Request for City Council Committee Action from the Department of Community Planning & Economic Development—Planning Division

Date: April 24, 2008
To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee
Referral to: Zoning & Planning Committee

Subject: Appeal of the decision of the City Planning Commission denying an application for a conditional use permit to extend the hours of operation for a proposed automobile convenience facility located at 3524, 3528, 3532, 3536 and 3550 Cedar Avenue South in the C2 Neighborhood Corridor Commercial District.

Recommendation: The following action was taken by the Planning Commission on March 17, 2008 (BZZ-3929):

10. Cedar Ave Holiday Gas Station (BZZ-3929, Ward: 9), 3524, 3528, 3532, 3536 and 3550 Cedar Ave S (Shanna Sether).

B. Conditional Use Permit: Application by Peter Roos, on behalf of Holiday Stationstores, Inc. and Orville Kemp, for a conditional use permit to allow for the extension of hours open to the public to 24 hour operation seven days a week for the properties located at 3524, 3528, 3532, 3536 and 3550 Cedar Ave S.

Action: Notwithstanding the staff recommendation, the City Planning Commission **denied** the conditional use permit to allow for the extension of hours open to the public to 24 hour operation seven days a week for the automobile convenience facility located at 3524, 3528, 3532, 3536 and 3550 Cedar Ave S in the C2 Neighborhood Corridor Commercial District based on the following findings:

1. Standard hours of operation are sufficient.
2. Site is surrounded by single family and low density residential structures.
3. Not a growing commercial corridor, it is an isolated community corridor, predominately residential.
4. Extension of hours contrary to the goals of a quality neighborhood.

Ward: 9

Prepared by: Shanna Sether, Senior Planner (612-673-2307)
Approved by: Jason Wittenberg, Development Services Supervisor
Presenters in Committee: Shanna Sether, Senior Planner

Financial Impact
- No financial impact

Community Impact
- Neighborhood Notification: Powderhorn Park, Corcoran and Standish-Ericsson Neighborhoods were notified of the applications.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On March 10, 2008, staff sent a letter to the applicant extending the 60 day decision period to no later than May 31, 2008.

Supporting Information
David Hoeschen, on behalf of Holiday Stationstores, Inc. and Orville Kemp, has filed an appeal of the decision of the City Planning Commission denying an application for conditional use permit to extend the hours of operation for a proposed automobile convenience facility located at 3524, 3528, 3532, 3536 and 3550 Cedar Avenue South in the C2 Neighborhood Corridor Commercial District. At its meeting on March 17, 2008, the City Planning Commission voted 7-0 to deny this application and approve the remaining applications, with the exception of a variance that was withdrawn by the applicant. The appeal (attached) was filed on March 27, 2008. The City Planning Commission minutes and Planning Division staff report are attached.

The appellants have stated that the decision is being appealed for the following reasons. First, the staff recommendation supported extension of hours of operation, recognizing that the location of the proposed facility's parking lot is not immediately adjacent to he residential uses across the alley to the west and that the pump islands and parking will be effectively screened. Second, the applicant states that the City Planning Commission adopted legally insufficient findings of fact. In lieu of requesting that the Zoning and Planning Committee consider 24 hour operation, seven days per week, the appellants are requesting operating hours 5:00a.m. to 12:00 a.m. Sunday through Thursday and 5:00 a.m. to 1:00 a.m. Friday and Saturday. The appellant's complete statement of the action being appealed and reasons for the appeal are attached.

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permits, Variances and Site Plan Review
BZZ-3929

Date: March 17, 2008

Applicant: Peter Roos

Addresses of Property: 3524, 3528, 3532, 3536 and 3550 Cedar Avenue South

Project Name: Cedar Avenue Holiday Gas Station

Contact Person and Phone: Peter Roos, (612) 269-2204

Planning Staff and Phone: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: February 1, 2008

End of 60-Day Decision Period: April 1, 2008

End of 120-Day Decision Period: Staff sent a letter to the applicant on March 10, 2008, extending the decision period to no later than May 31, 2008.

Ward: 9 **Neighborhood Organization:** Powderhorn Park, adjacent to Corcoran and Standish-Ericsson

Existing Zoning: C2 Neighborhood Corridor Commercial District and R2B Two-Family District

Zoning Plate Number: 26

Legal Description: Not applicable for this application

Proposed Use: Automobile convenience facility

Concurrent Review:

- Conditional use permit to allow for the construction of an automobile convenience facility and accessory car wash facility in the C2 Neighborhood Corridor Commercial District.
- Conditional use permit to allow for the extension of hours open to the public to 24 hour operation seven days a week.
- Variance to reduce the front yard setback, along Cedar Avenue South, from 20 feet to approximately 15 feet to allow for the construction of an accessory car wash facility.
- Variance to reduce the north interior side yard setback from 5 feet to zero feet to allow for a driveway adjacent to the proposed car wash facility. ***(Application was withdrawn).***
- Site Plan Review.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits, Chapter 548, Article I, Commercial Districts, Chapter 525, Article IX, Variances and Chapter 530 Site Plan Review and Chapter 541 Off-Street Parking and Loading

Background: This project was continued from the February 25, 2008, Planning Commission public hearing after amended plans showed an additional variance that was not originally listed in the notice to the neighborhood organization and *Finance and Commerce.*

The subject property zoned C2 is approximately 34,008 square feet and the current use is A to Z Rental, a truck, trailer, boat, recreational vehicle or mobile home sales, service or rental use. The property owners are also in control of the adjacent parcel zoned R2B, with an existing single family home and detached garage. The applicant is proposing to demolish the existing structures, including A to Z Rental Center and the single family dwelling, in order to construct a 4,627 square foot convenience store, a 1,439 square foot accessory car wash facility and approximately 18 gasoline pumps. Automobile convenience facilities are a conditional use in the C2 District and require a conditional use permit.

The permitted hours of operation in the C2 District are 6:00am-10:00pm Sunday through Thursday and 6:00am-11:00pm Friday and Saturday. The applicant has requested to be open to the public 24 hours per day, seven days a week. The hours open to the public may be extended by conditional use permit, as provided in Chapter 525, Administration and Enforcement; therefore the applicant has applied for a conditional use permit to extend the hours of operation to 24 hours, seven days a week.

The applicant is proposing the accessory car wash facility in a separate, stand-alone structure at the northern end of the site. The car wash facility is located within forty feet of the residentially zoned parcel, controlled by the property owner; therefore the structure is required to meet the district setbacks as regulated by the R2B District. The minimum front yard setback along Cedar Avenue South, based on the adjacent residential district and proposed location of the car wash, is 20 feet. The applicants have proposed to construct the car wash facility fifteen feet to the front property line along Cedar Avenue South. Therefore, the applicant has applied for a variance to reduce the front yard setback, along Cedar Avenue South, from twenty feet to fifteen feet to allow for the car wash facility in the proposed location.

The applicant amended their original plans to allow for an additional 12’1” drive lane to the north of the proposed car wash facility for patrons who accidentally try to exit the site via the car wash line. The proposed drive lane is directly adjacent to the residentially zoned parcel owned by the applicants. Driveways for commercial uses are not allowed in the required interior side yard, per 541.260(1)b.2. Therefore, the applicant also applied for a variance to reduce the required interior side yard setback from five feet to zero feet to allow for the proposed 12’ 1” driveway. Since the notification was sent, the applicants have changed their plans and have eliminated this driveway; therefore the application for variance to reduce the interior side yard from five feet to zero has been withdrawn.

Finally, automobile uses are subject to site plan review per Chapter 530 Site Plan Review.

The applicants, CM Schiff and Powderhorn Park, Corcoran and SENA held a public meeting on Tuesday, February 12, 2008. Comments and feedback are attached to this report. Staff will forward additional comments, if any are received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT: to allow for a new automobile convenience facility and accessory car wash facility.

Findings as required by the Minneapolis Zoning Code for the conditional use permit: The Community Planning and Economic Development Planning Division has analyzed the application and from the findings below concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**
   The applicant is proposing to construct a new automobile convenience facility and accessory car wash facility. The existing use is a truck, trailer, boat, recreational vehicle or mobile home sales, service or rental use, which is nonconforming in the C2 District. The applicant is proposing a number of site improvements that will improve the security and compatibility of the use with nearby properties. Conversion of the existing use to an automobile convenience facility will not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances, as well as Public Works Department standards.

2. **Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**
   The surrounding area is fully developed. A number of automobile service uses already exist to the north and south of this site, and residential uses are located immediately across the alley. Staff and the applicant are proposing a number of site improvements that will improve the compatibility and security of the use with nearby properties. Through the recommended and proposed site improvements, the conversion of the existing use to an automobile convenience facility should not have negative impacts on surrounding properties.

3. **Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**
   The site is served by existing infrastructure. There are four proposed curb cuts. The first one is located at the north end of the site and is for exiting vehicles from the car wash only. Two more are located along Cedar Avenue South; the middle curb cut along Cedar will allow for two-way traffic, entering and exiting the site. Public Works is requiring that the applicant physically design the curb cut to force vehicles to exit the site to the south at the southernmost proposed curb cut along Cedar Avenue South. This will only allow for traffic to exit from the site and travel southbound on Cedar Avenue. The fourth curb cut is located along 36th Street East and will allow for two-way traffic. The 36th Street East curb cut will allow the fueling vehicles and loading trucks to enter the site without the additional vehicular congestion along Cedar Avenue South. Public Works and Planning staff have also recognized the necessity of this curb cut due to

the controlled intersection at 36th Street East and Cedar, which will allow customer traffic to exit the site and travel north in a more efficient and safe manner. In addition, the Public Works Department has reviewed the project for appropriate drainage and stormwater management in or over the public right of way and has stated that this project will meet these requirements.

4. **Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**
The floor area used to measure the parking requirement of the convenience store is 1,872 square feet and the parking requirement is one space per 300 square feet of gross floor area. Therefore the required number of stalls is 6. In addition, one off-street parking space is required per 20 feet of washing line of the car wash, which requires an additional 3 parking stalls. Therefore, the total required parking for the project is 9 stalls. The proposed parking area shows 14 stalls, one of which is a van accessible handicapped stall.

5. **Is consistent with the applicable policies of the comprehensive plan.**

Cedar Avenue South is an identified Community Corridor in *The Minneapolis Plan.* While staff has concerns about locating a large automobile-oriented use on a Community Corridor, we recognize that the site is zoned to allow for this use without the need for additional variance.

The Minneapolis Plan, Chapter 2.8 states: "Minneapolis will develop the existing economic base by emphasizing business retention and expansion." One of the implementation steps is to promote business start-ups, retention and attractions. The location and zoning classification has attracted Holiday Stationstores to this property; there are a number of other Holiday Stationstores located in Minneapolis.

The Minneapolis Plan, Chapter 4.1 states: "Minneapolis will encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods." One of the implementation steps is to develop standards based on a recognition of the qualities that make urban corridors desirable, viable and distinctly urban, including; diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements which add interest at the scale of the pedestrian. With the proposed site plan amendments, the site will be more attractive, by adding interest at the scale of the pedestrian.

The Minneapolis Plan, Chapter 4.2 states: "Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets." There are several applicable implementation steps that address the proposed project including:

- Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.

- Support the continued presence of small-scale retail sales and commercial services along Community Corridors.

- Ensure that commercial uses do not negatively impact nearby residential areas.

With the proposed site plan amendments, the site will be more attractive, by adding interest at the scale of the pedestrian. Meanwhile, supporting new commercial services along Cedar Avenue South without negative impacts to the adjacent residential areas.

With the proposed staff recommendations, the proposed use appears to be in conformance with the Minneapolis Comprehensive Plan.

6. **And, does in all other respects conform to the applicable regulations of the district in which it is located, with the approval of this conditional use permit.**
In addition to the conditional use permit, a conditional use permit to extend the hours of operation to 24 hours, seven days per week, variance to the front yard setback to allow for the car wash facility and site plan review applications are required and the proposed use is subject to the following Specific Development Standards, addressed in Chapter 536:

Automobile convenience facility.
(1) The sale or repair of vehicles shall be prohibited.
(2) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.
(3) Service area canopy light fixtures shall be completely recessed within the canopy so that the lenses shall not extend beyond the surface of the canopy.
(4) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
(5) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

Car wash.
(1) Water from the car wash shall not drain across any sidewalk or into a public right-of-way.
(2) Vacuum facilities shall be located in an enclosed structure or located away from any residential use to avoid the impacts of noise.
(3) All indoor and outdoor activities shall be subject to the regulations governing hours open to the public, as specified in the zoning district in which the car wash is located.
(4) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

The building and intended use complies with all of the development standards. The applicant has provided specifications for the canopy lighting, which will be completely recessed within the

canopy. The applicant is not showing the vacuum facilities in an enclosed structure; however, they are located away from residential uses to avoid noise impacts.

CONDITIONAL USE PERMIT (to allow extended hours)

Findings as Required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. May be detrimental to or endanger the public health, safety, comfort or general welfare.

The permitted hours of operation in the C2 District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant proposes to be open 24 hours, seven days a week. There are a number of concerns from staff about the proximity of the proposed use to nearby residential uses and the greater impact of a 24 hour facility with lighting, car traffic and noise that may prove to be detrimental to comfort and general welfare. Staff believes that a reasonable extension of hours would be until 12:00 a.m. Sunday through Thursday and 1:00 a.m. Friday and Saturday, with the condition that all noise shall be mitigated through limited use of speakers and signage shall be posted on the pumps that state: "Please turn down car radios while refueling to respect our neighbors."

2. May be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

Staff uses the following criteria to determine compatibility of extended hours with the surrounding area:

a) Proximity to permitted or conditional residential uses. The nearest residential uses are located across the alley to the west of the subject property. The corner of 36th Street East and Cedar are entirely commercial uses. The facility's parking lot is not immediately adjacent to the residential uses and the parking area and pump islands will be effectively screened. There are a number of concerns from staff about the proximity of the proposed use to nearby residential uses and the greater impact of a 24 hour facility with lighting, car traffic and noise that may prove to be detrimental to comfort and general welfare. Staff believes that a reasonable extension of hours would be until 12:00 a.m. Sunday through Thursday and 1:00 a.m. Friday and Saturday, with the condition that all noise shall be mitigated through limited use of speakers and signage shall be posted on the pumps that state: "Please turn down car radios while refueling to respect our neighbors."

b) Nature of the business and its impacts of noise, light and traffic.
The business is an automobile convenience facility. The business will have significant impact to noise, light and traffic.

c) Conformance of use. The automobile convenience facility is a conditional use in the C2 District. There are concurrent applications are being review the conditional use permit for the automobile convenience facility and accessory car wash, variance to front yard setback for the car wash and site plan review. If the conditional use permit for extended hours is approved, then the proposed hours will be in conformance with the code.

d) Complaints received. Given that the use is not yet established, the applicant has not had an opportunity to establish a track record of complaints (or lack of complaints).

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

See previous findings under #3 for the Conditional Use Permit to allow for the automobile convenience facility.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

See previous findings under #4 for the Conditional Use Permit to allow for the automobile convenience facility.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan shows this part of Cedar Avenue South as a community corridor. The plan states the following about uses on community corridors: "Today, these important streets that run through the city's many communities connect neighborhoods, serve as a principal travel route for many residents and visitors, and are almost always characterized by their limited mixed use. These streets serve as community corridors. Commercial services do not overwhelm the character of these streets, but there are normally clustered storefronts or services found along their lengths. They do not create noise, significant traffic or disruption to neighbors by being open to the public for extended hours." Commercial uses on these streets will be supported insofar as they do not create excessive negative impacts relative to the location and its surroundings.

While the use of the proposed use of the automobile convenience facility is in conformance with this language of the comprehensive plan, the potential impact on the residential uses 24 hours, seven days a week, is not in conformance with this language of the plan.

The plan has the following relevant policies and implementation steps for community corridors and commercial areas:

4.2 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the

pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Implementation Steps

Designate a network of Community Corridors.

Promote more intensive residential development along these corridors where appropriate.

Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.

Support the continued presence of small-scale retail sales and commercial services along Community Corridors.

Ensure that commercial uses do not negatively impact nearby residential areas.

4.4 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

Implementation Steps

Provide for a range of commercial districts that provide the services required by the residents and businesses.

Plan, implement and monitor projects and programs that encourage and support the city's neighborhood commercial areas.

Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

Encourage coordination and communication between business associations and neighboring residents groups.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.
With the approval of the concurrent applications, the conditional use permit will conform to the applicable district regulations.

<u>VARIANCE:</u> to reduce the front yard setback along Cedar Avenue South from twenty feet to fifteen feet to allow for the construction of a new accessory car wash facility.

Findings Required by the Minneapolis Zoning Code:

1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

The applicant is seeking a variance to reduce the required front yard setback along Cedar Avenue South from the district setback of the adjacent residentially zoned property of 20 feet to 15 feet to allow for the construction of the proposed car wash. The applicant is proposing to demolish the existing single family home on the residentially zoned property and construct a stormwater pond for mitigation of the site. The proposed car wash will be located approximately 78 feet to the nearest residential property along Cedar Avenue South. The location of the car wash in proximity to Cedar Avenue South is required to allow for adequate stacking and drive aisle access on the site. Strict adherence to the ordinance would not allow for the proposed car wash facility in its present location, which is a reasonable use of the property.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

The circumstances upon which the variance is requested are unique to the parcel due to the adjacency of the proposed vacant residentially zoned parcel. The applicant is seeking a variance to allow for a car wash facility in a separate structure than the convenience store to improve the circulation of vehicles on the site and meet the site plan review standards.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

Granting the variance for a reduced front yard setback along Cedar Avenue South will not alter the essential character of the surrounding neighborhood and will not be injurious to the use or enjoyment of other property in the vicinity. As previously mentioned, the nearest residential structure along Cedar Avenue South is approximately 78 feet away and the adjacent residential parcel will be vacant. Staff believes that the proposed car wash will not significantly impact the character of the area.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Granting of the requested variance would likely have no impact on the congestion of area streets or fire safety. The applicant has stated that the technology used for the proposed car wash will not allow for more than one vehicle to be located between the car wash and the public sidewalk, therefore, granting of the variance would not be detrimental to the public welfare or endanger the public safety.

Required Findings for Site Plan Review

SITE PLAN REVIEW

Findings as required by the Minneapolis Zoning Code for the site plan review:

A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)

B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)

Section A: Conformance with Chapter 530 of the Zoning Code

BUILDING PLACEMENT AND DESIGN:

- **Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.**
- **First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.**
- **The area between the building and the lot line shall include amenities.**
- **The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.**
- **Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.**
- **For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.**
- **In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.**
- **Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.**
- **Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.**
- **The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.**
- **The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.**
- **Entrances and windows:**

- **Residential uses:**
  Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
  a. Windows shall be vertical in proportion.
  b. Windows shall be distributed in a more or less even manner.
- **Nonresidential uses:**
  Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
  a. Windows shall be vertical in proportion.
  b. Windows shall be distributed in a more or less even manner.
  c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
  d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
  e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
  f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.
  Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

Conformance with above requirements:

There are two proposed structures for Holiday; one is the convenience store and the other is the car wash. The one-story convenience store is located on the corner to reinforce the streets along both Cedar Avenue South and 36th Street East. The proposed structure is setback 3 ft. from both property lines adjacent to the streets. Landscaping is proposed to be located between the building and the streets. The applicant is also providing two trellises and vines along 36th Street East. The other structure is the accessory car wash facility. The proposed structure is subject to a 20 ft. front yard setback. The applicant has requested a variance to reduce the front yard setback from 20 ft. to 15 ft. along Cedar Avenue South.

There are two main pedestrian entrances; one will be oriented towards Cedar Avenue South and the other entrance will face the parking lot. This is a corner lot and Cedar Avenue South is the front property line and 36th Street East is the corner side yard.

The parking area is located to the interior sides of the two proposed structures.

The building would include sufficient architectural detail and amounts of windows to avoid large blank walls, not exceeding twenty-five (25) feet in length.

The proposed building will have a brick façade with a stone accent base and metal awnings.

Plain face concrete block would not be used as a primary exterior building material.

The principal entrances will be clearly defined canopies and will be surrounded by windows.

The applicant is required to provide a minimum of 30% glazing on the first floor on three of the elevations of the convenience store; north, south and east. The applicant has provided the following percentages: 64% on the North elevation facing the parking area, 21.6% on the South elevation (36th Street East) and 33% on the East elevation (Cedar Avenue South). The applicant is requesting alternative compliance to reduce the windows on the South elevation along 36th Street East.

The applicant is also required to provide a minimum of 30% glazing on the first floor of two of the elevations of the car wash facility; east and south. The applicant has provided the following percentages: 30% on the South elevation facing the parking area and 0% on the East elevation (Cedar Avenue South). The applicant is requesting alternative compliance to reduce the windows on the East elevation, along Cedar Avenue South, for the car wash facility.

With the exception of the proposed windows of the convenience store along 36th Street East, all of the proposed windows will be vertical in proportion and evenly distributed. The applicant is requesting alterative compliance.

A flat roof is proposed. Many buildings in the area also have flat roofs.

ACCESS AND CIRCULATION:

• Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.

• Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.

• Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.

• Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).

• Site plans shall minimize the use of impervious surfaces.

Conformance with above requirements:

The applicant has provided a walkway in front of the principal entrances connecting to the adjacent public sidewalk and parking facilities. Walkways between the building and the parking spaces shall be kept free of obstructions (e.g., pillars, ice machines, etc.) in a manner that allows four (4) foot wide clearance. Such walkway(s) shall be protected from encroachment of vehicles by curbing, wheel stops, bollards, or similar barriers.

There are no transit shelters on the site. There is a transit stop on Cedar Avenue South at the intersection of 36th Street East.

Public Works is requiring that the applicant physically design the curb cut to force vehicles to exit the site to the south at the southernmost proposed curb cut along Cedar Avenue South. This will only allow for traffic to exit from the site and travel southbound on Cedar Avenue. The fourth curb cut is located along 36th Street East and will allow for two-way traffic. Staff understands there are concerns about the proposed curb cut along 36th Street East. Both Planning and Public Works staff believe that the proposed curb cut on 36th Street East is essential to allow traffic to travel northbound on Cedar Avenue through the controlled intersection at 36th Street and Cedar Avenue. The proposed access and curb cuts should not increase traffic impacts upon the residential properties.

The site plan shows a decrease in the amount of impervious surface than what currently exists on the site.

LANDSCAPING AND SCREENING:

• The composition and location of landscaped areas shall complement the scale of the development and its surroundings.

• Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).

• Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).

• Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.

• Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:

- **A decorative fence.**
- **A masonry wall.**
- **A hedge.**

• Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).

• Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).

• The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.

• Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.

• All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible.

• All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.

• Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.

• The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.

The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area is 34,008 square feet and the proposed building footprints are 6,066 square feet. The lot area minus the building footprints therefore consists of approximately 27,942 square feet. At least 20 percent of the net site area (5,588 square feet) must be landscaped and the applicant is providing 5,726 square feet, which equals 20.5 percent of the net site area.

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. In addition, not less than one (1) tree shall be provided for each twenty-five linear feet or fraction thereof of parking lot frontage along a public street. The tree and shrub requirement for this site is 12 and 56 respectfully. The applicant has shown 14 trees (4 are canopy trees) and 191 shrubs. The applicant has requested alternative compliance from 12 canopy trees to 4 to allow for trees that provide additional screening along the alley.

A seven-foot landscaped yard is required on three sides of the property, east, west and north sides, due to adjacency to a public street and pathway and residential uses and zoning classifications. The applicant is requesting alternative compliance to reduce the landscaped yard requirement for 73 feet along Cedar Avenue South to allow for adequate maneuvering area for vehicles, by instead providing an open, decorative fence.

In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Four stalls in the southeast corner of the parking area do not meet this requirement. However, they are located within 50 feet of a proposed boulevard tree. The applicant has requested alternative compliance to this standard, because it would be impractical to put two canopy trees within five feet of each other.

Screening, not less than 6 feet high and 95% opaque, is required for approximately 260 feet along the alley due to the adjacency of the parking area and loading to residential uses and zoning classifications. The applicant has shown a combination of a masonry wall and wrought iron fence and dense trees and shrubbery along the entire property line adjacent to the alley. Screening, not less than 95% opaque is required along the north property line for approximately 55 feet due to the adjacent residentially zoned property, which is also in control by the applicant. Additionally, screening, not less than 3 feet in height and less than 60% opaque is required along Cedar Avenue South. The applicant has proposed an open decorative fence. The applicant is requesting alterative compliance to screening along the north property line.

Turf, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees shall cover all areas that are not paved or landscaped.

ADDITIONAL STANDARDS:

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **To the extent practical, site plans shall minimize the blocking of views of important elements of the city.**
- **To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**

- **To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260 related to:**
  - **Natural surveillance and visibility**
  - **Lighting levels**
  - **Territorial reinforcement and space delineation**
  - **Natural access control**
- **To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

Conformance with above requirements:

The proposed curbing will be provided along the parking areas and drive aisles. With the recommend landscaping, the property should be able to support a fair amount of on-site filtration.

The building should not impede any views of important elements of the city.

The building should not significantly shadow the adjacent streets or properties.

Wind currents should not be major concern.

The site design provides natural surveillance and visibility to allow views into the area. The proposal controls and guides to movement on the site with clearly defined walkways between the principal entrance and the parking areas and distinguishes between public and non-public spaces with the recommended and proposed screening and landscaping.

The existing structures are neither historic nor eligible for historic designation.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE: The site is zoned C2. Automobile convenience facility uses are conditional uses in the C2 District.

Parking: The required number of parking stalls is 9. The proposed parking area shows 14 stalls, one of which is a van accessible handicapped stall.

Maximum Floor Area: The maximum floor area ratio in the C2 District is 1.7. The lot area is 34,008 square feet. The proposed structures are 6,066 square feet. The floor area ratio is .178.

Height and Bulk: The maximum building height in the C2 District is limited to four stories or 56 feet, whichever is less. Both buildings are one story; two stories by definition. The car wash is approximately 17 feet 6 inches and the convenience store is approximately 20 feet tall.

Minimum Lot Area: Automobile services uses with fuel pumps or car washes have a minimum lot area of 12,000 square feet in the C2 District.

Dwelling Units per Acre: There are no existing or proposed dwelling units.

Yard Requirements: The subject site is zoned C2 and there are yard requirements along the north property line due to adjacency to residential zoning classifications. The proposed car wash structure requires a front yard setback variance along Cedar Avenue South from 20 feet to 15 feet.

Hours of Operation:
The permitted hours of operation in the C2 District are 6:00 am – 10:00 pm Sunday through Thursday and 6:00 am – 11:00pm Friday and Saturday. The applicant has requested an extension of hours open to the public to 24 hours per day, seven days per week.

Signs: The applicants have submitted a signage plan and it meets the height, area and location requirements in Chapter 543 of the Zoning Code. All new signage is required to meet the requirements of the code.

Refuse screening: The proposed refuse containers and screening is shown adjacent to the proposed addition and will be collected on site. Staff is recommending that the refuse container meet section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent uses.

Lighting: Lighting proposed for the development complies with Chapter 536 Specific Development Standards for the canopy lighting, Chapter 535 and Chapter 541 of the zoning code including:

> **535.590. Lighting.** *(a) In general*. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
>
> *(b) Specific standards*. All uses shall comply with the following standards except as otherwise provided in this section:
>
> (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
>
> (2) No exterior light source located on a nonresidential property shall be visible from any

permitted or conditional residential use.

(3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.

(4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.

(5) Lighting shall not create a hazard for vehicular or pedestrian traffic.

(6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

The applicant also submitted a photometric plan and is in compliance with the before mentioned standards.

MINNEAPOLIS PLAN AND RELEVENT SMALL AREA PLANS:

See findings under #5 for the Conditional Use Permit.

Alternative Compliance. The Planning Commission may approve alternatives to any site plan review requirement upon finding any of the following:

• **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**

• **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**

• **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Alternative compliance is requested by the applicant for the following standards:

- Thirty percent windows vertical in proportion and evenly distributed – Convenience Store (36th Street East façade)

  The applicant is also required to provide a minimum of 30% glazing on the first floor elevation along 36th Street East. The applicant has provided 21.6% glazing along 36th Street East. The bottom of any window used to satisfy the ground floor window requirement may

not be more than four (4) feet above the adjacent grade, therefore the clear glass windows that started more than four feet above grade were not calculated. The applicant has stated that if the all of the glass were to be counted, 29.6% of the wall would be glazing and has therefore requested alternative compliance. In addition, the walls have several false windows, which give the appearance of having windows vertical in proportion in an evenly distributed manner and again, the applicant has requested alternative compliance. Staff is recommending that the planning commission grant alternative compliance.

- Thirty percent windows – Car Wash Facility (Cedar Avenue South façade)

  The applicant is also required to provide a minimum of 30% glazing on the first floor of the east and south elevations of the car wash facility. The applicant has provided 30% glazing on the South elevation facing the parking area and 0% on the East elevation (Cedar Avenue South). The Cedar Avenue South elevation of the car wash facility has a glass exit door, but no proposed windows. The applicant is requesting alternative compliance to reduce the windows along the East elevation to 0% for the car wash facility by instead showing the glass door. Staff is recommending that the planning commission grant alternative compliance.

- Not less than one (1) canopy tree for each 500 square feet of required landscaping.

  The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. In addition, not less than one (1) tree shall be provided for each twenty-five linear feet or fraction thereof of parking lot frontage along a public street. The tree and shrub requirement for this site is 12 and 56 respectfully. The applicant has shown 14 trees (4 are canopy trees) and 191 shrubs. The applicant has requested alternative compliance from 12 canopy trees to 4 to allow for trees that provide additional screening along the alley. Staff is recommending that the planning commission grant alternative compliance to allow for additional screening with the proposed trees.

- Parking area landscaping

  A seven-foot landscaped yard is required on three sides of the property, east, west and north sides, due to adjacency to a public street and pathway and residential uses and zoning classifications. The applicant is requesting alternative compliance to reduce the landscaped yard requirement for 73 feet along Cedar Avenue South to allow for adequate maneuvering area for vehicles, by instead providing an open and decorative fence. Staff is recommending that the planning commission grant alternative compliance.

- No parking space located more than 50 feet from the center of an on-site deciduous tree

  In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Four stalls in the southeast corner of the parking area do not meet this requirement. However, they are located within 50 feet of a proposed boulevard tree. The applicant has requested alternative compliance to this standard, because it would be impractical to put two canopy trees within five feet of each other. Staff is recommending that the planning commission grant alternative compliance.

- Parking area screening

  Screening, not less than 95% opaque is required along the north property line for approximately 55 feet due to the adjacent residentially zoned property, which is also in control by the applicant. The applicant is requesting alterative compliance to the opacity requirement along the north property line. Staff is recommending the addition of a hedge along the north property line to meet the opacity requirement.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow for the construction of an automobile convenience facility and accessory car wash facility for the properties located at 3524, 3528, 3532, 3536 and 3550 Cedar Avenue South in the C2 Neighborhood Corridor Commercial District, subject to the following conditions:

1. The applicant will meet the specific development standards for Automobile Convenience Facilities and Car Wash in section 536.20 of the zoning code.

2. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

Recommendation of the Community Planning and Economic Development Department - Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **deny** the conditional use permit to allow for the extension of hours open to the public to 24 hour operation seven days a week and in lieu thereof **approve** extended hours for the automobile convenience facility until 12:00 a.m. Sunday through Thursday and 1:00 a.m. Friday and Saturday for the properties located at 3524, 3528, 3532, 3536 and 3550 Cedar Avenue South in the C2 Neighborhood Corridor Commercial District subject to the following condition:

1. Speakers are for emergency use and/or for help with accessibility use issues for patrons only.
2. Signs shall be posted on the pumps that state: "Please turn down car radios while refueling to respect our neighbors."
3. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a

conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

Recommendation of the Community Planning and Economic Development Department - Planning Division for the variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to reduce the front yard setback, along Cedar Avenue South, from 20 feet to approximately 15 feet to allow for the construction of an accessory car wash facility for the properties located at 3524, 3528, 3532, 3536 and 3550 Cedar Avenue South in the C2 Neighborhood Corridor Commercial District.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance:

The application has been **withdrawn**.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the site plan review:

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review to allow for the construction of an accessory car wash facility for the properties located at 3524, 3528, 3532, 3536 and 3550 Cedar Avenue South in the C2 Neighborhood Corridor Commercial District, subject to the following conditions:

1. CPED Planning staff review and approval of the final site, elevations and landscaping plans.

2. The building shall be oriented so that at least one (1) principal entrance faces Cedar Avenue South as required by section 530.110.

3. At least 5,588 square feet (20 percent of the net lot area) of landscaped area shall be provided on-site and at least 4 canopy trees, 8 deciduous trees and 56 shrubs shall be provided as required by section 530.160 of the zoning code and an alternative compliance measure. The applicant is encouraged to plant native grasses and perennials in addition to the required trees and shrubs.

4. Walkways between the building and the parking spaces shall be kept free of obstructions (e.g., pillars, ice machines, etc.) in a manner that allows four (4) foot wide clearance. Such walkway(s) shall be protected from encroachment of vehicles by curbing, wheel stops, bollards, or similar barriers.

5. Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.

6. Six inch by 6 inch continuous concrete curbing shall be provided between the landscaping and the parking area.

7. The perimeter of the parking lot will be effectively landscaped and screened; as an alternative compliance measure, the applicant shall install decorative fencing between three (3) and four (4) feet in height between the parking/pump island area and the public sidewalk along Cedar Avenue and a three-foot hedge for 55 feet along the north elevation.

8. The freestanding sign shall be landscaped to screen the base of the sign with materials capable of screening the site all year and shall be well maintained as required by section 543.240(d) of the zoning code.

9. All site improvements shall be completed by March 17, 2009, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

Attachments:

1. Statement of use and findings
2. Letter from the applicant requesting withdrawal of the variance to reduce the interior side yard setback from 5 feet to 0 feet.
3. January 5, 2008, letter to CM Schiff
4. January 21, 2008, letters to applicable neighborhood organizations
5. Additional correspondence from the public
6. Zoning map
7. Site plan, floor plans and elevations
8. Lighting specifications
9. Photos of the site and surrounding area