

1 Q Who is your immediate supervisor?

2 A Steve Ubl.

3 Q That's who you report to?

4 A That is correct.

5 (Deposition Exhibit 110 marked
6 for identification).

7 Q I'm showing you what has been marked as
8 Exhibit 110, and I'm also showing you what
9 has been marked as Exhibit 55. Let's look
10 at Exhibit 55. Do you recognize Exhibit
11 55?

12 A I have seen it before, yes. The one I have
13 seen was a little more color coded, but
14 yes.

15 Q For the record, this is a plan that's dated
16 February 1st, 2012?

17 A Okay. That's the last revision date?
18 Typically, we put revision dates on there
19 so --

20 Q Sure. Now I'm showing you Exhibit 110.
21 For the record, this has a revision date of
22 5/7/2012?

23 A This one was dated what?

24 Q February 1st, 2012.

25 A So a few months later this one was done.



1 Q Do you recognize it?

2 A It's, basically, the same plan from what I
3 see other than it could be color coded.

4 Q Have you ever seen this before?

5 A I believe I have looked at it.

6 Q Is that the Commodore project?

7 A I believe that's what they do call that. I
8 apologize. I have never been in the
9 building so --

10 Q For purposes of the deposition today, we
11 can refer to it as the Commodore project,
12 if that's okay.

13 A Okay.

14 Q Do you know which of these plans was
15 permitted?

16 A Not without going back in the file and
17 pulling the file and looking at the file
18 and looking at the back of the plan to see
19 how the plan was stamped and the date and
20 how the plan number was done. No, I cannot
21 answer that.

22 MR. MILLER: For the record,
23 with the permission of Ms. Skarda, I will
24 note for the record that Exhibit 110 is the
25 plan that was eventually permitted.

EXHIBIT

43-2

1 MS. SKARDA: For the record,
2 that is correct, Mr. Williamette. Exhibit
3 40 is a stamped exhibit that came from our
4 office that we submitted at the time of the
5 pre-hearing conference. What hasn't
6 happened is the back of this. The stamps
7 are missing, but we have previously
8 stipulated that this was what we believe to
9 be a true and accurate copy of the plans
10 that we gave to them.

11 THE WITNESS: Okay.

12 Q (By Mr. Miller, continuing) So there are
13 changes from 55 to 110. Could you take a
14 look and describe some of the changes?

15 A Well, by code and by law, Minnesota law,
16 architects, if they change anything, they
17 better put a cloud around it and they
18 better put a number. Otherwise, it's not
19 acknowledged. I don't acknowledge a change
20 unless it's got a cloud and a number. I
21 would say that there's a change in number
22 14, which number 14 tells me that you're
23 doing something by a separate permit. I
24 would say change 13, you're telling me
25 you're doing this by a separate permit.

EXHIBIT

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43-3

1 Q What indicates that is by separate permit?

2 A Right there. You see number 13? Number
3 13, remove and replace existing step and
4 add new decorative iron rail and gate by
5 separate permit with HPC approval. So
6 that's telling me that this was not part of
7 the project. It's going to be a separate
8 permit. Very clearly when I read those,
9 it's saying, hey, this is something I want
10 to do. It's a separate permit that will be
11 given.

12 Q Go ahead.

13 A Some of the other things I'm seeing is
14 number 10. Number 10, new toilet rooms by
15 separate permit again. There's a cloud
16 around here, number 1. So number 1, your
17 cloud would be, I believe, remove portion
18 of it prepared by Larson Engineering. So,
19 obviously, there's some engineering or
20 something that happened over here that
21 would reference back to what was happening
22 over here. It looks like we have new
23 fixture count also with the number 1. So
24 the fixture count from here to here would
25 have changed. I have no idea how or why it

EXHIBIT

43-4

1 would change without doing a complete
2 analysis.

3 Q Are there any other changes?

4 A There could be other changes. Short of
5 doing a complete review and spending
6 countless hours on it, I would not say yes
7 or no. Those are the typical changes that
8 I would pull out.

9 Q Are there any other ways of showing change
10 between plans?

11 A Are there any other ways?

12 Q Other than a cloud?

13 A You should always cloud.

14 Q What if the change changes the outline of
15 the area that is going to be included in
16 the plan?

17 A Your designer broke the law.

18 Q How would they put a cloud around that?

19 A They just cloud the whole thing.

20 Q Can you look at Exhibit 55?

21 A Sure.

22 Q There's a symbol that says existing. Can
23 you, with the yellow highlighter -- and,
24 for the record, I'm on Exhibit 55. I may
25 not have said that. Can you outline that?

EXHIBIT

43-5

1 **A** It's the three lines there. So if I took
2 the doubles, it would be around here like
3 this, around here, around here, around
4 here, and you carry it back over through
5 here, and you carry it back up and around
6 over to here. This is what would be
7 existing. This is the area of future work
8 and area of future work (indicating). And
9 he's making a note it's existing right here
10 also (indicating). So he did good by
11 calling out his existing area.

12 **Q** Now, could you look at 110?

13 **A** Sure.

14 **Q** One of the symbols here is the scope of
15 interior alteration work. Do you see that?

16 **A** Yes.

17 **Q** Could you outline that?

18 **A** I'm happy to. But in this scenario, I will
19 share with you what Mr. Bloom shared with
20 me on this plan. He had told me this area
21 here was, actually, being removed out of
22 the scope of work. And I believe that was
23 in an e-mail somewhere that he had told me
24 that, but I will be happy to mark out what
25 you're asking me to.

EXHIBIT

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43-6

1 Q Let me back up. Before you do that, what
2 did Mr. Bloom tell you?

3 A Well, when I had started here, this was,
4 actually, going on. Mr. Bloom brought me
5 in and said, hey, Jim, I need to give you
6 an update of what's happening here. This
7 portion of the work is happening here, this
8 is not happening, this is going to be
9 permitted later (indicating). And if you
10 follow through the records, actually, I
11 believe you'll find out that I issued a
12 permit, a temporary permit, for a wood
13 stair over here (indicating). I was the
14 one that issued that permit. That was the
15 first time I had seen the job or the
16 position of what was happening here. All I
17 issued at that time -- and I think I wrote
18 it on the permit application -- was wood
19 stair only, no use of the space.

20 The issue of the use of the
21 space always comes in when we permit issues
22 of use of the space, we have SAC
23 determinations from Met Council to make
24 sure Met Council gets their piece of the
25 pie because they like to pay for light rail

EXHIBIT

tabbies' 43-7

1 and all those other nice things that
2 everybody enjoys.

3 Q Let's go back to the conversation with
4 Mr. Bloom. Were you looking at this
5 document (indicating), not this actual
6 document but --

7 A I honestly couldn't tell you which document
8 I was looking at. I just remember
9 Mr. Bloom talking to me about this space
10 here (indicating).

11 Q What did he say about that?

12 A He said that this was not permitted at the
13 time, and then they were working through
14 that. And if I can reference my notes, I
15 can, actually, tell you that.

16 MR. MILLER: Good. Let's go off
17 the record.

18 (Discussion off the record).

19 Q (By Mr. Miller, continuing) We were talking
20 about a conversation that you had with
21 Mr. Bloom?

22 A Correct.

23 Q Do you know when that conversation took
24 place?

25 A I do not, but he sent me an e-mail it looks

EXHIBIT

43-8

1 like on Thursday, September 17, 2015. That
2 was to bring me up to date about numerous
3 permits for 79 Western.

4 Q Did that e-mail follow your conversation?

5 A I believe it would have because I told him
6 to give me a recap of what's going on so I
7 can remember it because with the amount of
8 information that goes through our
9 department, it's vast.

10 Q Did Mr. Bloom tell you why that was going
11 to be taken out of the -- when I say that,
12 it's referred to as area 130, west dining,
13 Exhibit 110?

14 A He did. That was a separate permit. If
15 you notice, there was a permit in 2012 for
16 some work that happened.

17 Q Are you reading from the note?

18 A I am, yes.

19 Q Go ahead.

20 A Building permit 2015, the application
21 needed city approvals prior to any
22 construction, which it said west dining
23 room is currently not part of the current
24 liquor license. So they needed approval
25 from DSI licensing to expand the liquor

EXHIBIT

43-9

1 service. The west dining room proposed
2 exterior door and stairs would need to meet
3 the HPC approval and review, which wasn't
4 done. The west dining room proposal exit
5 door and stairs would need to meet the
6 review again. That's strange. I said it
7 twice but that's fine. The west dining
8 room would need zoning review and approval
9 prior to building permit approval. The
10 west dining room would need a SAC
11 determination prior to building permit
12 approval. The west dining room finish
13 schedule would need to be required on the
14 building plans for review and approval,
15 which is the fire rating and the glaze and
16 the different things that we look at.
17 That's the interior finish areas that we
18 look at with fire neck and neck, just to
19 help you on that. The west dining room
20 proposed exterior stairs must be
21 constructed out of non-combustible
22 materials. The proposed construction
23 design documents must be prepared by
24 Minnesota Registered Design for the record.
25 Those were things that Jim had told me. He

EXHIBIT

tabbles

43-10

1 said this area wasn't done yet at that
2 time. Not in this e-mail, but he had
3 shared with me that -- I think he said it
4 was a squash club. That's kind of what I
5 remember dealing with with Met Council.

6 Q Did he say who put together the list that
7 you just read?

8 A He could have. But you're asking me to
9 remember a long time ago. I can't even
10 remember my daughter's birthday some days,
11 so no.

12 Q Did he tell you that the developer of this,
13 the contractor, had been notified of all
14 that?

15 A I do not recall.

16 Q Let me back up. Who put that list
17 together?

18 A Jim Bloom.

19 Q Did he say that anybody else participated
20 in putting that together?

21 A I don't recall.

22 MR. MILLER: Would it be okay if
23 I took that and made some copies of it?

24 MS. SKARDA: I, actually, have
25 copies.

EXHIBIT

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43-11

1 (Deposition Exhibit 111 marked
2 for identification).

3 Q (By Mr. Miller, continuing) I'm showing you
4 what has been marked Exhibit 111. Do you
5 recognize that?

6 A Yes, I do.

7 Q Is that the same memo that we have been
8 discussing for, approximately, the last
9 five minutes?

10 A Yes.

11 Q What else did he tell you about the
12 project?

13 A Not a lot, other than that was pretty much
14 it. He said that there was a lot of
15 different things happening in here; that
16 they had remodeled the kitchen and doing
17 some different bathrooms and some stuff
18 like that. He said make sure we verify our
19 SAC on it. He was very concerned about
20 SAC.

21 Q Did he tell you what the basis was for
22 items A through H?

23 A Other than 'I need to bring you up to date
24 on this project', no.

25 Q Was it your understanding that he put

EXHIBIT

tabbles

43-12

1 together this list?

2 **A Yes.**

3 **Q** Why would Mr. Bloom be putting together
4 that list?

5 **A** Because I asked him to give me a history of
6 the project, I believe, if I recall right.
7 It's not uncommon for me to say, hey, give
8 me information of a history of what's going
9 on with different projects for different
10 things because I can have -- right now I
11 think I probably have 25 to 40 different
12 projects going. And if I don't have a list
13 to go back and reference, I
14 unfortunately -- if you come ask me
15 something, I can't give you a lot of
16 information without reading that
17 information and referencing back to my
18 brain.

19 **Q** Did you talk to anybody else about this
20 project besides Mr. Bloom?

21 **A** At what period of time?

22 **Q** Back in September of 2015 or before.

23 **A** I believe that I did talk to John Skradski
24 on it. I talked to HPC and Steve Ubl on
25 the stair thing when that was permitted.

EXHIBIT

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43-13

1 That was probably the first time that I was
2 really in depth into the project.

3 Q Do you recall what Mr. Skradski told you
4 about the project?

5 A No. John and I have much too much
6 conversation going on with all the other
7 projects.

8 Q Why did you talk to Mr. Ubl?

9 A I needed a direction and conversation on
10 what was going on with the stairs on it.
11 That's mainly what my concern was, and the
12 use of the space and trying to get up to
13 speed. When you come into a department and
14 you have all these other things happening,
15 as a supervisor you're looked to to have
16 all the answers. And many times you've
17 never been totally involved in a project.
18 So, therefore, you wouldn't have a lot of
19 information. So, therefore, you tap as
20 many people as you can to get information
21 on projects.

22 Q So September of 2015 would have been
23 shortly after you started working at
24 St. Paul?

25 A I believe that to be correct. I'm not

EXHIBIT

tabbles

43-14

1 exactly sure my start date. I'm sure you
2 guys can get that. Yeah, I hadn't been
3 here very long.

4 MR. RUPP: John, can I see you
5 for a second?

6 (Discussion off the record).

7 Q (By Mr. Miller, continuing) Could you look
8 at Exhibit 111? It refers to two building
9 permits?

10 A That is correct.

11 Q Do you know what building permit -- what
12 the first one is? The last five digits are
13 17614.

14 A Future construction of the west dining, new
15 service bar, electrical --

16 Q No. I'm asking what permit is that, do you
17 know?

18 A That says it's notes for future
19 construction of the west dining room. And
20 your future would reference back to your
21 call numbers here where once again they
22 talk about future. Many times when we look
23 at plans and designs, many people put a lot
24 of future things in there. The reason they
25 put future things in there is because they

EXHIBIT

tabbies
43-15

1 **A** It says, 20 12 017614.

2 **Q** Thank you.

3 **A** And that would not be this plan we were
4 looking at. That would be this plan
5 (indicating). Correct?

6 **Q** No --

7 MS. SKARDA: Can we go off the
8 record?

9 MR. MILLER: Yeah, let's go off
10 the record.

11 (Discussion off the record).

12 **Q** (By Mr. Miller, continuing) For
13 clarification, Exhibit 110, which is the
14 colored one, that is the plan that was
15 permitted. Is that correct?

16 **A** That was the plan that was permitted in
17 2012 under 017614, is what -- the two
18 numbers that are tying together, that is
19 correct. That was prior to my existence
20 with the city of St. Paul.

21 For the record, that was for
22 \$10,000, which is not a lot of work in my
23 book. It's a very limited scope of work.
24 I usually put everything to valuation. If
25 you remember earlier in the deposition, I

EXHIBIT

tabbles

43-16

1 talked to you about construction, project
2 management, job superintendent. So,
3 therefore, I have a ballpark idea of what
4 some of the values go for.

5 (Deposition Exhibit 15 marked
6 for identification).

7 Q Showing you what has been marked as Exhibit
8 No. 15, do you recognize that?

9 A Off the top of my head, no. But it doesn't
10 mean that's not something that crossed my
11 desk. I should have probably read and done
12 something with that and I didn't? But --

13 Q Could you just take a minute and look at
14 that?

15 A Sure. (Witness examining document). I
16 read it.

17 Q Do you recognize it?

18 A I do remember Steve talking to me about
19 some of this stuff.

20 Q For the record, this is a letter dated
21 October 26, 2015 signed -- I don't have a
22 signed copy, but the signature block
23 indicates it was Stephen Ubl. And I can
24 note that it was sent to John Rupp. Would
25 you look at item 4 on the second page?

EXHIBIT

43-17

1 you see anything of note with respect to
2 the way the rooms are labeled.

3 **A** I've got my lounges, service lounge, bars,
4 dining room, platform, service kitchen, and
5 the subtotal. And it's got a future west
6 dining room. So they're telling me once
7 again that's future. It's not happening.
8 It's going to happen somewhere along the
9 line. South terrace, north terrace.

10 **Q** This is Exhibit 110 that you're looking at?

11 **A** Correct.

12 **Q** That's the plan that was issued in
13 connection with the permit?

14 **A** Yes.

15 **Q** I will have you compare the two keys, the
16 symbol keys, and tell me if you note
17 anything of significance between Exhibit
18 110, the plans that the permit was issued
19 off of, and Exhibit 55, which we have
20 established as the first permit.

21 **A** Yes. We have got existing symbol on
22 Exhibit 55 and that symbol is used on the
23 scope for interior alternative work on
24 Exhibit 110.

25 **Q** What does that mean to you?

EXHIBIT

43-18

1 **A** It throws confusion out is what it throws
2 out for me, especially when I'm referencing
3 plans back and forth. Typically, your
4 symbols are the same across all the plans,
5 much like clouding and other things. It's
6 how the workflow works through.

7 The next is the area of future
8 work, which is a straight dotted line. On
9 this one here, it's the existing tenant
10 space, which is a dotted line with a bunch
11 of dots in it. Once again, it's a
12 completely different symbol, but yet it's a
13 revision to the existing plan which would
14 cause confusion.

15 Existing wall looks the same.
16 The demo wall looks the same. The new wall
17 looks the same. And the exit widths and
18 occupant loads appear to be the same.

19 MS. SKARDA: Nothing further.

21 EXAMINATION

22 BY MR. MILLER:

23 **Q** You made a reference to future west dining?

24 **A** Correct.

25 **O** What did that indicate to you?

EXHIBIT

43-19

1 **A** That's telling me that's future. It's to
2 comments. It's not proposed at this time.

3 **Q** Do you know if the figures for the future
4 west dining were included in the
5 calculations for the plumbing fixtures?

6 **A** No, I do not.

7 **Q** If they had been, what would that tell you?

8 **A** That they're looking to put the plumbing in
9 now and the dining later on. That's not
10 uncommon for people to put restrooms in at
11 one point and backfill in another. It
12 happens often on build-outs all the time.
13 We will have shell buildings where they
14 will do a building and they might do a
15 restroom in there, and they have no idea
16 what the tenant is going to do or what's
17 going to happen with the tenant. But they
18 know they have to have a minimum restroom.
19 So they will put a minimum restroom in
20 until the tenant comes in. At that time,
21 they will increase the restroom or do
22 whatever they have to to make it work.

23 MR. MILLER: I have nothing
24 else.

25 (Deposition adjourned at 3:10 p.m.)

EXHIBIT

tabbies'

43-20