

GENERAL INFORMATION

Applicant:	Gyropolis Investments LLC and C&G Holdings (owners)
Location:	9000 Penn Avenue S. and 2325 W. 90 th Street
Request:	1) Rezoning from B-4 to B-4(PD); 2) Conditional use permit for a restaurant with an outdoor patio; 3) Preliminary and final development plans to expand an existing restaurant and add an outdoor patio and 4) A preliminary and final plat to replat 9000 Penn Avenue S., 2325 W. 90th Street, and 9056 Penn Avenue S. from three lots to two lots.
Existing Land Use and Zoning:	Restaurant and vacant convenience store; zoned B-4, Neighborhood Commercial
Surrounding Land Use and Zoning	North – Convenience store with fuel; zoned B-2 South – Restaurant; zoned B-4(PD) West – Multiple family residential; zoned R-4 East – Retail sales; zoned B-4
Comprehensive Plan Designation:	General Business

HISTORY

City Council Action:	02/19/2009 – Rezoned the properties from the B-2 General Business to the B-4
City Council Action:	10/01/1990 – Approved variances to reduce gas pump setbacks and final site and building plans for service station renovations (Case 3412ABC-90).

CHRONOLOGY

Planning Commission	11/03/2022 – Recommended City Council approval of the rezoning, conditional use permit, preliminary and final development plans, and a preliminary and final plat to accommodate an expansion of an existing restaurant and the addition of an outdoor patio.
City Council	11/28/2022 – Public Hearing (Ordinances and Resolutions)

DEADLINE FOR AGENCY ACTION

Application Date:	09/27/2022
60 Days:	11/26/2022
120 Days:	01/25/2023
Applicable Deadline:	01/25/2023 (Extended by City)
Newspaper Notification:	Confirmed – (10/20/2022 Sun Current – 10-day notice)
Direct Mail Notification:	Confirmed – (500 buffer – 10-day notice)

STAFF CONTACT

Mike Centinario
Phone: (952) 563-8921
E-mail: mcentinario@BloomingtonMN.gov

PROPOSAL

The applicant is proposing an approximately 2,400 square foot building expansion and the addition of an outdoor patio at the existing Gyropolis restaurant. The addition to the west would include an enlarged kitchen, storage, and freezer space with a new trash room. The addition to the east includes additional seating – 74 indoor seats. The outdoor patio depicts 58 seats. A new building façade would include stucco, metal panels, and a substantial amount of glass.

An existing, vacant service station is set to be removed along with the removal of three curb cuts along W. 90th Street and Penn Avenue. Gas tanks had previously been removed. New parking stalls would line the streets with 8-foot sidewalks. A portion of the parking stalls would be constructed with permeable pavers to aid with stormwater management. A take-out window would be added to the south building elevation. Two existing parcels and a strip of land in the southeast corner would be combined into one lot.

ANALYSIS

Land Use

The Comprehensive Plan designates the properties for General Business. Restaurants are an intended land use within that designation. Further, restaurants are permitted within the B-4 neighborhood commercial zoning district, although an outdoor patio requires a conditional use permit.

While the restaurant is a permitted use in the B-4 district, it is a “mixed-use” district, which requires additional design performance standards. These performance standards are intended to promote an

improved streetscape and more pedestrian-oriented character relative to what exists today. These performance standards are addressed within the report and the proposed expansion requires development flexibility from several performance standards. A rezoning is proposed to apply the planned development overlay to the existing B-4 zoning to allow the city to consider development flexibility as opposed to multiple variances.

Code Compliance

The proposed development complies with many of the Code requirements. Table 1 provides a Code analysis of items that meet or exceed City Code. Table 2 identifies the deviations required as well as required revisions. As apparent in Table 2, meeting all City Code standards (i.e., no deviations) for a restaurant site constructed in 1976 is very difficult without full redevelopment. Instead, the applicant opted to expand the existing building and propose bringing the site *closer* to conformance than it is today while removing the vacant, blighted service station.

Table 1: City Code Analysis – Standards in Compliance

Standard	Code Required	Provided
Minimum lot width	200 feet (corner lot)	291 feet
Building rear yard setback	15 feet	15 feet
Building side yard setback	10 feet	21 feet
Building setback from residential	50 feet (west)	53 feet (west)
Parking setback (rear and side yard)	5 feet	6 feet
Impervious surface coverage	95 percent	81 percent
Building height	4 stories / 60 Feet	20.5 feet
Parking stall size	9 feet by 18 feet	9 feet by 18 feet
Drive aisle	24 feet	24 feet
Trash collection	Accessible indoors	Accessible indoors
Building transparency	50 percent transparency between 2 and 10 feet or architectural variety	Mix of materials with architectural variety

Table 2: City Code Analysis – Standards Requiring Revision or Development Flexibility

Standard	Code Required	Provided	Status
Site area	40,000 square feet	32,670 square feet	Deviation required*
Building setback along streets	10 feet minimum 40 feet maximum	73 feet – W. 90 th 118 feet – Penn Avenue S.	Deviation required*
Parking setback (along a street)	20 feet	16 feet	Deviation required
Floor area ratio	0.2 Minimum/0.5 Maximum	0.12	Deviation required*
Building size	4,000 square feet	3,780 square feet	Deviation required*
Parking required	41 spaces	36 spaces	Deviation required

Trees	13 trees	5 trees	Revision required
Trees – diameter at breast height (DBH)	2.5 inches DBH	2 caliper inches DBH	Revision required
Shrubs	33 shrubs	Unknown quantity	Revision required
Parking islands w/tree	Minimum 8-foot inside of curb to inside of curb with a deciduous tree	Some islands do not meet the width and tree requirement	Revision required
Building enclosure – W. 90 th Street	50 percent with an additional 20 percent enclosure with vertical elements; along minimum setback line	48 percent building enclosure; 66 percent enclosure with patio; not at the minimum setback line	Deviation required*
Building enclosure – Penn Avenue S.	30 percent with an additional 20 percent enclosure with vertical elements; along minimum setback line	30 percent building enclosure; no additional enclosure; and not at the minimum setback line	Deviation required*
Parking location	To the side or rear of the building	Between building and street	Deviation required*
Corner site	No off-street parking within 100 feet of the intersection unless there is a building or gathering space between parking and public street	Off-street parking along the intersection; gather space elsewhere on site	Deviation required*
Sidewalk connection	Sidewalk connection between the public sidewalk and main entrance	Crosswalk depicted but without sidewalk connection and ped ramp	Revision required
Exterior materials	Brick, stone, stucco, glass, and metal panels	A mix of stucco, glass, and metal panels. A portion of the south elevation painted	Revision required – painting uncoated brick is not permitted

* Denotes required deviations from the City Code that would not have been required in the B-2 General Commercial Zoning District.

Building and Site Design

Several deviations relate to building size and placement requirements in the B-4 zoning district. The B-4 zoning district requires a more urban character with a building closer to the street and parking to the side and behind the building. In 2009 the City proactively rezoned the site from B-2 General Commercial to B-4 Neighborhood Commercial Center. Had the property remained within the B-2 zoning district, the mixed-use design standards would not have applied to the expansion.

Meeting the B-4 design standards would have required a complete site redevelopment; the applicant contends this was not financially viable. The proposed design is a continuation of a suburban, auto-oriented restaurant. However, staff believes the “public benefit” test for the proposed City Code deviations is met for the following reasons:

- Removal of a long-vacant building and eyesore at a prominent City intersection;
- Expansion of an existing local business;
- Closure and infill of three curb-cuts near the intersection, improving pedestrian and motorist safety;
- New Code-compliant sidewalk;
- Larger building with visually interesting architecture and Code-compliant exterior materials;
- Community gathering spot with large outdoor patio;
- New landscaping, lighting, and stormwater management; and
- Right-of-way dedication and park dedication fees due to platting.

The benefits are significant. While not urban in character, the expansion represents a substantial reinvestment at a commercial node that has seen little investment in decades. Further, the expansion brings the development either into compliance or closer to compliance with all City Code requirements.

Landscaping, Screening and Lighting

An existing privacy fence along the west property line provides screening between the commercial and residential uses. This fence is on the adjoining property and not maintained by the applicant. There is little landscaping on site today. While some revisions are needed to the landscaping plan, it represents a significant improvement from the existing conditions. Additional trees are needed within parking islands and on site, generally. The required parking lot screen, where there is none today, would be accomplished with a row of shrubs. The outdoor patio landscaping plan depicts a fenced enclosure with a mix of shrubs, grass, and perennial plantings.

Additional exterior lighting detail is needed. At a minimum, 2.0 maintained footcandles is needed in the parking lot, although only 1 footcandle is required along the parking lot’s perimeter. Ten footcandles is needed at the main entrance and lighting levels should be elevated at the pedestrian crosswalk to draw attention to that area at night.

Access, Circulation, and Parking

Site access would be consolidated to two shared access points – one on W. 90th Street and one on Penn Avenue S. Three curb cuts would be infilled with full height curbing, an 8-foot concrete sidewalk, and a landscaped yard. Sidewalk today is largely “curb walk” and is not the minimum 8-foot width. The pedestrian environment would be improved. A crosswalk sidewalk is shown, but a connection and pedestrian ramp must be added.

Apart from infilling excess curb cuts, site circulation would be largely the same. The drive lane and parking would be located between the building and street. A take-out window would allow customers to pick-up orders without entering the building. This may have the effect of reducing parking stall demand.

The parking requirement for the proposed restaurant is 41 stalls. Parking is based on a seat ratio – 1 parking stall per 3 indoor or 5 outdoor seats. However, the 1 to 5 outdoor seat ratio for outdoor seats applies only to 20 percent of the total seating. Staff is supportive of the parking deviation. Parking would be better organized with fewer conflicts due to excessive curb cuts. Today, patrons park on the former gas station site where stalls are not striped.

Table 3: City Code Required Parking Analysis

Use	Seats	Standard	Parking Requirement
Restaurant - indoor seats	106	1 space per 3 indoor seats; 1 space per 3 outdoor seats for portion over 20 percent of total seats	35.2 stalls
Restaurant - outdoor seats	26	1 space per 5.0 outdoor seats	5.3 stalls
Total			40.5 stalls

Odor Control

In 1975, a previous City Council attached a condition to the previous restaurant at this location (a donut shop) requiring an odor control system. The restaurant owners changed twice since the original conditional use permit. Kitchen modifications resulted in the current restaurant without an odor control system.

In 2020, City Codes were amended to establish standards for when odor control systems are required. Before 2020, such requirements were handled through conditions of approval. Under the new City Code provisions (Section 10.24), a new restaurant at this location would be required to provide odor control due to its proximity to residential. Because the restaurant pre-exists the standards, however, City Code only requires odor control if the following is triggered:

- (d) *Existing Food Establishments. Existing food establishments and food processing plants must comply with the requirements listed above in subsection (a) if applicable to them upon:*
- (1) *Issuance of a new food establishment license after a period of vacancy of over one year from the last date of valid food establishment license; or*
 - (2) *Installation of a Type I exhaust hood, Type II non-dish machine exhaust hood or other food ventilation system in an establishment that previously had no such ventilation system.*

Neither of the triggers apply. Therefore, the City Code does not require odor control based on the current City Code. However, because a new conditional use permit is being requested, the City must determine whether past conditions of approval should carry forward. The 2020 City Code

amendment, which reflects the City Council's most recent consideration of the odor control issue, does not trigger odor control based on the proposed changes. The City is not aware of odor complaints from the neighborhood. Installation of a system without a change to the kitchen operations would overly burden the development. Therefore, staff is not proposing to carry forward the previous odor control condition. Staff recommends a condition that this conditional use permit approval replaces and supersede past conditional use approvals.

Stormwater Management

Stormwater will be managed to meet the City's and Watershed District's requirements for stormwater rate control (quantity), stormwater quality and volume.

The Stormwater Management plan calculations and narrative have been reviewed and appear to meet the City of Bloomington Comprehensive Surface Water Management Plan requirements. A maintenance plan has not yet been provided and would be required to be signed and filed at Hennepin County. This site is located within the Nine Mile Creek Watershed District, so an additional watershed district permit would be required.

Infiltration of stormwater in areas where mobilization of contaminants from the previous land use may occur are not permitted. The applicant must confirm that there are no contaminants if stormwater infiltration is proposed.

Utilities

The subject property is served by City sanitary sewer and water service. The City Engineer must approve utility Plans prior to issuing grading or other building permits. Sanitary sewer to service to the site is proposed to be provided via a connection to the City system located within W 90th Street. Based on the applicant's estimated peak hour wastewater flows, the City sanitary sewer network capacity is sufficient to handle the flows from the proposed development.

A looped watermain is proposed via the existing watermain that runs along the site's east and north sides, within the Penn Avenue and W 90th Street right-of-way, respectively. Staff is recommending the looped service be provided via a second connection to the W 90th Street watermain. Providing the looped connection via two taps onto W 90th Street eliminates the need for a costly tap onto the 30" watermain within Penn Avenue. A combined domestic/fire service connection to the building would be required. Finally, the proposed building must have adequate fire hydrant coverage.

Per City standards, the installation of an exterior grease interceptor and accompanying grease interceptor maintenance agreement is required as part of the proposed development. The grease interceptor design and sizing must be reviewed and approved by the City Engineer prior to permit issuance.

Traffic Analysis

The proposed development would remove three existing driveway locations onto W 90th Street & Penn Avenue, which served the previous gas station use on the site's east side. Removing the three driveways would help improve access management on the southwest corner of W 90th Street & Penn Avenue. The remaining access to the site is proposed to stay as is, and no additional significant impacts to the adjacent traffic patterns have been identified because of the proposed development.

Transit and Transportation Demand Management (TDM)

This redevelopment will require a Tier 2 TDM plan per Section 21.301.09(b)(2) of the City Code, which allows the property owner to choose from a menu of TDM options. The owner has not yet submitted a Tier 2 TDM checklist.

Fire Prevention and Public Safety

Emergency vehicle access and circulation design must meet or exceed the minimum standards of the Fire Code. A minimum 20-foot-wide access road around the building. The access road shall be maintained in accordance with the approved plan, including a surface to provide all-weather driving capabilities, support a minimum of 40 tons, provide a minimum of 13 feet 6 inches, and a turning radius to accommodate BFD Ladder 3. The emergency vehicle access roads shall be free of any obstructions. Parking fire lane signage is to be reviewed, approved, and installed before the certificate of occupancy. Landscaping must not interfere with access to the building and egress.

The structure must be fully sprinklered and supplied by a looped water supply with a single combination domestic/fire main. Hydrant coverage shall be provided within 50 feet of the fire department connection and within 150 feet of all exterior walls of the structure. A minimum clear space of 36 inches around the hydrants is required. The hydrants must be clearly visible and accessible from the emergency access road. All new and existing hydrants on the property or that serve the property shall have City approved Storz connections. The Utilities Division and Fire Department would review hydrant locations, style, etc.

The property and building(s) address and building numbers must be clearly visible from the entry point into the property. The address shall be a minimum of four inches, be Arabic numbers or alphabetical letters with a minimum stroke width of .5 inches and contrasting to the background. All exterior doors that allow access to the interior of the building shall be numbered in a sequential order starting with the main entrance (public entrance) as number 1 and continuing clockwise. The Police and Fire Departments would approve the numbering plan.

Fire alarm and annunciator panel location to be determined by the Fire Department. Alarm systems are required to meet the 2016 edition of NFPA 72. Regarding suppression systems, NFPA 13 systems are required to meet the 2016 edition of NFPA 13.

The current kitchen hood suppression system is not code compliant. A new UL-listed hood suppression system connected to the building sprinkler system is required. A lock box (Knox or DAMA) is required for the property. The fire department would approve the location.

Any changes to the current plans, including building location, access road, water supply, and addressing, must be reviewed by the Fire Department to ensure continued compliance with the Fire Code.

Status of Enforcement Orders

There are no open enforcement orders.

Planning Commission Action

On November 3rd, the Planning Commission held a public hearing and discussed the proposed restaurant expansion. The Commission discussed whether the development met the “public benefit” test to approve deviations from City Code. Most required deviations relate to B-4 zoning district (mixed-use) design standards – the proposed development is more in line with the previous, B-2 district requirements. While not unanimous, the majority of the Commission agreed the site and building improvements, such as closing extra curb cuts, sidewalks, pedestrian accommodations, landscaping, stormwater management, and a larger, more attractive building met the standard.

FINDINGS

Required Conditional Use Permit Findings - Section 21.501.04 (e) (1)

Required Finding	Finding Outcome/Discussion
(1) The proposed use is not in conflict with the Comprehensive Plan.	Finding made – The restaurant is not in conflict with the Comprehensive Plan. The land use would be consistent with the General Business land use designation.
(2) The proposed use is not in conflict with any adopted District Plan for the area.	Finding made – The proposed development is not located in an area with an adopted District Plan.
(3) The proposed use is not in conflict with City Code provisions.	Finding made – subject to conditions of approval and approval of the proposed deviations, the restaurant is consistent with City Code provisions.
(4) The proposed use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development.	Finding made – Given the size and characteristics of the proposed development, an excessive burden is not anticipated on parks, schools, streets, the sanitary sewer system, or the water system.
(5) The proposed use will not be	Finding made – the restaurant is not anticipated to be

injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare.	injurious to the surrounding neighborhood. The restaurant expansion is a reflection of its popularity in the community. Neighborhood appeal and pedestrian safety would improve with the restaurant expansion.
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Required Preliminary Development Plan Findings – Section 21.501.02(c)(1-7)

Required Finding	Finding Outcome/Discussion
(1) The proposed development is not in conflict with the Comprehensive Plan	Finding made – The plat is not in conflict with the Comprehensive Plan. The land use would be consistent with the General Business land use designation.
(2) The proposed development is not in conflict with any adopted District Plan for the area	Finding made – The proposed development is not located in an area with an adopted District Plan.
(3) The proposed development is not in conflict with state law and all deviations from city code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval	Finding made – all proposed deviations are permissible by City Code and are in the public interest given the overall improvements to the site. The development represents a substantial reinvestment in one of Bloomington’s commercial nodes.
(4) Each phase of the proposed development is of sufficient size, composition and arrangement that its construction, marketing and operation is feasible as a complete unit without dependence upon any subsequent unit.	Finding made – the proposed development would be completed in one phase and is not dependent on any subsequent unit.
(5) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development	Finding made – Given the size and characteristics of the proposed development, an excessive burden is not anticipated on parks, schools, streets, the sanitary sewer system, or the water system.

(6) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare	Finding made – the restaurant is not anticipated to be injurious to the surrounding neighborhood. The restaurant expansion is a reflection of its popularity in the community. Neighborhood appeal and pedestrian safety would improve with the restaurant expansion.
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Required Final Development Plan Findings – Section 21.501.03(e)(1-7)

Required Finding	Finding Outcome/Discussion
(1) The proposed development is not in conflict with the Comprehensive Plan	Finding made – The development is not in conflict with the Comprehensive Plan. The land use would be consistent with the General Business land use designation.
(2) The proposed development is not in conflict with any adopted District Plan for the area	Finding made – The proposed development is not located in an area with an adopted District Plan.
(3) The proposed development is not in conflict with the approved preliminary development plan for the site	Finding made – The proposed development is proposed to be completed in one phase. The preliminary and final development plans are the same.
(4) The proposed development is not in conflict with state law and all deviations from city code requirements are in the public interest and within the parameters allowed under the Planned Development Overlay Zoning District or have previously received variance approval	Finding made – all proposed deviations are permissible by City Code and are in the public interest given the overall improvements to the site. The development represents a substantial reinvestment in one of Bloomington's commercial nodes.
(5) The proposed development is of sufficient size, composition, and arrangement that its construction, marketing, and operation is feasible as a complete unit without dependence upon any subsequent unit	Finding made – The planned development is proposed to be completed in one phase and is not dependent upon a subsequent unit.

(6) The proposed development will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the planned development; and	Finding made – Given the size and characteristics of the proposed development, an excessive burden is not anticipated on parks, schools, streets, the sanitary sewer system, or the water system.
(7) The proposed development will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety and welfare	Finding made – the restaurant is not anticipated to be injurious to the surrounding neighborhood. The restaurant expansion is a reflection of its popularity in the community. Neighborhood appeal and pedestrian safety would improve with the restaurant expansion.

Required Preliminary Plat Findings - Section 22.05(d)(1-8):

Required Finding	Finding Outcome/Discussion
(1) The plat is not in conflict with the Comprehensive Plan	Finding made – The plat is not in conflict with the Comprehensive Plan. The land use would be consistent with the General Business land use designation.
(2) The plat is not in conflict with any adopted District Plan for the area	Finding made – The proposed plat is not located in an area with an adopted district plan.
(3) The plat is not in conflict with City Code provisions	Finding made – The plat is not in conflict with City Code provisions. With proposed deviations, the proposed plat meets the minimum lot area, width, and access requirements.
(4) The plat does not conflict with existing easements	Finding made – There are no known easements that cannot be vacated and rededicated. The plat does not conflict with existing easements.
(5) There is adequate public infrastructure to support the additional development potential created by the plat	Finding made – There is adequate public infrastructure to support the development intended for the lot created by the plat.

(6) The plat design mitigates potential negative impacts on the environment, including but not limited to topography; steep slopes; trees; vegetation; naturally occurring lakes, ponds, rivers, and streams; susceptibility of the site to erosion, sedimentation or flooding; drainage; and stormwater storage needs	Finding made – The plat will establish new drainage and utility easements. In addition, stormwater management must meet City and Watershed District standards.
(7) The plat will not be detrimental to the public health, safety and welfare	Finding made – The plat is not anticipated to be detrimental to the public health, safety, or general welfare.
(8) The plat does not conflict with an approved development plan or plat.	Finding made – the plat is consistent with the proposed development plan.

Required Final Plat Findings – Section 22.06(d)(1):

Required Finding	Finding Outcome/Discussion
(1) The plat is not in conflict with the approved preliminary plat or preliminary plat findings	Finding made – The final plat is consistent with the preliminary plat and preliminary plat findings, subject to conditions of approval.

RECOMMENDATION

The Planning Commission and staff recommend approval using the following motions:

Motion by _____, second by _____, to adopt Ordinance 2022-_____ rezoning 9000 Penn Avenue S. and 2325 W. 90th Street from B-4 Neighborhood Commercial to B-4(PD) Neighborhood Commercial (Planned Development).

Motion by _____, second by _____, to adopt Resolution 2022_____ approving a conditional use permit to expand an existing restaurant and add an outdoor patio at 9000 Penn Avenue S. and 2325 W. 90th Street, subject to the conditions and Code requirements attached to the staff report.

Motion by _____, second by _____, to approve the preliminary and final development plans to expand an existing restaurant and add an outdoor patio at 9000 Penn Avenue S. and 2325 W. 90th Street, subject to the conditions and Code requirements attached to the staff report.

Motion by _____, second by _____, to approve a preliminary plat and adopt Resolution 2022-_____ approving a final plat to replat 9000 Penn Avenue S., 2325 W. 90th Street, and 9056 Penn Avenue S. from three lots to two lots, subject to the conditions and Code requirements attached to the staff report.

RECOMMENDED CONDITIONS OF APPROVAL

Case PL202200183

Project Description: Rezoning from B-4 to B-4(PD); Preliminary and final development plans and a conditional use permit to expand an existing restaurant and add an outdoor patio; and a preliminary and final plat to combine two parcels into one located at 9000 Penn Avenue S. and 2325 W. 90th Street

Address: 9000 Penn Avenue S. and 2325 W. 90th Street.

The following conditions of approval are arranged according to when they must be satisfied. In addition to conditions of approval, the use and improvements must also comply with all applicable local, state, and federal codes. Codes to which the applicant should pay particular attention are included below.

Conditional Use Permit and Preliminary and Final Development Plan Conditions of Approval

1. Prior to Permit A Site Development Agreement, including all conditions of approval, must be executed by the applicant and the City and must be properly recorded by the applicant with proof of recording provided to the Director of Community Development.
2. Prior to Permit Access, circulation and parking plans must be approved by the City Engineer.
3. Prior to Permit Any modifications to common driveway/access/parking agreements must be provided and proof of filing must be provided to the Manager of Building and Inspection.
4. Prior to Permit Grading, Drainage, Utility and Erosion Control plans must be approved by the City Engineer.
5. Prior to Permit Utility plan showing location of existing and proposed water main and fire hydrant locations must be approved by the Fire Marshal and Utilities Engineer (City Code Sec. 6.20, Minnesota State Fire Code Sec. 508).
6. Prior to Permit Landscape plan must be revised to be Code compliant, must be approved by the Planning Manager, and landscape surety must be filed (Sec 21.301.15).
7. Prior to Permit An erosion control surety must be provided (16.08(b)).
8. Prior to Permit Sewer Availability Charges (SAC) must be satisfied.
9. Prior to Permit Storm Water Management Plan must be provided that demonstrates compliance with the City's Comprehensive Surface Water Management Plan. A maintenance plan must be signed by the property owners and must be filed of record with Hennepin County.
10. Prior to Permit Three-foot-high parking lot screening must be provided along W. 90th and Penn Avenue S. as approved by the Planning Manager (Sec. 21.301.15).
11. Prior to Permit A Nine Mile Creek Watershed District permit must be obtained and a copy submitted to the Engineering Division.
12. Prior to Permit Bicycle parking spaces must be provided and located on site as approved by the City Engineer.
13. Prior to Permit Exterior building materials must be approved by the Planning Manager (Sec. 19.63.08).

14. Prior to Permit Parking lot and site security lighting plans must be revised to satisfy the requirements of City Code Section 21.301.07.
15. Prior to Permit The properties must be platted per Chapter 22 of the City Code and the approved final plat must be filed with Hennepin County prior to the issuance of any permits (22.03(a)(2)).
16. Prior to C/O Sidewalk must be installed along W. 90th and Penn Avenue S. at the developer's expense (Section 21.301.04(b)(1)).
17. Prior to C/O Building must be provided with an automatic fire sprinkler system as approved by the Fire Marshal (MN Bldg. Code Sec. 903, MN Rules Chapter 1306; MN State Fire Code Sec. 903).
18. Ongoing All loading and unloading must occur on site and off public streets.
19. Ongoing This conditional use permit approval replaces and supersedes past conditional use permits for this property.
20. Ongoing Signs must be in compliance with the requirements of Chapter 19, Article X of the City Code and Uniform Design Plan.
21. Ongoing All trash and recyclable materials must be stored inside the principal building (Sec. 21.301.17).
22. Ongoing Alterations to utilities must be at the developer's expense.
23. Ongoing All rooftop equipment must be fully screened (Sec. 21.301.18).

Final Plat Conditions of Approval

1. A title opinion or title commitment that accurately reflects the state of title of the properties being platted, dated within 6 months of requesting City signatures, must be provided.
2. A consent to plat form from any mortgage company with property interest must be provided.
3. Public drainage and utility easements must be provided as approved by the City Engineer.
4. A 10-foot sidewalk easement must be provided along all street frontages as approved by the City Engineer.
5. Right-of-way on Penn Avenue South must be dedicated to the public as approved by the City Engineer.
6. Park dedication in the amount of \$4,212 must be satisfied.
7. A private common driveway/access easement/agreement must be provided as approved by the City Engineer and proof of recording the easement/agreement with Hennepin County must be provided to the City Engineer.

And subject to the following Code requirement:

1. The properties must be platted per Chapter 22 of the City Code and the approved final plat must be filed with Hennepin County prior to the issuance of any permits (22.03(a)(2)).