



December 2, 2019

First American Title
ATTN: Kiley Cermak
121 S 8th Street, Suite 1250
Minneapolis, MN 55402

Re: First American Title File No. NCS-979329-MPLS
Zoning verification for 9000 and 9056 Penn Avenue South (Property)
PID# 08-027-24-41-0065 and 08-027-24-41-0064

To Kiley Cermak:

In response to your request for zoning verification and information for the Property, please be advised of the following as of the date hereof:

1) Zoning and Comprehensive Land Use Plan Designation:

The property at 9000 Penn Avenue is Zoned B-4, Neighborhood Commercial and 9056 Penn Avenue is Zoned B-4(PD), Neighborhood Commercial (Planned Development). The properties are subject to the applicable Bloomington City Code performance standards listed in section 2.

The Comprehensive Plan Land Use Plan designation General Business. The Zoning and Comprehensive Land Use Plan maps can be viewed at
<https://www.bloomingtonmn.gov/plan/zoning-and-guide-plan-maps>.

The adjoining property use, zoning and Comprehensive Plan designations are:

Direction	Use	Zoning	Comprehensive Plan
North	Restaurant and C-Store		General Business
South	Single family homes		Low Density Residential
East	Retail, office and apartments		General Business and High Density Residential
West	Apartments		High Density Residential

2) Conformance with Current Zoning Requirements:

The Property use as retail and office are permitted uses and a restaurant is a conditional use in the B-4 Zoning District. The fuel station at 9000 Penn Avenue has been vacant for over one year and is no longer an allowed use. Any use would be required to meet the applicable use and development standard.

The Planning and Zoning reviews on file include but are not limited to:

- September 20, 1976 - City Council approved a conditional use permit, variances, final site and building plans. (Case 3412ACD – 76)
- June 26, 1978 – City Council approved a conditional use permit and Final Site and Building Plans for a self-serve gas station and a convenience food store. (3412A-78)
- August 4, 1980 - City Council approved a Conditional use permit for a restaurant (a sit - down and take -out Burger King with drive –up) (Case 7984A-80)
- October 25, 1982 – City Council denied a variance for an additional sign for Burger King. (7984A-82)
- October 1, 1990 - City Council approved variance and Final Site and Building Plans for an existing service station at 9000 Penn Avenue South. (Case 3412ABC-90)
- March 2, 2009 – City Council approved the rezoning from B-2 to B-4. (Case 10819A-08)
- December 20, 2010 – City Council approved rezoning 9056 Penn Avenue from B-4 to B-4(PD), a Preliminary Development Plan for renovation and expansion of an existing building to allow an office use and minor improvements to an existing parking lot on a site with an existing fast food restaurant at 9056 Penn Avenue South and a Final Development Plan for a 21,625 square foot office, an existing 3,179 square foot fast food restaurant and related parking at 9056 Penn Avenue (Case 7984C-10). (NOTE: Expansion not completed and expired)
- May 28, 2014 – Administrative approval of minor revisions to the final development plan for exterior modification and parking lot changes. (7984A-14)

Considering materials and records on file, I cannot determine the level of City Code development performance standard compliance. In 2014, a review of the parking was completed and found to comply with the required number of parking spaces. This review also noted that the restaurant site violates the required landscaping with required landscaping missing.

To complete an in depth performance standards review, plans, including but not limited to as-built surveys, any floor plans, use details, or other information is not included in this letter must be provided. A performance standards review has a separate fee of \$131 plus \$56 per hour for each hour over 2 hours. The building permit record retention schedule is 15 years.

Any re-use or development of 9000 Penn Avenue requires access changes. The changes are dependent on the use and in accordance to the 90th and Penn traffic study.

The applicable City Code (zoning) sections applicable include but not limited to:

- Section 19.52 – Landscaping and screening
- Section 19.63.01 – Exterior Materials
- Section 19.113 – Signs
- Section 21.204.03 – Neighborhood Commercial Center (B-4) District
- Section 21.209 – Use Tables
- Section 21.301.01 – Development Intensity and Site Characteristics

- Section 21.301.02 – Structure Placement
- Section 21.301.03 – Structure Design
- Section 21.301.04 – Sidewalks
- Section 21.301.06 – Parking and Loading
- Section 21.301.07 – Exterior Lighting
- Section 21.301.10 – Height
- Section 21.301.16 – Exterior Storage
- Section 21.301.17 – Refuse Handling and Storage
- Section 21.301.18 – Screening of Roof Mounted Equipment
- Section 21.501.01 – Final Site and Building Plans
- Section 21.501.02 – Preliminary Development Plan
- Section 21.501.03 – Final Development Plan
- Section 21.501.04 – Conditional Use Permit
- Section 21.504 – Nonconformity

NOTE: To review a City Code Section, type www.code.blm.mn/ followed by the City Code Section number. (For example www.code.blm.mn/21.301.07 is lighting)

3) Utilities serving the property:

According to the City of Bloomington Public Works Division records, the property is served by water, sanitary sewer and storm sewer. Non-City providers provide all other utilities. Please contact the appropriate provider for detailed information on other services to the property. Documents show there is a water supply well at 9056 Penn Avenue South. It is 80 feet deep and identified as well#205230. There is no information related to the use or sealing of the well on record. A temporary well, 48 feet deep, is also located at 9056 Penn Avenue. Records indicate Glacial Ridge Drilling sealed the monitoring well.

4) Right to Rebuild Following Casualty:

The office, retail and restaurant uses in the R-4(PD) Zoning District may continue following casualty, in accordance with the performance standards at the time it is rebuilt and in accordance with City Code Section 21.504, Non-conformity. The gas station/C-Store may not be re-established as it has been vacant in excess of one year and is not an allowed use in the R-4 Zoning District.

If the property is non-conforming for performance standard, which cannot be accurately determined without a full review of an as built survey and development details, and in the event of casualty, the Property could be rebuilt to the legally non-conforming development. Any changes would require compliance with the applicable codes at the time it is rebuilt.

City records show no open enforcement orders against the property at this time. As stated in Section 2, the restaurant site is in violation of the landscape requirement. No current corrective action is commenced, however, any future permit for property improvement would not be issued without corrective measures being implemented. This statement does not mean that the property is free of violations or is in full compliance with federal, state and local applicable codes.

The City has issued food licenses for this address. The Bloomington Environmental Health Division conducts routine inspections related to these licenses. Copies of the inspection reports, if needed, are available through Mark Stangenes at 952-563-8980.

5) No Further Approvals or Licenses Required:

The current use by its present owners for office, retail and restaurant purposes is permitted under the Zoning Ordinance without necessity of any rezoning, special exceptions, use permit, variance or other approval. The vacant gas station/C-store may not be established without a City Code change or rezoning. I am not aware of any other permit or license required by this jurisdiction that a purchaser must obtain before it may acquire the Property or before the Property may continue to be used in the manner in which it is presently being used.

6) Compliance with Subdivision Regulations:

The Property complies with, or is otherwise exempt from, applicable subdivision regulations.

7) No Application(s) Pending:

No application for rezoning, for a special or conditional use permit or a variance in connection with the Property, is now pending. No proceeding to challenge zoning or other governmental approval or use of the Property is pending, or to the best of my knowledge, overtly threatened.

8) Certificate of Occupancy:

I am unable to locate a certificate of occupancy for the Property. I have no reason to believe, given the case file history described above, one was not properly issued. In the absence of a Certificate of Occupancy would not give rise to any enforcement action affecting the Property. It is not necessary for a new purchaser to obtain either a new Certificate of Occupancy or an amendment to the existing Certificate of Occupancy in order continue use and occupancy of the Property which it is approved.

9) Violations Outstanding or Development Related Fees Paid:

With the exception of the landscaping violation noted in Section 2, I am unaware of any active or alleged violations to any zoning, subdivision, building or similar ordinances or regulations applicable to the Property within the past three years. There is no record of any pending or contemplated enforcement proceedings against the Property.

This statement does not mean that the property is free of violations or is in full compliance with federal, state and local applicable codes. All required fees have been paid in connection with the development and use of the Property, including any impact-related fees, have been paid, and no such fees which would have applicability to the Property are otherwise pending or known at this time.

10) Flood Zone Designation:

The Property is not located in a Flood Hazard Overlay Zoning District. The Flood Insurance Rate Map (FIRM) for the City of Bloomington designates the Property as Zone X on Panel Number 2753C0458F dated November 4, 2016.

This information was researched by the person signing this letter on behalf of the City of Bloomington, as a service. The undersigned certifies the above information is believed to be accurate based on or relating to the information supplied for this zoning verification and the information on file with the City of Bloomington. The City assumes no liability for errors or omissions. All information was obtained from public records which may be inspected during regular business hours.

Please contact me at (952) 563-8926 or lpease@bloomingtonmn.gov with questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Londell Pease", written over a horizontal line.

Londell Pease, Senior Planner
Community Development – Planning Division