

Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

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STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE CITY OF ST. PAUL

In the Matter of All Licenses Held by
the University Club of St. Paul d/b/a
The Commodore for the Premises located
at 79 Western Avenue in St. Paul

DEPOSITION
The following is the deposition of JIM BLOOM,
taken before Julie A. Brooks, Notary Public, Registered
Professional Reporter, pursuant to Notice of Taking
Deposition, at PFB Law, 55 East Fifth Street, Suite
800, Saint Paul, Minnesota, commencing at 10:00 a.m.,
Monday, April 30, 2018.



Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

1 APPEARANCES:

2

On Behalf of City of St. Paul:

3

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On Behalf of John Rupp:

8

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Also present:

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John Rupp

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EXHIBIT

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10 EXHIBIT REFERENCE INDEX

11 Exhibit	Description	Marked
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13 Exhibit 8	General Building Permit Application	15
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14 Exhibit 55	Plan	16
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15 Exhibit 118	General Building Permit Application	50
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16 Exhibit 120	Email dtd 9-17-15	49
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17 Exhibit 122	Stamp	25
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1 PROCEEDINGS

2 Whereupon, the deposition of JIM BLOOM
3 was commenced at 10:00 a.m. as follows:

4 JIM BLOOM,
5 after having been first duly sworn, deposes and says
6 under oath as follows:

7 ***

8
9 EXAMINATION

10 BY MR. MILLER:

11 Q. Would you please state your name for the
12 record.

13 A. James T. Bloom.

14 Q. Mr. Bloom, have you ever had your
15 deposition taken before?

16 A. No, I have not.

17 Q. Okay. I'll be asking you some
18 questions, and then Ms. Skarda will have the
19 opportunity to ask you a few questions, if she wants
20 to. The testimony, as you know, is under oath.

21 There are just a couple of ground rules
22 that will help me move along more smoothly. If I were
23 to ask you a question that you don't understand, feel
24 free to ask me to rephrase it.

Another important thing is that we are

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1 not speaking at the same time. Because we have a court
2 reporter here, and she can't take down two people
3 talking at the same time.

4 **A. Correct.**

5 Q. Do you have any questions before we
6 start?

7 **A. Nope. First time at the rodeo, since**
8 **you asked.**

9 Q. Okay. Good. Mr. Bloom, for a period of
10 time, you were employed by the City of Saint Paul,
11 correct?

12 **A. That is correct.**

13 Q. When did you start your employment?

14 **A. 1980.**

15 Q. And what was your first title?

16 **A. Plan Examiner I.**

17 Q. How long were you a plan examiner I?

18 **A. Oh, I don't recall.**

19 Q. Approximate?

20 **A. Approximately, eight years.**

21 Q. Okay. And what was your position after
22 plan examiner I?

23 **A. Plan examiner II.**

24 Q. What's the difference between plan
examiner I and --

EXHIBIT

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1 A. Scope of the work that you review.

2 Q. By that, you mean --

3 A. The scale of the projects. As plan
4 examiner I, I would do fences, additions to homes,
5 single-family dwellings, not so much commercial.

6 Q. Okay.

7 A. 2 would get into the commercial end of
8 it, as well.

9 Q. How long were you a plan examiner II?

10 A. Five years.

11 Q. So that brings us to the mid-1990's?

12 A. Roughly, correct, yep.

13 Q. And what was your title after plan
14 examiner II?

15 A. Plan examiner III.

16 Q. And does that have a different scope of
17 project?

18 A. Very high-end projects.

19 Q. And how long were you a plan examiner
20 III?

21 A. Four years, roughly, four or five
22 range.

23 Q. That brings us to about 2000?

24 A. Correct.

Q. And what was your position after 2000?

EXHIBIT

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1 A. Then I was senior plan examiner.

2 Q. Okay.

3 A. And then while being senior plan
4 examiner, there was a period for three and a half years
5 that I was the State-designated building official, as
6 well.

7 Q. When --

8 A. Those would, roughly, be 2009 to 2012, I
9 believe.

10 Q. How did you happen to have both
11 designations?

12 A. They had restructured the office, and
13 the city building official was let go, because they
14 reorganized the office.

15 Q. That was in 2009?

16 A. Approximately, 2009, correct. So it is
17 mandated that a municipality of the size of Saint Paul,
18 or every municipality, have a State-designated building
19 official to oversee the permit process.

20 Q. Was that the primary responsibility,
21 overseeing the permitting process?

22 A. That is correct. Permitting and
23 inspection, all the entire process. But the duties of
24 the city building official, who had the supervisory
authority for all of the building inspectors as well,

EXHIBIT

29-7

1 was split at the time I became the State-designated
2 building official. The City is only required to have a
3 State-designated building official, not a city building
4 official.

5 Okay. The city building official has
6 the supervisory of all the building inspectors, as well
7 as planning examiners.

8 Q. So was there a city building official
9 and a state building official during the period between
10 2009 and 2012?

11 A. No, only the State-designated. That is
12 all that is required by state statute.

13 Q. What happened in 2012?

14 A. 2012, they wanted -- they reassigned the
15 State-designated building official to Steve Ubl.
16 Subsequently, I believe, he has become the city
17 building official. He was the supervisor during that
18 period of 2009 to '12 of the building inspectors.

19 Q. And in 2012, is that a reorganization
20 that took place?

21 A. It was just a shift. They wanted to
22 consolidate the supervisory functions of the inspectors
23 and plan review under the city building official, so it
24 was a restructuring.

Q. So, basically, one person then became

EXHIBIT

29-8

1 the building official, state building official and city
2 building official?

3 A. Correct.

4 Q. That was Steve Ubl?

5 A. That is correct.

6 Q. Did you continue, then, after 2012 to be
7 a senior plan inspector?

8 A. No. Then I became -- it becomes a
9 little confusing. There was a job analysis
10 questionnaire, which was done for the plan review
11 section, to try to get it upgraded. And the
12 administration did a whole review of the section and
13 restructured the titles in it so there was a plan
14 examiner I, plan examiner II, and a supervisor
15 position. I became plan examiner II.

16 Q. Okay.

17 A. They brought -- they hired an outside
18 person as supervisor of the section.

19 Q. Did your responsibilities change with
20 respect to the scope of work when you became a plan
21 examiner II?

22 A. No, no.

23 Q. Just the name?

24 A. Just the name.

Q. How long were you a plan examiner II?

EXHIBIT

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1 **A. Until I retired.**

2 **Q. When did you --**

3 **A. That was in 2015. I had to think about**
4 **that this morning, when was it.**

5 **Q. Do you know when it was in 2015?**

6 **A. December 1.**

7 **Q. December 1?**

8 **A. Yeah.**

9 **Q. When you were a plan examiner II after**
10 **2012, who did you report to?**

11 **A. Jim Williamette.**

12 **Q. During that whole period?**

13 **A. Correct.**

14 **Q. So December 1st, 2015, was the last time**
15 **that you were employed by the City, correct?**

16 **A. November 30th.**

17 **Q. November 30th.**

18 **A. Yeah.**

19 **Q. I'd like to direct your attention back**
20 **to 2012. Could you briefly describe the process at the**
21 **City regarding what happened after an application for a**
22 **commercial building permit was brought in.**

23 **A. An application was filled out at the**
24 **front counter. It was entered into the computer by**

25 **permit technicians. Plans and applications are brought**

EXHIBIT

29-10

1 down to the plan review section, which is at the end of
2 the counter, and submitted for review.

3 Q. Who decided, at that time, where the
4 plans and application were submitted for review?

5 A. I don't know the answer to that. It is
6 who is available to take a job that has the expertise
7 to be reviewing that scale or scope of project. And I
8 was available.

9 Q. So you would get the plans. And then
10 what was your role, generally?

11 A. To review the plans, to check against
12 state -- local, state, and federal ordinances and or
13 laws and the building code to see if it complies with
14 building code and state statute.

15 Q. Building code only?

16 A. Building code, verify that zoning is
17 taken care of, is -- that it is proper for the piece of
18 property that it sits on.

19 And then the specific scope of work that
20 I would do would be -- in the building inspection,
21 would be the nuts and bolts of the building and that it
22 complies with the building code. But we always make
23 sure that it can sit on the property, that it was
24 properly zoned for the use that's intended.

Q. Who would make the zoning

EXHIBIT

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1 determination?

2 A. One of the zoning staff.

3 Q. Were there particular people at the
4 zoning staff in 2012?

5 A. Tom Beach would have been the person
6 that I would have gone to, or Wendy Lane.

7 Q. And after zoning was finished with its
8 review, what was the process then? Would they send you
9 a memo? Would they make an entry? How would that
10 information --

11 A. There was a check off on the application
12 process to verify that zoning has been approved.

13 Q. When you say there's "a check off,"
14 where is the check off?

15 A. I believe it is in AMANDA. It is in the
16 computer system, which is called AMANDA, or was.

17 Q. How about licensing?

18 A. Licensing was not verified at that time
19 before permit issuance.

20 Q. Do you know why that was?

21 A. No, I do not.

22 Q. When would licensing get involved?

23 A. I don't -- when a person would apply for
24 the license, I guess. I don't know.

Q. How about SAC determinations?

EXHIBIT

tabbies

29-12

1 A. Sorry. That is part of the plan review
2 function, as well.

3 Q. Would you please explain how that
4 process would work.

5 A. We would review what the previous use
6 was and what the intended use was and make a
7 determination, if we were -- if we were comfortable
8 doing it, or send it over to the Metropolitan Council,
9 the environmental section, and they would do the SAC
10 determination.

11 Q. Who would make the determination whether
12 or not it was a change of use?

13 A. Good question. The planning section, I
14 would.

15 Q. You would?

16 A. Yes.

17 Q. Okay.

18 A. For example, in the scope of work that I
19 had review for, there was no change of use, except for
20 a very small area on the south side. I believe, on the
21 south side of the courtyard, there were a couple of
22 rooms that were changed, and we took a really close
23 look at those to make sure that they were covered with
24 the license. For some reason, the license happened to
 pop up on that, also. I don't know why, but it did,

EXHIBIT

29-13

1 for SAC determination.

2 Q. Okay.

3 A. I believe, there was -- you know, there
4 was a loss in seating from the other area, so it kind
5 of covered that area, if I recall.

6 Is that correct?

7 Q. Okay. So I was just trying to get a
8 general idea of how things went.

9 A. Uh-huh.

10 Q. Is there any other significant steps
11 that you can think of, generally?

12 A. When we review the plans, we're kind
13 of -- plan review is a catchall. Okay. So we look
14 at -- we check to make sure that the zoning is taken
15 care of. We check for the SAC determinations, verify
16 with mechanical and electrical to make sure that their
17 plans have been submitted and that they're okay before
18 we -- and have their approvals and sign-offs from them
19 before we issue the permit.

20 Q. When you say "mechanical and
21 electrical," are you talking about a determination of
22 whether or not mechanical permits and electrical
23 permits have both been issued?

24 A. Not issued. But the plans had been
submitted and that they were -- the senior was,

EXHIBIT

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29-14

1 typically, the plan review of staff for those specific
2 sections.

3 Mechanical, as in a warm air heating
4 ventilation.

5 Q. HVAC?

6 A. HVAC, right.

7 (Exhibit 8 marked.)

8 BY MR. MILLER:

9 Q. Mr. Bloom, I'm showing you what's been
10 marked as Exhibit Number 8. Could you take a look at
11 that, please.

12 A. Okay.

13 Q. Do you recognize that?

14 A. Yes, I do.

15 Q. What is that?

16 A. That is an application for the project
17 at the Commodore Hotel for remodel of the existing
18 restaurant.

19 Q. And down at the bottom, it says permit
20 number. Is that the permit number that was assigned to
21 what we refer to as the Commodore project?

22 A. When the application is submitted at the
23 front counter, a permit number is issued, which
24 attaches to the permit and the plans, subsequently.

Q. And the date on this application is

EXHIBIT

29-15

1 February 2nd, 2012, correct?

2 A. That is correct. 2000 --

3 Q. Are you pointing to the date?

4 A. Yeah. Is that 2002 or '12?

5 Q. '12.

6 A. Okay.

7 Q. When did you first see this
8 application?

9 A. I don't recall.

10 Q. At some point, you did see it?

11 A. Yes, absolutely.

12 Q. Okay.

13 A. I signed off on it at the bottom,
14 "Reviewed by," and, "JB" are my initials.

15 Q. Okay. So it looks like this was
16 actually received by you?

17 A. No. This would have been reviewed.
18 This is, when I finish my review, I sign off.

19 Q. So that's the review mark?

20 A. That is correct.

21 (Exhibit 55 marked.)

22 BY MR. MILLER:

23 Q. I'm showing you what's been marked as
24 Exhibit Number 55.

A. I'm sorry, what?

EXHIBIT

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1 Q. I'm showing you --

2 A. Oh, yes.

3 Q. Do you recognize that? Take an
4 opportunity to look at it.

5 A. Yeah. Yes, I recognize it.

6 Q. After the application, Exhibit
7 Number 8 -- did you want to keep on looking at Exhibit
8 55?

9 So after the application was brought
10 in -- this one, presumably, went to the front desk, as
11 you indicated -- that application went to you; is that
12 correct?

13 A. That is correct, and the plan.

14 Q. And the plan. When you say "the plan,"
15 are you talking about Exhibit 55?

16 A. I am talking about Exhibit 55.

17 Q. Do you remember if there was anything
18 else that was submitted?

19 A. No, I don't. I'm sorry.

20 Q. Typically, would there have been other
21 information? If you don't --

22 A. No, I don't recall.

23 Q. Okay.

24 A. I don't know. A remodel is different
than redoing a space or altering a space. Because, at

EXHIBIT

29-17

1 that point, you would have the HVAC plans and
2 electrical plans, where it may not be necessary with a
3 remodel only, depending on the scope of work being done
4 on the whole thing. If they are changing everything
5 up, of course, it would be required.

6 Q. Mr. Bloom, I'm handing you a yellow
7 highlighter, and I would like you to, with the
8 highlighter, outline, in accordance with the symbol key
9 for existing, where the line is, where that line is.

10 A. Could you restate that?

11 Q. You see the symbol for existing?

12 A. Correct.

13 Q. I'd like to have that outlined.

14 Thank you.

15 A. Uh-huh.

16 Q. Was this the plan that was eventually
17 permitted?

18 A. That, I don't recall. I'd have to take
19 a look and see if it is signed on the back. I don't
20 believe so, because there are no stamps on it. Does
21 this one have a stamp on the back? Was this only --

22 Q. After the application and plan was
23 submitted, what happened? What's the next step?

24 A. Then I do my review function and check
with zoning, if necessary, with -- in this case, there

EXHIBIT

tabbles

29-18

1 was a licensing -- it came into it on a smaller --
2 right in this area, I believe it was, there were a
3 couple rooms that had changed.

4 I believe there were some other plans
5 that had the existing -- some existing spaces, from
6 what it was and what was being changed. Or it may have
7 been a different permit. I'm not positive.

8 Q. So you reviewed the plans?

9 A. Yes.

10 Q. And then you sent this to zoning?

11 A. I would have verified with zoning that
12 this is -- this is the area that is being worked on.
13 Do you need to do a formal review on it? And the
14 answer would have been, no, because it was the same,
15 except for this small area that we had discussed.

16 Q. When you say small area that you had
17 discussed --

18 A. There were a couple rooms here. That's
19 what is confusing me. I recall having another plan
20 that showed the rooms that were there and how it had
21 changed.

22 Q. The area that you are pointing to, just
23 for the record, is, I guess, in the southeast corner of
24 the area that you outlined.

A. Right in here.

EXHIBIT

tabbles
29-19

1 Q. Let me give you -- I'm handing you a
2 green --

3 A. There's some modification right in here.
4 I can't remember exactly how it played out. There were
5 a couple rooms there that were changed, and all of a
6 sudden, it became seating. I think it was an office
7 area or something.

8 Q. Was that a zoning issue?

9 A. We would have looked at zoning. And
10 then it was -- the licensing came up, for some
11 reason -- I don't know why -- that the licensing was
12 covering that area.

13 Q. How did licensing find out about it?

14 A. I don't know. I don't know how. I may
15 have taken it up to Christine Rosek just to ask her.

16 Once in a while, if there was something
17 that we knew somebody was being -- it would be prudent
18 to check licensing to make sure that they could get a
19 license for what they were going to be doing. That is
20 all.

21 Q. Can you remember what happened with the
22 people in zoning?

23 A. Yeah. It was fine, yeah.

24 Q. Who else in the plans review section
reviewed the plans?

EXHIBIT

tabbies

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1 A. I don't recall.

2 Q. Was there anybody else, besides
3 yourself, that looked at this from a building code
4 perspective?

5 A. I don't recall. You mean, during the
6 review process?

7 Q. During the review process.

8 A. Permit review process?

9 Q. During --

10 A. I don't believe so, but I'm not
11 positive.

12 Q. I'm talking about the period of time up
13 until August, the review of the initial applications
14 and plans that came in.

15 A. No, I believe I was the primary. If
16 somebody else happened to look at it, I don't recall.

17 Q. Do you remember what happened after you
18 had completed your review? How was the information --
19 let me put it this way. How was information concerning
20 your review, the review of the zoning people, review of
21 licensing --

22 A. When we finished, I reviewed the permit
23 and the application. And the plans are put at the
24 front counter where you originally fill out the
application for pickup.

EXHIBIT

29-21

1 Q. Did the package that was going to be
2 picked up have comments in it, a list of to-do things,
3 a list of things that needed to be changed?

4 A. There would have been notes on the
5 plans.

6 Q. Okay.

7 A. That's correct. So I don't believe that
8 this is the plan that was the final approved plan.
9 This is the original plan that was submitted.

10 Q. What did you do about SAC at that
11 particular time during the initial review process,
12 anything?

13 A. I would have reviewed the spaces that
14 were being used and seen if they were the same as what
15 the intended use was going to be, if the numbers didn't
16 push it into additional SAC charges.

17 Q. Is that review based solely on current
18 use and intended use --

19 A. Correct.

20 Q. -- as you understood it?

21 A. Correct. At that time -- for example,
22 at that time, sit-down dining was at one rate.
23 Cocktail area is done at a different rate. Okay. So
24 that may have been why there was a wash with the
additional seating and adjustment.

EXHIBIT

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1 Q. That there was a wash?

2 A. That -- I don't believe there were any
3 additional SAC charges on this. No, no additional SAC
4 charges.

5 Q. Your review is that this plan, as it was
6 brought in and approved, didn't trigger any SAC?

7 A. That is correct, for the area intended
8 for this permit.

9 Q. The area right now that is --

10 A. That is marked, correct.

11 Q. -- in yellow?

12 Okay. Can you remember what notes, if
13 any, would have been on the plans that were in the
14 package to pick up?

15 A. Exit lighting, exit signage. No, I
16 don't. I can't recall everything.

17 Q. Exit lights and signage were something
18 that --

19 A. Just very standard, correct.

20 Q. No zoning or SAC issues?

21 A. No, not for the intended area for this
22 permit application.

23 (Exhibit 123 marked.)

24 (Discussion off the record.)

BY MR. MILLER:

EXHIBIT

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1 Q. Mr. Bloom, I'm showing you what has been
2 marked as Exhibit 123.

3 A. Yes.

4 Q. Do you recognize that?

5 A. Yes.

6 Q. It's --

7 A. It's a subsequent plan that was
8 submitted for this permit with some clarifications
9 of -- some alterations of areas.

10 Q. And for the record, I want you to
11 confirm that this is the 5/7/2012 revision.

12 A. Yes.

13 Q. And is this the plan that was eventually
14 permitted, to the best of your recollection?

15 A. This was the plan that was used for the
16 permit that was applied for; that is correct.

17 Q. So the record is clear, so there's no
18 mistake, I'm showing you a document which Ms. Skarda
19 and I have, on a previous occasion, agreed had the
20 markings. This is the document that became the plan
21 that was, in fact, permitted, and the stamp on that is
22 on the back. It is in red.

23 A. Uh-huh.

24 Q. And I have a copy of just the stamped
25 area that I'm going to introduce as an exhibit or offer

EXHIBIT

29-27

1 as an exhibit.

2 (Exhibit 122 marked.)

3 BY MR. MILLER:

4 Q. Go ahead and take a look at Exhibit 122.
5 Does that appear to be a true and correct copy of the
6 stamp on the back of the document?

7 A. Yes, it is.

8 Q. Looking at the stamp, Exhibit 122, over
9 here, it is not very legible. I think it says received
10 for code compliance.

11 A. "Reviewed for code compliance."

12 Q. That's dated --

13 A. 8/28/12.

14 Q. There's two initials there.

15 A. John Skradski's and mine, Jim Bloom.

16 Q. Over here --

17 A. The plan was resubmitted. The plan was
18 resubmitted on 5/17/12.

19 Q. So based on all that information, that
20 was the plan that was eventually permitted, correct?

21 A. That is correct.

22 (Exhibit 4 marked.)

23 BY MR. MILLER:

24 Q. I'm showing you what's been marked as
Exhibit Number 4. Do you recognize that?

EXHIBIT

29-25

1 A. Yes. That would have been the permit
2 that was issued for the application, tied to the
3 application. It has the same number. For the
4 application, the number is assigned at the time it is
5 entered. The same number is used on the permit when it
6 is issued.

7 Q. Would Exhibit 123 be the plans that went
8 along with the permit?

9 A. The plans that were used for the permit
10 that was applied for; that is correct.

11 Q. The permit that is issued is Exhibit 4,
12 correct?

13 A. That is correct.

14 Q. Now, I have one other question on the
15 stamp. It indicates -- again, that's illegible. I'm
16 looking at the stamped area on Exhibit 122 farthest
17 over to the left, "City of Saint Paul" --

18 A. "Reviewed for code compliance."

19 Q. What is the next line down?

20 A. "Architectural."

21 Q. And is that --

22 A. And then the date.

23 Q. The architectural has a different
24 number?

 A. The architectural is the number that's

EXHIBIT

tabbies'

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1 assigned to the plan, and that's what's stamped on the
2 back of the plan. It is for our filing system.

3 Q. So the plans have a different number --

4 A. That is correct.

5 Q. -- than the permit number?

6 A. That is correct. But that is also
7 marked on the application and marked on the permit when
8 it is issued --

9 Q. Right.

10 A. -- as well. It all ties together.

11 Q. And that's in the area calling for
12 office-use only?

13 A. That is correct.

14 Q. Let me back up a little bit.

15 A. Uh-huh.

16 Q. After these plans, Exhibit 123, were
17 received -- and it looks like it came in on May 17th.
18 Who conducted the review?

19 A. Apparently, John Skradski and I both
20 looked at these. I didn't recall that John had looked
21 at them, as well.

22 Q. Do you know who did the coupling on
23 Exhibit 123?

24 A. No, I do not.

Q. So it is clear, Mr. Skradski and you

EXHIBIT

29-27

1 looked at 123 --

2 A. Uh-huh.

3 Q. -- the first revision. Did you send
4 them over to zoning again?

5 A. The application had not been altered, so
6 the scope of work, as far as I was concerned, was the
7 same as previously, the area that I highlighted on the
8 previous plan.

9 The indication of the existing work on
10 these plans, to me, is the architect's scope of work
11 that he's showing on his plan.

12 Q. Can you --

13 A. To me, it was not the permit
14 application, what was being applied for with the
15 application, because there was no alteration to the
16 application or supplemental application for additional
17 work, scope of work. Now, that was my recollection.

18 Q. Can you, with the yellow highlighter
19 again, looking at the scope of interior alteration
20 work --

21 A. That's the architect's scope of work.
22 I'll clarify something.

23 Q. Sure. Why don't you go ahead and just
24 finish outlining there.

MS. SKARDA: It is kind of shiny.

EXHIBIT

29-28

1 THE WITNESS: Yeah.

2 BY MR. MILLER:

3 Q. Could you explain, on the record, the
4 difference between the yellow line, the yellow
5 highlight, that you showed on Exhibit 123 and on
6 Exhibit 55.

7 A. The area, the west dining area is
8 included in the architect's scope of work, which he had
9 not included on the previous plan.

10 Q. Could you mark the outline of the west
11 dining area on Exhibit 123 with a green highlighter.

12 When you reviewed 123, Exhibit 123,
13 after it came in, did you notice that the scope of the
14 interior alteration work was different than the
15 existing?

16 A. Yes, I did.

17 Q. You did?

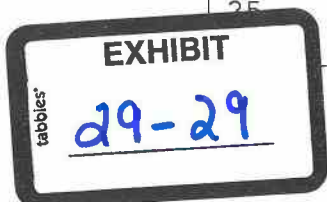
18 A. Yes.

19 Q. And was --

20 A. To me, that was the architect's scope of
21 work. He had finished more of the project. But I
22 still was only reviewing that portion that had been
23 submitted under application.

24 Q. And why wouldn't you review it for --

25 A. I could not have -- well, one is I would



1 have gone to zoning and had zoning sign off on the west
2 dining room. There would have been a SAC
3 determination. That was just standard operating
4 procedure.

5 I could not have issued a permit because
6 the exiting would not have been compliant, because this
7 is a future stair. And I cannot issue future exits for
8 a project.

9 And that clearly says future -- new
10 exterior construction by separate permit with HVAC
11 approval. I couldn't -- I could not have had gone
12 along with or approved that exiting system, because it
13 is non-compliant.

14 So I mean, that tells me that this was
15 not reviewed and under the scope. It wasn't under the
16 scope of work. That's why I didn't -- I would not have
17 approved that.

18 Q. Did you make any inquiry why the west
19 dining room showed up as being within the scope of
20 interior alteration?

21 A. No, I did not. Sometimes architects
22 will include additional areas of work so that it is
23 clear that -- it is like a puzzle -- it is all going to
24 work together in the future. You can have somebody's
eyes on it that, yes, this is going to work, but it is

EXHIBIT

29-30

1 not part of the permit at this time. That was my
2 understanding.

3 Q. So are you saying you didn't review
4 anything that had to do with the west dining area?

5 A. I would have looked at it to make sure
6 that it was going in the right direction, absolutely.
7 For example, the exit and the future stair, under
8 separate permit, yeah, when that comes in for permit,
9 yes, that's going to work. It connects back into the
10 space, and it connects it directly to the exterior.

11 Q. I'd like you to take a look at the --
12 let me back up. What were some of the other things
13 that changed between --

14 A. I think there were some alterations in
15 the lift area.

16 Q. You are talking about the lift area --

17 A. The future lift.

18 Q. That's at about Symbol 117?

19 A. Future accessible platform lift; that's
20 correct.

21 Q. That would be the lift at 117,
22 correct?

23 A. Correct, uh-huh.

24 Q. What else changed?

A. I don't think there were any significant

EXHIBIT

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29-31

1 changes, that I recall. I see a table.

2 Q. How would those changes have been
3 indicated on Exhibit 123?

4 A. I do not understand your question.
5 Rephrase.

6 Q. There are changes that are on 123,
7 correct?

8 A. Uh-huh, correct.

9 Q. How are those indicated by the
10 architect?

11 A. They are not. Oh, the drawings have
12 been altered, but it is not specifically indicated, the
13 area that has been altered. Some of it is furniture.
14 Okay. Some of it -- in the lift area, there was a wall
15 taken out. It made it bigger.

16 Q. Did you compare the plumbing fixture
17 scope of work indications or portions on 155 with the
18 plumbing fixture indications on the top of 123?

19 A. I don't recall.

20 Q. As part of your site plan review, would
21 you usually make a determination of whether or not the
22 plumbing fixtures were adequate for the scope of the
23 work, as you understood it?

24 A. I normally would, yes. I just don't
recall doing it on this one.

EXHIBIT

tabbies®

29-32

1 Q. So as far as you know, only you and John
2 Skradski reviewed Exhibit 123?

3 A. As far as I recall now.

4 Q. And you don't believe that they were
5 sent to zoning?

6 A. Not the second time, no, correct.

7 Q. And how about licensing?

8 A. No, it wouldn't have gone to
9 licensing.

10 Q. Who made the determination that the
11 plans incorporated in Exhibit 123 were approved?

12 A. I did.

13 Q. After you did that, is that when you
14 filled out the architectural review stamp?

15 A. Correct.

16 Q. That's on 122. So that final approval
17 would have been on August 28th, 2012?

18 A. That is correct.

19 Q. Is there anything else that you did to
20 review these plans, other than what you've testified to
21 today? When I say "these plans," I'm talking about
22 123.

23 A. Not that I recall.

24 Q. How long did it take you to go through
and review all the plans, if you remember?

EXHIBIT

29-33

1 A. I don't remember. I don't remember. It
2 has been on and off, you know. Sometimes things are
3 going to be coming in or -- I just don't recall.

4 Q. Do you recall if you or Mr. Skradski
5 spent more time reviewing them?

6 A. I believe, I did, but I'm -- you know,
7 I didn't even recall that John had reviewed them, so I
8 don't know how much time he spent on them.

9 Q. Can you remember if the plans that you
10 reviewed were the colored plans, i.e. -- what I mean by
11 that, basically, that look exactly like 123.

12 A. Without seeing the originals -- are
13 those the originals?

14 MS. SKARDA: No.

15 THE WITNESS: No. Without seeing the
16 originals, I can't answer that.

17 MR. MILLER: Could we go off the record?

18 (Discussion off the record.)

19 BY MR. MILLER:

20 Q. Mr. Bloom, would you have stamped two
21 different copies? How many copies do you usually
22 stamp?

23 A. Two copies.

24 Q. Two copies?

25 A. One goes to the job site, and one is in

EXHIBIT

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1 our files. They should be corresponding.

2 Q. This would be one of the originals?

3 A. That's my -- it should be, yes, unless
4 they are copied. I don't believe it is copied.

5 MR. RUPP: John, could I speak with you
6 one second?

7 (Recess.)

8 BY MR. MILLER:

9 Q. Mr. Bloom, could you take a look at
10 Exhibit 4. Could you identify that, again.

11 A. That is the permit that is tied to the
12 application.

13 Q. That has the permit number on it?

14 A. Yes, it does.

15 Q. And the date on it is August 30th,
16 2012?

17 A. The issuance date for the permit; that
18 is correct.

19 Q. And you approved the plans on the 28th
20 of August, and so I'm assuming that it just took a
21 couple of days to go through the final steps in order
22 to have this issued.

23 A. No. It took a couple days before the
24 applicant came in to pick it up.

Q. Okay.



1 A. When it is approved, it goes to the
2 front counter and sits. Sometimes it will sit there
3 for months.

4 Q. Okay.

5 A. So yeah.

6 Q. Thanks for that clarification.

7 A. Okay.

8 Q. So your approval on the stamp that we're
9 looking at --

10 A. Then it goes to pick up.

11 Q. And then a notice gets sent to the
12 applicant?

13 A. Yeah.

14 Q. Then the applicant comes in. When they
15 come in, that's when the building permit is issued?

16 A. Yes.

17 Q. If we look at Exhibit Number 4, that has
18 the same permit number on it. It is dated, and it has
19 a number of items down in the middle of the page,
20 change or expansion of use. All these items here, who
21 filled them in?

22 A. I would have filled those out.

23 Q. All of that information that you filled
24 in there was based on information that you had gathered
together during your review process?

EXHIBIT

29-36

1 A. During my review process, yes.

2 Q. And the review of documents that the
3 applicant had left and your understanding of what
4 needed to be done?

5 A. Yes, that is correct.

6 Q. Let's go back to Exhibit Number 123.

7 A. Yes.

8 Q. If the applicant wanted to add the west
9 dining area to the plans --

10 A. Uh-huh.

11 Q. -- what exactly should the architect
12 have done, other than what the architect did by saying
13 scope of interior alteration work?

14 A. That was his scope of his architectural
15 expertise or design of this project, of the overall
16 project.

17 Q. If the west dining area was intended to
18 be added, how should it have been designated?

19 A. It should have been designated on the
20 application. There should have been a supplemental
21 application and a different valuation of the project or
22 an alteration to this application, which is another
23 possible way of doing it, which would have been noted,
24 under the remarks, that supplemental or additional
work, scope of work, to be included under this

EXHIBIT

29-37

1 application. And valuation would have been increased
2 for the additional work that was going to be
3 constructed.

4 Q. Okay.

5 A. That's why I did not believe it was
6 included in it, because the application still was
7 sticking -- my understanding was that it was still
8 under the same scope of work that the application was
9 for originally. That's what I was looking for.

10 Q. When you say "the application," just for
11 the record, you're referring to Exhibit 8?

12 A. Yes, I'm sorry, Exhibit 8, correct.

13 Q. So that message that the west dining
14 area was to be included would have been on the
15 application?

16 A. On this application or a supplemental
17 application, which is another way of doing it.

18 Q. How --

19 A. Supplemental in that it would have
20 referenced this number. It would have had a new number
21 but referenced this number.

22 Q. Would there have been a change, then, to
23 the plans? I'm looking at Exhibit 123. What change
24 would have been made to Exhibit 55 to show --

A. One of the things, depending on what the

EXHIBIT

29-38

1 use was previously here, there, most likely, would have
2 been required HVAC and electrical plans at the time of
3 the architectural plans to be reviewed at the same time
4 by the other disciplines.

5 On existing spaces, when existing
6 systems are being reused, that isn't always necessary.
7 Okay. But when it's a new space or an expansion or a
8 reuse or redo of a space, it may change an occupancy
9 group. So the air handling systems, the BTU's
10 necessary for makeup air for dining is different from
11 what it would be for exercise, than it would be for
12 office. Those items would be reviewed at that time.

13 Q. What should have been indicated on the
14 plans to revise the plans on the first revision to
15 indicate that the west dining area was intended to be
16 part of the project?

17 A. The plans would not have shown --
18 necessarily, have shown that.

19 Q. Okay.

20 A. It would have been the application that
21 would have shown that.

22 MR. RUPP: John, can I see you for one
23 second?

24 (Recess.)

BY MR. MILLER:

EXHIBIT

29-39

1 Q. Mr. Bloom, I'm still trying to figure
2 out exactly what the City's policy is with respect to
3 changes between an application and changes to plans as
4 they come in. Could you describe specifically what the
5 City's policy is regarding that. In other words, if,
6 for instance, 55 had come in --

7 **A. I'm sorry, 55?**

8 Q. Exhibit 55.

9 **A. Thank you.**

10 Q. -- had been coming in, and just looking
11 at this --

12 Let me ask the question this way. Are
13 there any changes that could have been made to Exhibit
14 Number 55 that wouldn't require an amended
15 application?

16 **A. I can't answer that.**

17 MR. RUPP: John, give me one more time.
18 I'm sorry about this.

19 (Recess.)

20 BY MR. MILLER:

21 Q. Mr. Bloom, on the application, the
22 General Building Permit Application, Exhibit Number 8,
23 there's a description of the project, "Interior
24 remodel."

A. Correct.

EXHIBIT

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29-40

1 Q. And on Exhibit 123, it states, "Scope of
2 interior alteration work." Is there any indication on
3 Exhibit Number 8 that the interior remodel contemplated
4 by the application did not include the west dining?

5 A. There is nothing on the application that
6 indicates that it does or does not include the west
7 dining.

8 Q. So Exhibit Number 123 came in on May
9 17th.

10 A. Okay.

11 Q. And here, it states, "Scope of interior
12 alteration work."

13 A. Uh-huh.

14 Q. It doesn't say "existing," as on 55. It
15 says, "Scope of interior alteration work." How is that
16 different from "interior remodel" that's indicated on
17 the application?

18 A. On the application -- I'm still going to
19 just state that the original and existing space that
20 was tied to the application was the scope of work of
21 the interior remodel that I reviewed for, and that was
22 code compliant for permit issuance.

23 Including the west dining room with the
24 future exit stair, as indicated on the plans, is not
code compliant, and I could not have approved that

EXHIBIT

tabbies

29-41

1 plan.

2 Many times, architects will submit plans
3 that show additional work that's going to be done or
4 alterations to their space, because they want to make
5 sure that what they are doing is okay. Okay. It is of
6 their doing, not necessarily something that is a
7 correction that was required for compliance of code.

8 That was -- that would have been the
9 case in the existing dining area and the alterations
10 that were made there, such as the lift area. There's
11 some tables here that were altered.

12 MR. RUPP: John, one more question.

13 Sorry about this.

14 (Recess.)

15 BY MR. MILLER:

16 Q. Mr. Bloom, again, what exactly on
17 Exhibit 8 would have had to have been added in order to
18 incorporate the west dining area into the project?

19 A. One of the things that would have
20 indicated that there was a change or additional work
21 being done was the valuation would have increased.

22 Q. What else?

23 A. Also, under the description, it would
24 have said adding an additional area of work.

Q. Where would it have said that?

EXHIBIT

29-42

1 A. Under the interior remodel to include
2 west dining area, dining room, west dining room.

3 Q. What else?

4 A. That's it.

5 Q. What change would have been made to the
6 plans?

7 A. Well, as stated earlier, there would
8 have been mechanical and electrical plans that would
9 have been required, as well as the architectural. The
10 SAC determination would have been done by Metropolitan
11 Council.

12 Q. I understand that.

13 A. Okay.

14 Q. Those are the things that --

15 A. Okay.

16 Q. -- you claim would have had to have been
17 done. What on the --

18 MR. RUPP: John, one more question.

19 I am so sorry about this. This is a
20 critical question, and the way this process works is
21 idiotic, because I can't ask the question. We have to
22 leave the room.

23 (Recess.)

24 BY MR. MILLER:

Q. Mr. Bloom, go back to the former issue

EXHIBIT

29-43

1 we were talking about. I believe that you indicated
2 that, if the west dining area was included in it, that
3 would have required a mechanical and electrical permit;
4 is that correct?

5 A. That is correct.

6 Q. And why would they have been required?

7 A. As I recall, the west dining was not
8 dining at the time, at the current -- at that current
9 time. So it would have been a change of use.

10 Q. Is that the sole reason?

11 A. Yes, it is.

12 Q. And how did you come to the conclusion
13 that there was a change of use?

14 A. I believe it was talking with Mr. Rupp,
15 because we had discussed that, what John had intended
16 to do with that space. I think it came up in
17 conversation. That's the best of my recollection. It
18 is pretty loose, but it was -- it was from
19 conversation. I believe it was with Mr. Rupp.

20 Q. Did you discuss that with any of the
21 other people from the City?

22 A. I need to have a little bit more
23 clarification of your question.

24 Q. Change of use.

A. No, no, I did not.

EXHIBIT

29-44

1 Q. So exactly what did Mr. Rupp tell you?

2 A. I don't recall exactly. But it wasn't
3 dining. It wasn't a dining room at that specific time,
4 that he was going to change it back to dining. That's
5 my recollection. I believe it had been dining at some
6 point. But it wasn't current -- or it hadn't been just
7 previously used as dining use. It had been used as
8 something else.

9 So a change of use would have been
10 indicated on the application and some of the other
11 formal reviews with Met Council for the SAC
12 determinations.

13 Q. Would a SAC determination have been
14 required if the goal was no legal change of use?

15 A. If there were no -- if the previous use
16 was the same use, remodeling an existing use, no, a SAC
17 determination would not be required. That all depends
18 on the scope of work within that space. You can do a
19 remodel. You can do a remodel of existing, keeping
20 things the same. You can do a remodel where you alter
21 some space and alter seating, even though it is the
22 same use. But you may increase seating; therefore,
23 there's a SAC determination.

24 You'd have to look at the scope of the
25 work within that same type of use. So it could

EXHIBIT

29-45

1 determine -- or could require a determination of SAC.

2 MR. RUPP: Could I ask a friendly
3 question, so we don't go in and out of the room?

4 THE WITNESS: Oh, absolutely,
5 absolutely, as far as I'm concerned.

6 MS. SKARDA: Okay.

7 MR. RUPP: This is on the SAC question.
8 Legally, if you have a building that's built for a
9 restaurant use --

10 THE WITNESS: Yeah, yes.

11 MR. RUPP: -- and no -- there's never
12 been any other legally-established use, but that use
13 doesn't get built timely -- in this case, 40 years
14 passes between the building of the room for restaurant
15 use and actually completing it under this permit. In
16 that case, assuming those facts would be accurate,
17 hypothetically, is a SAC determination needed?

18 THE WITNESS: I would require Met
19 Council to agree to the way I would be proposing it. I
20 would propose that, if it were a dining area --

21 MR. RUPP: Built as a dining room?

22 THE WITNESS: Built as a dining area
23 and, subsequently, there had been other uses --

24 MR. RUPP: Nothing legally
established.

EXHIBIT

tabbles

29-46

Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

1 THE WITNESS: Nothing that was ever on
2 paper that it was a dining area. That's the way I
3 would propose it. But I'm pretty -- fairly lenient.

4 MR. RUPP: Just to clarify, I'm not
5 being argumentative.

6 THE WITNESS: No.

7 MR. RUPP: When you say "proposing
8 it" -- so you are the planning examiner. You've got to
9 go talk to the Met Council, which, of course, wants SAC
10 determination.

11 THE WITNESS: I should have clarified
12 that. Sometimes I can say, John, go talk to Met
13 Council, boom, be done with it.

14 MR. RUPP: Okay.

15 THE WITNESS: Personally, I view Met
16 Council as being a little harsh in the determinations.
17 So sometimes --

18 MR. RUPP: I agree with you on that
19 point right away.

20 THE WITNESS: So sometimes I think they
21 may be a little harsh on the determinations, so I will
22 do some of the homework on a building or a use and say
23 this is what it has legally been. There has been no
24 legal change to it whatsoever. I wanted to -- is it
okay that we don't have a change of use or additional

EXHIBIT

29-47

Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

1 SAC charges, because now it is going back to the same
2 number of seats that it was previously, that it was
3 legally used for?

4 And I would pitch that to the Met
5 Council, instead of having someone that may not have
6 any clue just going over there having them do their
7 magic. And they would just look at what it was used
8 for, not legally used for, but used for, and make the
9 determination which would --

10 MR. RUPP: Just a clarifying question on
11 that. That's kind of my understanding, too.

12 THE WITNESS: Yeah.

13 MR. RUPP: Isn't the way you do that
14 filing an affidavit? We've seen copies after you were
15 gone --

16 THE WITNESS: Yeah.

17 MR. RUPP: -- of affidavits filed by the
18 City to the Met Council --

19 THE WITNESS: Yeah.

20 MR. RUPP: -- in which City officials
21 said exactly what you said --

22 THE WITNESS: Yeah.

23 MR. RUPP: -- this is our view on
24 what --

THE WITNESS: Correct, Absolutely.

EXHIBIT

29-48

1 MR. RUPP: Is it normally the case that
2 Met Council then, in a sense, stops its due diligence
3 and believes the City at that point?

4 THE WITNESS: Absolutely not.

5 MR. RUPP: Not. So they --

6 THE WITNESS: My opinion is not -- let
7 me give you an example. We will make a determination.
8 Somebody will go on the Internet from the Met Council
9 and see that a use has changed or what was approved and
10 what our understanding was, but they used it a little
11 differently than what had happened, and they'll go
12 after them.

13 MR. RUPP: I see. So the Met Council
14 uses a City affidavit as part of their due diligence
15 when they try to figure out what's going on there?

16 THE WITNESS: That is correct.

17 MR. RUPP: Thank you.

18 THE WITNESS: Maybe I shouldn't say it
19 out of school.

20 (Exhibit 120 marked.)

21 BY MR. MILLER:

22 Q. Do you recognize this?

23 A. Yes, I do, vaguely, to be honest.

24 Q. Just for the record, I'm handing you the
exhibit that has been marked as 120.

EXHIBIT

tabbies
29-49

1 A. Yes, 120, Exhibit 120.

2 Q. It is the same that you just were
3 looking at.

4 A. Yes, it is.

5 Q. Basically, this is what? Can you
6 describe, for the record, what is Exhibit 120?

7 A. It is a letter in response to -- it
8 appears that another application was made for the west
9 dining area. There's a separate number here.

10 Q. There appear to be two permits on
11 there?

12 A. Yes, there are. The original is the
13 614, 12-017614, or Exhibit 8.

14 Q. I think we can add some clarification to
15 what the other one is.

16 (Exhibit 118 marked.)

17 BY MR. MILLER:

18 Q. Mr. Bloom, I'm showing you what's been
19 marked as Exhibit 118. Could you take a quick look at
20 that. Just familiarize yourself with it.

21 A. Yes.

22 Q. Do you recognize that?

23 A. No, I do not.

24 Q. Can you identify what it is?

 A. It is a permit for adding a stair, I

EXHIBIT

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29-50

1 believe, to the west dining area, the exterior stair,
2 Number 12, on Exhibit 123.

3 Q. And the date on that, in the upper
4 right-hand corner, says "9/4," September 4th, correct,
5 of some year?

6 A. Of some year, correct.

7 Q. We'll just go through and clarify. Down
8 at the bottom, there is a -- this is covered up with
9 part of the exhibit sticker. There's a number down
10 there.

11 A. Oh.

12 Q. That, I will represent, is the permit
13 number.

14 A. The permit number is the 15-157004.

15 Q. That's exactly correct. So this is not
16 the same permit as Exhibit Number 8?

17 A. No, it is not.

18 Q. This has to do, I think you correctly
19 pointed out, with the door.

20 A. Correct, the exit door and stair for the
21 west dining on the southwest corner of the building.

22 Q. 15-, that would indicate that is --

23 A. The year '15, 2015.

24 Q. 2015. So with that in mind, we can go
back to 120. It would appear that Exhibit 118 is the

EXHIBIT

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1 other permit that you are talking about there; is that
2 correct?

3 **A. That is correct.**

4 Q. Okay. So it appears to be, in the
5 introductory sentence -- for the record, this is an
6 email from Mr. Bloom to Jim Williamette; is that
7 correct?

8 **A. I'm sorry?**

9 Q. This is an email?

10 **A. That is correct.**

11 Q. From you, September 17th, 2015, to James
12 Williamette?

13 **A. Correct.**

14 Q. And it is copied to Steve Ubl?

15 **A. Correct.**

16 Q. In the first sentence, it talks about,
17 "This is a brief history and clarification of scope of
18 work for Building Permit," and then it gives the last
19 five digits, 17614. That's the main building permit,
20 isn't it?

21 **A. The 614, 12-017614, correct.**

22 Q. That is Exhibit 8?

23 **A. 8.**

24 Q. It also talks about 15-157004. That is
the stairway exit building permit. And that talks

EXHIBIT

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1 about required review and approvals for that permit?

2 A. That is correct.

3 Q. What, if anything, on Exhibit Number 120
4 states that the west dining area is not included in
5 Permit Number 12-017614, Exhibit 8?

6 A. The note. Under building permit number
7 12-017614, the plan note regarding future construction
8 in west dining room would indicate that that permit was
9 that the west dining, to me, was going to be future
10 work.

11 Q. Okay.

12 A. And then the permit for doing some work
13 in that west dining room was under 15-157004, and these
14 were just items that I had noted to Mr. Williamette and
15 Mr. Ubl that I had noted that would have to be resolved
16 for permit issuance --

17 Q. So --

18 A. -- of that 15 permit.

19 Q. And so you are talking about, in order
20 to get the permit for the exit stair, the west dining
21 room had to be totally approved, the west dining area?
22 I'm looking at your notes with respect to building
23 permit --

24 A. Right.

Q. -- that these needed to be done prior to

EXHIBIT

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1 any construction, presumably construction relating to
2 the exterior exit?

3 A. Sometimes I've made assumptions that, if
4 someone is putting in an exit stair, their intention is
5 to be utilizing the space that had been indicated on
6 the plan.

7 Those were the items that would need to
8 be resolved for somebody -- not just to put in an exit
9 stair without any intended use of the space. I mean,
10 that's the way I would have looked at it.

11 Q. So you are saying that the --

12 A. This indicates that I was aware of these
13 items that needed to be resolved when I had looked at
14 the plans that showed the scope of work that had
15 increased for the architect's plan. But the permit
16 hadn't -- hadn't addressed it, or these items would
17 have been addressed at the time, under the 614, the
18 12614, permit. Those are the items I would have
19 included in the SAC.

20 Q. So you are saying that the applicant
21 simply could not have put in an exit staircase?

22 A. Oh, absolutely, that person could put in
23 an exit stair if they wished to put in an exit stair.
24 It doesn't make a whole lot of sense.

25 Q. They could have done that?

EXHIBIT

29-54

1 A. If they got approval for doing that.
2 One of the approvals would have been Metropolitan
3 Council approval. The license wouldn't have to be
4 included. Mechanical plans, electrical plans wouldn't
5 have to be submitted. That is correct.

6 Q. Zoning review and approval and SAC?

7 A. My recollection, though, is this stair
8 was constructed prior to any permit, and this may have
9 been a permit to play catch-up on the construction of
10 that stair. That's just -- that just is some vague
11 memory that's going on, you know. I've been away for a
12 while. There is a memory of construction. And this
13 may have been to facilitate the construction of that
14 stair. That's why it was just for that portion.
15 That's -- it is little bits and pieces.

16 MR. RUPP: One more question. Could
17 I --

18 Therese, is that okay, one question?

19 MS. SKARDA: I'm sorry?

20 MR. RUPP: Another question from me,
21 would that be okay?

22 MS. SKARDA: Yeah.

23 MR. RUPP: One of the questions that
24 confuses me is why we're in this situation.

 THE WITNESS: Yeah.

EXHIBIT

tabbies

29-55

Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

1 MR. RUPP: There is kind of a
2 chicken-and-the-egg problem. Earlier in your
3 testimony, you were saying that you can't -- a permit
4 for the west dining room couldn't be granted because
5 there was no fire exit stairway.

6 THE WITNESS: There was no legal --

7 MR. RUPP: You are saying, in order to
8 get the fire exit stairway, you have to do work on the
9 inside of the space that you can't do without the
10 building permit. If you follow these, you couldn't do
11 the work on your notes without having a permit of
12 design.

13 THE WITNESS: Well --

14 MR. RUPP: Let me -- so that's the
15 dilemma. I was -- so how do you resolve that? So
16 here's the question. In your view, would it have been
17 required to file the permit, which is this 15, and
18 build the fire stair and then come in and build the
19 interior? Because I think that's what your testimony
20 implied. Did I misunderstand that?

21 THE WITNESS: I believe you
22 misunderstood that, John.

23 MR. RUPP: How would that work? I
24 thought you couldn't get the permit for the dining room
unless the west stair had been built.

EXHIBIT

29-56

1 THE WITNESS: You can get the permit for
2 the dining room if these items had been reviewed and
3 approved. So you do the whole package. There would be
4 no point in doing an exterior stair. Somebody could,
5 if they wished to, I guess.

6 But I believe it was because of a
7 catch-up because a stair was constructed. I think
8 that's how the only -- the permit was for the exterior
9 stair only, and that's why it was so specific.

10 This was an internal note for Mr. Williamette of
11 just a heads-up. Because at this point, I was getting
12 pretty close to pulling the trigger. Okay. And these
13 are things that you need to watch out for in this west
14 dining area. That is all that was.

15 BY MR. MILLER:

16 Q. For the record, when you are talking
17 about the heads-up for Mr. Williamette, I believe you
18 were pointing to the items A, B, C, D, E, F, G, and H.

19 A. Yeah, correct. Mr. Williamette, at that
20 time, was relatively new to the City processes, and so
21 that was more of a these are some of the things that
22 you need to put in your scope of work.

23 MR. RUPP: Can I ask? John asked.
24 Because he was new and he was, apparently, asking for
25 advice here. You are the senior, experienced guy.

EXHIBIT

tabbles®

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1 And on the face of it, there's nothing
2 that says the west dining room is excluded. In fact,
3 if you read the -- was it intended, when you read the
4 memo, that if all of these things were done, that you
5 not only have completed the west dining room, but also
6 have completed the fire stair, if you do all of these,
7 from Williamette's point of view, when he received the
8 memo?

9 THE WITNESS: These are the hot spots
10 that you have got to look out for.

11 MR. RUPP: All of these were done.

12 THE WITNESS: I don't know if their
13 mechanical plans were listed on there.

14 MR. RUPP: I'll say, if all of these
15 were done, would that mean that the permit for the west
16 dining room and the stairway would both have been
17 complied with?

18 THE WITNESS: Yes, yeah, I believe so.

19 MR. RUPP: As to the mechanical, if it
20 turned out that there would have been no change of use,
21 then the mechanical wasn't -- that wouldn't comply?

22 THE WITNESS: If it is the same
23 occupancy and the air, it could have been verified with
24 the senior.

(Recess.)

EXHIBIT

29-58

1 MR. MILLER: We have nothing else at
2 this time.

3 MS. SKARDA: My turn. Okay. Sorry.

4

5 EXAMINATION

6 BY MS. SKARDA:

7 Q. Mr. Bloom, I just want to go over a few
8 things briefly with you. I'm going to kind of push
9 these down, if that's all right. First of all, I'm
10 going to have you look up here in the upper top. Take
11 a look at how this area was described. Can you tell me
12 what that is?

13 A. Future west dining room.

14 Q. What does that tell us?

15 A. It tells us, in the future, it is going
16 to be -- it is going to be a dining area, but it is not
17 part of the scope of work. That is how I would read it
18 at this point.

19 Q. That's on Exhibit 123, just for the
20 record.

21 Can we talk a little bit about how
22 architects note changes on plans.

23 A. Normally, the bubble. It will be a
24 cloud. And there isn't anything indicated. Oh, wait.
Actually, they are clouds over here.

EXHIBIT

29-59

1 Q. And with respect to comparing Exhibit
2 123 to Exhibit 55, if they were going to change a
3 symbol key, would they also cloud that?

4 A. Normally, they would, yes.

5 Q. You talked a little bit about the
6 western dining area and if it was going to be finished
7 off under these plans, Exhibit 123. You talked about
8 HVAC and exiting and some other items. Would those
9 have been plans, in your experience, that were attached
10 to the plans, or would an architect put all the
11 information they needed right on the plans?

12 A. They would have been a separate
13 submittal. Let me rephrase that. There's any number
14 of ways it could come in. It could come in as a
15 complete package. Architectural, HVAC, mechanical,
16 electrical, plumbing, all stamped and signed by the
17 appropriate disciplines and designers.

18 They would be submitted to the different
19 review sections within DSI. Then when the reviews are
20 done, they are brought back together, and they are put
21 together.

22 Mr. Rupp explained that, at times when
23 there isn't a change of use and the mechanical systems
24 can be verified that they are -- they qualify or they
25 meet code for -- even if it is a change or if it is the

EXHIBIT

29-60

1 same, within the same category -- it is occupancy
2 groups. But if it is in the same occupancy groups, the
3 air changes would be the same, the mechanical systems
4 would be the same, it may be fine, and the senior can
5 approve that without the plans being submitted.

6 MS. SKARDA: I'll have these marked.

7 (Exhibits 130 and 131 marked.)

8 BY MS. SKARDA:

9 Q. I'm showing you what's been marked as
10 Exhibit 130 and 131. I would submit to you that
11 Exhibit 130 is actually just blown-up pictures that
12 appear on the bottom of 131.

13 A. Thank you.

14 Q. I would also submit, this is a document
15 that is in the file at DSI and has been previously
16 disclosed.

17 Were you ever in the western dining
18 area?

19 A. No, I was not, not to my recollection.

20 Q. I'll have you look at the first two
21 pictures and tell me what those first two say, over on
22 the left-hand side of the paper, Exhibit 131.

23 A. You want me to read it?

24 Q. Sure.

A. "Easterly end of proposed banquet room

EXHIBIT

tabbies
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1 parcel."

2 Q. And below that?

3 A. "Westerly end of proposed banquet room
4 parcel."

5 Q. I'll have you look at Exhibit 131. On
6 the right-hand side, there's a box. Can you just tell
7 me what it is entitled. I'm not going to make you read
8 it.

9 A. "Proposed Banquet Room Parcel
10 Description."

11 Q. So can you look at this document and
12 tell us if that proposed banquet room description is
13 the western dining room, based on what you see before
14 you?

15 A. Yes, it is.

16 Q. What about that tells you --

17 A. That it is?

18 Q. -- that it is the western dining room?

19 A. Because the angles on the northern
20 portion face of the Commodore addition are matching up
21 with the angles, and that west -- or that north-south
22 wall is the same north-south wall, which is the face
23 between the existing dining room and the west dining
24 room.

Q. I'm going to give you my pen. I'm going

EXHIBIT

29-62

1 to have you circle, on Exhibit 131, what that proposed
2 banquet room parcel description includes.

3 You were being questioned by Mr. Miller.
4 You said that sometimes architects draw plans like
5 puzzles. I think that was the word you used. You
6 reviewed what is Exhibit 123 and Exhibit 55. Do you
7 look at plans like pieces of puzzles?

8 A. Yes, I do. Why I said that is the
9 existing dining room, east lounge and dining room, is a
10 stand-alone. It is code compliant on its own. It
11 doesn't rely on the west dining for any exiting systems
12 at all.

13 Okay. Where the west dining relies on
14 the existing dining and the east lounge for an exiting
15 service system, because they exit into -- the west
16 dining exits into the existing dining and has its own
17 secondary exit stairs going directly outside.

18 The existing dining doesn't have to exit
19 into the west dining. It has its own exit going up and
20 going north and going south out of the building.

21 Q. So --

22 A. That's how the pieces of the puzzle work
23 together, to give you how it all works together.

24 Q. So we know, at some point in time, you
25 became aware that the western dining area had been

EXHIBIT

29-63

1 finished off. Can you talk a little bit about your
2 recollection, if any, with respect to that.

3 A. I don't recall how I learned it. It was
4 just -- it was office conversation that work had been
5 done, and I, honestly, don't recall.

6 Q. Do you remember having any conversations
7 with Mr. Rupp about the western dining area and the
8 work that was done?

9 A. I don't recall having conversations
10 about the work that was done. I do recall discussions
11 prior to any permits or very, very early on, which we
12 had --

13 Mr. Rupp and I have had many
14 conversations on proposed projects that he was. The
15 intention was always to use that as the west dining
16 room and turn that back into a banquet west dining
17 area. I was aware of that, absolutely.

18 Q. Do you recall any conversations about
19 occupancy, allowing occupancy or use of that western
20 dining area?

21 A. Oh, I'm sorry, I do not. There's just
22 too much.

23 Q. Can you talk a little bit about what --
24 you used the term, "legally established," what that
means to you.

EXHIBIT

29-64

1 A. Legally established, from this person,
2 plan reviewer, ex-plan reviewer's perspective is a
3 review process of construction review, licensing --

4 If I can give you a quick synopsis. At
5 DSI, you have zoning. You have -- which is the land
6 usage allowed to be on that piece of property. You
7 have the building codes, which is the building that
8 sits on the piece of property. And then you have the
9 licensing section, which is the operation that sits in
10 the building that sits on the land. That's how it
11 works, to me.

12 When it is legally approved or
13 established, those processes, or a facsimile of those
14 in past years, would have been of record, and those
15 records could be recaptured and shown that it was legal
16 at some period, at some point.

17 Q. So if the western dining area looked
18 like it looked in these two pictures -- and I'm going
19 to have you describe them for the record -- how would
20 you interpret that as to whether --

21 A. Those are raw spaces. There is no --
22 there is no use of those spaces at this point.

23 Q. Does it give us any evidence of any kind
24 of a use?

A. No, to me, it does not. I'm only

EXHIBIT

29-65

tabbles

1 looking at two small photographs. There is no use.

2 Q. Assuming those two pictures are what is
3 now the western dining area, what would you, as the
4 plan examiner, want to see to finish off that space,
5 what kind of supplemental documents?

6 A. It is a full use, as far as I would be
7 concerned, even though it may have been -- for zoning
8 purposes or for SAC determination, maybe, it may hold
9 some credit. But as far as building code compliance,
10 it is not a continuation of a use.

11 Q. And for the record, I was referring to
12 Exhibit 130. I apologize.

13 I'll have you, just real quickly, look
14 at Exhibit 118, which is somewhere. I'm going to kind
15 of point to the "Plan review remarks." Tell us what
16 that says there.

17 A. "Door and exit steps."

18 Q. So that tells --

19 A. That is correct.

20 Q. I'm going to have you flip to the second
21 page of that exhibit.

22 A. It is signed by Mr. Williamette. It is
23 approved by him.

24 Q. There's some notes kind of towards the
bottom of the page. Can you review those and tell me

EXHIBIT

29-66

1 what that tells you about what the scope of that permit
2 was.

3 A. This permit was for stairs only.

4 "Contact Larry Zangs before issuing
5 building permit. Owner should provide documentation to
6 verify SAC has been paid for expansion of ballroom -
7 need HPC approval to issue permit - owner supplied
8 information to HPC."

9 Q. What does that tell you, if anything, as
10 the plans reviewer, about that permit?

11 A. The permit was for the fire stair only
12 and that the other items in the dining room had not
13 been reviewed or approved by these other sections, by
14 Larry Zangs or -- verification for the SAC
15 determination had not been done.

16 Q. Do you recall having conversations with
17 Mr. Rupp about the restrooms in the existing area of
18 the Commodore?

19 A. We had talked -- I believe, we had
20 talked about using a unisex. That's partially looking
21 at some of the notes that were here or the letter. I
22 think it was using a unisex restroom as part of
23 complying with the handicap accessible restrooms. You
24 can have a male and female non-accessible restroom if
you have a unisex restroom, in certain cases, in

EXHIBIT

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29-67

1 existing establishments.

2 Q. And when you had those conversations
3 with Mr. Rupp, your understanding was the scope of the
4 permits that were being issued was only the existing
5 portion?

6 A. That's correct.

7 Q. Do you recall letting the new restrooms
8 be constructed to 2007 Minnesota Accessibility Code,
9 Chapter 1341, and what that might mean?

10 A. No, I do not.

11 Q. Might it help if you reviewed your
12 notes? I don't know if it will or won't.

13 A. Not really.

14 (Exhibit 132 marked.)

15 BY MS. SKARDA:

16 Q. Reviewing Exhibit 132, which is just --

17 A. Yeah, Chapter 1341 of the Accessibility
18 Code is very specific. It doesn't matter to the code
19 whether it is on an accessible route or not or whether
20 it makes any -- if there's any commonsense. It assumes
21 that, at some point, it may be on an accessible route;
22 and therefore, you are going to make it handicap
23 accessible. That's what the code calls for.

24 MS. SKARDA: I don't have any more.

25 MR. MILLER: I think Mr. Rupp has --

EXHIBIT

29-68

Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

1 MR. RUPP: I have a question.

2 THE WITNESS: Sure.

3 MR. RUPP: When you look at the photos
4 here, you have got this unfinished space with no
5 evidence it has ever been used.

6 THE WITNESS: Correct.

7 MR. RUPP: Let's say all the evidence
8 says that it was never legally used because we can't
9 find any building permit that was completed for this
10 after it was built in 1976.

11 THE WITNESS: Okay.

12 MR. RUPP: So now in comes this plan or
13 a plan for the west dining room. It's my
14 understanding -- I want you to just -- this is a
15 question.

16 THE WITNESS: Sure.

17 MR. RUPP: You can evaluate a plan under
18 the building code, in your department, either as a
19 change of use or as a continuation of use. Those are
20 different code provisions; isn't that right?

21 THE WITNESS: There's one more piece to
22 the puzzle. It is no use. Now, when you have a raw
23 space -- bear with me. Zoning plan usage established
24 what a use is for that space. I don't care what it
looks like. They approved it for something. SAC

EXHIBIT

29-69

1 determination is for a space, and they determined
2 something for that. It sticks. Okay. That's my
3 understanding.

4 Building code is a little different. If
5 you rip everything out and it is raw space, it is
6 nothing right now. It is nothing. Therefore, you are
7 starting like it is new.

8 MR. RUPP: Can I get -- mind if I ask a
9 clarification?

10 THE WITNESS: Go ahead.

11 MR. RUPP: Let's say the facts in this
12 case, hypothetically -- not hypothetically, because
13 these are actually the facts. It gets built for
14 restaurant use and never gets finished, which is what's
15 happened, because there's no evidence --

16 THE WITNESS: Wow. Okay.

17 MR. RUPP: -- including by me, by the
18 way, that's there ever been construction-built anything
19 in there.

20 Under those circumstances, you would
21 need, from a zoning standpoint -- I'm asking a question
22 now.

23 THE WITNESS: Uh-huh.

24 MR. RUPP: You would need a
25 reestablishment of the original non-conforming use for

EXHIBIT

29-70

1 zoning; is that correct?

2 THE WITNESS: I'm really not the person
3 to ask on the zoning. All I know is that I would
4 verify with zoning. There would be a trigger, toggle
5 switch for me to say I have to go to zoning.

6 MR. RUPP: Let's say, hypothetically, if
7 they said, since it was built as a restaurant, never
8 got finished, 40 years has passed --

9 THE WITNESS: Okay.

10 MR. RUPP: -- you have to go get a
11 reestablishment of a non-conforming use. Let's say
12 that, which is what they said, by the way.

13 THE WITNESS: Okay.

14 MR. RUPP: Now, how do you evaluate --
15 what provisions of the building code do you use on
16 those facts to evaluate a building permit to the west
17 dining area?

18 THE WITNESS: Zoning does not determine
19 what the occupancy group or what the use of the space
20 is --

21 MR. RUPP: Right.

22 THE WITNESS: -- or how the building
23 code is applied. A raw space is a raw space is a raw
24 space. Whether it had been a restaurant before,
25 whether it had been -- whatever it had been before, it

EXHIBIT

29-71

1 is not a change of use. It is a new use. It is an
2 existing space, but it is like a brand-new finished-out
3 space, because it is raw space.

4 MR. RUPP: Is that the case -- I'm not
5 being argumentative.

6 THE WITNESS: No, no, no. I can --

7 MR. RUPP: I'm just curious.

8 THE WITNESS: After seeing these
9 pictures -- I don't recall seeing these pictures. I'm
10 surprised I wouldn't have seen these pictures at some
11 point along the way. But I don't recall seeing these
12 raw spaces, because I always thought it was some
13 finished space that was being remodeled. That's what I
14 have in my memory. But, you know, that's not as good
15 as it used to be.

16 But -- but seeing raw space, I would
17 have said this is a new use, you know, not for zoning,
18 not for SAC. But for building code, it is a new
19 remodel. I would have addressed permits as a new
20 remodel.

21 MR. RUPP: As a -- let's take a look at
22 the pictures.

23 THE WITNESS: Yeah.

24 MR. RUPP: If there was some lighting in
here and there was an HVAC system in there --

EXHIBIT

29-72

1 THE WITNESS: Uh-huh.

2 MR. RUPP: -- isn't it, particularly
3 these days, in some people's minds, a completed space?
4 If it has got just painted cement block walls and a bar
5 joist ceiling and an air conditioning system and
6 lighting, it is a completed space.

7 THE WITNESS: I've never seen your end
8 product looking like that.

9 MR. RUPP: Not mine. We've all been to
10 places that are finished spaces like that.

11 THE WITNESS: Absolutely.

12 MR. RUPP: So the question is: This
13 picture, per se, is not determinative of whether or not
14 it is a finished space. There's different
15 architectural design ideas than I have. To some
16 people, these days, it is a finished space?

17 THE WITNESS: These days are not what an
18 existing space would have been 40 years ago.

19 MR. RUPP: In this particular case, we
20 discovered, that there was some exercise equipment in
21 the space, without the benefit of a license or
22 occupancy certificate or construction, and it was
23 considered a finished space by that user, because they
24 tried to use it, even illegally.

I used it, since the year 2000, as part

EXHIBIT

29-73

1 of the restaurant. I, occasionally, used it for
2 banquets and storage space. I considered it finished,
3 although not my standard. So it is a subjective idea
4 of what aesthetically constitutes a finished space;
5 isn't that true?

6 THE WITNESS: I don't see anything that
7 says that's a usable space.

8 MR. RUPP: Is there anything in the
9 pictures?

10 THE WITNESS: The pictures?

11 MR. RUPP: Is there anything in the
12 picture that says it is not a usable space?

13 THE WITNESS: I don't see any exit
14 signs.

15 MR. RUPP: Except for the exit signs.
16 Let's say the photo shows an exit sign. The picture is
17 not determinative of whether it is a usable space, from
18 some people's perspective, assuming it has a fire exit?
19 It doesn't say it is not finished, the picture?

20 THE WITNESS: The picture, it looks like
21 a raw space, to me. But it could be something to
22 somebody else; that is correct.

23 MR. RUPP: That is correct. Thank you.

24 MR. MILLER: I don't have anything.

MR. RUPP: Thank you for coming out of

EXHIBIT

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Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

1 retirement briefly.

2 MR. MILLER: We're finished. I'd like
3 it as soon as possible, electronic copy.

4 MS. SKARDA: Electronic copy.

5 Do you want to read and sign?

6 THE WITNESS: I don't think so.

7 (Whereupon, the deposition of JIM BLOOM
8 was concluded at 12:15 p.m.)

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Jim Bloom - 4/30/2018
In the Matter of All Licenses Held by the University Club of St. Paul

1 STATE OF MINNESOTA)
COUNTY OF ANOKA) ss.
2 CERTIFICATE

3 BE IT KNOWN that I, Julie A. Brooks, took the
foregoing deposition of JIM BLOOM;

4 That the witness, before testifying, was by me
5 first duly sworn to testify the whole truth and nothing
but the truth relative to said cause;

6 That the foregoing deposition is a true record of
7 the testimony given by said witness;

8 That I am not related to any of the parties
hereto, nor an employee of them, nor interested in the
9 outcome of the action;

10 That the cost of the original has been charged to
the party who noticed the deposition, and that all
11 parties who ordered copies have been charged at the
same rate for such copies;

12 WITNESS MY HAND AND SEAL this 2nd day of May,
13 2018.

14

15

16

17

JULIE BROOKS, Notary Public, RPR

18

19

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21

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