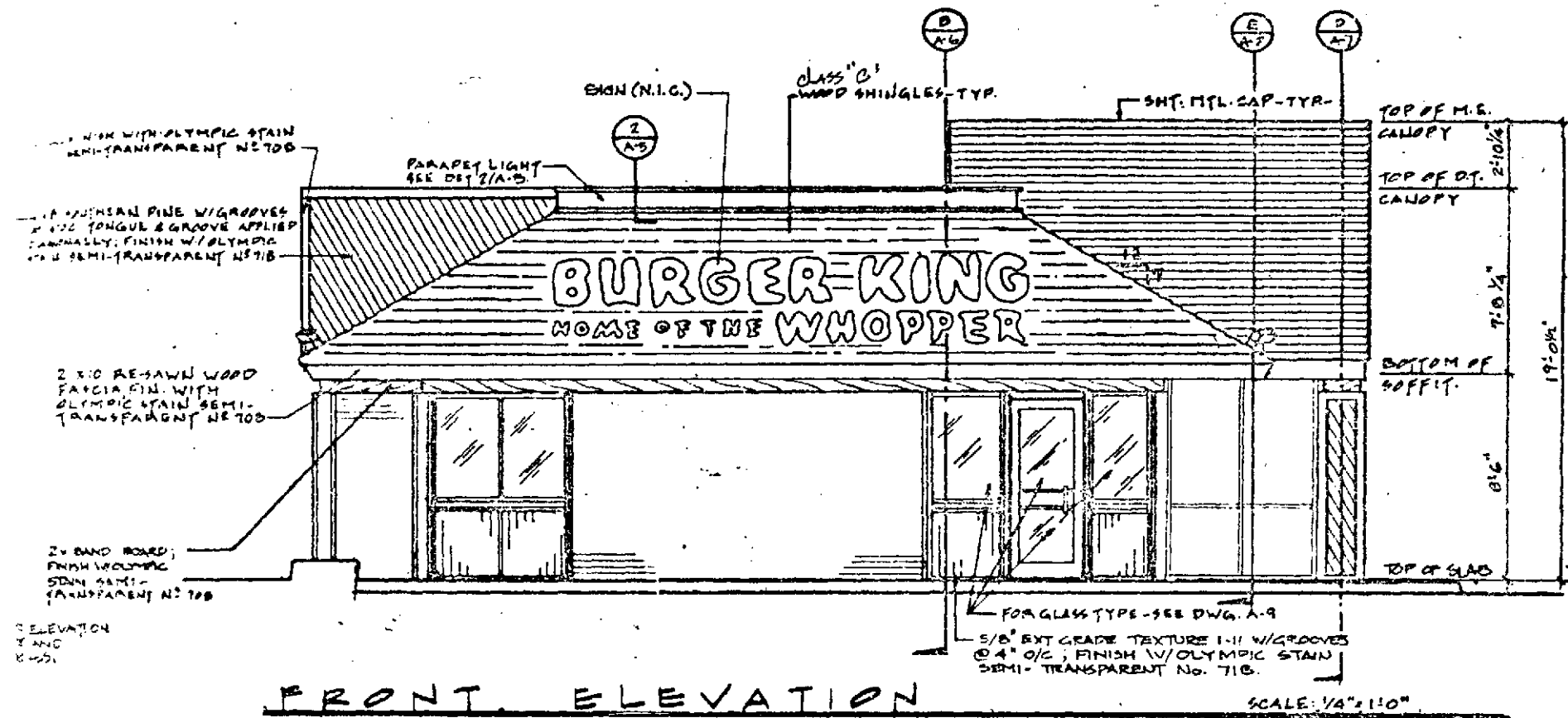
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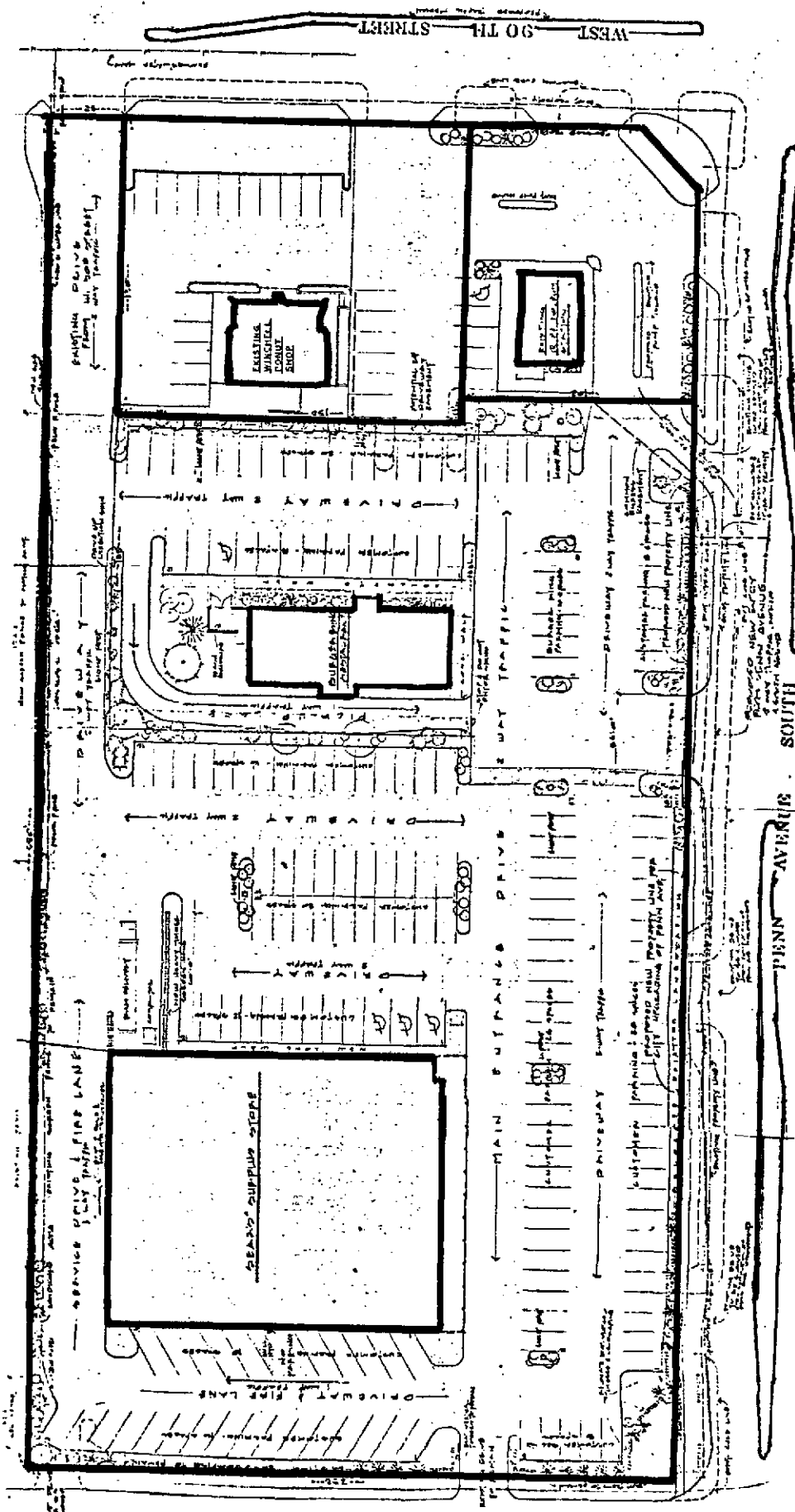


NORTH





CASE 7984A-80



CASE 7984A-80
Scale: 1" = 72'



WEST 91ST STREET

Item #4 continued
Case 8705A-80

- 9) trash dumpster be screened or enclosed, as approved by the Director of Planning;
- 10) all pick-up and drop-off activities take place in the rear parking lot;
- 11) landscape plan for the Montessori School be approved by the Director of Planning.

Motion carried 6-0.

Item #5
Burger King
Case 7984A-80
9056 Penn Avenue
Conditional use permit
for restaurant

9:20 p.m.

Mr. Grussing said the applicant proposes to erect an 86-seat fast food restaurant, with a drive-up service window, on a vacant area between the Sears Surplus Store and Winchell's Donut Shop. Two existing driveways in front of the Sears store would be closed, and a new ingress/egress drive, with a left-turn bay on Penn Avenue located closer to 90th Street, would be constructed. The neck parcel from 90th Street, currently used as a driveway for Winchell's, will also service the proposed restaurant, as well as Sears.

Mr. Grussing said the submitted plans also show changes to the Sears portion of the property. The existing driveway to 91st Street at the southwest corner of the property would be closed, and a one-way, northbound driveway established along the west boundary. A truck loading dock would be located at the west end of the north wall. A heavy timber screen wall would screen one trailer space and a garage compacter from 90th Street. The existing screening fence to the west of Sears would be extended northerly to a point 130 feet from Penn Avenue. Additional parking lot landscaping would be installed, and that along Penn Avenue would be relocated and replaced.

Mr. Grussing said staff recommends approval of this request with conditions.

Mr. Anderson noted that staff recommended the 14-foot screening wall in the dock area be break-off block rather than timber, and he questioned if this material might be too fragile should it be hit by a truck.

Mr. Dennis Trisler, representing the applicant, said the proposed restaurant will be franchised. The site is approximately .9 acre in size. Both the site and the restaurant will be accessible to the handicapped. He said about 2.4 feet of fill will be required, and \$15,000 will be budgeted for landscaping.

Mr. Mel Vanderbilt, of Burger King, said this will be a quality restaurant, employing approximately 60 people. He said there will be an enclosed trash area, with two or three enclosed dumpsters.

Mr. Trisler said, in discussions with staff, the conditions of approval are agreed to except for the trash enclosure. He said this building cannot accommodate a trash enclosure inside the building. It is proposed that a trash enclosure, about 7 feet by 9 feet, will be constructed of the same style brick as the building exterior, with two heavy wooden gates. He presented photos of other restaurants in the City with trash enclosures outside of the buildings.

Regarding signs, Mr. Trisler said there will be one free-standing pylon sign.

Mr. Tom Stahl, architect for the project, addressed the staff's concern of the accessibility of trucks to the Sears store. He said the most logical entrance would be that nearest 91st Street. He noted that the approach angle to the loading dock will need to be softened.

Mr. Stahl agreed with Mr. Anderson's comment concerning the screening wall of masonry. He said it is suggested that this wall be of wood for safety reasons. He added there will be upgrading of the Sears building, but nothing specific has been settled. Mr. Hawbaker said staff is not looking for a phased construction in the project. It is expected that improvements to the Sears store will be done at the same time as restaurant construction.

Mr. Tom Lampi, 9033 Russell Avenue, a teacher at Lincoln High School, said he lives directly behind the restaurant site. There are noise and litter problems because of the Winchell's Donut Shop, which is open 24 hours a day. He said the administrator at Lincoln High School is concerned with another fast food facility because the students are coming and going constantly to these facilities, and Burger King will add to this problem and problems with the school lunch menu.

Ms. Carole Kenny, 9009 Russell Avenue, said she is opposed to this development. She said she is concerned about odors and noise from loud speakers for the drive-up window and from car radios. Litter is another concern. She said there are concerns for the existing food businesses already in the vicinity. There is much vandalism in the area. Increased traffic will compound the problem already existing. Ms. Kenny said the neighbors are concerned with property values. She said the homes to the west are on a higher grade and will have full view of what goes on. She was concerned with the size of the sign. Ms. Kenny said she hoped all these concerns will be taken into consideration.

Mr. Ernest Macziewski, 9145 Queen Avenue, said none of his neighbors are in favor of this restaurant. He said he has lived in his home for 20 years. Since Sears has

there, there are times the parking lot is full and the streets are filled. He said he does not think there will be adequate parking. With the present traffic, he said it is nearly impossible to make a left turn onto Penn Avenue during busy hours. He was concerned with litter from the restaurant.

Mr. Grussing discussed the parking situation, and said the code requirements are met with this proposal. Based on the fact there will be shared parking between Burger King and Sears, there should be adequate space.

Mr. Warren Winterfeldt, 2201 West 91-1/2 Street, was concerned with the traffic in the 90th Street and Penn Avenue area, and that the new restaurant would be a "hangout" for students from Lincoln High School.

Mr. Dan Kerr, 9115 Russell Avenue, said he has lived here for 28 years. He commended the staff for its efforts, and said he is pleased that this corner will be improved. However, he pointed out that in recent years McDonald's wanted to build at this location but failed because of neighborhood objections. He said traffic on Russell Avenue is a problem now, and this facility will only cause more traffic.

Mr. Vern Urbanski, 9017 Russell Avenue, objected to this restaurant, which would be across from his back yard. Having a drive-in that close is not desirable. He said traffic on Russell Avenue has increased considerably, and there is a problem with litter. The traffic situation at 90th Street and Penn Avenue is serious and can only be worsened by another restaurant. He was concerned with home values, and with privacy at the neighborhood homes. He said the six-foot fence along the west property line would not screen car lights coming into the restaurant from 90th Street.

Mr. Stan Elg, 9110 Queen Avenue, said he feels this location is not the area for a fast food restaurant of any type. There is a serious traffic problem now. He said there should be a traffic light at 91st Street and Penn Avenue since it is almost impossible to make a left turn onto Penn Avenue at that point. Mr. Elg questioned the circulation pattern with four businesses on that corner. He said the trash compactor at the Sears store is noisy and unsightly. He urged the Planning Commission to consider the traffic problem in this area.

Ms. Sharon Hayek, 9100 Penn Avenue, said her driveway is across from Sears and is concerned with more traffic. She said the entire site needs upgrading, the parking lot and the building. She asked what the plans are for the customer pick-up at Sears. Mr. Stahl said the customer pick-up will be moved from the southwest corner to the north.

Mr. John Hayek, 9100 Penn Avenue, was concerned that with entrances being closed on Penn Avenue, the traffic will be using the 91st Street entrance.

Mr. Trisler responded to some of the concerns of the neighbors. He said fast food operations are not traffic generators; they are traffic interceptors. He said the traffic patterns were reviewed by the Traffic Engineer. Burger King is a family-oriented restaurant, and is owned by Pillsbury Company. The hours of operation are from 10:30 a.m. to 11:00 p.m. weekdays, and to 12:00 on weekends. Mr. Trisler explained the method of ordering food at the drive-up window through the use of a microphone.

Mrs. Connor asked who will provide the fence along the western property line. Mr. Grussing said providing the fence will be the responsibility of the businesses, and each user will take care of maintenance.

Mrs. Connor suggested that the fence be higher than six feet. Mr. Grussing said in that event, a variance would be needed.

Mr. Trisler requested that if the Planning Commission rules favorably in this request, that the condition regarding a trash enclosure be changed to allow an enclosure outside the building. He said there would be no problem in adding a roof. Mr. Trisler said Burger King would like to begin construction in June.

Mr. Fillbrandt noted that traffic in this area is a major concern of the neighbors. He said this item is being considered this evening by the Traffic and Transportation Advisory Commission, and suggested a continuance until a recommendation is received from that Commission.

Ms. Hayek asked when upgrading of Penn Avenue will take place. Mr. Don Elvrud, Engineering Division, said he anticipates those improvements will be done in 1980.

M/Kohlstedt, S/Gerard, to continue Case 7984A-80 to the meeting of May 22, 1980. Motion failed 3-3, with Anderson, Kelly and Connor opposed.

Mr. Anderson suggested that in the future, recommendations by other advisory commissions be received prior to coming to the Planning Commission. He said the only good coming out of postponing this item would be an opportunity for the applicant to meet with the neighbors to try to alleviate some problems. He said Burger King made a good presentation, and the property will be upgraded.

M/Anderson, S/Fillbrandt, to continue Case 7984A-80 to the meeting of May 22, 1980. Motion carried 4-2, with Connor and Kelly opposed.

Sidewalk Construction -
Amsden Ridge Drive and
Decatur Avenue
Item 4.7

A public hearing had been scheduled for reconsideration of the construction of sidewalk along Amsden Ridge Drive (formerly West 91st Street) and Decatur Avenue in the plats of Bayridge 2nd Addition and Amsden Ridge. The hearing had been scheduled at the request of homeowners in this subdivision who were protesting the ordering of the sidewalk which they said was done without their knowledge.

The Public Works Director and Planning Director reviewed the proposed sidewalk construction, saying it would be placed on a five-foot easement outside of the street right-of-way. Mr. Brussing said there is 50 feet of right-of-way with a 30-foot roadbed and a restriction of no-parking on either side of the road.

Speaking in opposition to the sidewalk construction were the following:

Bill Lombardo, 8408 Amsden Ridge Drive
Mrs. Don Winter, 8350 Amsden Ridge Drive
Ron Jensen, 8416 Amsden Ridge Drive
Tom Denny, 9024 Cavell Circle

These residents said they would be inconvenienced by having sidewalk constructed because of the placement of their homes and driveways which did not reflect the sidewalk construction. In addition, the thought was expressed that having sidewalk and a walkway easement to Anderson Lake would bring more traffic into their area which could be a nuisance because of the restrictions about parking on the street.

Following discussion, motion was made by Peterson, seconded by Herbst, and all voting aye to close the hearing and delete construction of the sidewalk on Amsden Ridge Drive and Decatur Avenue and the walkway from Decatur to Amsden Road.

Conditional Use Permit
for Two-Family Dwelling
Case 8460A-78
Item 5.1

The Council was requested to consider approving a conditional use permit, final site plan and building plans for a two-family dwelling at 8622-24 Aldrich Avenue. The Council was advised that the applicant, Garden City Construction, had requested that this case be continued to the July 10 meeting. Following discussion, motion was made by Herbst, seconded by Lindau, and all voting aye to continue this case to the July 10 Council meeting.

Final Site Plan and
Building Plans for
Two-Family Dwelling
Case 8461A-78
Item 5.2

The Council was requested by William Kormanik to consider approving the final site plan and building plans for a two-family dwelling at 10401-07 Quebec Avenue.

The Planning Commission at its meeting of June 15 recommended approval of the final site plan and building plans for a two-family dwelling with the following conditions:

1. landscape plans be approved by the Director of Planning to include a minimum of four overstory, two and one-half-inch caliper trees and an undulating four to five-foot high berm along East Bush Lake Road, measured from the established final grade of the road,
2. grading, drainage and utility plans be approved by the City Engineer,
3. revisions to utilities be at the developer's expense,
4. one curb cut be allowed and create a horseshoe type driveway into each of the garages, to be approved by the Traffic Engineer.

Following discussion, motion was made by Darr, seconded by Mahon, and all voting aye to approve the final site plan and building plans based on compliance with the conditions set forth by the Planning Commission.

Temporary Conditional
Use Permit for
Montessori School
Case 4034A-78
Item 5.3

The Council was requested by Mrs. Liiste to consider approving a temporary conditional use permit for a Montessori School at 8036 Lyndale Avenue.

The Planning Commission at its meeting of June 15 recommended approval of a two-year temporary conditional use permit based on the ability to make the required findings in Section 19.22(5) (A)(i) through (iv) with the following condition:

1. all pick-up and drop-off activities shall occur in the off-street parking area.

Following discussion, motion was made by Mahon, seconded by Herbst, and all voting aye to approve a temporary conditional use permit for two years based on making the required City Code findings and on compliance with the conditions set forth by the Planning Commission.

Conditional Use Permit,
Final Site Plan and
Building Plans for
Gas Station and
Convenience Food
Case 3412A-78
Item 5.4

The Council was requested by Q Petroleum Corporation to consider approving a conditional use permit, final site plan and building plans for a self-serve gas station and convenience food at 9000 Penn Avenue South.

The Planning Commission at its meeting of June 15 recommended approval of the conditional use permit, final site plan and building plans for a self-serve gas station and convenience food store, based on the ability to make the findings in Section 19.22(2)(A),(C),(H) and (I) of the City Code as required, and with the following conditions:

1. sidewalks be built at the developer's expense 39 feet to 45 feet from the centerline of 90th Street and Penn Avenue in accordance with specifications set forth by the City Engineer,
2. landscape plan, including sign locations and design be approved by the Director of Planning,
3. copies of common driveway easement agreements with adjacent property owners be provided to the City,
4. street right-of-way be dedicated at the intersection of 90th Street and Penn Avenue for turning movement as required by the Traffic Engineer,
5. driveway access to be constructed per approved plan with appropriate permits,
6. only one reserved handicapped parking space be provided with location of the space, access ramp and reserved parking sign to be approved by the Director of Planning.

Following discussion, motion was made by Darr, seconded by Blessum, and all voting aye to approve the conditional use permit, final site plan and building plans based on making the required City Code findings and on compliance with the conditions set forth by the Planning Commission.

Revised Preliminary
Development Plan
Case 7765C-78
Item 5.5

The Council was requested by the Marvin H. Anderson Construction Company to consider approving the revised preliminary development plan for Hyland Hills 7th Addition at 9801, 9821 and 9921 Nesbitt Road. The applicant is proposing to review the recently approved development plan for 18 acres to accommodate 15 single-family lots and two condominium structures with 66 units per structure for a density of about eight units per acre.

The Planning Commission at its meeting of June 15 recommended approval of the revised preliminary development plan for Hyland Hills 7th Addition based on the ability to make the findings in City Code Section 19.38(g)(1) through (7) as required and with the following conditions:

1. condominium structures be limited to three stories and not more than 150 living units be included in these structures,
2. Briar Road be completed with the first phase of construction,
3. final site plans and building plans for the condominium structures and two-family dwellings be reviewed by the Planning Commission and approved by the City Council,
4. landscape plan be approved by the Director of Planning.

Following discussion, motion was made by Mahon, seconded by Peterson, and all voting aye to approve the revised preliminary development plan based on making the required City Code findings and on compliance with the conditions set forth by the Planning Commission.

Consider Project
Budget for 1978 Park
Improvements
Item 6.6

The Council was requested to consider approving an appropriation of \$92,000 undesignated Park Development Fund monies and \$4,600 from Tennis Court Repair and Boards for a total of \$96,600 for the implementation of the 1978 Park Improvement Program. Background information concerning the request was submitted to the Council with the agenda material. Following discussion, motion was made by Mahon, seconded by Lindau, and all voting aye to approve the appropriation of the funds as proposed.

Consider Amendment
to Architect's Contract,
Park Improvement
Program
Item 6.10

The Council was requested to approve an amendment to the contract for architectural services for the construction of two tennis courts at Wright's Lake Park for \$1,500 and design drawings and construction documents for parking, ballfield backstops and benches, playlot and two tennis courts at Reynold's Playground for \$5,600. Following discussion, motion was made by Mahon, seconded by Lindau, and all voting aye to approve the appropriation of \$7,100 to the architectural contract as proposed.

Final Plat Approval
of Forest Haven 2nd
Addition
Case 8393A-77
Item 6.11
R-78-76

The Council was requested by Joseph Hutton, Jr., to consider approving the final plat of Forest Haven 2nd Addition located at 8910 and 8920 Southwood Drive. The preliminary plat was approved by the Council on September 19, 1977, with a number of conditions which have been or are being met.

Following discussion, motion was made by Mahon, seconded by Blessum, and all voting aye to approve the final plat of Forest Haven 2nd Addition, approve the subdivision agreement, and adopt a resolution granting final approval.

Set Hearing for
Ordinance re Stop
and Yield Inter-
sections
Item 6.13

The Council was requested to consider ordering an ordinance and set a hearing date to amend Section 8.24 of the City Code by adding items designated 8.24 a-99 through 101 relating to stop and yield intersections in the City. Following discussion, motion was made by Darr, seconded by Blessum, and all voting aye to set a public hearing for 7:30 p.m. July 31 on this proposed ordinance.

Boards and Commissions'
Communications
Item 7.1

The Council was requested to consider a communication from the Park and Recreation Advisory Commission regarding the proposed plans for tennis court improvements at Valley View Playfield, the tennis court project at Wright's Lake Park, and the development plans for the Reynold's Playground as presented by the architect. At its meeting of June 14 the Park and Recreation Advisory Commission made the following motion:

Item #3
Mrs. Liiste
Case 4034A-78
8036 Lyndale Avenue
Temporary conditional use
permit for Montessori
school

8:15 p.m.

Mr. Hawbaker said the applicant is requesting renewal of a conditional use permit to operate a Montessori school at this location. He said the school has been in operation since 1962 and that all requirements have been complied with during this time. He said the Fire and Life Safety Committee has recommended approval, and staff recommends approval with one condition.

Mr. Fillbrandt stated he has seen an excess of cars parked in the applicant's parking lot. Mr. Bartels recalled the sketch of the site which showed parking spaces for 12 cars.

Mr. Matt Liiste, the applicant, said there has been no problem with parking.

The Planning Commission reviewed the findings in Section 19.22(5)(A)(i) through (iv), as required for a temporary conditional use permit.

M/Wofford, S/Fillbrandt, to close the hearing. Motion carried 5-0.

M/Wofford, S/Fillbrandt, in Case 4034A-78, to recommend approval of a two-year temporary conditional use permit for a Montessori school based on the ability to make the required findings in Section 19.22(5)(A)(i) through (iv), with the following condition:

all pick-up and drop-off activities shall occur in the off-street parking area.

Motion carried 5-0.

Item #4
Q Petroleum Corporation
Case 3412A-78
9000 Penn Avenue
Conditional use permit,
final site plan and
building plans for self-
serve gas station and
convenience food

8:25 p.m.

Mr. Hawbaker stated the City Council approved a conditional use permit, final site plan and building plans for alterations to this service station and convenience food store on September 20, 1976. Because of delays in the applicant's obtaining driveway easement agreements from the adjacent property owner, he said the construction has not begun; it is now felt an agreement is near. He said plans submitted for the present proposal are the same as were approved in 1976. Mr. Hawbaker said staff feels this proposal will be a major improvement at this intersection and recommends approval with conditions.

Mr. Hawbaker said the applicant may be required to obtain a variance to the greenstrip requirement and to pump island setbacks, but it would be appropriate for the Planning Commission to take action before the variances are considered.

In referring to Condition 4, Mr. Hawbaker said the amount of right-of-way required by the Traffic Engineer at 90th Street and Penn Avenue is minimal and will not affect the development.

Mr. Andruss asked if there ~~is~~ still an easement at this location from the Sears Surplus Store parking lot. Mr. Hawbaker said when Sears put their landscaping in, they did allow for the common driveway to be built for the two properties.

Mr. Marlin Besler, representing the applicant, said there had been difficulty in reaching an agreement with Sears, but agreement is expected to be reached soon.

Mr. Bartels asked if the easement agreement will be available before going to the City Council. Mr. Hawbaker answered if it is not, a condition of approval would cover the requirement.

The Planning Commission reviewed the required findings in Section 19.22(2)(A),(C),(H) and (I).

M/Bartels, S/Wofford, to close the hearing. Motion carried 5-0.

M/Bartels, S/Fillbrandt, in Case 3412A-78, to recommend approval of the conditional use permit, final site plan and building plans for a self-serve gas station and convenience food store, based on the ability to make the findings in Section 19.22(2)(A),(C),(H) and (I), as required, with the following conditions:

- 1) sidewalks be built at the developer's expense 39 feet to 45 feet from the centerline of 90th Street and Penn Avenue in accordance with specifications set forth by the City Engineer;
- 2) landscape plan, including sign locations and design, be approved by the Director of Planning;
- 3) copies of common easement agreements with adjacent property owners be provided to the City;
- 4) street right-of-way be dedicated at the intersection of 90th Street and Penn Avenue for turning movement as required by the Traffic Engineer;
- 5) driveway access to be constructed per approved plan with appropriate permits;
- 6) only one reserved handicapped parking space be provided with location of the space, access ramp and reserved parking sign to be approved by the Director of Planning.

Motion carried 5-0.

Mr. Fillbrandt reiterated that this project will be an improvement to this intersection.

Following discussion, motion was made by Spivey and seconded by Belanger to close the hearing and approve the conditional use permit based on compliance with the conditions set forth by the Planning Commission, plus an additional condition that the hours of operation will be from 5 a.m. to 11 p.m. and based on making the required City Code findings. All voted aye, except Mahon, who voted nay, and the motion carried 7-1.

Review Decisions of
Variance Board
on 6.2

The Council was requested to review the decisions of the Variance Board on the following variances at their meeting of January 26:

Case 79848,C,D-77	Penn Properties, 9056 Penn Avenue	Variance to greenstrip/landscape requirements.
Case 7612D-76	Mike Cox, 9626 Lyndale Avenue	Variance to have a sign over maximum height.

Following discussion, motion was made by Darr, seconded by O'Neil, and all voting aye to uphold the recommendation of the Variance Board and approve a variance to the greenstrip/landscape requirements but to also require that the other landscaping requirements previously required be complied with. Steven Davidson, attorney for the applicant, asked what the conditions were and was told by the City Attorney that what was being asked was compliance with previous landscaping requirements which haven't been met. He said his letter of transmittal will set forth these conditions.

Discussion was held on the request for variance for the building at 9626 Lyndale Avenue and question was raised by Darr as to whether or not this was the proposed site of an Arby's Restaurant which has been approved by the Council. The Director of Licenses and Environmental Inspection said he did not know if Mr. Cox was still in the building but that the sign is still existing on the building. Following discussion, motion was made by Darr, seconded by Mahon, and all voting aye to uphold the recommendation of the Variance Board and deny the request for variance.

Specifications for
Tactical Uniform
Service
on 6.11

The Council was requested to consider approving the specifications and schedule for rental uniform bids for the Public Works Department. The estimated cost of this uniform rental service is \$7,000 with the employee contribution about 40%.

The following schedule was proposed:

Council approve specifications	February 7
First advertisement	February 11
Open bids	February 22
Council consider bids	February 28

The Director of Public Works said that because more persons are participating in this program than had in the past, he felt it would be better to secure bids rather than to negotiate a price. In response to a question as to whether the wearing of uniforms was mandatory or optional, the City Manager said it is optional in most departments but mandatory in the Utilities Division where the employees are going into private homes and businesses.

Following discussion, motion was made by O'Neil, seconded by Malone, and all voting aye to approve the specifications and authorize the call for bids in accordance with the schedule.

Final Plat Approval,
Spring Valley 5th
Addition
on 8179A-76
on 6.8

The Council was requested to consider approving the final plat of Spring Valley 5th Addition located at 10733-10735 Hopkins Road. The preliminary plat was approved on November 1, 1976, and the conditions of preliminary approval have been or are being met.

Following discussion, motion was made by Darr, seconded by Belanger, and all voting aye to approve the final plat of Spring Valley 5th Addition, approve the subdivision agreement, order the necessary improvements for construction, and adopt a resolution granting final approval.

Final Plat Approval,
Bayridge 2nd Addition
on 8174A-76
on 6.9

The Council was requested by Pentom, Inc., to consider approving the final plat of Bayridge 2nd Addition, originally submitted as Bayridge, located at 9028 West Bush Lake Road. The preliminary plat was approved by the Council on October 25, 1976, and conditions of preliminary approval have been or are being met.

Discussion was held on the road alignment in the plat and question raised as to whether the streets in the development would be of standard or substandard width. The Public Works Director indicated they would be of substandard width, and for this reason, there would be no parking allowed on those streets. He also noted that in previous discussions of drainage from this development, it had been requested that efforts be made to keep storm water from going into the cranberry bogs. He said in correspondence with the Horticulture Department in Wisconsin they informed him that water draining into the cranberry bog is necessary to keep it a bog. For this reason, he said the final drainage plans will be revised and will be submitted to the Natural Resources Commission and the Council for final approval.

Penn Properties who are proposing development changes at 9056 Penn Ave. in a retail business (B-2) district requests approval of a variance to:

- B) Have an 8 ft. greenstrip along Penn Ave.
- C) Have an 8 ft. greenstrip along W. 91st St.
- D) Have a 7 ft. landscaped yard along the west property line which is adjacent to a residential district.

The variance considerations are:

B & C) Section 19.52(E)(1)(A) which states that in all districts a landscaped yard shall be provided and maintained along all streets and traveled rights-of-way. The yard shall be at least 20 ft. in depth along all streets as measured from the street right-of-way. The yard shall extend along the entire frontages of the lot except for driveways, and shall be kept clear of all storage, structures and off-street parking.

D) Section 19.52 (e) (2) which states that along zoning district boundary lines where lots or parcels in any nonresidential zoning district are adjacent to a residential zoning district and not separated by a street, landscaping equivalent to that described in this Section 19.52 (e) (1)(A) shall be provided and maintained on the lot or parcel in the non-residential zone along the boundary line adjacent to the residential district.

No landscaping or green area now exists in any of the areas described above.

Steven Davidson, attorney on behalf of the petitioner, introduced Mr. George Kolinsky, architect in developing this plan. Mr. Kolinsky explained that at the present time there is an opening access to Penn Avenue South which is indicated as closed on the plans. This was the City Traffic Engineer's suggestion. Mr. Kolinsky explained in great detail the plans for the greenstrip along Penn Avenue and along West 91st Street as well as the landscaped yard along the west property line. Mr. Kolinsky said that basically, what is being presented is an addition of approximately 15,000 square feet which would more than likely be used for small shops. The Sears store will be repainted and refurbished. The essential reason they are asking for the variance along Penn Ave. is because the County is asking to take an extra 7 feet in right-of-way to eventually widen Penn Ave. Eventually, the actual curb would be moved in. If 7 feet were taken by the County and another 20 feet taken for greenstrip, this would reduce the parking area, eliminating one row of parking. There would be service entrances in the back. Most of the parking, etc. would be in the front.

There have been complaints from the neighbors regarding the trucks parked by Sears. The petitioner is working with Sears and the City to design an enclosure so that the trucks could back in an area behind the store and not be seen. This area would be completely enclosed. Considering this type of use, there would be sufficient parking.

Mr. Gasterland pointed out that Mr. Kolinsky is not proposing a particular building but only the architects plans on how it will be built. No applications for building permits have been made. All they are asking for

are the variances. They are merely trying to find out if they will eventually be able to accommodate this proposal. Mr. Kolinsky explained that they are in no position to apply for a building permit. They are only presenting the actual layout. Mr. Kolinsky said that if there is a problem with parking, they would modify the plan slightly so that it would not be necessary for them to come back for a variance in the parking.

Schaeppi pointed out that a memo had been received from Mr. Lyle Berg, City Traffic Engineer, regarding this case. The gist of the letter is that Mr. Berg thinks that the variances requested will expedite improvements of the property and would probably be within reason.

John Hayek, 9100 Penn Avenue South, expressed his opposition to the variance being requested. He presented pictures of the area as it was existing in 1973 and as it now exists. At present, there does not appear to be any greenstrip. There is an existing row of dead trees. It is not very pleasant to look at. A privacy fence had been built, however, the area can still be seen and is an eyesore. Schaeppi asked Mr. Hayek what he would suggest for screening. Mr. Hayek said he would like to see a row of evergreens or something that would block the area. The building is not maintained. When the Sears store has sales, the parking becomes out of hand. Mr. Hayek explained that the parking is bad now, and he is wondering what it will be like if additional stores are built in the area. Trucks are not able to make the turn and are running over neighboring properties. Gasterland pointed out that all of these complaints are well documented and both the owner and the City are aware of them. That is what perpetrated this variance. As far as the actual design of the greenstrip area is concerned, code requires a 3 foot high barrier. There are specific items that will have to be approved. They are presently looking at the requirement for a 20 foot greenstrip which the petitioner is asking to be reduced to 7 feet.

Mr. Hayek said he would like the record to show that he would like to see a 20 foot greenstrip. Schaeppi said they appreciate Mr. Hayek's comments, however, if the variances are not granted, there will not be any improvements on the property. At the present time, there does not appear to be a greenstrip. If an 8 foot greenstrip were put in, this would be better than no greenstrip at all.

Mr. Frank McCarthy, owner of the apartment building at 9101 Penn Avenue South, said that he would like to see a greenstrip along Penn Avenue. Mr. McCarthy said he felt that that area was not maintained and kept up. He would like to see some thing done to clean the area up.

Mr. Bob Bergfeld expressed his opposition to the variances. It was pointed out that the owners of this property are currently under order to bring the property in compliance to code. That is why they are requesting the variances. They need the variances in order to develop the property as shown. These variances would allow them to provide parking in an orderly manner and provide spaces for loading and unloading trucks. The only issue is if the Variance Board will allow them to reduce their greenstrip in order to develop their property. The plan cannot be accepted for a conditional use permit unless the variances are granted.

Mr. George Ricker, 9101 Queen, said that there are trucks that come and back up on his property. Schaeppi explained that the way the plan is designed, it would stop the trucks from coming out the back. The City Council will do the actual deciding. Schaeppi said he would have to vote

in favor of these variances because it would improve the property for the neighbors. Mrs. George Ricker also appeared before the Board stating that the trucks were driving on her property.

Following lengthy discussion, it was pointed out that this case would have several public hearings before any final plan would be approved. The neighbors may at that time again express their opposition to any of the proposals. This case will be going before the City Council and Planning Commission at a later date and neighbors within 500 feet of the property will be notified of these hearings.

Schaeppi read the required criteria for Case 7984B-77 stating that they have heard a lot of testimony about the granting of these variances but most of the testimony did not specifically concern whether the 8 or 20 foot size greenstrip would be the best. Most of the testimony had to do with the screening. This is a minimum variance since it will enable the petitioner to go from a more or less non-existing 20 foot to 8 foot greenstrip along Penn Avenue. Since the variance would upgrade the property not just for the owner of the property but specifically for the neighbors, it is in harmony with the general purpose and intent of the ordinances and would not be injurious to the neighborhood or detrimental to the public welfare. It would provide for better screening. If the property is upgraded as indicated, the trucks will also be screened. They will also no longer be pulling out through the exit on the southwest corner of the lot. They would have to find another way to get out of the lot. This would take care of those objections expressed by the neighbors regarding the trucks running over their property. There would be wider entrances and exits so that the trucks could turn out at an angle. The special circumstances result only to the extent that the petitioner is trying to improve his property and is a pre-existing condition which is not up to code. The area is run down. Some action has to be taken to improve the area.

Motion was made by Schaeppi, seconded by Anderson with all present voting aye to recommend approval of Case 7984B-77 to the City Council. Motion to recommend approval carried, 5-0.

Schaeppi read the required criteria for Case 7984C-77, stating that for basically the same reasons as stated in the previous case, this case should also be recommended for approval. The 91st Street greenstrip seems to be causing even more problems than the greenstrips on the other streets.

Motion was made by Schaeppi, seconded by Wanglie, with all members voting aye, to recommend approval of Case 7984C-77 to the City Council. Motion to recommend approval carried, 5-0.

Schaeppi read the required criteria for Case 7984C-77 stating that they really haven't had much testimony about this particular variance. This would be reasonable use of the land and a minimum variance because this would be upgrading the rear sections of the property. Proper screening would be put in and the building would be upgraded and brought closer into compliance with the City Code.

Motion was made by Schaeppi, seconded by Anderson, with all present voting aye to recommend approval of Case 7984D-77 to the City Council. Motion to recommend approval carried, 5-0.

The petitioner was advised that these cases would go before the City Council on February 7, 1977, for their final approval or denial.

CITY OF BLOOMINGTON
2215 WEST OLD SHAKOPEE ROAD
HENNEPIN COUNTY, MINNESOTA 55431

CITY COUNCIL MEETING

Approved Minutes
Study Meeting
Meeting #55

7:00 p.m.
November 10, 1975
Council Chambers

Call to Order The meeting was called to order by Mayor Robert M. Benedict.

Pledge to Flag Mayor Benedict led the Council and the audience in the pledge of allegiance to the flag.

Roll Call Present: Mayor Benedict, Councilmen C. Allen, J. Anderson, W. Belanger, R. Darr, J. Malone, and J. O'Neil.

Approval of Minutes The Council was requested to consider approving the minutes of the September 17, September 24 and October 1 budget hearings and the October 6 regular meeting. Motion was made by Belanger and seconded by Allen to approve the minutes of the September 17 and September 24 budget hearings. All voted aye, except O'Neil, who abstained on the September 17 minutes because of absence at that meeting, and the motion carried 6-0-1 on the September 17 minutes and 7-0 on the September 24 minutes. Motion was made by Darr, seconded by Allen, and all voting aye to approve the October 1 and October 6 minutes.

Proclamation - Youth Appreciation Week The Council was requested to consider adopting a proclamation naming the week of November 10-16 as Youth Appreciation Week in Bloomington. The president of the Optimist Club was present to accept the proclamation inasmuch as the Optimists International have for the past twenty-one years promoted and conducted a program entitled Youth Appreciation Week. Also present were members of the Youth Commission of Bloomington. The Mayor made the presentation of the proclamation on behalf of the Council.

Preliminary and Final Plat of Winchell's Addition
Case 3308E-75
Item 3.1 The Council was requested to consider approving the preliminary and final plat of Winchell's Addition located at 2325 West 90th Street and 9000 Penn Avenue. The plat was submitted in order to change the two lots, described by metes and bounds, to lot and block description, allowing issuance of building permits.

The Council had considered this plat at its November 3 meeting and had laid over for one week pending resolution of the problems concerning dedication of right-of-way by the service station property owner.

Richard Evans, representing the petitioner, said that platting of the property was one of the conditions of the conditional use permit for Winchell's Donut House, and that the applicant was agreeable to the conditions set forth by the Administrative Subdivision Review Committee at its meeting of October 29, 1975. However, Alvin Currier, owner of the property who was selling a portion of it to the Donut House and 50 feet to the service station owner, said the condition of seven foot dedication for right-of-way on Penn Avenue and 90th Street was causing him to lose \$15,000.

Motion was made by Belanger and seconded by Malone to lay over for one week to determine if anything can be worked out by those involved. The motion was withdrawn by Belanger because of further discussion on the necessity for the acquisition of the right-of-way for future improvement of Penn Avenue and 90th Street. The City Manager said the ideal time for the acquisition of this right-of-way is at the time of platting.

Following discussion, motion was made by O'Neil, seconded by Malone, and all voting aye to approve the preliminary and final plat of Winchell's Addition, to approve the subdivision agreement, and to adopt a resolution granting final approval.

Hearing on Ordinance Revising Water Rates
Item 4.1 The Council was requested to consider adopting an ordinance adjusting the charges for water service and thereby amending Section 30.06 of the City Code. The City Manager said that the Utility Operating Budget for 1976 should be considered at the same time (Study Item 1).

Benedict asked how much money would be lost if there was no minimum or base charge. William Lloyd, Utilities Superintendent, said if the basic charge was dropped, the cost would be \$240,000 a year which would have to be regained by an overall increase in the water rates. He said the basic charge is not a minimum charge because no water is provided for in the basic charge rate. He said this fee covers items such as meter reading and billing, which costs as much for a person using 5,000 gallons as it does for a person using 50,000 gallons, and is not related to water usage.

Mark Mahon, 8430 Portland Avenue, asked for a breakdown of the basic charge and requested that the ordinance be tabled until interested residents can be furnished this information. He said the \$2.25 per month basic charge was high for what is said to be included.

all voting aye to close the hearing, to approve the preliminary and final plat of Metro Office Park 4th Addition, to approve the subdivision agreement, and to adopt a resolution granting final approval.

Preliminary and Final
Plat of E. P. Gunderson
Addition
Case 8091A-75
Item 4.2

A public hearing was scheduled for consideration of the preliminary and final plat of E. P. Gunderson Addition located at 207 West 90th Street. The plat was submitted in order to change a metes and bounds description to a lot and block description to allow the issuance of a building permit.

The plat was reviewed by the Administrative Subdivision Review Committee on October 22 and was recommended for approval with conditions all of which have been met.

Following discussion, motion was made by Darr, seconded by Allen, and all voting aye to close the hearing, to approve the preliminary and final plat of E. P. Gunderson Addition, to approve the subdivision agreement, and to adopt a resolution granting final approval.

Preliminary and Final
Plat of Winchell's
Addition
Case 3308E-75
Item 4.3

A public hearing was scheduled for consideration of the preliminary and final plat of Winchell's Addition located at 2325 West 90th Street and 9000 Penn Avenue. The plat was submitted in order to change the two lots, described by metes and bounds, to lot and block description to allow issuance of building permits.

The proposed plat was reviewed by the Administrative Subdivision Review Committee on October 29 and the minutes of that meeting were furnished to the Council with the agenda material.

The Public Works Director indicated that Hennepin County has reviewed this plat and has requested additional right-of-way along Penn Avenue and also requested a common driveway to serve the Donut House and the service station.

Richard Evans, representing Winchell's Donut House, said that platting of the property was one of the conditions of the conditional use permit they received for the Donut House. He said they are agreeable to the conditions as imposed but the owner of the service station property is opposed to giving up seven feet of right-of way along Penn Avenue because it would necessitate moving the pump islands. Mr. Evans asked if it would be possible to approve the plat subject to compliance with all of the conditions.

Following discussion, motion was made by Anderson and seconded by Malone to table this plat for one week to 7 p.m. November 10. All voted aye, except O'Neil, who voted nay, and the motion carried 6-1.

Ordinance Licensing
Roller Skating Rinks
Item 4.4

The Council was requested to consider adopting an ordinance to add a new Chapter 128A to the City Code to license roller skating rinks. The City Attorney indicated that there are approximately four of these rinks that have come before the City Council for conditional use permits and it was felt that such an ordinance should be adopted before the rinks go into operation. He indicated that the proposed ordinance has been reviewed by the Bloomington Police Department and the Department of Community Development, which both concurred in the need for such regulation and recommended adoption.

Allen noted three sections of the proposed ordinance on which he had questions, specifically 128A.05b, c and h. In a concerning the lighting, he questioned who would determine what was suitable; in c, regarding curfew ordinance violations, he said he wouldn't want the operator to have this responsibility for individuals, and in h, he questioned the necessity of having a police officer or guard on duty unless problems were being experienced by the operator. He said this requirement would prejudice the operation or installation. There was general concurrence by the other Councilmen that these particular points should be reviewed. It was also questioned whether Burnsville and Edina, who have roller rinks operating in their community, have ordinances regarding their operations. The City Attorney said he would review this with the applicable authorities in those communities.

Peter Boo, 826 South Syndicate, St. Paul, said he presently has a rink under construction on West 84th Street across from Holiday Village. He said he has rinks in So. St. Paul, Maplewood, Roseville and Edina and to his knowledge none of these communities have ordinances regulating the operation of the rinks. He said it has been his practice to have a uniformed policeman on duty and said his operators work hard to keep a rapport with the police in the community in which they are operating.

Dawn Adams, 8308 Lyndale Avenue, agreed with the adoption of the ordinance and said she felt there should be a police officer on duty when the rink is in operation. She cited the particular area in which the roller rink will be located near Holiday Village with its large parking lots and said it would be a temptation for persons leaving the rink to drive around these lots. She asked for a copy of the ordinance so she could review it.

Following discussion, motion was made by Malone, seconded by Anderson, and all voting aye to table this ordinance for one week with the City Attorney to review the sections of the ordinance on which questions had been raised as well as to review with the communities who have roller rinks to determine what their licensing or ordinance requirements are.

A short recess was declared after which the meeting was reconvened at 8:55 p.m.

The Council was requested to consider adopting an ordinance vacating a drainage and utility easement along the north line of Colonial Car Wash 1st Addition between Lyndale and Grand Avenues north of 93rd Street. Request for the easement vacation was made by the owners of the Colonial Car Wash so that they can replat their property incorporating a part of the lot to the north into one new lot. This would allow them to expand their building to the north across the easement under consideration.

Adoption of the ordinance was recommended subject to submission of a suitable agreement between the owners and Northern States Power Company that provides for the overhead power line usage by NSP.

Following discussion, motion was made by Anderson, seconded by O'Neil, and all voting aye to close the hearing and adopt the ordinance.

The Council was requested to hold a public hearing to consider a request for a conditional use permit to operate a searchlight at 9700 Lyndale Avenue South on September 26, October 2 and 3. The applicant was the Schubert Outdoor Advertising Company representing Freeway Ford.

Following discussion, motion was made by Darr, seconded by Belanger, and all voting aye to close the hearing and approve the conditional use permit based on making the required City Code findings in Section 11.13.E.1.a-d.

The Council was requested by Mayor Benedict to consider a petition submitted by homeowners in the vicinity of Vincent Avenue between 80th and 82nd Streets asking that a permanent barrier be built for the control of traffic. A copy of the petition was submitted to the Council with the agenda.

Samuel Marsh, 8012 Thomas Avenue South, distributed information to the Council and reviewed the traffic in the area and the accidents that have occurred.

The City Attorney indicated that one of the persons who had submitted the petition to the City requesting the hearing had called and asked that it be postponed to a later date.

The City Traffic Engineer reviewed the traffic in this area and said a printed report could be prepared for review at a later date.

Following discussion, motion was made by Malone, seconded by Allen, and all voting aye to continue this hearing to December 8 in the Council Chambers.

The Council was requested by Red Barn Restaurants to consider approving a conditional use permit, and the final site plan and building plans for an addition to and alteration of an existing Red Barn Restaurant at 8901 Penn Avenue as part of a shopping center in a Retail Business B-2 zoning district.

The Planning Commission at its meeting of September 18 recommended approval of the conditional use permit, final site plans and building plans based on making the required City Code findings in Section 11.13.B.1, 2, 3, 8 and 9 and with the following conditions:

1. the property owner plat the land in accordance with Chapter 20 of the City Code,
2. existing and proposed lighting standards be limited to 16 feet in height,
3. landscaping and exterior lighting plan be approved by the Planning Commission, with particular emphasis to the 89th Street side and that such landscaping be accomplished by June 1, 1976,
4. security system be reviewed and approved by the Crime Prevention Officer of the Bloomington Police Department,
5. patio area closing time be no later than 10 p.m.

An additional condition was imposed to read that prior to issuance of a building permit, conditions #2 and #3, including permanent repair of the fence and landscaping, be accomplished.

Robert Lafferty, representing Red Barn Restaurants, was present and said they agree with the conditions imposed by the Planning Commission.

Following discussion, motion was made by Darr, seconded by Anderson, and all voting aye to approve the conditional use permit based on making the required City Code findings and the final site plan and building plans based on compliance with the conditions set forth by the Planning Commission.

The Council was requested by Robert N. Hurd to consider approving the final site plans and building plans for a take-out restaurant (Winchell's Donut Shop) at 2325 West 90th Street in a Retail Commercial B-2 zoning district. The conditional use permit for this restaurant was approved by the Council on June 16, 1975.

The Planning Commission at its meeting of September 18 recommended approval of the plans with the following conditions:

1. brick and wood be used in a similar manner around the entire building,
2. plans and specifications for an odor filtering system shall be submitted to the Environmental Services Section for review and approval,
3. "cross-easement" agreements be filed at the time of application for a building permit,
4. approval of landscaping and exterior lighting plans by the Director of Planning,
5. dumpster be locked,
6. lighting plan and security system be reviewed and approved by the Crime Prevention Officer of the Bloomington Police Department,
7. provide one-hour rated building construction for sprinklering,
8. maintain joint access with adjacent properties for fire lane access,
9. grading, drainage and utility plans be approved by the City Engineer,
10. the advertising sign used be the planter-pedestal type instead of the larger design.

Following discussion, motion was made by Allen, seconded by Anderson, and all voting aye to approve the final site plans and building plans subject to compliance with the conditions set forth by the Planning Commission.

revised Preliminary Development Plan, Final Development Plan and Final Site Plans and Building Plans
se 6958B-75
em 5.3

The Council was requested by the Southgate Development Corporation to consider approving a revised preliminary development plan, a final development plan and final site plans and building plans for the second phase of Pebblebrook a residential planned development at about 9800 France Avenue in an R-1 (PD) zoning district.

The Planning Commission at its meeting of September 18 recommended approval of the revised preliminary development plan and final development plan based on making the required City Code findings in Section 7.14.G.1-7 and with the following conditions:

1. a right-of-way of 60 feet be dedicated for the public street,
2. the property be replatted in accordance with Chapter 20 of the City Code,
3. provided parking be brought up to ordinance requirements,
4. building setbacks of 35 feet minimum from the interior public street be maintained for Building B and the Recreation building.

At the same meeting the Planning Commission recommended approval of the final site plans and building plans for Phase II with the following conditions:

1. approval of grading, drainage and utility plans by the Engineering Division,
2. approval of a landscaping and exterior lighting plan by the Director of Planning,
3. provision of at least 60 per cent of the required parking with adequate turnarounds with this phase,
4. approval of access and circulation by the Traffic Engineer,
5. compliance with the September 17, 1975 recommendation of the Fire and Life Safety Committee as follows:
 - a. parking meet the minimum required by ordinance (2.2 spaces per unit),
 - b. fire lanes and cul-de-sacs be posted "no parking, fire lane,"
 - c. Harrison Road should be posted for no parking,
6. holding pond elevation be reviewed and approved by the City Engineer.

Question was raised as to why the private street is to be made a public street and the Council was advised by the Planning Director that this is because of FHA financing regulations.

Al Okerman and Jerry Okerman, the developers, reviewed what is proposed.

O'Neil questioned the density and asked if it was as originally approved because it is of concern to residents living in the area. He was told that the density remains the same and the changes are in shifting of the location of the buildings.

Following discussion of the plans, motion was made by Darr and seconded by Malone to approve the revised preliminary development plan, the final development plan, and the final site plans and building plans for the second phase of Pebblebrook based on compliance with the conditions set forth by the Planning Commission and based on making the required City Code findings. All voted aye, except O'Neil, who voted nay, and the motion carried 6-1.

revised Preliminary Plat of Pebblebrook West 2nd Addition
se 6958D-75
em 5.4

The Council was requested by the Southgate Development Corporation to consider approving the preliminary plat of Pebblebrook West 2nd Addition at about 9800 France Avenue in an R-1 (PD) zoning district.

The Planning Commission at its meeting of September 18 recommended approval of the preliminary plat based on the fact that none of the findings in Section 20.05V A through G could be made and with the following conditions:

Item #2 continued
Case 5536A-75

M/Houle, in Case 5536A-75, to recommend approval of a temporary conditional use permit for a period of two years based on the fact that findings were made as required in Section 11.13.E.1.a through d. Motion died for lack of second.

M/Andruss, S/Reiter, in Case 5536A-75, to recommend denial of the conditional use permit based on the inability to make the finding in Section 11.13.E.1.b as required. Motion carried 5-1, with Houle opposed.

Mr. Reiter expressed his concern about two recent requests for new operations of this type. He said he does not feel that the City Council should approve this request simply because it has been in existence for several years.

Item #3
Bloomington Speedy Car Wash
Case 4772A-75
9201-05 Lyndale Avenue
Expansion of existing use,
final site plans and
building plans

Mr. Walton read a letter received from Mr. Stuart Pihlstrom, representing the applicant, requesting an indefinite continuation of the item. The letter stated that the plans will be resubmitted sometime after January 1, 1976.

M/Houle, S/Fillbrandt, in Case 4772A-75, to continue the item indefinitely. Motion carried 6-0.

9:55 p.m.

Item #4
Robert N. Hurd
Case 3308D-75
2325 West 90th Street
Final site plans and
building plans for
restaurant (Winchell's
Donut Shop)

Mr. Walton said the proposed plans indicate that a small structure, with seating capacity for 24 persons, will be located on the southeast portion of the site. He noted that 15 parking spaces have been provided. He stated that one requirement of the conditional use permit was to provide a filtering system for elimination of cooking odors; a preliminary review of the submitted plans by the Environmental Services Section indicates that this condition has yet to be fulfilled. He said the staff considers common driveways to be an asset to the 90th Street and Penn Avenue business area and, therefore, agreements should be received to allow permanent access to the site from both the east and west. He added that the staff recommends approval of the request with conditions.

9:56 p.m.

Mrs. Houle asked if there are any plans for upgrading the existing parking lot, particularly the portion next to the existing building. Mr. Richard Evans, representing the applicant, stated that the entire parking lot will be resurfaced and upgraded.

Mr. Reiter questioned the landscaping to be provided on the north edge of the property. Mr. Walton replied that the staff has not received specific plans for landscaping, as none have been submitted to date.

Mr. Reiter inquired about the proposed signage of the building. Mr. Evans described the proposed signage and added that the sign on the building will not be illumi-

nated. Chairman Hancer suggested that the freestanding sign be lowered, as it will not be in competition with any other businesses in the area and a lower sign would be more attractive.

In answer to a question from Mr. Campion, Mr. Walton confirmed that only one sign is allowed, according to the City Code.

Mrs. Houle asked about the odor filtering system which still must be included on the plans. Mr. Evans commented that the company's odor filtering system is very effective. He said that the next set of plans to be submitted will include details of the system.

Mrs. Houle inquired about the proposed hours of operation. Mr. Evans replied that the facility will initially be open 24 hours a day, but as the amount of business received is determined, the hours of operation will probably be reduced to approximately 5:00 a.m. to 11:00 p.m.

Mrs. Houle stated that she does not believe the shop should be open 24 hours a day, since it is located so close to a residential area. Mr. Evans said the initial hours will be used as a test to determine the amount of business the facility will generate.

Mr. Evans stated that there are always at least two persons in the building during business hours. Chairman Hancer indicated that the use may have a problem with young persons loitering on the premises.

M/Houle, S/Campion, to close the hearing. Motion carried 6-0.

M/Houle, S/Fillbrandt, in Case 3308D-75, to recommend approval of the final site plans and building plans with the following conditions:

- 1) brick and wood be used in a similar manner around the entire building;
- 2) plans and specifications for an odor filtering system shall be submitted to the Environmental Services Section for review and approval;
- 3) "cross-easement" agreements be filed at the time of application for a building permit;
- 4) approval of landscaping and exterior lighting plans by the Director of Planning;
- 5) dumpster be locked;
- 6) lighting plan and security system be reviewed and approved by the Crime Prevention Officer of the Bloomington Police Department;
- 7) provide one-hour rated building construction for sprinklering;
- 8) maintain joint access with adjacent properties for fire lane access;

Item #4 continued
Case 3308D-75

- 9) grading, drainage and utility plans be approved by the City Engineer;
- 10) the advertising sign used be the planter/pedestal type instead of the larger design.

Motion carried 4-0-2, with Reiter and Andruss opposed as they feel that the location of the proposed use is undesirable.

Items #5 and 6
Southgate Development
Corporation
Case 6958B-75
Case 6958D-75
9800-9900 France Avenue
4001 West 98th Street
4000 Pebblebrook Drive
Revised preliminary develop-
ment plan, final development
plan, final site plans and
building plans
Preliminary plat of
Pebblebrook 2nd Addition

10:40 p.m.

Mr. Walton said the applicant is ready to proceed with Phase II of the development, which consists of the second 84-unit building, the recreation facilities and the necessary parking, since the first building is completed and the single-family lots are platted with five homes under construction. He noted that the applicant proposes to dedicate the approved north/south private street at a public street with a basic 60 feet of right-of-way which results in several minor shifts in future building locations. He pointed out that the three major structures in the revised final development plan have been pivoted to the north and east to provide at least a 35-foot setback to the internal street; unit count and building style have not changed.

Mr. Walton stated that final site plans and building plans have also been submitted for the recreation building and Building "B", which is almost the same as the existing structure. He noted that the proposed total parking is short by about 30 required spaces for Buildings "B" and "C" and was lost as a result of the altered building locations. He said the staff recommends approval of the revised preliminary and final development plans and final site plans and building plans with conditions.

Mr. Walton said the applicant proposes to replat the existing Lots 1, 10, 11, 12 and 13 of Block 1 and Outlots A and B of Pebblebrook West into seven lots in one block and dedicate Harrison Road as a public street with a basic 60 feet of right-of-way. He said the seven lots resulting from this proposal consist of one lot for the recreation building and facilities, two lots for the multiple buildings and four single-family lots fronting onto Pebblebrook Drive. He noted that provision of the additional right-of-way for the public street has some effect on minor lot size reductions and future building locations, but conformance with the originally approved development plan is maintained. He stated that the Administrative Subdivision Review Committee formally reviewed the proposed plat on September 17, 1975 and recommended approval with conditions. He said the staff recommends approval of the preliminary plat with conditions.

Chairman Hancer acknowledged receipt of a letter from Allen Okerman, Southgate Development Corporation,

Marion Newman, speaking on behalf of the applicant, reviewed the plans for the business and indicated there should be no problem with the parking plans. He said the bulk of the business is in rentals through apartment house managers. There would be very few retail customers.

Following discussion, motion was made by Darr and seconded by Malone to approve a temporary conditional use permit as recommended by the Planning Commission. There was no vote because of further discussion. Following discussion, motion was made by Malone, seconded by Anderson, and all present voting aye to table this case for one week.

Conditional Use Permit
for Off-Street Parking
for Contiguous Business
Use

Case 8047A-75

Item 4.8

and Variances for Less
Than Required Side
Yard Setback and Less
Than Required Green-
strip Requirements

Cases 8049-A & 80

Item 6.8

The Council was requested by the France Avenue South Company to consider approving a conditional use permit for off-street parking for a contiguous business use at 10609 France Avenue in a single-family residential (R-1) zoning district. In addition, the Council was requested to consider approving two variances for the same location, for less than required side yard setback and for less than required greenstrip requirement.

The Planning Commission at its meeting of May 29 recommended approval of the conditional use permit, final site plans and building plans based on making the required findings in Section 11.13.A.1-8 of the City Code and with the following conditions:

1. grading, drainage and utility plans be approved by the Engineering Division prior to the issuance of a grading permit,
2. circulation, parking and access points be approved by the Traffic Engineer and Director of Planning,
3. landscape plan, planting schedule and exterior lighting plans be approved by the Director of Planning,
4. property be replatted in accordance with Chapter 20 of the City Code,
5. site plan be reviewed by the Fire and Life Safety Committee,
6. site plan be approved by the Planning Commission and City Council.

The Variance Board at its meeting of May 28 had recommended that both variances be approved.

Stuart Nowlan, speaking for the applicant, described what is proposed. He said the adjacent residents have approved the plans for placing a 25-foot addition to the building presently on the B-2 property, and placing the parking lot next to that building. The house now located there will be removed and there would be landscaping between the parking lot and the residential area.

Following discussion, motion was made by Anderson and seconded by Darr to approve the conditional use permit based on making the required City Code findings and based on compliance with the conditions set forth by the Planning Commission plus the addition of an eighth condition to require a 20-foot greenstrip adjacent to the residential property. There was no vote because of further discussion. Following discussion, motion was made by Malone, seconded by Anderson, and all present voting aye to table this case for one week.

Motion was made by Allen and seconded by Darr, with all present voting aye to table the variances for one week.

Public Hearing for
Variance Denial

Case 6448B-75

Item 4.9

The Council was requested to hold a public hearing to consider a request for a variance by Harold Kaeding, 8449 15th Avenue, to have a 17.5 foot rear yard setback. The Variance Board at its meeting of May 28 had denied the variance request and the applicant had appealed that decision.

The applicant explained what is proposed and said he has received unanimous consent from all eight of his adjoining neighbors. In response to a question by the Council, he indicated no business will be conducted in the garage he intends to build, and there will be no commercial use of the property.

Following discussion, motion was made by Anderson, seconded by Allen, and all present voting aye to close the hearing and grant the variance, based on making the required findings, and on the applicant's statement that there will be no commercial use of the property.

Conditional Use Permit
for Take-Out Restaurant

Case 3308D-75

Item 5.2

The Council was requested by Robert N. Hurd to consider approving a conditional use permit for a take-out restaurant at 2325 West 90th Street in a Retail Commercial B-2 zoning district.

The Planning Commission at its meeting of May 29 recommended approval of the conditional use permit based on making the required City Code findings in Section 11.13.B.1, 2, 3, 8 and 9 and with the following conditions:

1. approval of the final site plans and building plans by the Planning Commission and City Council,
2. approval of landscape plan and planting schedule by the Director of Planning,
3. property be platted in accordance with Chapter 20 of the City Code,
4. provide half right-of-way to 40 feet from the centerline along West 90th Street,
5. a filtering system be used to eliminate cooking odors both inside and outside the structure.

Richard Evans, representing Winchell's Donut House, was present.

Following discussion, motion was made by Anderson, seconded by Allen, and all present voting aye to approve a conditional use permit for this restaurant based on compliance with the conditions set forth by the Planning Commission and based on making the required City Code findings.

Conditional Use Permit
for Open Storage
Case 7522B-75
Item 5.3

The Council was requested by C. S. McCrossan, Inc., to consider approving a conditional use permit for open storage at 901 West 79th Street in a General Industrial I-3 zoning district. The applicant proposes to use this parcel of land for temporary parking and storage of office trailers and vans while working on a state road project. The request was considered by the Council on June 2 and was referred to the Planning Commission for review.

The Planning Commission at its meeting of June 12 recommended approval of a temporary conditional use permit for six months based on making the required City Code findings in Section 11.13.E.1.a-d and with the following conditions:

1. performance bond be required to ensure that the site is restored after usage to equal or better than its original condition,
2. access points and travel routes to and from the site be approved by the Traffic Engineer,
3. no on-street equipment storage, loading or parking be permitted on the site's perimeter,
4. all stored materials and equipment shall be set back a minimum of 20 feet from all property lines,
5. maintain clean streets adjacent to the site and avoid abuse to utility and drainage facilities,
6. construct temporary drives to 80th Street with approval of and permit from the Department of Public Works,
7. site be maintained in a clean and orderly manner.

Following discussion, motion was made by Allen, seconded by Anderson, and all present voting aye to approve a temporary conditional use permit for this open storage based on making the required City Code findings and based on compliance with the conditions set forth by the Planning Commission. Anderson, in seconding the motion, said he did so with the stipulation that the City will enforce the conditions that are imposed.

* * *

Councilman O'Neil arrived at 9:50 p.m. and assumed charge of the meeting.

* * *

Revised Building and
Site Plans for Two-
Family Dwelling
Case 7688A-75
Item 5.4
(See Page 9)

The Council was requested by Councilman Allen to consider the request of Gilbert Feig for approval of a change in approved building and site plans for a two-family dwelling at 9724-26 Utica Road. It was agreed to lay over consideration of this case until after completion of the other items on the agenda.

Conditional Use Permit
to Sell Vegetables
Case 7984A-75
Item 4.10

The Council was requested by Steve Shones to consider approving a conditional use permit to sell vegetables from a truck during the summer months between the hours of 8 a.m. and 9 a.m.

Following discussion, motion was made by Allen, seconded by Belanger, and all present voting aye to close the hearing and to approve the temporary conditional use permit based on making the required City Code findings in Section 11.13.E.1.a-d.

Conditional Use Permit
for Tent
Case 2801H-75
Item 4.11

The Council was requested by Olson's Planned Interiors to consider approving a request for a conditional use permit for a concession test at 7800 Dupont Avenue for a special three-day sale on July 4-6.

Following discussion, motion was made by Malone, seconded by Allen, and all present voting aye to close the hearing and approve the conditional use permit based on making the required City Code findings in Section 11.13.E.1.a-d.

Resolution Authorizing
Payment to MN&S Railway
Item 4.12

The Council was requested to consider adopting a resolution regarding payment for grade crossing improvement work on Lyndale Avenue near 95th Street. The work was previously approved by the Council as a part of the Lyndale Avenue TOPICS Project No. T-TG 5011 (002). The work has received railroad certification and approval for payment by the City has been received from the Railway Negotiations Section of the Minnesota Highway Department. The City will receive reimbursement for approximately 90% of this expenditure through federal funds administered by the State.

#2
Robert N. Hurd
Case 3308D-75
2325 West 90th Street
Conditional use permit
for restaurant

8:33 p.m.

Mr. Walton said the proposal is for location of a Winchell's Donut House on this site. He stated that documentation substantiating the proposed use's qualification as a take-out restaurant, rather than a restaurant, will be submitted by the applicant. He said that since the retail commercial development at the intersection of West 90th Street and Penn Avenue does not meet the requirements of a planned development, the applicant must be able to qualify as a take-out restaurant in order to retain a valid application for a conditional use permit in this zoning district. He said that if the use does not qualify as a take-out restaurant, either a rezoning or an ordinance change would be required for the use to locate on this site.

Mr. Walton noted that area residents have been opposed to past applications for similar uses on this site, mainly due to the concerns of noise, odors, and unsightliness resulting from trash and litter. He said the staff is particularly concerned with traffic factors relating to this type of use as a donut shop at this location must generate a considerable number of vehicle trips in order to be successful. He said the staff recognizes the hazardous and congested situation of the intersection of West 90th Street and Penn Avenue and said the impact of an additional number of vehicle turning movements to this site must be considered.

Mr. Walton said that, if the proposed use does qualify as a take-out restaurant, the staff would then recommend approval of the conditional use permit.

Mr. Richard Evans, representing the applicant, said the main products for sale are several varieties of donuts and beverages. He said the proposed shop is part of a national operation, some shops of which are open 24 hours a day. He stated that take-out sales constitute the majority of their business and presented figures, taken from an audit the company conducted of its shops in California to determine the percentage of take-out business, which illustrated the fact that the operation is mainly a take-out operation. He said the company generally maintains that 80 percent of their business is take-out and 20 percent is consumed on the premises.

In answer to a question from Mr. Hancer, Mr. Evans said the average sale is approximately 80 cents. He added that about 70 percent of their business is conducted between the hours of 5:00 a.m. and 12:00 noon in a freestanding operation.

Mr. Fillbrandt asked how much parking will be provided on the site. Mr. Evans said the average number of parking spaces they have found to be necessary is

12, but they have not yet determined how many spaces will be required in this location.

Mr. Reiter asked if the staff now feels that the use will qualify as a take-out restaurant. Mr. Walton said he is satisfied that the proposed use qualifies as a take-out facility.

Mr. Robert Richards, 9001 Russell Avenue, objected to the proposal due to the amount of litter already in the area from other uses and the amount of existing traffic. He expressed concern that the proposed store's location may encourage students from nearby Lincoln High School to loiter in the area.

Mrs. Houle asked if Mr. Richards had any objections to the previously existing retail sales use at this location. Mr. Richards said he had no objections to that use, but added that little traffic was generated by that use.

Ms. Carole Kenny, 9009 Russell Avenue, said she objects to the proposal and stated that there were many problems with the restaurant that was previously located on this site due to loitering students and the trash and litter. She asked how the traffic could be controlled. Chairman Hancer replied that the Traffic Engineer will examine the final site plans and building plans when they are submitted and will make recommendations at that time.

Mr. Edwin Cribb, 9000 Russell Avenue, said he also objects to the proposed use because of the litter and other problems that resulted from the previous restaurant locating on this site. He said he feels that there is a traffic problem in the area, but it is not severe.

Mr. Andruss asked if Mr. Cribb has ever submitted a complaint to the City about the litter in the area. Mr. Cribb replied that he has not complained about the litter. Mr. Andruss said he recognizes that the retail commercial development in this area has an unkept appearance.

Mr. John Granoien, 9017 Russell Avenue, discussed the possible traffic controls that may be used and the traffic pattern of the area.

Mr. Jim Feilzer, 8910 Penn Avenue, stated that the small grocery store and take-out restaurant in the area are the big offenders with regard to the amount of litter found in the neighborhood. He said that he has contacted the City health division concerning the litter in the area and the response has been that each property owner is responsible for removing the litter from his property.

Mr. Evans acknowledged that litter is a big problem with this type of use and said they strive to keep the litter controlled. He concurred that numbers of young people loitering on the premises discourages the family trade that they attempt to build with the operation. Concerning the odor, Mr. Evans stated that the store will use a filtering system which will eliminate odors both inside and outside the store.

The Planning Commission reviewed the findings as required in Section 11.13.B.1, 2, 3, 8 and 9. Regarding the finding in 11.13.B.1, Mr. Andruss said he feels that traffic may be a problem during the morning peak period. Mr. Campion stated that such a use is a low traffic generator. Mr. Reiter stated that he has difficulty with the finding in 11.13.B.2 as he does not feel that the proposal is an appropriate land use for this location. Mr. Fillbrandt concurred. Mr. Reiter said that he also has difficulty with the findings in Section 4.01.4, 5 and 6. Mr. Andruss stated his difficulty with the finding in Section 11.13.B.2 as he said he feels the residents' comments concerning nuisance characteristics are such that he cannot make the finding.

Chairman Hancer suggested that area residents write letters of complaint to the City concerning litter in the area. Mrs. Houle observed that the main problem of litter is not with the use, but rather with the customers dropping litter after making a purchase.

Chairman Hancer read a list of uses which are currently permitted in the B-2 zone.

M/Andruss, S/Reiter, to close the hearing. Motion carried 7-0.

M/Andruss, S/Houle, in Case 3308D-75, to recommend denial of the conditional use permit based on the fact that findings were unable to be made in Section 11.13.B.2 and Section 4.01.4 as required. Motion failed 3-4, with Fillbrandt, Campion, Bartels and Hancer opposed.

Mrs. Houle stated that the only finding she could not make was in Section 11.13.B.2. Mr. Campion stated that he also could not make the finding in 11.13.B.2 because of the litter problem, but said he does not feel that the storekeeper should be held responsible for the litter. Mr. Fillbrandt expressed his concern about the problem of litter in the area. Mr. Andruss said he feels that the subject location is a poor one for the proposed use. Mr. Bartels said he believes that litter is a nuisance generated by the customer, which has no relation to the use, and said he could not support the motion for denial because of his beliefs.

M/Bartels, S/Campion, in Case 3308D-75, to recommend approval of the conditional use permit based on the fact that findings were made as required in Section 11.13.B.1, 2, 3, 8 and 9 and with the following conditions:

- 1) approval of the final site plans and building plans by the Planning Commission and City Council,
- 2) approval of landscape plan and planting schedule by the Director of Planning,
- 3) property be platted in accordance with Chapter 20 of the City Code,
- 4) provide half right-of-way to 40 feet from the centerline along West 90th Street, and
- 5) a filtering system be used to eliminate cooking odors both inside and outside the structure.

Motion carried 4-3, with Houle, Reiter and Andruss opposed.

Mr. Reiter said he opposed the location of the proposed use on this site due to the nature of the surrounding land uses and the nearby high school, as students from the school will loiter in the area.

Item #3
Bloomington Self-Service
Car Wash
Case 5638E-75
600 West 93rd Street
9225 Lyndale Avenue
Conditional use permit,
final site plans and
building plans for
expansion

10:15 p.m.

Mr. Walton said the applicant proposes to add four additional self-service wash bays and a mechanical room to the north end of the existing building. He said the exterior treatment would match the existing structure and vehicle circulation drives and stacking areas will be extensions of the existing facilities. He noted that the expansion of the existing use should cause little difficulty with regard to development of or use of adjacent properties and further noted that no change in the site's access is proposed. Mr. Walton stated that the Traffic Engineer recommends that the use occupying the western portion of 9225 Lyndale Avenue be provided an access to West 93rd Street or to the future Garfield Circle. He noted that it would be desirable for the applicant to retain the vegetation along the present north line of the property and said that it would also be desirable to extend the existing solid fence at least 30 feet north if not all the way along the eastern property line. He added that the staff recommends approval of the conditional use permit, final site plans and building plans.

Mr. Clarence Hilbert, representing the applicant, said the proposed extra bays are greatly needed as there is often an hour's wait for patrons during times of peak usage. He stated that there is a heavy demand for this type of facility.

Submitted for Application the Council was requested to consider approving the submission of an application to the City Council for a special bonus fund allocation of Community Development Block Grant Bonus Funds to be used to provide home ownership opportunities to low and moderate income families through the rehabilitation of existing homes and the construction of townhouses or condominiums. The City's application would be for \$250,000. Discussion was held on the application and Peterson said there should be no inclusion in the regulations for the disbursement of these funds that preference will be given to Bloomington residents. The HRA Administrator said the program is structured so that preference is given to Bloomington residents, those employed in Bloomington, and adult children or parents of Bloomington residents. Following discussion, motion was made by Herbst, seconded by Mahon, and all present voting aye, to approve the submission of the application for these bonus funds.

Hearing - Conditional
Use Permit, Final Site
and Building Plans
Case 7984A-80
Item 4.3

A public hearing was scheduled for consideration of an application for a conditional use permit, final site plan and building plans for a Burger King restaurant at 9056 Penn Avenue South.

The Planning Commission at its meeting of May 22 recommended approval of the conditional use permit, final site plan and building plans based on making the required City Code findings in Section 19.22(a)(A),(B),(C),(H) and (I) with the following conditions:

1. a maximum of 15 percent wood trim be permitted on the exterior of the restaurant, as approved by the Director of Planning,
2. either one freestanding sign or two building-mounted signs be permitted for the restaurant,
3. restaurant be totally sprinklered, as approved by the Fire Marshal,
4. trash facility be enclosed within the building,
5. water line and fire hydrant locations be as approved by the Fire Marshal and City Engineer,
6. lighting and security plans be as approved by the Crime Prevention Officer, Bloomington Police Department,
7. handicapped parking facilities be located adjacent to the front entrance and provided with standard handicapped signs, as required by Bloomington City Ordinance,
8. front entrance curb be totally accessible to wheelchair users,
9. fire lanes be provided and posted, as approved by the Fire Marshal,
10. landscape plan for both the restaurant and Sears site be approved by the Director of Planning; bonds sufficient to cover costs of all landscaping be posted,
11. Sears building be repainted, as approved by the Director of Planning,
12. incinerator adjacent to the Sears building be removed,
13. truck loading dock be completely screened from the residential property to the west and from Penn Avenue, as approved by the Manager of the Building and Inspection Division,
14. parking and circulation be approved by the Traffic Engineer,
15. common parking, circulation and access agreements be provided, as approved by the Traffic Engineer,
16. rights-of-way be provided for 45 feet from centerline from Penn Avenue and 55 feet from centerline along 90th Street,
17. five-foot sidewalk and utility easements be provided along Penn Avenue and 90th Street,
18. underground electrical service be provided at the developer's expense to both the restaurant and Sears building; all utility poles along the west property line be removed,
19. concrete curb be provided on all driveways and parking islands,
20. a six-foot high vertical board-on-board fence be provided along the entire length of the west property line of the lot prior to beginning of construction,
21. drainage, grading, utility and erosion control plans be approved by the City Engineer,
22. no truck or semi-trailers shall be parked unscreened on the site,
23. restaurant shall not be occupied until renovation of adjacent retail store is complete or nearly complete.

* * *

Mayor Lindau relinquished the Chair and left the meeting because he is an employee of Pillsbury Company, of which Burger King is a subsidiary. Deputy Mayor Herbst assumed the Chair.

* * *

Plans were posted on the wall and were reviewed by Robert Hawbaker, Associate Planner. He said Penn Avenue is to be widened with turning bays at the intersection with 90th Street, and the sidewalk in front of this property will be moved and the landscaping replaced. He said the Staff feels this would be an opportunity to clear up some of the problems that have been experienced with this property. Question was raised by Darr as to the other types of uses which could go on the property and Mr. Hawbaker read the list of permitted and conditional uses.

Speaking in opposition to the restaurant were the following: William Kenny, 9009 Russell Avenue South; Dan Karr, 9115 Russell Avenue South; Kenneth Kings, 9101 Russell Avenue South, and Bernice Ricker, 9101 Queen Avenue South. All said as neighboring residents they were opposed because of the additional traffic that will be brought into the area, as well as noise, litter and from the restaurant. Mr. Kings also brought in a plastic bag of debris which he said he picked up from his front yard, a usual occurrence because of the proximity of his property to the 90th and Penn businesses frequented by young people. Darr noted that a letter had been

Following discussion, motion was made by Lindau, seconded by Darr, and all present voting aye, to close the hearing and approve the conditional use permit and final site plan and building plans based on making the required code findings, and on compliance with the conditions set forth by the Planning Commission, with an additional condition that a privacy fence shall be constructed by the applicant prior to construction of the group home.

Resolution of Denial
of Conditional Use
Permit - Burger King
Case 7984A-80
Item 4.2

The Council was requested to consider adopting a resolution of denial of the application by Burger King for a conditional use permit to erect a restaurant at 9056 Penn Avenue South. The Council, after a public hearing on June 16, had requested preparation of this resolution of denial.

* * *

Mayor Lindau relinquished the Chair and left the meeting because he is an employee of the Pillsbury Company of which Burger King is a subsidiary. Deputy Mayor Herbst assumed the Chair.

* * *

Robert Hoffman, attorney for the applicant, asked the Council to delay action on the resolution for three to four weeks to allow him to do further research in regard to the application. He said he had just been retained and had not had sufficient time to analyze all of the facts which he felt could result in a request for reopening of the hearing. He said if a rehearing was requested, with renotification of the neighboring residents, the expenses for the hearing would be borne by the applicant.

Question was raised by Herbst as to when another application could be made for this use if the resolution of denial was adopted, and the Acting City Attorney said the applicant would be precluded from making another application for a 12-month period.

Several of the Council questioned the attorney for the applicant as to whether the intent was to work further with the neighbors if the delay was granted, and Mr. Hoffman said that was his intent but that he was not yet familiar with all of the aspects of the case.

Speaking in opposition to delaying adoption of the resolution of denial were Dan Kerr, 9115 Russell Avenue South, and Bill Kenny, 9009 Russell Avenue South. Both stressed the neighbors' objections to the construction of another fast food store in their neighborhood because of the problems they anticipate with noise, traffic, litter and odor.

Dennis Tristler, representing Burger King, said the references which had been made to Pillsbury by Mr. Kerr should have been directed to Burger King as a wholly-owned subsidiary.

Following discussion, motion was made by Blessum, seconded by Darr, and all present voting aye, to continue this matter for three to four weeks as requested by the applicant, with notice to be given to the neighborhood when this matter is again placed on the Council agenda. The motion carried 6-0 with Lindau out of the room.

* * *

Mayor Lindau returned to the meeting and assumed the Chair.

* * *

~~Valley View Park Project - Valley View Park Parking Lot
Item 6.7~~

~~Valley View Park Parking Lot. The City Manager requested that this item be tabled pending the receipt of further information. Motion was made by Lindau, seconded by Darr, and all voting aye, to continue this matter as requested by the City Manager.~~

1980 License
Applications
Item 6.1

The Council was requested to consider approving 1980 license applications per the listing attached to these minutes. Question was raised by Darr as to whether the problems that had been experienced by residents at the Parkview Apartments had been resolved, and was advised by the Acting Director of Community Development that they had been. Motion was made by Darr, seconded by Herbst, and all voting aye, to approve the license applications as submitted.

Temporary Food License
Application
Item 6.1A

The Council was requested to consider approving the following license application:

Shirley Ramaker, 4545 Valley View Road, Edina
at Northwest Airlines Tournament Valley View Field
401 East 90th Street, Bloomington

Temporary Food License \$39.00
June 28 & 29, 1980
8 a.m. to 10 p.m.

Motion was made by Darr, seconded by Herbst, and all voting aye, to approve the above license application.

4. ~~any public entrance to the building be accessible to persons with disabilities by handicapped persons~~ and required reserved handicapped parking spaces be provided with signs as required by ordinance,
5. building be totally sprinklered, as approved by the Fire Marshal,
6. looped water lines, fire hydrants and fire department connections be as approved by the Fire Marshal and City Engineer,
7. lighting and security plans be approved by the Crime Prevention Officer, Bloomington Police Department,
8. traffic and circulation plans be as approved by the Traffic Engineer,
9. three-foot high solid screening be provided in the landscaped yard area along all public streets.

Ken Olson, representing the applicant, said it was hoped to have the groundbreaking for the hotel in October with construction to be completed in 18 months at the most. Question was raised by Mahon as to why the address of the hotel wouldn't be Killebrew Drive, the same as for the dinner theater. Mr. Olson said it would be, and that the application had listed the 24th Avenue address because of a frontage at that location also.

Following discussion, motion was made by Mahon, seconded by Spies, and all voting ye, to approve a conditional use permit for a hotel based on making the required City Code findings and on compliance with the conditions set forth by the Planning Commission.

Resolution of Denial -
Burger King
Item 4.10 and
Conditional Use Permit,
Final Site Plan and
Building Plans for
Restaurant
Case 7984A-80
Item 5.4

The Council was requested to consider adopting a resolution of denial of a conditional use permit for a Burger King restaurant at 9056 Penn Avenue South, or to approval a conditional use permit, final site plan and building plans for this restaurant.

The Council at its meeting of June 16, after a hearing on the application, had requested that a resolution of denial of the application be prepared by the Acting City Attorney. On June 23, the Council continued action on this resolution of denial to allow the applicant to conduct further review of the application.

The Planning Commission, at its meeting of May 22, had recommended approval of the conditional use permit, based on making the required City Code findings in Section 19.22(2)(A),(B),(C), (H) and (I), with the following conditions:

1. a maximum of 15 percent wood trim be permitted on the exterior of the restaurant, as approved by the Director of Planning,
2. either one freestanding sign or two building-mounted signs be permitted for the restaurant,
3. restaurant be totally sprinklered, as approved by the Fire Marshal,
4. trash facility be enclosed within the building,
5. water line and fire hydrant locations be as approved by the Fire Marshal and City Engineer,
6. lighting and security plans be as approved by the Crime Prevention Officer, Bloomington Police Department,
7. handicapped parking facilities be located adjacent to the front entrance and provided with standard handicapped signs, as required by Bloomington City Ordinance,
8. front entrance curb be totally accessible to wheelchair users,
9. fire lanes be provided and posted, as approved by the Fire Marshal,
10. landscape plan for both the restaurant and Sears site be approved by the Director of Planning bonds sufficient to cover costs of all landscaping be posted;
11. Sears building be repainted, as approved by the Director of Planning,
12. incinerator adjacent to the Sears building be removed,
13. truck loading dock be completely screened from the residential property to the west and from Penn Avenue, as approved by the Manager of the Building and Inspection Division,
14. parking and circulation be approved by the Traffic Engineer,
15. common parking, circulation and access agreements be provided, as approved by the Traffic Engineer,
16. rights-of-way be provided for 45 feet from centerline from Penn Avenue and 55 feet from centerline along 90th Street,
17. five-foot sidewalk and utility easements be provided along Penn Avenue and 90th Street,
18. underground electrical service be provided at the developer's expense to both the restaurant and Sears building; all utility poles along the west property line be removed,
19. concrete curb be provided on all driveways and parking islands,
20. a six-foot high vertical board-on-board fence be provided along the entire length of the west property line of the lot prior to beginning of construction,
21. drainage, grading, utility and erosion control plans be approved by the City Engineer,
22. no truck or semi-trailers shall be parked unscreened on the site,
23. restaurant shall not be occupied until renovation of adjacent retail store is complete or nearly complete.

* * *

Mayor Lindau relinquished the Chair and left the Council Chambers, as he is an employee of Pillsbury Company, of which Burger King is a wholly owned subsidiary, and Deputy Mayor Herbst assumed charge of the meeting.

* * *

Robert Hoffman, attorney for the applicant, indicated representatives of Burger King who were

present included Casey George, Dennis Trisler, Bruce Hultgren and Mel Vanderbilt. He showed slides of the proposed site as well as pictures of other Burger King restaurants, noting the one planned for this location, would be similar to those pictured. He indicated the trend is to cater to families with young children and the age group of 55 years and older, because research has shown these are the age groups that are potential customers. He said the Sears store on the adjacent property will be upgraded at the time this property is developed. He noted that Burger King had consulted with 3M Company on a speaker that would serve the drive-in facility without projecting the noise into the adjacent neighborhood. He said Burger King has an anti-littering policy and has employees designated to patrol the grounds to prevent littering and loitering. The Planning Director indicated that the attorney for the applicant has indicated his client's willingness to abide by a closing time of 1 a.m. (through at least 6 a.m.).

Speaking in opposition to issuance of the permit were Bill Kenny, 9009 Russell Avenue South; Jack Teeters, 9008 Russell Avenue South; Keith Olson, 2531 West 90th Street; Stan Elg, 9110 Queen Avenue South, and Ken Kings, 9101 Russell Avenue South. All expressed their concerns about increased traffic in the area, odors and litter from the restaurant, and young people loitering in the area.

Following discussion, motion was made by Mahon and seconded by Herbst to table the resolution of denial. All voted aye, except Darr, who voted nay, and the motion carried 5-1. Motion was made by Blessum and seconded by Peterson to approve a conditional use permit and the final site plan and building plans for a restaurant at 9056 Penn Avenue South based on making the required City Code findings and on compliance with the conditions set forth by the Planning Commission, with the addition of a 24th condition that the restaurant would not be open for business during the five-hour period between 1 a.m. and 6 a.m. inclusive. Mahon noted that in condition 14 concerning the parking and circulation that the addition of speed bumps be a part of the plans. All voted aye, except Darr, who voted nay, and the motion carried 5-1.

Motion was made by Blessum, seconded by Herbst, and all voting aye (6-0) to request the Staff to study the area of 90th and Penn in which this restaurant will be located, to determine what can be done to alleviate the neighborhood's concerns about littering, loitering, speeding, other traffic offenses and vandalism, with this report to be sent to the Council in two weeks.

Deputy Mayor Herbst relinquished the Chair and Mayor Lindau assumed charge of the meeting.

~~For Size of Housing
Development Sign
Case 646A-80
Item 3.3~~

~~single-family residential district and wishes to erect a development sign in the addition, to consider approving a variance to have a sign size of 108 square feet. The maximum size of any sign in a residential district is 24 square feet according to Section 19.66(a)(1) of the City Code.~~

~~The City Hearing Examiner, after a hearing on July 23, recommended approval of the variance with a condition that the location is to be approved by the Traffic Engineer. The Council had considered this request at its July 28 meeting and had continued the matter for one week to allow Councilman Herbst to review the sign with the neighborhood.~~

~~Herbst noted he had contacted a number of residents in the neighborhood about the proposed sign and all were opposed to the size of the sign.~~

~~Tony Bernardi, representing the applicant, said he had not been aware that the sign was too large until it was to be installed. He said there would be a planter box with flowers at the base of the sign which would be an identification sign for the neighborhood. He said only those persons coming from Mt. Normandale Drive were able to see the sign, which would be located on private property.~~

~~Following discussion, motion was made by Blessum and seconded by Herbst to deny the variance based on the inability to make the required City Code findings. The vote on the motion was ayes, Blessum, Spies, Peterson and Herbst, and nays, Mahon, Darr and Lindau, and the motion carried 4-3. Motion was made by Lindau and seconded by Mahon to determine that the sign portion of the structure shall be that on which the wording is located, and that the landscaping and planter not be considered a part of the sign. There was no vote on this motion. Motion was made by Peterson, seconded by Herbst, and all voting aye, to continue this matter for one week to allow for review by the Staff.~~

1980 License
Applications
Item 6.1

The Council was requested to consider approving 1980 license applications per the listing attached to these minutes. In addition, the Council was requested on applications 19884 and 19885 for St. Bonaventure Church to waive the license fees and the \$10,000 fidelity bond on the bingo and special event gambling licenses, and on application 20002 for Bloomington Assembly of God Church to waive the license fee for a food license. Following discussion, motion was made by Darr, seconded by Lindau, and all voting aye, to approve the license applications and the waiver of the license fees and fidelity bond as requested.

Approve Contract for
Purchase of Carbon
Dioxide

The Council was requested to consider approving a contract to permit the purchase of carbon dioxide for use at the Water Treatment Plant. The proposed contract would be in conjunction with the Cities of Minneapolis, St. Paul and Richfield under a Joint Powers Agreement which the Council approved on June 27, 1979. The contract was reserved by the City of Minneapolis, acting as executing agent, as follows:

~~Administrative Variance - The Council was requested by [redacted] to consider approving a variance to the [redacted] in a single-family residence district, to consider approving a variance to the [redacted] detached garage with a five-foot setback from the side lot line and 10 feet from a garage on the [redacted] lot.~~

The City Hearing Examiner, after a hearing on October 1, recommended approval of the variance. Following discussion, motion was made by Darr, seconded by Lindau, and all voting aye, to approve the variance.

Revision of Condition
of Conditional Use Permit
Case 7984A-80
Item 6.16

The Council was requested by Norman Ackerberg, owner of property at 90th Street and Penn Avenue, where the recently-approved Burger King restaurant and existing Sears store are located, to approve a revision to condition 23 of the conditional use permit for Burger King. The condition, for which a revision was requested, was that the restaurant should not be occupied until renovation of the adjacent retail store is complete or nearly complete.

Alen Herman, partner with Mr. Ackerberg in Penn Properties, indicated that because negotiations are presently underway with Sears for renewal of their lease, which expires on November 30, 1980, they wish to hold the work on that property in abeyance until it is known who the tenants will be, and what their needs might be. The Director of Planning said there were some details which should be accomplished this fall such as blacktopping of the parking lot and installation of underground electrical wiring.

Following discussion, motion was made by Peterson and seconded by Blessum, to authorize the Staff to negotiate with the applicant regarding the time schedule and if necessary to extend the time for various items to do so, or to bring back to the Council for further direction. All voted aye, except Spies and Mahon, who voted nay, and the motion carried 5-2.

~~Administrative Variances -
Rear Yard Setback
and Structure Size -
Overhead Garage
Case 879 AB-80
Item 6.8~~

~~The Council was requested by Robert Rattle, 8001 Oakland Avenue, in a single-family residence district, to consider approving variances for an addition to an existing garage which will have a 16-foot rear yard setback and have a total garage area of 1,056 square feet.~~

~~The City Hearing Examiner, after a hearing on October 1, recommended approval of the variances. Following discussion, motion was made by Mahon, seconded by Peterson, and all voting aye, to approve the variances.~~

Final Plat Approval -
Regency Park
Case 43548-80
Item 6.11
R-80-143

The Council was requested by Centex Homes Midwest, Inc., to consider approving the final plat of Regency Park, 10729 Normandale Boulevard. The preliminary plat was approved by the Council on September 15 with a number of conditions which have been or are being met.

Following discussion, motion was made by Mahon, seconded by Spies, and all voting aye, to approve the final plat of Regency Park, to approve the subdivision agreement, to order the necessary improvements as requested, to accept the petition for inclusion in an assessment district, and to adopt a resolution granting final approval.

Resolution Accepting
Deeds for Municipal
Purposes
Item 4.10
R-80-139

The Council was requested to adopt a resolution accepting deeds for municipal purposes, a listing of which is on file with the official records. Motion was made by Lindau, seconded by Blessum, and all voting aye, to adopt the resolution.

Resolution re Metropolitan
Council Review of
Comprehensive Plan 1980
PD-145
Item 4.12
R-80-132

The Council was requested to adopt a resolution requesting concurrence to a two-month extension for Metropolitan Council review of the Bloomington Comprehensive Plan. The Planning Division staff, after a meeting with the Metropolitan Council staff to resolve the outstanding differences regarding the Comprehensive Plan 1980, agreed with that staff to request a time extension of two months. Under the provisions of the Metropolitan Land Planning Act, the 120-day Metropolitan Council review period for the Bloomington plan will end on October 30; however, the act does provide for mutually agreed upon time extensions. Background information regarding the matter was submitted to the Council with the agenda material.

Following discussion, motion was made by Lindau, seconded by Herbst, and all voting aye, to adopt the resolution.

Resolution Consenting
to Tax Levy for HRA
Item 4.11
R-80-138

The Council was requested to adopt a resolution consenting to the Bloomington Housing and Redevelopment Authority's levy by way of special tax during the year 1981 upon all the property, both real and personal, in the City of Bloomington to defray the cost of operation of said Housing and Redevelopment Authority during 1981. The HRA on October 1 approved its budget for 1981 and authorized a levy of \$179,000. Following discussion, motion was made by Spies, seconded by Mahon, and all voting aye, to adopt the resolution.

1980 License
Applications
Items 6.1 & 6.1A

The Council was requested to consider approving 1980 license applications per the listing attached to these minutes as well as the following application:

Portland Kitchen, Inc., 415 East 78th Street	1 - Cigarette vending machine	\$12.00
dba Country Kitchen, 415 East 78th Street	1 - Food establishment Type A	\$50.00

Motion was made by Darr, seconded by Mahon, and all voting aye, to approve the license applications as submitted.

INTER-OFFICE CORRESPONDENCE

DATE: August 25, 1980

TO: Robert A. Mood, Acting Director of Community Development

FROM: Arlyn J. Grussing, Director of Planning

SUBJECT: LETTER OF TRANSMITTAL
Case 7984A-80
Burger King
Conditional Use Permit, Final Site Plan and Building Plans

At its regular meeting of August 4, 1980 the City Council approved a conditional use permit, final site plan and building plans for a Burger King restaurant at 9056 Penn Avenue with the following conditions:


- 1) a maximum of 15 percent wood trim be permitted on the exterior of the restaurant, as approved by the Director of Planning;
- 2) either one freestanding sign or two building-mounted signs be permitted for the restaurant;
- 3) restaurant be totally sprinklered, as approved by the Fire Marshal;
- 4) trash facility be enclosed within the building;
- 5) water line and fire hydrant locations be as approved by the Fire Marshal and City Engineer;
- 6) lighting and security plans be as approved by the Crime Prevention Officer, Bloomington Police Department;
- 7) handicapped parking facilities be located adjacent to the front entrance and provided with standard handicapped signs, as required by Bloomington City Ordinance;
- 8) front entrance curb be totally accessible to wheel-chair users;
- 9) fire lanes be provided and posted, as approved by the Fire Marshal;
- 10) landscape plan for both the restaurant and Sears site be approved by the Director of Planning; bonds sufficient to cover costs of all landscaping be posted;
- 11) Sears building be repainted, as approved by the Director of Planning;
- 12) incinerator adjacent to the Sears building be removed;
- 13) truck loading dock be completely screened from the residential property to the west and from Penn Avenue, as approved by the Manager of the Building and Inspection Division;

(continued)

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- 14) parking and circulation be approved by the Traffic Engineer; (to include speed bumps as part of plan)
- 15) common parking, circulation and access agreements be provided, as approved by the Traffic Engineer;
- 16) rights-of-way be provided for 45 feet from centerline from Penn Avenue and 55 feet from centerline along 90th Street;
- 17) five-foot sidewalk and utility easements be provided along Penn Avenue and 90th Street;
- 18) underground electrical service be provided at the developer's expense to both the restaurant and Sears building; all utility poles along the west property line be removed;
- 19) concrete curb be provided on all driveways and parking islands;
- 20) a six-foot-high vertical board-on-board fence be provided along the entire length of the west property line of the lot prior to beginning of construction;
- 21) drainage, grading, utility and erosion control plans be approved by the City Engineer;
- 22) no truck or semi-trailers shall be parked unscreened on the site;
- 23) restaurant shall not be occupied until renovation of adjacent retail store is complete or nearly complete.
- 24) restaurant not be open for business during the five-hour period between 1 a.m. and 6 a.m. inclusive.


Arlyn J. Grussing
Director of Planning

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