

**APPLICATION FOR APPEAL**

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

Received 5/23/12

Zoning Office Use Only

File #: 12-061272

Fee: 440

Tentative Hearing Date:
6/23/12

APPELLANT

Name Graham Merry / Cullen LLC
Address PO 16725
City Minneapolis St. MN Zip 55416 Daytime Phone 612-223-6293

PROPERTY LOCATION

Zoning File Name Grand Finn Apartments Appeal
Address / Location 2124 Grand Avenue

TYPE OF APPEAL: Application is hereby made for an appeal to the:

☐ **Planning Commission**, under provision of Chapter 61, Section 701, Paragraph c of the Zoning Code, of a decision made by the Planning Administrator or Zoning Administrator

OR

☒ **City Council**, under provision of Chapter 61, Section 702, Paragraph a of the Zoning Code, of a decision made by the Planning Commission

Date of decision: _____, 20____ File Number: _____

GROUND'S FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission.

Appeal of Conditions for Site Plan Approval

Cullen LLC appeals certain conditions of site plan approval as approved by the planning commission for the development at 2124 Grand Ave. Parking permit limitation presents a hardship for future building tenants and is inconsistent with the established parking guidelines for effected parking district. There is no evidence to suggest the surrounding neighborhood or this development justify the condition for an additional public access shared-use automobile in the neighborhood. Provision of storage space for a public shared-use car in a private development creates difficulty for management and negatively affects the safety and security of the property for building tenants. Other conditions and appeals attached.

Attach additional sheets if necessary

Appellant's Signature

Date 5/22/12 City Agent _____

Cullen LLC's appeal to the parking permit condition of approval from the Planning Commission is as follows:

Cullen LLC feels it is important that residents of a neighborhood in which permitted street parking is allowed should have convenient and equal access to such. Cullen LLC feels that the condition given by planning unduly penalizes its project and is devoid of an analysis of the parking situation in the neighborhood. The basis for this argument is that no rationale has been given as to why 20 parking permits and 5 general building use permits is the appropriate number. There was no analysis of how many permits are currently issued in the neighborhood and where; no study of how many spots are occupied at night and where; how many permits could actually be issued in this particular parking zone; how many permits other apartment buildings on the block have or are allowed to receive (of which many do not conform to current off-street parking requirements), etc.

Cullen LLC is happy to work with the City in providing the appropriate number of permits to residents of the neighborhood, but would like to challenge the assessment of a seemingly arbitrary figure, especially one that only applies to this project and not the parking zone as a whole. City Code in Section 164.03.(d) says that "Requests for modification of the parking restrictions within a permit parking area shall encompass the entire permit parking area, unless the existing area has multiple restrictions. In that case any modification requested for a portion of the area shall be to **create more uniformity in the parking restrictions for the permit parking area.**" Singularity and dis-uniformity seems to be what is occurring in regard to this particular project. The Planning Commission seems to be making a "request" and not following the proper channels for a modification of parking restrictions. If they are making a "request" they should initiate it with the Traffic Engineer as per Section 164.04 and the Traffic Engineer shall perform an investigation. If some conditions are met, then there shall be a Petition, Follow-up Investigation, Recommendation to the City Council, Hearing, and Finding of Necessity, all per City Code (Sections 164.05-09).

As per Section 164.13, the other avenue for a modification of parking restrictions is via the traffic engineer, who "shall have the authority to initiate the modification of conditions of a residential permit parking area, the splitting or alteration of the area of a residential permit parking area, and the removal of a residential permit parking area, or any portion thereof. To initiate said changes the traffic engineer shall request the affected neighborhood district council schedule a public meeting to inform the neighborhood and discuss the reasons for the proposed modification or removal of the residential permit parking area. The traffic engineer shall submit his/her recommendation and reasons for the proposed modification or removal of the residential permit parking area to the city council. The council shall hold a public hearing with notification pursuant to section 164.08. After hearing from any affected party and considering the recommendation of the traffic engineer and the neighborhood district council, the city council shall approve, modify or reject a resolution adopting the recommendation of the traffic engineer." None of this was done for this project.

Cullen LLC wishes the permit parking condition to be handled as per code, ie a Request or Traffic Engineer modification, and will respect the decision made as a result of a thorough, objective investigation. Until this has occurred, Cullen LLC asks that this condition of approval be removed.

In addition, Cullen LLC disagrees with the interpretation of the rule allowing the neighborhood appeal 11 days after the Planning Commission decision. Should the Planning Commission's decision be reversed, and that by failing to litigate this issue prior to the Council hearing on the issue, Cullen LLC is not waiving its ability to litigate it in the future.