

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** Goodwill 1221 University Avenue **FILE #:** 13-260-424
 2. **APPLICANT:** The Driessen Group LLC **HEARING DATE:** January 30, 2014
 3. **TYPE OF APPLICATION:** Conditional Use Permit & Variance
 4. **LOCATION:** 1221 University Ave W, NW corner at Griggs
 5. **PIN & LEGAL DESCRIPTION:** 342923130105, Syndicate No 5 Addition Ex W 25 Ft Lot 24
And All Of Lots 25 Thru Lot 30 Blk 32
 6. **PLANNING DISTRICT:** 11 **PRESENT ZONING:** T2
 7. **ZONING CODE REFERENCE:** § 65.513, § 61.501; 61.502; 61.601; 61.202(b)
 8. **STAFF REPORT DATE:** January 23, 2014 **BY:** Anton Jerve
 9. **DATE RECEIVED:** December 23, 2013 **60 DAY DEADLINE FOR ACTION:** February 21, 2014
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A. **PURPOSE:** Conditional use permit for 1) retail/service establishment of more than 15,000 sq. ft., and for 2) drive-through service, with modifications of condition to allow drive-through service and ingress/egress within 60 ft. of residential property, and variances for 1) off-street parking with more than 60 ft. of frontage, and 2) building setback 7.5 ft. from the alley centerline (13 ft. required).

B. **PARCEL SIZE:** 45,790 sq. ft.

C. **EXISTING LAND USE:** Vacant commercial (former auto sales)

D. **SURROUNDING LAND USE:**

North: Single-family, duplex, and multi-family housing (R4)

East: Retail commercial (T2)

South: Office commercial, School (T4)

West: Retail commercial (T2)

E. **ZONING CODE CITATION:** §65.513 lists conditions for drive-through services; §61.501 lists general requirements for all conditional uses; §61.502 provides for modification of special conditions by the Planning Commission; §61.202(b) authorizes the planning commission to grant variances when related to permits, using the required findings of MN Stat. 462.357, Subd. 6.

F. **HISTORY/DISCUSSION:** The property is currently vacant and was previously used for auto sales and associated auto uses. Auto oriented uses had been established on the property since at least 1938. The site has been vacant for approximately eight years.

G. **DISTRICT COUNCIL RECOMMENDATION:** District 11, Hamline Midway Coalition, considers the nature of the project to be auto-oriented and for that reason believes it is not consistent with the comprehensive plan and recommends denial of the conditional use permits and variances.

H. **FINDINGS:**

1. The site is located within the Hamline Station Area on the north side of University, west of Griggs. The intersection of University/Griggs is signalized and Griggs will be improved as a bike boulevard this year. The applicant, Goodwill, is proposing a two-story, mixed-use building with retail (20,000sf), donations processing (5,000sf) and office uses (3,500sf). The site will have a 0.7 FAR, which exceeds the minimum of 0.5 FAR. The retail will be split on the two floors with processing on the first floor and office on the second floor. A drive through service door will be located along the rear of the building in an enclosed structure to receive donations. Cars using the drive through will enter from the parking lot and exit at the alley. It is anticipated that the drive through will service 4-10 cars per hour, based on the average of other metro-area sites. The drive-through

service will close approximately one hour before the retail closing time. There will be no provisions for after-hours donations and furniture will not be accepted at this site. The parking lot will be accessed from University Avenue and have two curb cuts along that street. The parking lot will have 50 spaces. Elsewhere in the city the requirement would be 83 spaces, however T2 districts within station areas have no parking requirement. Delivery and service vehicles access the site from University Avenue. Semi-trailers will be dropped off at the loading dock area 2-3 times per week and will be removed once they are full to go to an off-site processing facility.

2. §65.513. lists seven conditions that drive-through sales and services must satisfy in T2 Zoning Districts:

- (a) Drive-through lanes and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street, and shall be at least sixty (60) feet from the closest point of any residentially zoned property or property occupied with a one-, two-, or multiple-family dwelling. This condition is not met. The applicant is requesting a modification of this condition to allow the drive through use the alley for egress. The alley is shared with residentially zoned properties to the north.
- (b) Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two streets and at least sixty (60) feet from abutting residentially zoned property. This condition is not met. The applicant is requesting a modification of this condition to allow the drive through use to be 15 feet from a residentially zoned property.
- (c) Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property. This condition is met. There will be no speaker box for the drive through-use.
- (d) A six-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property. This condition is met. There are no adjoining residentially zoned properties.
- (e) Stacking spaces shall be provided for each drive-through lane. Banks, credit unions, and fast-food restaurants shall provide a minimum of four (4) stacking spaces per drive-through lane. Stacking spaces for all other uses shall be determined by the zoning administrator. This condition is met. There are six (6) stacking spaces for the drive-through. The drive-through is estimated to handle an average of four (4) to ten (10) cars per hour.

Additional conditions in the T2 traditional neighborhood district:

- (f) There shall be no more than one (1) drive-through lane and no more than two (2) drive-through service windows, with the exception of banks, which may have no more than three (3) drive-through lanes. This condition is met. There is one drive-through service door.
- (g) The number of curb cuts shall be minimized. In light rail station areas, there shall generally be no more than one (1) curb cut on a block face per drive-through. Drive-through sales and services are prohibited along the entire length of block faces adjacent to light rail transit station platforms. This condition is met. The project is not adjacent to light rail transit station platform. There are two curb cuts along University and none along Griggs. One of the curb-cuts is used for the drive through and the other will be used for parking ingress/egress.

3. §61.502 states that the planning commission, after public hearing, may modify any or all special conditions: *strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.* This standard is met. Strict application of the conditions for the 60 foot separation from residentially zoned property would require the drive-through service to be proximate to the front door where donation traffic would be more likely to be in conflict with pedestrian traffic. Zoning allows for a drive through service use at this location and the Comprehensive Plan allows for commercial use of this alley. Furthermore, intent of the conditions is to buffer residences from drive-through uses and in this case the buffering is achieved by facts that the drive-through will be used for donation drop-offs rather than sales and it will be in an enclosed structure.

4. §61.501 lists five standards that all conditional uses must satisfy:

(a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This condition is met. The use meets several policies from the Hamline Station Area Plan, adopted as part of the Comprehensive Plan. Including the following policies:

4.2.2.a) *A mix of uses should be concentrated along the edges of the Avenue where they benefit from an easy connection to public transit, and the visibility and profile of being located on a major transportation corridor.*

4.2.2.c) *Buildings should be massed so that they are able to frame all public sides of a development block.*

With the exception of the surface parking exceeding sixty (60) feet of frontage, which is addressed below in Finding 4, the Plan clearly supports the form, use and density of the proposed project. The proposed development would use significant landscaped buffers, including trellises and benches, along the parking lot frontage to frame the public side of the development. Because of these factors the plan in substantial compliance with the Station Area Plan.

(b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The use will have two curb-cuts on University Avenue for automobile traffic and deliveries. Cars exiting the drive-through will use the alley. The applicant has completed a traffic study for the project for the site plan approval process which indicates no significant traffic impacts.

(c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition is met. The project will bring uses allowed in the district and activity to a location that has been vacant for approximately eight years. The configuration of the parking, loading, and drive-through allows for adequate screening along the alley.

(d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is met. The proposed use is allowed in the district and currently exists along the University Avenue corridor and will not impede the development of permitted uses on surrounding properties.

- (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met subject to variances for off-street parking with more than 60 feet of frontage and building setback of less than 13 feet from the alley centerline. The proposed use will have 199 feet of surface parking frontage along University Avenue. The drive through area for the donation drop-off will have a covered structure which will be set back seven and one-half feet from the alley. This structure will be 30 feet long. The rest of the building will be set back over 16 feet from the rear property line.
5. MN Stat. 462.357, Subd. 6 was amended to establish new grounds for variance approvals effective May 6, 2011. Required findings for a variance for placement of parking consistent with the amended law are as follows:
- (a) *The variance is in harmony with the general purposes and intent of the zoning code.* This finding is met. The variance is in harmony particularly with the following purposes from Sec. 60.103 of the code:
- (g) *To lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial vehicles;*
- (l) *To conserve and improve property values;*
- (b) *The variance is consistent with the comprehensive plan.* This finding is met. The following are relevant policies from the Hamline Station Area Plan:
- 4.2.2.f) *Where parking lots create gaps in the street frontage they should be adequately landscaped along the street frontage.*
- 4.5.e) *Encourage better utilization and design of existing parking lots, and share the use and cost of parking.*
- 4.5.g) *Where alternative parking solutions are not available, surface parking fronting onto University Avenue should be limited to a maximum of 60 feet in width (for the provision of two parking aisles and one drive aisle) and utilize landscape buffers along the Avenue to minimize the visual impact on the pedestrian environment.*

Although this lot exceeds the frontage limit recommended in the Hamline Station Area Plan (policy 4.5.g), the site is located outside the Mobility Enhancement Zone indicated on Figure 5.2 (Hamline Station Area Plan, p. 43) and the street frontage along the parking lot is not identified as a Priority Active Frontage area on Figure 4.1 (Hamline Station Area Plan, p.25). Because the parking frontage is located outside *both* of these areas, *and* is meeting or exceeding other design requirements it is generally in compliance with the Comprehensive Plan.

- (c) *The applicant has established that there are practical difficulties in complying with the provision, in that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.* This finding is met. The depth of the parcel (121 feet), the buildings loading needs, and internal circulation and organization of the uses make it impractical to develop this project in a way that would comply with the provision.
- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* This finding is met. To allow for screening from residential uses across the alley and allow for delivery circulation necessitates consolidating the surface parking adjacent to the building.

- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.* This finding is met. The use, retail and office, is consistent with what is allowed in the district.
 - (f) *The variance will not alter the essential character of the surrounding area.* This finding is met. The existing use is surface parking of a similar scale.
6. MN Stat. 462.357, Subd. 6 was amended to establish new grounds for variance approvals effective May 6, 2011. Required findings for a variance for building set-back consistent with the amended law are as follows:
- (a) *The variance is in harmony with the general purposes and intent of the zoning code.* This finding is met. The variance is in harmony particularly with the following purposes from Sec. 60.103 of the code:
 - (i) *To encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods;*
 - (l) *To conserve and improve property values;*
 - (b) *The variance is consistent with the comprehensive plan.* This finding is met. The following are relevant policies from the Hamline Station Area Plan:
 - 4.2.3.a) *Alleys in the station area should be preserved as public right-of-way in order to maintain access for businesses and development along University Avenue and to increase automobile and pedestrian circulation.*
 - 4.2.3.b) *[...]Alleys shared between commercial and residential uses should focus on buffering commercial traffic and noise.*

The variance allows for screening commercial uses from residential uses beyond what is required by zoning.

- (c) *The applicant has established that there are practical difficulties in complying with the provision, in that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.* This finding is met. To comply with the rear setback the drive through would either have to be open to the alley, or the building would have to be decreased in size to allow for an additional 7.5 feet, which would reduce the usable floor area of the building.
- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* This finding is met. The variance is for the enclosure of the drive-through along the alley. This enclosure is not required by the zoning code, but was requested by the neighbors across the alley to screen the drive through activities.
- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.* This finding is met. The use, drive-through service structure for donations, is allowed in the district.
- (f) *The variance will not alter the essential character of the surrounding area.* This finding is met. The alley is currently used for commercial and residential access. Commercial access from this property will be limited to drive-through egress. The alley will remain the substantially unchanged due to the fact that it is currently constrained by utilities and public stormwater infrastructure.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of a conditional use permit for retail/service establishment of more than 15,000 sq. ft., and for drive-through service, with modification of conditions to allow drive-through service and ingress/egress within 60 ft. of residential property, and variances for 1) off-street parking with more than 60 ft. of frontage, and 2) building setback 7.5 ft. from the alley centerline (13 ft. required) subject to the following additional conditions:
1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
 2. The hours of operation of the drive-through service door shall be limited to 9:00 a.m. to 8:00 p.m. on Mondays – Fridays, 9:00 a.m. to 5:00 p.m. on Saturdays, and 11:00 a.m. to 5:00 p.m. on Sundays.
 3. A trash removal plan for the site and adjacent alley shall be submitted to and approved by the Zoning Administrator.