

Department of Community Planning and Economic Development
Rezoning, Conditional Use Permit, Variance
BZZ-6067

Date: June 10, 2013

Applicant: NHH Properties

Address of Property: 315 27th Avenue SE

Project Name: 315 27th Avenue SE Rezoning

Contact Person and Phone: Carol Lansing with Faegre Baker Daniels LLP, (612) 766-7005

CPED Staff and Phone: Kimberly Holien, (612) 673-2402

Date Application Deemed Complete: May 7, 2013

End of 60-Day Decision Period: July 6, 2013

End of 120-Day Decision Period: On May 23, 2013, staff sent a letter to the applicant extending the City's decision period for an additional 60 days, to September 4, 2013.

Ward: 2 **Neighborhood Organization:** PPERRIA

Existing Zoning: I1, Light Industrial district, UA, University Area Overlay district and PO, Pedestrian Oriented Overlay district

Proposed Zoning: C3A, Community Activity Center district and retaining both overlay districts

Zoning Plate Number: 22

Lot area: 44,880 square feet

Legal Description: The southeasterly 144 feet of Lot 1, Auditor's Subdivision No. 260, Hennepin County, Minnesota.

Proposed Use: K-12 school, restaurant, office

Concurrent Review:

- Rezoning from the I1, Light Industrial district to the C3A, Community Activity Center district (retaining the UA and PO Overlay districts).
- Conditional use permit for K-12 school in the C3A district.
- Variance to reduce the minimum loading requirement from one small space to zero.

Applicable zoning code provisions: Chapter 525: Article VI, Zoning Amendments; Chapter 525: Article VII, Conditional use permits.

Background: The site is located at the intersection of 27th Avenue SE and University Avenue SE. The parcel is a through lot that also has frontage on 4th Street SE. The proposal is to establish a charter school serving grades 6-12, a restaurant and a short-term retail or office user in the existing building. The base zoning of the site is I1, Light Industrial and K-12 schools are not a permitted use in this district. Therefore, the applicant is applying to rezone the property from the I1, Light Industrial district to the C3A, Community Activity Center district. A conditional use permit is also required for the proposed use.

The proposed school, Venture Academy, will serve grades 6-12. The school's educational model encourages students to be innovative and entrepreneurial leaders by blending personalized, self-directed learning, experimental learning and digital tools and content. Venture Academy has been approved to open and operate a Minnesota public school by the Minnesota Department of Education. The school will open with approximately 100 6th graders and expand by one grade each year. Total enrollment is expected to reach approximately 300 students by the seventh year. School staff will number approximately 10 employees in the first year and 15 by the seventh year.

The building most recently contained a printing and publishing use and is now vacant. The proposal at this time includes façade improvements to the existing industrial building such as additional glazing and an entry canopy facing 27th Avenue SE, additional glazing and storefront systems facing University Avenue SE, the installation of playground equipment in the northeast corner of the site and minor modifications to the parking lot. The project would also include significant interior remodeling to fit the building for a school. The school will initially occupy approximately 16,000 square feet of gross floor area within the building and expects to expand to occupy additional space within the building over four years as enrollment increases. Two tenant spaces at the front of the building include a 3,013 square foot space that is expected to be occupied by a restaurant or coffee shop use and 5,393 square feet of space that would be leased to commercial tenants in the short term and then serve as expansion space for the school. The site has surface parking fronting along University Avenue SE and 4th Street SE. The applicant is proposing to add landscaping and screening materials within the parking areas and is also proposing to modify an existing loading dock on the north side of the building.

Staff had not received any correspondence from PPERIA as of the writing of this report. Any correspondence, if received, will be forwarded on to the Planning Commission for consideration.

REZONING: from the I1, Light Industrial district to the C3A, Community Activity Center district.

Findings as required by the Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan for Sustainable Growth identifies this site as mixed use on the future land use map. The site is located within an Activity Center, near a Growth Center and along University Avenue which is a commercial corridor in this location. The site is also within a Transit Station Area. According to the principles and policies outlined in the comprehensive plan, the following apply to this proposal:

Land Use Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

1.1.4 Support context-sensitive regulations for development and land use, such as overlay districts, in order to promote additional land use objectives.

1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

Land Use Policy 1.3: Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit.

1.3.1 Require safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way in all new development and, where practical, in conjunction with renovation and expansion of existing buildings.

1.3.2 Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.

Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.

1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

Land Use Policy 1.10: Support development along Commercial Corridors that enhances the street's character, fosters pedestrian movement, expands the range of goods and services available, and improves the ability to accommodate automobile traffic.

1.10.1 Support a mix of uses – such as retail sales, office, institutional, high-density residential and clean low-impact light industrial – where compatible with the existing and desired character.

1.10.3 Discourage uses that diminish the transit and pedestrian character of Commercial Corridors, such as some automobile services and drive-through facilities, where Commercial Corridors intersect other designated corridors.

1.10.5 Encourage the development of high-density housing on Commercial Corridors.

Land Use Policy 1.12: Support Activity Centers by preserving the mix and intensity of land uses and by enhancing the design features that give each center its unique urban character.

1.12.1 Encourage a variety of commercial and residential uses that generate activity all day long and into the evening.

1.12.2 Encourage mixed use buildings, with commercial uses located on the ground floor and secure entrances for residential uses.

1.12.4 Discourage uses that diminish the transit and pedestrian character of Activity Centers, such as automobile services, surface parking lots, and drive-through facilities.

1.12.5 Encourage a height of at least two stories for new buildings in Activity Centers, in keeping with neighborhood character.

1.12.6 Encourage the development of high- to very-high density housing within the boundaries of Activity Centers.

Land Use Policy 1.13: Support high density development near transit stations in ways that encourage transit use and contribute to interesting and vibrant places.

1.13.1 Encourage pedestrian-oriented services and retail uses as part of higher density development near transit stations.

1.13.3 Discourage uses that diminish the transit and pedestrian character of areas around transit stations, such as automobile services, surface parking lots, and drive-through facilities.

1.13.5 Concentrate highest densities and mixed use development adjacent to the transit station and along connecting corridors served by bus.

Land Use Policy 1.15: Support development of Growth Centers as locations for concentration of jobs and housing, and supporting services.

1.15.3 Encourage the development of high- to very high-density housing within Growth Centers.

The proposed C3A zoning is consistent with the above policies of the Comprehensive Plan. The C3A zoning district allows a broad range of commercial uses and high- to very-high

density residential development if the site were to be redeveloped in the future. The density and uses allowed in the C3A district are appropriate in an Activity Center and in a Transit Station Area.

The site is also located within the study area of the *Stadium Village Master Plan*, adopted by the City Council in August of 2012. The future land use map in this small area plan identifies the site for mixed use. The site is within the Prospect Park Station Area and the smaller 27th Avenue Open Space Character District in the plan. Applicable policies related to this smaller district are as follows:

- District is a primary north/south connection through the study area.
- Numerous potential redevelopment opportunity sites defined in the district along 27th Avenue.
- Opportunity to improve character of public realm with streetscape enhancements, stormwater management and architectural guidelines.
- Informal character border or buffer with Prospect Park neighborhood.

The recommendations for the Prospect Park Station Area that are applicable to the site are as follows:

- Higher density residential development in the area west of 27th Avenue and on the neighborhood side of University Avenue.
- Support the redevelopment of this area with high density residential mixed use, with retail primarily fronting on University Avenue.
- Encourage a mix of uses that complements those in the Stadium Village commercial core and expands upon the options available.

For the 4th Street SE and University Avenue SE Corridors, the plan says the following:

- Encourage the development of medium to high density mixed-use development facing towards University Avenue SE on both sides, with transitions to a residential character and frontage on parallel streets at the rear of the sites.
- Encourage redevelopment of 4th Street SE as a primarily high density residential street with a range of housing types. Allow for a limited amount of mixed use, particularly around station areas, that complements the residential character.

The land use recommendation for the Prospect Park Station Area call for supporting the redevelopment of the area with high density residential development on the subject site.

The adopted small area plan also calls for high density residential development and/or mixed use development with retail fronting along University Avenue SE. The applicant is proposing retail fronting along University, at least in the short-term. The proposed rezoning would also allow for the density called for in the plan if the site were ever to be redeveloped in the future.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

A rezoning to the C3A, Community Activity Center district would be in the interest of the property owner but also in the public interest. Rezoning from the I1, Light Industrial district to the C3A, Community Activity Center district is consistent with adopted City policy for the area. Although some industrial uses may be consistent with the intent of commercial corridors, uses allowed under the current I1 zoning are generally not consistent with the character of the surrounding area and typically not compatible with adjacent residential development. The rezoning would allow for a wide range of commercial uses and high to very high residential development should the site be redeveloped in the future. This level of density is called for in Activity Centers and Transit Station Areas. The range of uses allowed in the C3A district is also supported near these land use features.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The surrounding area contains a mix of residential and commercial uses and various zoning classifications. The property to the west is zoned C3A and contains a mixed use building with office and clinic space on the first floor and housing above. The property to the north at 2635 4th Street SE was recently rezoned from I1 to R6 to allow a planned unit development with 197 residential units. The property to the northwest is zoned I1 and contains the University of Minnesota's land maintenance facility. The property to the east is zoned OR3 and contains a large office building. The property to the south is zoned C2 and contains a reception/meeting hall. The uses allowed in the proposed C3A district would be compatible with the adjacent residential and non-residential uses. A full listing of the differences between the existing I1 zoning and the proposed C3A zoning has been attached for reference.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

There are reasonable uses of the property permitted under the current I1, Light Industrial zoning classification, including number of light industrial uses and a limited number of retail sales and service uses, offices, food and beverage uses, commercial recreation, entertainment and lodging uses, medical facilities and others. However, the industrial uses allowed are not as consistent with adopted City policy for this site as the uses allowed under the proposed zoning. Additionally, the I1 district does not allow any residential uses and adopted policies call for high to very-high density residential development should the site ever be redeveloped in the future.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

In 1984 the property was rezoned from the B1-2 (commercial) district to the M1-1 (light industrial) district. With the adoption of the new zoning code in 1999, the property went from the M1-1 district to the equivalent I-1, Light Industrial district. There has been a change in the character of the area and the trend of development in the area since the property was rezoned to light industrial. There has been an ongoing change in the character and trend of development within the general area due to the proximity of the site to the University of Minnesota and the construction of the Central Corridor LRT line. The area is experiencing a lot of redevelopment, including mixed-use development and high-density residential development. A transit station is being constructed two blocks east of the site, at 29th Avenue SE and University Avenue SE. Adopted City plans and policies, including the newly adopted Stadium Village Master Plan, call for pedestrian-oriented mixed-use or residential development on the site and in the surrounding area. Rezoning the site to C3A from I1 would be consistent with this ongoing trend of development and support adopted City policies.

CONDITIONAL USE PERMIT: to allow K-12 school in the C3A district.

Findings as required by the Minneapolis Zoning Code:

The Minneapolis Department of Community Planning and Development, Planning Division, has analyzed the application and from the findings above 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.

Establishing a school use (6-12) in this vacant building would not be detrimental to or endanger the public health, safety, comfort or general welfare. A school in this location will allow for adaptive reuse of an industrial building and expand the range of goods and services provided within this particular Activity Center. The majority of the activity related to the school will be conducted within the building. The school, Venture Academy, will be accredited by the State of Minnesota and operated in accordance with the laws of the State and the charter provider.

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 proposed use should not be injurious to the use and enjoyment of other property in the vicinity or impede the normal and orderly development and improvement of the surrounding area. A charter school serving grades 6-12 should have little impact on the trend of development that has been occurring in the area in recent years. The school will provide an educational opportunity to serve the growing number of residents in the area. As stated above, the majority of the activity associated with the use will occur within the building, with the exception of an outdoor space in the northeast corner of the site. The applicant is proposing improvements to the building, including additional windows and storefronts facing University Avenue which will provide investment in this vacant building.

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

Utilities and access roads are existing and adequate. The site has two parking lots; one which is accessed from 27th Avenue SE on the south side of the site and one which is accessed from 4th Street SE on the north side of the site. The applicant shall be required to work closely with the Public Works Department, the Plan Review Section of CPED and the various utility companies during the duration of the development should the plan be approved. This would be required to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

The proposed use is not expected to contribute to traffic congestion in the public streets. Student transportation will be provided by parent drop-off, public transit and school buses. During the first two years of operation, the school plans to operate two buses to transport most the students. The buses will drop off students between 7:30 and 8:00 a.m. and pick up between 4:00 and 4:30 p.m. Students are also expected to take advantage of the Central Corridor LRT line once it begins operations and bike to school. The applicant is currently working with Public Works on a traffic study and/or school plan that will evaluate drop-off times and locations to ensure that the use does contribute to traffic congestion in the area.

The parking requirement for a K-12 school is one space per classroom plus one space for every five students of legal driving age. At the start, there will be eight classrooms and zero students of legal driving age, requiring eight spaces. This number is reduced by 25 percent, to six spaces, due to the presence of the Pedestrian Oriented Overlay district. The building will also include a restaurant with 3,013 square feet of gross floor area. The parking requirement for that use is one space for each 500 square feet of gross floor area up to 2,000 square feet, plus one space per 300 square feet in excess of 2,000 square feet. The minimum parking requirement for this use with the 25 percent PO reduction is 5 spaces. The other commercial space will likely be used for retail or office in the short-term. This space is 5,393 square feet in area and would require three spaces. The total parking requirement for the uses proposed is 14 spaces. The site has 36 off-street parking spaces, satisfying the minimum requirement. The excess parking available on site should account for any change to the parking requirement once the school has students of legal driving age. Should the parking requirement exceed the amount of parking available on site once the school reaches peak enrollment, a variance would be required at that time. The combined bike parking requirement for the uses in the building is 30 spaces. A total of 30 bike parking spaces are proposed along 27th Avenue SE and 4th Street SE. Bike racks in the right-of-way require encroachment permits from Public Works.

While the applicant has requested a variance to the minimum loading requirement, a space for off-street loading will be provided within the parking area to alleviate any off-site impacts related to this variance.

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

The Minneapolis Plan for Sustainable Growth identifies this site as mixed use on the future land use map. The site is located within an Activity Center, near a Growth Center and along University Avenue which is a commercial corridor in this location. The site is also within a Transit Station Area. According to the principles and polices outlined in the comprehensive plan, the following apply to this proposal:

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1.12.5 Encourage a height of at least two stories for new buildings in Activity Centers, in keeping with neighborhood character.

1.12.7 Encourage the development of high- to very-high density housing within the boundaries of Activity Centers.

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the site for mixed use. The site is within the Prospect Park Station Area and the smaller 27th Avenue Open Space Character District in the plan. Applicable policies related to this smaller district are as follows:

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- Encourage redevelopment of 4th Street SE as a primarily high density residential street with a range of housing types. Allow for a limited amount of mixed use, particularly around station areas, that complements the residential character.

The mix of uses proposed within the building will provide activity at various hours of the day, consistent with adopted policy for Activity Centers. The building will include commercial tenants fronting on University Avenue SE, which is a community corridor in this location. As such, the proposed project is consistent with the above policies of the Comprehensive Plan.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

The façade improvements proposed by the applicant include a canopy facing 27th Avenue SE that encroaches into the public-right-of-way. This element will require an encroachment permit through Public Works. The applicant is also proposing colored vinyl siding on various portions of the exterior. Vinyl siding is not considered a durable material per Chapter 530, Site Plan Review and will not be allowed. As a condition of approval, this material shall be replaced with Hardiboard, fiber cement or another durable material.

Several concept signs are proposed for the building. The applicant has not provided enough information at this time to determine if the proposed signage meets the requirements of Chapter 543 of the zoning code. For the C3A district, signage equivalent to 1.5 square feet for each one foot of primary building wall is proposed. The site has primary building walls facing 27th Avenue SE, University Avenue SE and 4th Street SE. On the north and south elevations, up to 213 square feet of signage is allowed. On the east elevation, up to 345 square feet of signage is allowed. Separate permits for signage will be required.

The parking areas are both proposed to be landscaped in compliance with Chapter 530, Site Plan Review, including 7-foot landscaped yards between the parking areas and the public streets, plantings that are a minimum of three feet in height and 60 percent opaque and deciduous trees within 50 feet of each parking space.

VARIANCE: (to reduce the minimum loading requirement from one small space to zero.)

Findings as Required by the Minneapolis Zoning Code for the Variance:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

K-12 schools require one small (10' x 25') loading space. A variance to reduce the loading requirement from one small space to zero has been requested accordingly. Practical difficulties exist in complying with the minimum loading requirement in this location. Deliveries to the site will be infrequent and there is space within the north parking area to accommodate the van that will deliver daily meals. The space where loading and deliveries will occur has access to a loading door but is not a designated loading space. The site exceeds the minimum parking requirement to allow for this configuration. These circumstances are unique to the property and have not been created by the property owner.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

Allowing for loading and deliveries to occur in a space that is not specifically reserved for loading is reasonable on this site as it will not have any off-site impacts or impact the ability for other vehicles to maneuver in and out of the parking lot. The purpose of the loading regulations is to recognize the loading needs of uses and structures, to enhance the compatibility between loading areas and their surroundings and to regulate the number, design, maintenance, use and location of these spaces. The area in which loading and deliveries will occur is situated in a manner that will not interfere with maneuverability for other vehicles utilizing this parking lot. In that manner, it is in keeping with the spirit and intent of the ordinance.

3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The area provided will accommodate the needs of the use without impacting neighboring properties. Dual use of the parking and loading functions will allow for adaptive reuse of this vacant industrial building.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development for the rezoning:

The Department of Community Planning and Economic Development recommends that the City Planning Commission and City Council adopt the above findings and **approve** the application for rezoning from the I1, Light Industrial district to the C3A, Community Activity Center district for the property located at 315 27th Avenue SE.

Recommendation of the Department of Community Planning and Economic Development for the conditional use permit:

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit for a K-12 school for the property located at 315 27th Avenue SE, subject to the following conditions:

1. 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 two years of approval.
2. No shelving, signage, merchandise, newspaper racks or other similar fixtures shall be placed in front of the required ground level transparent windows.
3. The proposed vinyl siding shall be replaced with Hardiboard, fiber cement, metal panel or an alternate durable material.
4. Should the parking requirement exceed the amount of parking available on site once the school reaches peak enrollment, a variance to the minimum vehicle parking requirement would be required at that time.
5. Canopy encroachments into the public right-of-way shall require encroachment permits from Public Works.

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

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the loading requirement from one space to zero for the property located at 315 27th Avenue SE.

Attachments:

1. Statement of proposed use and project description
2. Correspondence
3. Zoning map
4. Future land use map
5. Rezoning matrix
6. Site plan, floor plans and elevations
7. Photos