

ROSEVILLE
REQUEST FOR CITY COUNCIL ACTION

Agenda Date: **07/25/2016**

Agenda Item: 14.d

Department Approval



City Manager Approval



Item Description: Consider a Conditional Use (CU) to allow a drive-through at 2425 Rice Street (PF15-012)

The action deadline for this request was extended; review deadline September 22, 2016.

GENERAL SITE INFORMATION

Applicant: Sun Control of Minnesota

Location: 2425 Rice Street

Property Owner: David Rustad and Hempel Companies

Land Use Context

	Existing Land Use	Guiding	Zoning
Site	Developed – former Steichen’s Sporting Goods	CB	CB
North	Multi-tenant commercial office building	CB	CB
West	Children’s World Day Care Center	CB	CB
East	Little Canada and Terrace Heights Mobile Home Park		
South	Small office building and single family residential	CB/LDR	CB/LDR

1 **NATURAL CHARACTERISTICS:** The site has slight elevation change from east to west.

2 **PLANNING FILE HISTORY:** None.

3 **PLANNING COMMISSION ACTION:** On July 1, 2015, the Planning Commission voted 6-0 with
4 one abstention to recommended approval of the proposed drive-through Conditional Use at 2425
5 Rice Street with modified conditions.

6 **PROPOSAL**

7 The subject property, located in Planning District 6, has a Comprehensive Plan land use
8 designation of Community Business (CB) and a corresponding Zoning District classification of
9 Community Business (CB) District. The CONDITIONAL USE (CU) proposal has been prompted by
10 plans to remodel the existing building (former Steichen’s Sporting Goods) at 2425 Rice Street
11 into a multi-tenant building with a drive-through.

When exercising “quasi-judicial” authority on a CU request, the role of the City is to determine the facts associated with a particular request and apply those facts to the legal standards contained in the ordinance and relevant state law. In general, if the facts indicate the application meets the relevant legal standards and will not compromise the public health, safety and general welfare, then the applicant is likely entitled to the approval. The City is, however, able to add conditions to a CU approval to ensure the standards and criteria are met, and to mitigate potential impacts to the surrounding area.

CONDITIONAL USE ANALYSIS

REVIEW OF GENERAL CONDITIONAL USE CRITERIA: Section 1009.02C of the City Code establishes general standards and criteria for all conditional uses, and the Planning Commission and City Council must find that each proposed conditional use does or can meet these requirements. The general standards are as follows:

1. *The proposed use is not in conflict with the Comprehensive Plan.* The City Planner has reviewed the 2030 Comprehensive Plan and determined that the proposed drive-through and office use are not in conflict with the Plan. Specifically, the Planning Division believes that the proposed office building with a drive-through advances land use goals and policies within Sections 1, 2, 9, 10, and 11, including the following:

1. Policy 1.5: Promote well-planned and coordinated development.
2. Policy 1.3: Ensure high-quality design, innovation, sustainability, and aesthetic appeal in private and public development and redevelopment, with emphasis on efficient site access, appropriately sized parking areas, and overall beautification through the adoption and utilization of year-round landscaping and site design standards, guidelines, principles, and other criteria.
3. Policy 2.3: Encourage a broad mix of commercial businesses within the community to diversify and strengthen the tax base and employment opportunities.
4. Policy 3.2: Promote redevelopment that reduces blight, expands tax base, enhances the mix of uses in the community, and achieves other community objectives.
5. Policy 9.1: Encourage commercial areas to make efficient use of land, provide for safe vehicular and pedestrian movements, provide adequate parking areas, provide appropriate site landscaping, and create quality and enduring aesthetic character.
6. Policy 9.2: Promote commercial development that is accessible by transit, automobile, walking, and bicycle.
7. Policy 10.3: Support neighborhood-scale commercial areas that provide convenient access to goods and services at appropriate locations within the community.

2. *The proposed use is not in conflict with a Regulating Map or other adopted plan.* The proposed drive-through is not in conflict with such plans because none apply to the area surrounding the property.

- 49 **3.** *The proposed use is not in conflict with any City Code requirements.* The City Planner has
50 worked with the owner and applicant on their proposal to convert the single tenant building
51 into a multi-tenant building, and for that proposal to address design standards listed in
52 Section 1005.02 of the Zoning Ordinance, where such improvements are not required.
- 53 **4.** *The proposed use will not create an excessive burden on parks, streets, and other public*
54 *facilities.* Planning Division staff does not expect this drive-through to create an excessive
55 burden on parks, streets, or other public facilities, since the proposed use and drive-through
56 are typical and are allowed uses within the Community Business zoning district.
- 57 **5.** *The proposed use will not be injurious to the surrounding neighborhood, will not negatively*
58 *impact traffic or property values, and will not otherwise harm the public health, safety, and*
59 *general welfare.* Planning Division staff anticipates that if the drive-through is approved, it
60 will add additional vehicle trips to the local road network each day. Additional traffic would
61 not impose an excessive burden on the public street infrastructure. Staff believes that a drive-
62 through in this location would not have a noticeable effect on the value of nearby property as
63 the area even though that area is a mix of residential, office and commercial uses.

64 REVIEW OF SPECIFIC CONDITIONAL USE CRITERIA: Section 1009.02.D.13 of the City Code,
65 establishes additional standards and criteria that are specific to the use of a drive-through. The
66 Planning Commission and City Council must also find that the proposal does or can meet the
67 additional pertinent standards. This section of the ordinance includes several requirements, but
68 the applicable ones are as follows.

- 69 **a.** *Drive-through lanes and service windows shall be located to the side or rear of buildings*
70 *and shall not be located between the principal structure and a public street, except when the*
71 *parcel and/or structure lies adjacent to more than one public street and the placement is*
72 *approved by the Community Development Department.* The proposed drive-through, with its
73 single lane and service window proposed along the south side of the building, located
74 between the building and a public street, has been reviewed and approved by the Community
75 Development Department. The subject parcel is a corner property and Rice Street is deemed
76 the primary street. The south side of the building becomes the side suitable for a drive-
77 through in order to afford proper stacking of vehicles and proper vehicle turning movements.
- 78 **b.** *Points of vehicular ingress and egress shall be located at least 60 feet from the street right-*
79 *of-way lines of the nearest intersection.* The subject parcel has two accesses to public streets.
80 One access point is near the southwest corner and approximately 250 feet from the
81 intersection of County Road B2 and Rice Street. The other access point is a shared access
82 with the neighboring multi-tenant commercial property and located approximately 200 feet
83 north of the intersection of Rice Street with County Road B2. The Public Works Director has
84 reviewed the proposed drive-through and existing access, and supports the proposal based on
85 the type of use being sought for the endcap and drive-through. However, should the type of
86 use be such that stacking and traffic through the drive-through complicates or compromises
87 the current efficiencies, the applicant understands that the CU could be revoked if the
88 situation cannot be resolved. Evidence of situations that could be candidates for revocation
89 could include, but not limited to, vehicle stacking that backs onto public streets, or evidence
90 of significantly elevated traffic accident data related to the drive-through.

- c. *The applicant shall submit a circulation plan that demonstrates that the use will not interfere with or reduce the safety of pedestrian and bicyclist movements.* The circulation of the preexisting site has worked well since 1981 and there are no changes anticipated with this improvement. Vehicles/customers, including those using the proposed drive-through, would still be able to choose either a Rice Street or County Road B2 exit. The sidewalks adjacent the site, along Rice and C2, have also been in place for a number of years and assist in safely getting pedestrians and bicyclists to this and other sites in the area. The Planning Division would suggest that at least one connection be made from the sidewalk to the building, which location and striping plan can be approved by the Planning and Engineering Divisions as a component of the site improvement permit.
- d. *Adequate queuing lane space shall be provided without interfering with on-site parking/circulation.* Based on the proposed plan there is queuing for 3 to 5 vehicles in the lane and potential for up to three more directly behind the building. The Planning Division has deemed queuing to be adequate for this use. Circulation for the site will not change from the existing configuration, which is desirable for both drive-through customers and building patrons. Should a use pose a queuing problem in the future because of a specific use, the applicant understands that the CU could be revoked if the situation cannot be resolved.
- e. *Speaker box sounds from the drive-through lane shall not be loud enough to constitute a nuisance on an abutting residentially zoned property or property in residential use.* The proposed drive-through does not identify the exact location of a speaker box, however it is presumed that such an item would be located approximately one vehicle length into the drive-through lane. Planning staff would seek a specific screen in the adjacent island for purposes of minimizing any changes in volume. Any complaints of speaker noise that cannot be resolved could make the CU subject to revocation.
- f. *Drive-through canopies and other structures, where present, shall be constructed from the same materials as the primary building and with a similar level of architectural quality and detailing.* The current modification contemplated for the building includes the installation of a window and not a canopy. If such an improvement is proposed in the future, it will be required to be designed and include materials that complement the building.
- g. *A 10-foot buffer area with screen planting and/or an opaque wall or fence between 6 and 8 feet in height shall be required between the drive-through lane and any property line adjoining a public street or residentially zoned property or property in residential use and approved by the Community Development Department.* In review of the proposed plan there appears to be room for additional plantings in the island proposed adjacent to the drive-through island, as well as in the side yard adjacent to County Road B2. The Planning Division recommends that decorative fencing (or possibly fence sections) four to six feet in height be installed along with a mix of shrubs and perennials within the island adjacent to the drive-through. Further, additional evergreen and/or coniferous landscaping shall be installed in the boulevard adjacent to County Road B2 and the green area at the west of the property (rear yard) to block vehicle headlights. The Planning Division has concluded that a fence six to eight feet in height would look out of place in the boulevard and potentially damage the existing trees. Additionally, screening directly adjacent to the drive-through has more potential of mitigating noise impacts than a fence at the boulevard.

Roseville's Development Review Committee, a body comprised of staff from various City departments, met on June 18 and June 25 to discuss the application. There were no concerns pertaining to the CU provided by members, other than those provided in the above analysis.

A review of the proposed drive-through, based on the current CONDITIONAL USE standards and criteria leads the City Planner to conclude that the use can meet all of the applicable requirements.

Section 1009.02.E of the City Code requires the applicant to validate an approval of the CONDITIONAL USE by the time construction of the proposed improvements related to the drive-through begins. If the approval has not been validated within one year, the approval will expire and become void.

PUBLIC COMMENT

The duly-noticed public hearing for this application was held by the Planning Commission on July 1, 2015; draft minutes of the public hearing are included with this RCA as Attachment D. One member of the public was in attendance to speak about the proposal and expressed concern regarding the absence of a specific tenant that would use the drive-through. Similarly, several Commissioners indicated their trepidation of recommending approval of the drive-through request without knowing/understanding the tenant to occupy the space and what, if any, impacts staff determined through their analysis. At the end of the discussion, the Commission seemed satisfied with the condition allowing the staff to deny a tenant from occupying the space if it was determined to be too impactful, since such an analysis is conducted with all existing drive-through lanes when new uses desire occupancy. The Commission also amended condition C as follows:

The applicants shall submit a landscape plan that includes decorative fencing (or possibly fence sections) 4 to 6 feet in height be installed and maintained along with a mix of shrubs and perennials within the island adjacent the drive-through. Further, additional evergreen and/or coniferous landscaping shall be installed and maintained in the boulevard adjacent to County Road B2 and the green area at the west of the property (rear yard) sufficient to screen headlights *and light emanating from other structures on the site related to the drive-through.*

In the week that followed the Planning Commission hearing, Planning Division staff determined it was in the best interest of the applicant to secure a tenant prior to seeking final approval of the CU from the City Council. Planning staff suggested the applicant submit a waiver to the 60-day review deadline until a tenant could be finalized for the corner space. The applicant supported the waiver and on or about June 30 the Planning Division was notified that a tenant had been secured for the corner space and that the contractor was interested in completing final site work. The City Planner sent an email to the applicant seeking details of the proposed tenant (specific tenant, leasable space square footage, and number of seats) so that the tenant and use could be reviewed by the DRC to determine whether the drive-through design was adequate. The DRC met on July 7 to review the information and previous analysis concluding that the drive-through should loop around the building and access the menu board and window from the rear of the building. This determination provided better stacking of vehicles and eliminated any potential concerns with vehicles spilling on to County Road B2.

Additional site signage directing vehicles to the drive through lane will be required, as will a slight modification to the drive-through island, which will result in conditions d and e being modified or eliminated from consideration.

RECOMMENDATION

Based on the comments and findings outlined in the above sections of this report, the Planning Division recommends approval of the CONDITIONAL USE pursuant to §1005.03 and §1009.02 of the Roseville City Code for 2425 Rice Street, subject to the following revised conditions:

- a. The applicants shall work with the Planning and Engineering Divisions on the appropriate location of a painted crosswalk and possible sidewalk connections to facilitate a pedestrian connection from Rice and/or County Road B2 to the building.
- b. The applicants will work with the Planning Division on the appropriate location and design of any menu board and speaker box for ordering. The speaker should not be audible from the property line.
- c. The applicants shall submit a landscape plan that includes decorative fencing (or possibly fence sections) 4 to 6 feet in height be installed and maintained along with a mix of shrubs and perennials within the island adjacent the drive-through. Further, additional evergreen and/or coniferous landscaping shall be installed and maintained in the boulevard adjacent to County Road B2 and the green area at the west of the property (rear yard) sufficient to screen headlights and light emanating from other structures on the site related to drive-throughs.
- d. The Community Development and Public Works Departments have reviewed the proposed tenant and its utilization of the corner tenant space concluding that the drive-through lane should wrap around the building and enter the order area and window from the rear of the building. Signage shall be installed within the site to effectively identify the drive-through lane and striping placed on pavement to identify the drive-through lane at the rear of the building. Additionally the drive-through island shall be modified to curve around the building to the rear to better facilitate proper entering into menu board/order area and vehicle circulation.

SUGGESTED PLANNING COMMISSION ACTION

Adopt a Resolution approving a drive-through as a CONDITIONAL USE at 2425 Rice Street, based on the comments and findings contained in this project report dated, July 25, 2016.

ALTERNATIVE ACTIONS

Pass a motion to table the item for future action. Tabling beyond August 6, 2015, may require extension of the 60-day action deadline established in Minn. Stat. §15.99

By motion, recommend denial of the proposed preliminary plat. A recommendation to deny should be supported by specific findings of fact based on the City Council's review of the application, applicable zoning and/or conditional use criteria, and the public record.

Prepared by: City Planner Thomas Paschke - 651-792-7074 | thomas.paschke@cityofroseville.com

RCA Exhibits: A: Area location map

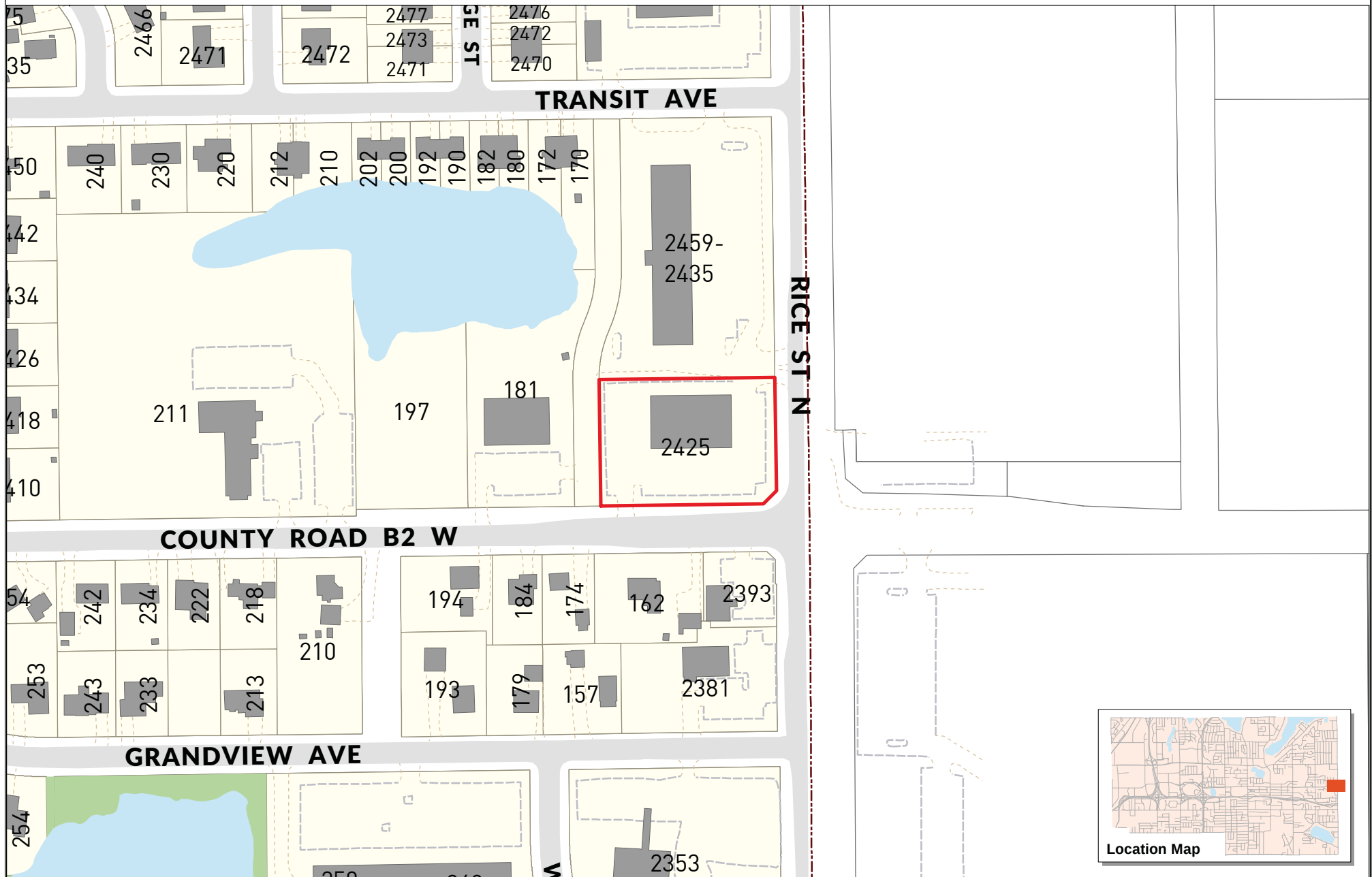
D: PC minutes of 07/07/15

B: Aerial photo

E: Draft resolution

C: Proposed site development plans

Attachment A for Planning File 15-012



Prepared by:
Community Development Department
Printed: June 15, 2015



Site Location

Comp Plan / Zoning
Designations
LR / LDR-1

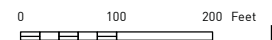
Data Sources

* Ramsey County GIS Base Map [6/3/2015]

For further information regarding the contents of this map contact:
City of Roseville, Community Development Department,
2660 Civic Center Drive, Roseville MN

Disclaimer

This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. The City does not warrant that the Geographic Information System (GIS) Data used to prepare this map are error free, and the City does not represent that the GIS Data can be used for navigational, tracking or any other purpose requiring exacting measurement of distance or direction or precision in the depiction of geographic features. If errors or discrepancies are found please contact 651-792-7085. The preceding disclaimer is provided pursuant to Minnesota Statutes §466.03, Subd. 21 (2000), and the user of this map acknowledges that the City shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City from any and all claims brought by User, its employees or agents, or third parties which arise out of the user's access or use of data provided.



mapdoc: planning_commission_location.mxd

Attachment B for Planning File 15-012



Prepared by:
Community Development Department
Printed: June 25, 2015



Site Location

Data Sources

- * Ramsey County GIS Base Map (6/3/2015)
- * Aerial Data: MnGeo (4/2012)

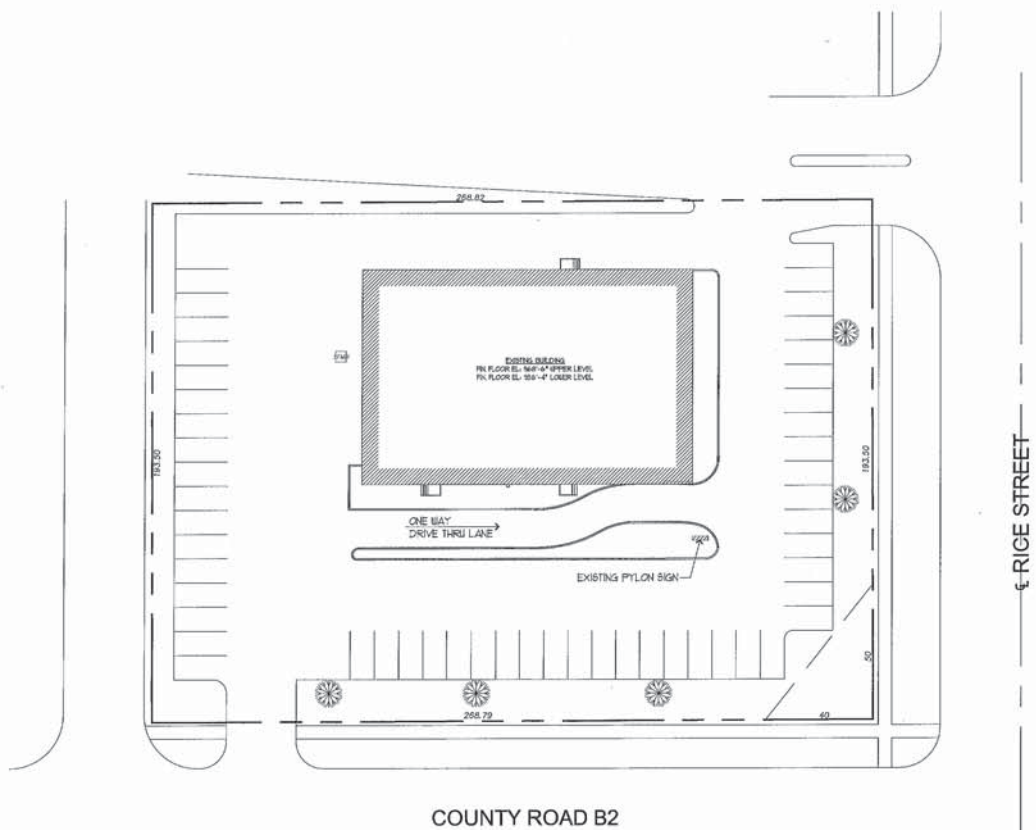
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0 50 100 Feet





nai ARCHITECTS

3000 Rice Street, Suite 100
Roseville, MN 55127
Phone: (612) 401-0001
Fax: (612) 401-0002
Email: info@nai-arch.com

Professional Seal: The professional seal of the architect is required for all drawings. It is the responsibility of the architect to ensure that the seal is properly placed and that the drawing is a true and correct representation of the work.

Signature: _____
Typed Name: JAMES A. GIBSON
Date: 05/29/2015 File No.: C101

Sun Control

2425 Rice Street
Roseville, MN

Item	Description	Quantity	Unit
1	Site Plan	1	Sheet
2	Site Plan	1	Sheet
3	Site Plan	1	Sheet
4	Site Plan	1	Sheet
5	Site Plan	1	Sheet
6	Site Plan	1	Sheet
7	Site Plan	1	Sheet
8	Site Plan	1	Sheet
9	Site Plan	1	Sheet
10	Site Plan	1	Sheet

Contract No.: 2015028
Drawn By: SGB
Date: 05/29/2015

Sheet Name:
SITE PLAN

Sheet No.:
C101



A201

EXTRACT OF THE JULY 1, 2015, ROSEVILLE PLANNING COMMISSION MINUTES

a. **PLANNING FILE No. 15-012**

Request by Sun Control of Minnesota in cooperation with the owner of the property at 2425 Rice Street, to allow a drive-through at the former Steichen's Sporting Goods as a CONDITIONAL USE under Roseville City Code, Section 1009.02.C (General Standards and Criteria) and Section 1009.02.D.12 (Specific Standards and Criteria – Drive-Through)

Chair Boguszewski opened the public hearing for Planning File 15-012 at approximately 6:45 p.m.

City Planner Thomas Paschke briefly reviewed the request for CONDITIONAL USE approval of a drive-through as part of remodeling of an existing building on a corner property, accessing and fronting on Rice Street, developing it into a multi-tenant building with four separate units proposed, with the building owner occupying one unit as a vehicle window tinting business, and leasing the remainder of the units, including a drive-through option; and as detailed in the project report dated July 1, 2015. Mr. Paschke noted staff was recommending approval as conditioned.

Chair Boguszewski noted drive-through requests in the past had been specific to a tenant, while this request was for approval prior to knowing who the tenant may be. Chair Boguszewski questioned if staff was confident that zoning and permitted uses would prevent a high-volume use, since there is yet no knowledge of a future tenant, which he found similar to issuing a blank check; and questioned if sufficient safeguards were in place to ensure the owner and occupant would be applicable.

From the standpoint of conditions as recommended and as part of the staff review for the Design Review Committee (DRC), Mr. Paschke noted the conditions applied as such by the City Engineer/Public Works Director during that discussion that would retain the ability to not approve a future use if it was determined their impact (e.g. volume of vehicles) proved detrimental to this site or current traffic conditions. Therefore, Mr. Paschke opined it was staff's finding that conditions would provide sufficient protections for a future tenant.

At the request of Chair Boguszewski, Mr. Paschke confirmed that the end use, when determined, would trigger a review by staff to ensure that conformity and that use would be approved or denied based on those findings at that time and prior to the specific tenant signing a lease agreement and subsequent to the City Engineering reviewing traffic generation models for that particular use and tenant. Mr. Paschke further clarified that such a review would be part of the overall at which time a determination would be made as to whether the proposed use was approved and prior to issuing a tenant improvement permit.

Member Gitzen clarified, with agreement by Mr. Paschke, that the proposed fencing/screening was conditioned only along the island area(s).

Member Bull expressed his concerns about the circulation plan as proposed off County Road B-2 if several cars in that lane were queuing to the back of the building, creating a situation where they would end up circling around the building that may cause issues; and also the location of the garage doors in the SW corner that may interfere with internal traffic flow and use of the garage doors. Member Bull questioned if that had entered into staff's analysis.

Mr. Paschke responded that staff did not find it a negative situation for vehicles to circle the building, as the site itself was designed to operate and flow consistently with how vehicles would typically move through this particular site and work with the site immediately to the north. Mr. Paschke clarified that the use itself would be utilizing those garage doors, and vehicles would not be parked there all day long, only perhaps for a few minutes before pulled inside the building. While some control would obviously be required, Mr. Paschke noted that that main business, window tinting for vehicles, buildings and other applications, should not conflict with the anticipated peak times for a drive-through use; and would need to be resolved by the building tenants and owner; which was clearly understood by the owner and self-imposed on them in requesting this drive-through lane. Mr. Paschke further clarified that there was not a zoning issue that was proving problematic, and the owner was well aware of site issues moving forward.

At the request of Member Bull, Mr. Paschke suggested typical peak hours for drive-throughs for such a proposed use as anticipated would need to be addressed by the building owner and tenants. Mr. Paschke noted he was aware of the concerns expressed by Chair Boguszewski in not knowing a definite tenant at this time; but was also cognizant of the applicant's desire to have this drive-through available to market and attract other potential tenants to the site.

Member Cunningham asked staff to provide examples of potential uses that would involve a lower-impact drive-through versus one identified as high-impact.

Mr. Paschke responded that a McDonald's type use, requiring more square footage, would be one example of a high-impact use versus a no-name coffee shop. Mr. Paschke advised that this would be part of staff's analysis in the future as a proposed use came forward.

Member Daire sought clarification, confirmed by Mr. Paschke, that the proposed floor plan provided for Sun Control occupying Units Suites 100, 300 and 400, along with the bays in back, with only one production area potentially leasable. Member Daire questioned if it was conceivable based on discussions to date, for the potential combination of Suites 300 and 400 for potential use that could also avail itself of the drive-through.

Mr. Paschke responded affirmatively, theoretically, depending on the particular use and conditions applied to that use. Mr. Paschke advised that a proposed use may not be supported by staff, as indicated in discussions previously.

At the request of Member Daire, Mr. Paschke confirmed that Sun Control would need to seek approval by City staff for any tenants intended to locate in this multi-tenant facility. At the request of Member Daire, Mr. Paschke clarified that most multi-tenant buildings were required to seek approval for uses, and whether permitted or not permitted, or permitted with a Conditional use permit, as established by City Code.

Applicant Representative Todd Jensen, 2604 Rice Street

Mr. Jensen advised that he was the co-owner of Sun Control, which his father had owned for over 35 years, having leased several other spaces in Roseville, most currently at 2604 Rice Street.

Dave Rustad, 329 S Owasso Blvd.

Mr. Rustad advised that he was the current building owner at 2425 Rice Street, and Mr. Jensen and his partner Josh, intended to purchase the building from him and give it a facelift, with the intent that good tenants would bring life back into the building and area, providing positive impacts for Rice Street.

Specific to the drive-through, Mr. Jensen advised that they envisioned a small, family-run business (e.g. small sandwich deli or coffee shop), and their reason for seeking this conditional use for a drive-through at this time was to allow them a larger pool of tenant options moving forward. As noted in staff's findings in the report, Mr. Jensen opined that it seemed an appropriate space for which to seek such a potential use. Mr. Jensen further stated that, at the discretion of the Commission and/or staff, he had no problem bringing a future tenant forward for approval as a potential occupant of the building and user of the drive-through.

Member Boguszewski asked if it was the intent of the applicant to build the drive-through now or merely obtain approval for a future tenant and construct it at that time or post-approval.

Mr. Jensen noted a future tenant may not need that option, but his hope was to see such a use and related drive-through as a tenant, since there weren't many such small business options along Rice Street at this time. In essence, Mr. Jensen advised that he was seeking approval before a tenant became known to allow for such an option, without the unknown if such a use may or may not be approved at the time such a tenant was available.

Mr. Rustad noted that construction would start immediately, according to plan, for Sun Control's occupancy of the largest portion of the building, and after or during that same time, three additional spaces may be leased by other, and unknown tenants. Other than for the actual drive-through itself, Mr. Rustad advised that all other construction as indicated in the plan would be completed during the initial phase of construction, including landscaping and curb cuts with Mr. Jensen and his partner

seeking tenants parallel to that construction. Having owned the building since 2003, Mr. Rustad advised that he was well-aware of the demographics of the area and traffic flow; and opined that the proposed plan was usable and would complement that neighborhood without any negative impacts.

In his review of the site plan, Member Daire opined that the space to the north of the building suggested a better location for a drive-through rather than the south side; and asked if the applicant had considered that option and if so, why they had chosen the south side instead.

Mr. Rustad responded that, since this site shared ingress/egress with the property immediately to the north, and pick-up from the drive-through from the driver side of a vehicle, the concern was that staging of vehicles may back up into that adjacent property or even into Rice Street if located on the north side, creating more problems than as proposed on the south side.

Member Daire sought further clarification regarding the grading of the site and potential conflict with existing doors and the drive-through.

Mr. Rustad clarified that the SE corner was at higher grade at the SE corner but not significant; and the doors in question were considered service doors, with one required as an additional exist for one unit, but not used for daily entry as required by code.

Member Bull thanked the applicants for their participation in the Roseville business community; and asked if they understood that a potential use may not meet expectations and may not be approved.

Mr. Jensen responded that he understood concerns as raised by the Commission; and expressed his confidence that a potential tenant could be found, similar to the previous area coffee shop (J. Arthur).

Mr. Rustad concurred, opining that the smaller spaces of approximately 1,000 square feet, were more attractive to a smaller use; with only the end cap available and subject to limited smaller operations.

Mr. Jensen noted their commercial business involved window tinting for residential, commercial and vehicle applications; and at night their work vans would be stored in the garage, with approximately 60% of their residential and commercial business off-site, with those vans leaving at 8:00 a.m. and not returning until approximately 4:30 p.m. As an example, Mr. Jensen noted that they did a number of police vehicles used for canine use, as well as other retail applications as well; with each average four-door sedan taking 3-4 hours, with perhaps 4-5 completed per day; and reiterated that a considerable amount of business was performed off-site.

Given the success of their business, Mr. Rustad noted that Sun Control had outgrown their current commercial space.

Public Comment

Polly West, 194 County Road B-2 West

Ms. West stated her biggest concern was that there were no established operating hours for these potential tenants; and with the current business at this site having gone out of business, any new use brought immediate concerns with noise, light or car pollution. Also, Ms. West expressed concern about light pollution if a potential drive-through operated late at night, it would negatively impact those residents directly across from the entry on County Road B-2.

Ms. West also noted existing and frequent traffic back-ups at the intersection; and expressed concern with the pond area and grass with wildlife that may be negatively impacted with a future use.

Member Cunningham asked Ms. West if her concerns were specific to the drive-through use or building tenants in general.

Ms. West responded that the only tenant she know about and their operating hours as stated by Mr. Jensen were acceptable. However, Ms. West opined that commercial also needed to interact with residents on an equal basis. Ms. West admitted the drive-through concerned her, especially related to traffic flow in this area, and the lack of information available at this point in time. While staff assures that there will be no McDonald's as a possible use, Ms. West asked what about a smaller use such as Burger King or similar use; what was considered smaller; and the potential number of cars that could back-up significantly. Ms. West also expressed concern with the safety of students at the adjacent daycare center.

Member Cunningham sought to clarify that Ms. West's concerns were more related to a drive-through rather than general concerns with the property itself.

Ms. West responded that there was already so much noise pollution and speed on that corner.

Chair Boguszewski closed the public hearing at approximately 7:27 p.m. with no one else appearing to speak for or against.

Member Cunningham expressed her confusion about this application, opining that the points brought up were legitimate and the role of the Planning Commission in looking at traffic patterns and potential impact to a neighborhood. While appreciating the intentions of the owner, Member Cunningham noted that an unfortunate lesson learned by this body was that sometimes intentions didn't become reality. Member Cunningham expressed concerns with the unknowns, and sought input from her colleagues.

At the request of Member Daire, Mr. Paschke clarified that Conditional Uses, like Variances, are recorded against a property and in effect until the City abolishes or eliminates them. At the request of Member Daire, Mr. Paschke confirmed that by granting a Conditional Use for a potential drive-through use, it would assist the applicant as an additional selling point for future tenants.

At the request of Chair Boguszewski, Mr. Paschke clarified that the building is now owned by Mr. Rustad, not Sun Control, and the Conditional Use would be granted to the current owner and transfer with the title of the property, and recorded against that property.

As an additional nuance, Mr. Lloyd noted that, with approval of a Conditional Use, it must be executed by the property owner within one year; and if the drive-through was not constructed on the site within that year, the approval expired. On the flip side, Mr. Lloyd noted that the applicant could also request an extension on the Conditional Use approval without going through the formal full application process, but simply by written request to the Commission in reviewing existing conditions compared to when originally approved.

Member Bull noted that he shared Member Cunningham's trepidation in knowing so little about what could happen with parking, traffic, circulation, cuing and potential light impacts for residential properties in the surrounding area. If he supported this request, Member Bull stated he would like to see more specifics about shielding or screening height on the south and west side of the property as vehicles moved through it.

While being more comfortable in knowing an actual use or tenant, Member Murphy stated that the staff report clearly addressed the method available for the City and citizens if things turned out poorly. Therefore, Member Murphy spoke in support of the Conditional Use, even though he would be more at ease if the tenants were known.

Member Cunningham asked what process was available if there were objections with a potential user of the drive-through or how a neighbor, such as Ms. West, could resolve her issues at that time. Member Cunningham opined that there was a perception that the City was more business-friendly than neighbor/resident-friendly, which she was trying to be sensitive to, whether accurate or not. Therefore, Member Cunningham asked what recourse was available for a neighbor to appeal based on concerns.

In this particular situation, Mr. Paschke noted a potential user with drive-through option would be occupying 1,000 square feet on the end of the building, if and when actually approved by staff based on current City Code. If there were issues or opposition, Mr. Paschke advised that a neighbor could appeal staffs' decision at their discretion and as staff's recommended course of action rather than tabling this request until one or more tenants express interest in occupying the space and/or desiring the drive-through. Mr. Paschke clarified that appeals were heard directly by the City Council; whether to appeal the use itself or appeal a tenant use permit.

In lines 16-170 of the staff report's recommendations, Member Stellmach sought clarification of the approval process used by staff in analyzing a use.

Mr. Paschke advised that potential impacts generated by a use occupying any given space, traffic volume and stacking, and other considerations tied to a particular proposal for tenant use and impact

to the site itself and access points. Mr. Paschke advised if staff concluded that a use is not appropriate or could not be conditioned adequately, the use would be recommended for denial. At the request of Member Stellmach, Mr. Paschke addressed some of the considerations for a particular use based on a specific site; with traffic models and manuals analyzing most every conceivable use and their potential impacts, such as for drive-through stacking and other concerns.

Based on those provisions and limited uses in this small square footage, Member Stellmach stated that served to calm his concerns, and while recognizing the concerns of his colleagues, given those particulars he would support the Conditional Use request.

Member Daire asked the ramifications if the Conditional Use application for a drive-through was not recommended tonight to the City Council; and whether the applicant would be free to come in and seek a Conditional Use when a tenant was secured at some future point in time and needing that drive-through.

Mr. Paschke advised that the Commission could deny the request; but suggested instead they CONTINUE the request allowing the tenant to utilize this same application; giving the City Council the ability to consider that or other options; and their ultimate approval or denial. If denied, Mr. Paschke noted that the applicant had the ability to come forward at a future time for a Conditional Use when a tenant had been secured.

Member Daire questioned if that would allow the applicant to still market the site with that drive-through potential already in process.

Mr. Paschke noted that this could indicate to potential tenants the possibility for approval, and a record of their hesitancy in doing so without a tenant being secured.

Member Gitzen stated he would be more comfortable with a known tenant; however, he expressed his confidence that sufficient conditions were in place or available to monitor a future tenant.

In referencing page 5, lines 159 – 164 of the staff report, Chair Boguszewski suggested additional language to screen headlights on the south and east portions of the property in addition to the west side.

To that point, Member Bull expressed concern in not addressing screening of a sufficient size to address headlights.

Member Cunningham noted her concern went beyond just headlights, but also with other lights on site, such as from a menu board; and suggested revising the condition to state..."any other unnatural light or light created by the businesses located on this site..."

Chair Boguszewski questioned if there was any cause or standing to address light emitting from the structure itself but not caused by or related to the drive-through issue before the body as a Conditional Use.

Member Daire questioned if menu boards had a higher candle light at the edge of the property, or if they met criteria currently used.

Given the potential for continuous impulse lighting from the site, Member Bull opined with all the other unknowns, he was inclined not to support this request.

Chair Boguszewski addressed the three options before the Commission: to recommend City Council approval; to recommend City Council denial; or for the Commission to CONTINUE the request until a potential tenant is identified and more specific details allow for staff's analysis, at which time the approval process could be reinstated, and returned to the Commission for their recommendation to the City Council at that time.

Member Murphy questioned what a continuation meant to the timeframe of this request.

Mr. Paschke advised he would need to research the ramifications created by such a continuation as it related to the 60-day approval period and when an actual tenant may be known. Mr. Paschke noted the City's ability to extend the application by an additional 60-days as indicated in the staff report; as well as the applicant's ability to extend the process, both in writing, and essentially stopping the 60-day clock at that point.

At the request of Member Daire, Mr. Paschke clarified that the action of the Commission was specific to the drive-through, not building occupancy or remodeling for Sun Control's use of the building and should not prevent those steps from going forward.

Chair Boguszewski opined that, to-date the Planning Commission had a history of approving drive-throughs, and recognizing the trade-off for citizens and businesses; and historically sympathetic to the drive-through concept if and when scaled appropriately. If the decision tonight by the Commission is to CONTINUE this request, Chair Boguszewski sought to clarify that it should be in no way interpreted as potentially being a future denial based on that history.

At the request of Member Bull, Chair Boguszewski clarified, with concurrence by Mr. Paschke that if the Commission CONTINUED this it would be at the Planning Commission level and until the Commission took definitive action to make a recommendation to the City Council, the continuation would be only at this level. If and when a tenant is identified, Chair Boguszewski noted that the applicant would then return to the Commission and the issue could be taken up where left off.

Mr. Rustad spoke to the consideration by the Commission to continue this request, advising that he would continue to own a percentage of the building, and as a resident of Roseville, was conscious of business and resident concerns and issues. Therefore, Mr. Rustad sought to clarify that the concern of the Commission was based on them not knowing who the tenant is and potential impacts.

Chair Boguszewski responded affirmatively.

Given the previous small use of J. Arthur adjacent to this site, Mr. Rustad opined that it provided a good idea of what type of tenant could occupy that 1,000 square footage. Recognizing concerns raised about stacking and headlights for adjacent neighbors, Mr. Rustad suggested approval be restricted and limiting options. Mr. Rustad opined it sounded like staff had enough built-in fail safes that not just any tenant would be approved.

Mr. Rustad noted that, as an owner of the building since 2003, time was of the essence for this, and given the history of the building as a former sporting goods operation, now under ownership as a large wholesale sporting goods company operating out of Memphis, TN, noted that while currently still operating from the back of the building, it would be relocating. Mr. Rustad noted that the pending sale was impacting that situation and causing the push to move this forward now. Mr. Rustad sought Commission approval by assuring them of the applicant's willingness to meet any future restrictions or conditions, and his recognition of neighbor concerns regarding lighting and the need for appropriate screening.

Chair Boguszewski asked Mr. Rustad what he believed was his sense of urgency in having the approval in hand while seeking tenants versus reporting to them the status of the drive-through Conditional Use following the property.

Member Murphy opined that, even if approval was delayed, with the project file open and paperwork already submitted, potential approval should be a quick turnaround.

When doing a project this size, Mr. Rustad noted the significant amount of money being expended for the facelift and making a nicer curb appeal for the building. Mr. Rustad reviewed some of the planned improvements for this exterior façade; and the need to present to lenders potential possibilities as part of their proforma or use for each space. Mr. Rustad noted that this became personal on their part as well as financially necessary; and as long as restrictions are in place and approved, opined it would provide sufficient control for the City and staff to avoid tenants or uses that were not appropriate. Mr. Rustad opined that previous drive-through approvals by the Commission, such as at Caribou across from McDonald's or near HarMar Mall in the past, were more at issue due to the location and size versus the limited potential of this location and size.

At the risk of coming across irrationally, Member Bull clarified that his concerns were based on many different viewpoints but centered around the unknowns – whether fulfilled or not – and the uncertainty that a potential use may not address some of those unknowns; of great concern to him with the Conditional Use going with the property.

Member Murphy noted even if granting a Conditional Use with a specific tenant, that tenant could potentially change in six months, with the future not always known and changing at any given point.

Member Bull stated that as long as protections could be guaranteed to enforce restrictions, he was coming around to Member Murphy's rationale.

MOTION

Member Murphy moved, seconded by Member Gitzen to recommend to the City Council approval of the proposed drive-through as a CONDITIONAL USE at 2425 Rice Street; based on the comments and findings contained the project report dated July 1, 2015; as conditioned in the staff report, *with Condition B (line 157) corrected to read "from" rather than "form;" and in line 164, Condition C be revised to read: "...headlights...and light emanating from other structures on the site related to drive-throughs..."*

Ayes: 6

Nays: 0

Abstentions: 1 (Daire)

Motion carried.

**EXTRACT OF MINUTES OF MEETING OF THE
CITY COUNCIL OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the City Council of the City of Roseville, County of Ramsey, Minnesota, was held on the 25th day of July at 6:00 p.m.

The following Members were present: _____;
and ____ were absent.

Council Member _____ introduced the following resolution and moved its adoption:

RESOLUTION NO. ____
A RESOLUTION APPROVING A DRIVE-THROUGH AS A CONDITIONAL USE AT
2425 RICE STREET

WHEREAS, the Roseville Planning Commission held the public hearing regarding the proposed CONDITIONAL USE on July, 1, 2015, voting 6 – 0, with one abstention, to recommend approval of the proposed drive-through based on public testimony and the comments and findings of the staff report prepared for said public hearing; and

WHEREAS, the Roseville City Council has determined that approval of the proposed CONDITIONAL USE will not result in adverse impacts to the surrounding properties based on the following findings:

- a. The proposed use is not in conflict with the Comprehensive Plan.
- b. The proposed use is not in conflict with a Regulating Map or other adopted plan.
- c. The proposed use is not in conflict with any City Code requirements.
- d. The proposed use will not create an excessive burden on parks, streets, and other public facilities.
- e. The proposed use will not be injurious to the surrounding neighborhood, will not negatively impact traffic or property values, and will not otherwise harm the public health, safety, and general welfare.

NOW THEREFORE BE IT RESOLVED, by the Roseville City Council, to APPROVE the proposed drive-through as a CONDITIONAL USE at 2425 Rice Street in accordance with Roseville City Code, subject to the following conditions:

- a. The applicants shall work with the Planning and Engineering Divisions on the appropriate location of a painted crosswalk and possible sidewalk connections to facilitate a pedestrian connection from Rice and/or County Road B2 to the building.
- b. The applicants will work with the Planning Division on the appropriate location and design of any menu board and speaker box for ordering. The speaker should not be audible from the property line.
- c. The applicants shall submit a landscape plan that includes decorative fencing (or possibly fence sections) 4 to 6 feet in height be installed and maintained along with a mix of shrubs

and perennials within the island adjacent the drive-through. Further, additional evergreen and/or coniferous landscaping shall be installed and maintained in the boulevard adjacent to County Road B2 and the green area at the west of the property (rear yard) sufficient to screen headlights and light emanating from other structures on the site related to drive-throughs.

- d. The Community Development and Public Works Departments have reviewed the proposed tenant and its utilization of the corner tenant space concluding that the drive-through lane should wrap around the building and enter the order area and window from the rear of the building. Signage shall be installed within the site to effectively identify the drive-through lane and striping placed on pavement to identify the drive-through lane at the rear of the building. Additionally the drive-through island shall be modified to curve around the building to the rear to better facilitate proper entering into menu board/order area and vehicle circulation.

The motion for the adoption of the foregoing resolution was duly seconded by Council Member _____ and upon vote being taken thereon, the following voted in favor: _____; and _____ voted against.

WHEREUPON said resolution was declared duly passed and adopted.

[illegible]

WITNESS MY HAND officially as such Manager this 25^h day of July 2016.

(SEAL)