



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

Date: September 30, 2010

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning & Planning Committee

Subject: Scott Harris, on behalf of U.B. Liquors, LLC, has appealed the decision of the City Planning Commission to approve a site plan review application for a building addition resulting in an 11,896 square foot building at 217-229 West Broadway. The existing building at 229 West Broadway currently contains BJ's Liquor Lounge, an adult entertainment use. This building will be modified to remove an 836 square foot section on the south side to allow for a driveway. The 2,828 square foot portion of the building that remains will contain a restaurant use. The 9,068 square foot building addition to be constructed on the east side of the site, at 217 West Broadway, will be two stories in height and will contain an off-sale liquor store. The City Planning Commission approved a conditional use permit for an off-sale liquor store on May 24, 2010.

Recommendation: The following action was taken by the Planning Commission on September 7, 2010 (BZZ-4865):

10. North Loop Gateway (BZZ-4865, Ward: 5), 217-229 West Broadway.

A. Site Plan Review: Application by Tony Smith, on behalf of Land Ho, LLC, for a site plan review for a new multi-tenant commercial building at 217-229 West Broadway, in the I1 and PO Districts.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for a building addition for a new multi-tenant commercial building at the property of 217-229 West Broadway, subject to the following conditions:

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

2. All site improvements shall be completed by September 7, 2011, unless extended by the Zoning Administrator, or the approvals may be revoked for noncompliance.
3. A merchandising plan shall be submitted illustrating that first floor or ground floor windows will 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 feet and seven feet above the adjacent grade, in compliance with Section 530.120 of the zoning code.
4. The landscaped area along the east building wall shall include columnar type plantings a minimum of four feet in height as a graffiti prevention measure.
5. The outdoor dining space on the south side of the building shall be modified to allow for a more visible pedestrian connection from the parking lot to the west building entrance, in compliance with Section 530.130 of the zoning code.
6. The applicant shall work with Public Works staff and Hennepin County on the design and construction to extend the median within West Broadway.
7. The seating area adjacent to West Broadway shall include four tables and 16 chairs with the same quality as the other tables and chairs, and adequate exterior lighting for pedestrian safety shall be included in that area.
8. Increased plantings in all planting beds shall be included along West Broadway.

Ward: 5

Prepared by: Kimberly Holien, City Planner (612-673-2402) Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Kimberly Holien, City Planner

Community Impact

- Neighborhood Notification: The Northside Residents Redevelopment Council was notified of the application on August 20, 2010.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On August 6, 2010, staff sent a letter to the applicant extending the 60 day decision period to no later than October 19, 2010.

Supporting Information

Scott Harris, on behalf of U.B. Liquors, LLC, has appealed the decision of the City Planning Commission to approve a site plan review application for a 9,068 square foot building addition at 217-229 West Broadway, in the I1 and PO Districts. At its meeting on September 7, the City Planning Commission voted to approve the site plan review application. The City Planning Commission minutes and Planning Division staff report are attached.

The appellants have appealed the decisions of the Planning Commission based on three primary factors. First, they dispute the determination that the project complies with the requirements of the West Broadway Pedestrian Oriented Overlay District,

particularly as it relates to the provision that buildings be two floors for the length of the West Broadway frontage. Second, they suggest that the building addition does not comply with the minimum floor area ratio requirements of the West Broadway Pedestrian Oriented Overlay district. Finally, the appellant contends that the project requires an amended conditional use permit for an off-sale liquor store. As stated above, a conditional use permit for this use was approved on May 24, 2010. The appellants' complete statement of the actions and reasons for the appeal are attached.

Department of Community Planning and Economic Development - Planning Division
Site Plan Review
BZZ-4865

Date: September 7, 2010

Applicant: Land Ho, LLC

Address of Property: 217-229 West Broadway

Project Name: North Loop Gateway

Contact Person and Phone: Tony Smith, Master Development (612) 236-1633

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

Date Application Deemed Complete: July 1, 2010

End of 60 Day Decision Period: August 30, 2010

End of 120 Day Decision Period: On August 6, 2010 staff sent a letter to the applicant extending the decision period to no later than October 19, 2010.

Ward: 5 **Neighborhood Organization:** Near North

Existing Zoning: I1 Light Industrial District, PO Pedestrian Oriented Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 13

Legal Description: Not applicable for this application.

Proposed Use: Off-sale liquor store and restaurant

Concurrent Review:

Site Plan Review: For a building addition resulting in an 11,896 square foot building.

Applicable zoning code provisions: Chapter 530, Site Plan Review; Chapter 448, Commercial Districts.

Background: Land Ho, LLC is proposing a 9,068 square foot addition to the existing building at 229 West Broadway. The building addition will result in a multi-tenant commercial building with 11,887 square feet of gross floor area in the southeast corner of the intersection of West Broadway and Washington Avenue N. The existing building at 229 West Broadway currently contains BJ's Liquor Lounge, an adult entertainment use. This building will be modified to remove an 836 square foot

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section on the south side to allow for a driveway. The 2,828 square foot portion of the building that remains will contain a restaurant use. The 9,068 square foot building addition to be constructed on the east side of the site, at 217 West Broadway, will be two stories in height and will contain an off-sale liquor store. The property at 217 West Broadway contains accessory parking for BJ's Liquor Lounge. The only land use application required at this time is for site plan review.

The applicant previously submitted land use applications for an 11,503 square building on this site containing the same uses. Applications required at that time included a conditional use permit for an off-sale liquor store, a variance to the standards of the West Broadway Pedestrian Oriented Overlay District to reduce the required floor area ratio (FAR) from 1.0 to .46 and a variance to the West Broadway Pedestrian Oriented Overlay District to allow a building that was not two floors for the length of the West Broadway frontage. The conditional use permit for the off-sale liquor store was approved by the Planning Commission on May 24, 2010, notwithstanding staff recommendation. The conditional use permit approval is final and not part of the current application. The remaining applications were denied.

The project has now been revised to include a 2,039 square foot mezzanine on the liquor store for the length of the West Broadway frontage. The applicant's intent is to design the second floor space to be small enough so that an elevator is not required under the building code. While this may not be consistent with the spirit of the requirement of the zoning code's requirement for a second floor, the proposal would comply with the plain language of the ordinance. The existing building at 229 West Broadway has non-conforming rights to maintain its existing single floor design. These changes eliminate the need for a variance to the 2-floor minimum requirement in the West Broadway Pedestrian Oriented Overlay District. Retaining the existing building at 229 West Broadway also eliminates the need for a variance to the minimum floor area ratio. Section 551.145 of the zoning code relating to the West Broadway PO states, "*New development in Commercial, OR2 and OR3, and Industrial districts shall be subject to a minimum floor area ratio of 1.0. Individual phases of a phased development may be less than this minimum, provided the entire development meets the minimum requirement. This requirement shall not apply to the expansion of buildings existing on the effective date of this section.*" Because the applicant is retaining 76 percent of the existing structure it is considered an expansion of an existing structure and therefore not subject to the minimum floor area ratio.

The site is bordered by an office use to the west that will be providing an easement to allow a driveway through the property that connects the subject site to 2nd Street N. A second easement will allow an access drive to West Broadway. The properties to the south contain a mixed use building and a recycling/salvage yard use. The property to the north, across West Broadway, contains an automobile repair use.

Staff received a letter from the Northside Residents Redevelopment Council dated July 19, 2010. The letter from the neighborhood was supportive of the building design and tenant plan; provided that both proposed tenants actually locate in the building. Staff will forward any additional comments from the neighborhood group, if received, to the City Planning Commission.

SITE PLAN REVIEW

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

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- 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 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, windows, and active functions:
 - 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

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- 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.
 - g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.

Minimum window area shall be measured as indicated in section 530.20 of the zoning code.

- **Ground floor active functions:**

Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.
- **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. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.

Conformance with above requirements:

The existing building is located at the corner of Washington Avenue and West Broadway, directly adjacent to the lot lines. The proposed addition will extend east from the existing building with a maximum setback of 5.5 feet from the front lot line. The placement of the building and the design of the building allow for natural surveillance and visibility. The liquor store addition is proposed to have a mezzanine for the entire length of the West Broadway frontage with a maximum depth of 11'7". The mezzanine wraps around the west side to the back building wall and will house office and support space. An outdoor seating area for the restaurant is proposed between the building and West Broadway on the north side of the site with additional seating along the Washington Avenue frontage and on the back side of the building, between the restaurant and the parking area. Landscaped areas approximately 3 feet in depth are also shown between the building and West Broadway.

The principal entrance for the restaurant use is on the north side of the building, facing West Broadway. An additional entrance to this use is located in the southwest corner of the building, facing Washington Avenue N and service entrance is proposed on the south side. The principal entrance to the off-sale liquor store is located in the northeast corner of the building facing West Broadway with a secondary entrance opening toward the parking lot on the south side of the building. The applicant has provided a survey showing that the location of the entry door currently meets the required 2,000 spacing per the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances. Both entrances facing West Broadway are defined with awnings, signage, windows and a change in materials. The secondary entrance to the liquor store is defined in a similar manner.

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The building addition is proposed to be constructed primarily of black cast stone, with a band of lighter gray stucco on the second floor. Bands of red stucco are also proposed between floors to add visual interest. The plain face concrete block on the existing building at 229 West Broadway will be resurfaced with masonry veneer and stucco, matching the addition. The entire roofline will contain a prefinished metal cap. All materials proposed are durable materials. The building is articulated with multiple recesses and projections along the West Broadway frontage and the south elevation, facing the parking lot. There are height increases approximately every 36 feet along the roofline of the building addition. There are no blank, uninterrupted walls that exceed 25 feet.

The window requirements of the site plan chapter call for 30 percent window coverage on the first floors facing the street and 10 percent on the second floors facing the street or on-site parking lot. The Pedestrian Oriented Overlay District increases the window requirement to 40 percent on the first floors facing the street. The applicant is providing windows for 53 percent of the first floor facing West Broadway and 21 percent of the second floor. The west elevation of the existing building, facing Washington Avenue, though not subject to the minimum requirements of this section, contains glazing for 72 percent of the first floor. On the south elevation facing the parking lot, glazing is provided in an amount equivalent to 34 percent of the first floor and 21 percent of the second floor. There is no window requirement for the east side of the building. All windows proposed are distributed an even manner and are vertical in proportion. When each tenant space is calculated individually, the ground floor of the liquor store contains glazing for 42.7 percent of the elevation facing West Broadway and 30 percent of the elevation facing the parking lot. The existing building would be modified so that the restaurant use contains windows for 67.9 percent of the building wall facing West Broadway, 72 percent of the wall facing Washington Avenue N and 36.2 percent of the wall facing the parking lot.

First floor or ground floor windows shall be required to have clear or lightly tinted glass and 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. The applicant shall be required to submit a merchandising plan with the final plans to verify that eye-level views into the building will be preserved.

Active functions are proposed for more than 70 percent of each building wall facing a public street.

The structure has a flat roof similar to other structures in the area.

No parking garages are proposed for the site.

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 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

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Conformance with above requirements:

Entrances would open directly on to the adjacent public sidewalks. The parking lot is connected to the liquor store entrance with a 4-foot concrete sidewalk on the west side of the site. Due to the location of the outdoor dining space, the restaurant entrance that is most accessible from the parking lot would be the service entrance. Staff recommends that the outdoor dining space on the south side of the building be relocated or redesigned to allow for a more visible pedestrian connection from the parking lot to the entrance facing Washington Avenue. An 8-foot sidewalk exists in front of the existing building and the addition, in the right-of-way adjacent to West Broadway. The applicant is proposing to continue this sidewalk in the location where an existing curb cut is being removed. A sidewalk with a minimum width of 12 feet is located on the west side of the site, within the Washington Avenue right-of-way.

There are no transit shelters adjacent to the site.

Access into the site is proposed via a curb cut off Washington Avenue. This access would be right-in, right-out only and is limited to a width of 20 feet per the standards of the Pedestrian Oriented Overlay District. The applicant is removing an existing curb cut into the site from West Broadway as part of the project. Two drive easements are proposed through the property to the east to allow vehicles from the site to exit onto Second Street N and to allow vehicles to enter from West Broadway. The access from West Broadway will be a right-in only. As part of the Preliminary Development Review process, Public Works-Traffic division required the applicant to work with Hennepin County on extending the median in West Broadway to limit turning movements for this access. The applicant is continuing to work with Hennepin County and Public Works on a design that would allow them to retain this access. The access and circulation is designed to minimize conflicts with pedestrian traffic and adjacent uses.

There are no public alleys adjacent to the site.

The site plan has been designed to minimize the use of impervious surfaces. The property at 217 West Broadway is nearly 100 percent impervious in its current state. As part of the project the applicant is proposing a landscaped area equivalent to 20.6 percent of the site area not occupied by buildings.

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, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**
- **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.**
- **Except as otherwise provided, 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 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**

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- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- 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. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.
- All other areas not governed by sections 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 530.210.
- 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 530.80, as provided in section 530.220.

Conformance with above requirements:

The lot area is 25,573 square feet and the footprint of the building with the proposed addition is approximately 9,857 square feet. Therefore, the net lot area is 15,716 square feet, of which 20 percent (3,238 square feet) is required to be landscaped. The site requires 6 canopy trees and 32 shrubs to satisfy the minimum planting requirement.

The applicant is proposing a landscaped area of 3,238 square feet, or 20.6 percent of the total site area not occupied by buildings. The landscaping includes eight on-site canopy trees, four on-site ornamental trees, five canopy trees in the right-of-way and 50 shrubs. The majority of the shrubs are proposed along the building foundation and between the building addition and the parking area. More than 200 perennials are also proposed throughout the site. The minimum landscaped area and planting requirements have been satisfied. As a graffiti prevention measure, staff recommends that the honeysuckle shrubs on the east side of the building be replaced with a columnar evergreen shrub that is a minimum of four feet in height.

The property to the south of the site at 1914 Washington Avenue N is a mixed use building with two residential units. Thus, a 7-foot landscaped yard is required between the parking lot and this parcel. This equates to a landscaped yard requirement for the west 94 feet of property line. The applicant has only provided a landscaped yard for the first 24 feet in this location, after which parking stalls are proposed directly adjacent to the common property line. Alternative compliance is requested for this requirement. The applicant has proposed a larger landscaped area on the north side of the parking lot, between the parking area and the building wall, as an alternative for this requirement. The applicant has provided the landscaped area in this location so that it will be visible from the adjacent residential units. Staff recommends granting alternative compliance for this requirement. The residential units in the adjacent building are in the upper floors only and the adjacent building is located right up to the property line, making the space between the adjacent building and the parking lot inaccessible for pedestrians.

All areas not occupied by buildings, parking and loading facilities and driveways are 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.

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- 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 parking area contains continuous curbing and on-site retention and filtration of stormwater is not proposed. On-site stormwater retention may not be practical due to the size and layout of the site. Public Works- Sewer Division did not recommend on-site retention in the Preliminary Development Review report. Said report has been attached for reference.

The proposed building addition is two stories and will not significantly shadow public spaces or adjacent properties. The building is not expected to significantly generate wind currents at ground level or block views of important elements of the City.

The plan meets the CPTED guidelines. The site is well lit and designed with opportunities for people to observe adjacent spaces and public sidewalks. All window requirements have been exceeded, allowing for natural observation of exterior spaces. Landscaping, sidewalks and building features are designed to direct pedestrian movements.

The existing building on the site is not historic, and the property does not lie within an historic district.

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 proposed uses are permitted uses in the I1 Light Industrial District and West Broadway Pedestrian Oriented Overlay District. The maximum size of food and beverage uses in the I1 District is 5,000 square feet. The restaurant proposed is 2,828 square feet in area.

Off-Street Parking and Loading:

Minimum automobile parking requirement:

The applicant is proposing a restaurant use at the corner and an off-sale liquor store on the east side of the building. The site is located within the boundaries of the Pedestrian Oriented Overlay District and is eligible for a 25 percent parking reduction for non-residential uses. The minimum vehicle parking requirement for the uses is as follows:

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Use	Requirement	Size	Spaces required
Off-sale liquor store	1 space per 500 sq. ft. of GFA, with 25% reduction	9,068 square feet	13 spaces
Restaurant	1 space per 500 sq. ft. of GFA up to 2,000 sq. ft. + 1 space per 300 sq. ft. of GFA in excess of 2,000 sq. ft., with 25% reduction	2,828 square feet	4 spaces
Total			17 spaces

The applicant is providing 32 parking spaces, exceeding the minimum requirement. All of the required parking for the building will be provided in back of the building, on the south side of the property.

Maximum vehicle parking requirement:

The maximum vehicle parking requirement for the proposed uses is as follows:

Use	Requirement	Size	Maximum allowed
Off-sale liquor store	1 space per 200 sq. ft. of GFA, and 25% reduction	9,068 square feet	34 spaces
Coffee Shop	1 space per 75 sq. ft. of GFA, and 25% reduction	2,828 square feet	28 spaces
Total			62 spaces

The maximum parking requirement also takes into account a 25 percent reduction per the Pedestrian Oriented Overlay District. While the site plan exceeds the minimum parking requirement, it does not exceed the maximum parking requirement for the uses.

Minimum bicycle parking requirement:

Minimum bicycle parking requirements are also applicable for the use. The minimum bicycle parking requirement is as follows:

Use	Spaces required
Off-sale liquor store	3 spaces
Restaurant	3 spaces
Total	6 spaces

A minimum of six bicycle parking spaces are required for the building. At least 50 percent of the required bicycle parking must meet the standards for short-term bike parking. Two bicycle racks are proposed to meet this requirement, both on the north side of the building adjacent to West Broadway. Both bike racks are located in close proximity to the principal building entrances.

Loading

The uses require one small loading space with minimum dimensions of 10' x 25'. The required loading space is provided in the parking area on the south side of the building. This area is not needed for

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required parking.

Minimum and Maximum Floor Area: The site is located within the boundaries of the West Broadway Pedestrian Oriented Overlay District, which has a minimum floor area ratio requirement of 1.0. However, because the applicant is proposing an addition to the existing building and coming closer in to compliance with this requirement, the project is not subject to this minimum floor area ratio. The applicant is proposing an FAR of .347. This is an increase over the existing FAR of .143. The maximum FAR in the I1 District is 2.7.

Building Height: The maximum height for structures in all industrial districts is 4 stories or 56 feet, whichever is less. The West Broadway Pedestrian Oriented Overlay District calls for a minimum building height of two floors for the entire length of the West Broadway frontage. The building addition will have a mezzanine for the length of the West Broadway frontage, satisfying the two-floor requirement. The entire addition will have the appearance of a two-story building.

Minimum Lot Area: There is not a minimum lot area requirement for either use in the I1 District.

Dwelling Units per Acre: There are no dwelling units proposed as part of the project.

Yard Requirements: The I1 District does not have any minimum yard requirements for the proposed uses.

Specific Development Standards: Specific development standards for the restaurant use are as follows:

- (1) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet shall be inspected regularly for purposes of removing any litter found thereon.

Hours of Open to the Public: In the I1 District, uses may be open to the public during the following hours: Sunday through Thursday from 6:00 a.m. to 10:00 p.m. and Friday and Saturday from 6:00 a.m. to 11:00 p.m. The proposed use will comply with the required hours open to the public.

Signs: Signs are subject to 531 and 543 of the Zoning Code. All new signs are required to meet the requirements of Chapter 543 of the zoning code and permits are required from the Zoning Office. The building elevations illustrate generic signs for both uses. The applicant is proposing three wall signs on the north side of the building with a total of 106 square of signage. On the south elevation, facing the parking lot, two wall signs are proposed with a total of 70 square feet. On the west elevation, two wall signs are proposed for a total of 70 square feet. The signage proposed is within the parameters allowed for the site.

Refuse storage: Section 535.80. Refuse storage containers are required to 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 residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. A refuse container is proposed on the south side of the parking area. The refuse storage contained will be further screened with landscaping.

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Lighting: The applicant has not submitted a lighting plan. All lighting shall be required to comply with Chapters 535 and 541 including the following standards:

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 to not directly or indirectly cause illumination or glare in excess of one-half footcandle measured at the closest property line of any permitted or conditional residential use, and five footcandles measured at the street curb line or nonresidential property line nearest the light source.
- (2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of 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 to a person of normal sensitivities when viewed from any permitted or conditional residential use.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

THE MINNEAPOLIS PLAN FOR SUSTAINABLE GROWTH:

The site is designated for commercial use on the future land use map in *The Minneapolis Plan for Sustainable Growth*. West Broadway is a commercial corridor in this location. The site is also located within the boundaries of the Upper River industrial employment district. Industrial employment districts are intended to protect prime industrial space and to provide an opportunity for the City to support targeted industries and business clusters and to redevelop underutilized sites for economic development purposes. The following policies of the comprehensive plan apply:

Policy 1.14: Maintain Industrial Employment Districts to provide appropriate locations for industrial land uses.

- 1.14.1 Develop regulations for the Industrial Employment Districts that promote compatible industrial development and the efficient use of land.

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- 1.14.3 Restrict the development and expansion of non-industrial uses within designated Industrial Employment Districts, limiting non-industrial uses to the types of uses and locations designated in the Industrial Land Use and Employment Plan.
- 1.14.5 Encourage and implement buffering through the site plan review process to mitigate potential conflicts between industrial uses and adjacent other uses.

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.
- 1.10.4 Encourage a height of at least two stories for new buildings along Commercial Corridors, in keeping with neighborhood character.

The applicant is proposing a two-story building addition along this commercial corridor, in keeping with the intent of the Comprehensive Plan and the *West Broadway Alive* Plan. While the uses proposed are not industrial uses per the policies of Industrial Employment Districts, they are permitted uses in this location. Such uses will expand the range of goods and services available along this commercial corridor.

SMALL AREA PLANS ADOPTED BY COUNCIL:

The site is located within the boundaries of the West Broadway Alive Plan. The future land use designation for the subject site in this plan is commercial. The site is also within the boundaries of an industrial employment district and cited as being an appropriate industrial/business park opportunity area. The commercial use proposed would not be consistent with this long-range goal for an industrial/business park opportunity, but are permitted uses in this location. The *West Broadway Alive* Plan also states the following with regard to development intensity and commercial uses:

Underdeveloped sites are detrimental to the long-term vitality of West Broadway. Low intensity commercial developments spread the commercial district and increase the distance between commercial establishments. This makes the commercial district less attractive because it is not as convenient to come to the district and pick up goods and services from multiple businesses. For this reason, mechanisms should be put in place to deter new low intensity development, and particularly single story commercial developments.

The applicant is proposing a two-story building addition to increase the intensity of development on the site. While the proposed building does not comply with the minimum floor area ratio requirement in the West Broadway Pedestrian Oriented Overlay District, it is exempt from this requirement because it will expand an existing, non-conforming building. The site is also within the study area of the *Above the Falls* plan, which calls for the site to be an industrial or business park.

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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, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, 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 has been requested for the required 7-foot landscaped yard between the parking area and the property to the south. The applicant has provided a large landscaped area behind the building that will be visible from the adjacent residential units as an alternative to this requirement and the minimum 20 percent landscaped area has been provided. Staff recommends granting alternative compliance for this landscaped yard requirement.

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the site plan review for a building addition for a new multi-tenant commercial building at the property of 217-229 West Broadway, subject to the following conditions:

1. CPED Planning staff review and approval of the final site, elevation, floor and landscaping plans.
2. All site improvements shall be completed by September 7, 2011, unless extended by the Zoning Administrator, or the approvals may be revoked for noncompliance.
3. A merchandising plan shall be submitted illustrating that first floor or ground floor windows will 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 feet and seven feet above the adjacent grade, in compliance with Section 530.120 of the zoning code.

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4. The landscaped area along the east building wall shall include columnar type plantings a minimum of four feet in height as a graffiti prevention measure.
5. The outdoor dining space on the south side of the building shall be modified to allow for a more visible pedestrian connection from the parking lot to the west building entrance, in compliance with Section 530.130 of the zoning code.
6. The applicant shall work with Public Works staff and Hennepin County on the design and construction to extend the median within West Broadway.

Attachments:

1. Statement and findings from applicant.
2. Zoning map.
3. Correspondence.
4. Correspondence submitted for BZZ-4748.
5. PDR report.
6. Site plans and elevations.
7. Proposed floor plans.
8. Photos.

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2526 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: September 20, 2010

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of September 7, 2010

The following actions were taken by the Planning Commission on September 7, 2010. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Motzenbecker, Cohen, Gorecki, Huynh, Luepke-Pier and Tucker – 6

Not present: Bates (excused), Bourn, Carter (excused) and Schiff (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

10. North Loop Gateway (BZZ-4865, Ward: 5), 217-229 West Broadway ([Kimberly Holien](#)).
This item was continued from the August 2 and August 16, 2010 meetings.

A. Site Plan Review: Application by Tony Smith, on behalf of Land Ho, LLC, for a site plan review for a new multi-tenant commercial building at 217-229 West Broadway, in the I1 and PO Districts.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for a building addition for a new multi-tenant commercial building at the property of 217-229 West Broadway, subject to the following conditions:

1. CPED Planning staff review and approval of the final site, elevation, floor and landscaping plans.
2. All site improvements shall be completed by September 7, 2011, unless extended by the Zoning Administrator, or the approvals may be revoked for noncompliance.
3. A merchandising plan shall be submitted illustrating that first floor or ground floor windows will 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 feet and seven feet above the adjacent grade, in compliance with Section 530.120 of the zoning code.
4. The landscaped area along the east building wall shall include columnar type plantings a minimum of four feet in height as a graffiti prevention measure.
5. The outdoor dining space on the south side of the building shall be modified to allow for a more visible pedestrian connection from the parking lot to the west building entrance, in compliance with Section 530.130 of the zoning code.
6. The applicant shall work with Public Works staff and Hennepin County on the design and construction to extend the median within West Broadway.
7. The seating area adjacent to West Broadway shall include four tables and 16 chairs with the same quality as the other tables and chairs, and adequate exterior lighting for pedestrian safety shall be included in that area.
8. Increased plantings in all planting beds shall be included along West Broadway.

Staff Holien presented the staff report.

Commissioner Luepke-Pier: Since the new building is technically an addition to BJ's old building, are they no longer subject to the West Broadway Pedestrian Overlay District [tape ended]...

Staff Holien: ...with the floor area ratio requirement, there is a specific clause in the West Broadway PO standards in our Overlay District chapter that exempt existing buildings from the minimum FAR requirement when there is an addition proposed to those buildings.

Commissioner Luepke-Pier: So the requirement for the second floor, the paperwork is assuming that the mezzanine is in lieu of that or is it saying it's being made as a nice gesture even though they don't have to do it?

Staff Holien: They are required on the addition to provide the second floor, which they are providing a second floor for the length of the West Broadway frontage, which meets the literal language of the ordinance as they are proposing it.

Commissioner Luepke-Pier: Even though it's not a real second floor because it's just a mezzanine. Is it open to interpretation or is it more of a letter of the law in that they're technically meeting it?

Staff Holien: The determination has been made that it does meet the intent or the letter of the law I guess you could say, for the West Broadway PO. Whether or not it meets the overall intent of the West Broadway Alive plan by providing a more narrow mezzanine in that location is something that's certainly up for discussion, but it does meet the literal language of the ordinance by providing that second floor for the length of the West Broadway frontage.

President Motzenbecker: Can you speak a little bit to the discrepancy in the distance that was made by the two different surveying groups and what your opinion was on resolving that?

Staff Holien: That is a licensing issue, that's not something that we review so licensing staff will make the determination on the 2000 foot spacing at the appropriate time and an additional public hearing will be held on the liquor license.

Commissioner Luepke-Pier: If it is determined that it is the lesser distance of the two and they move the door, would that be something that we'd hear about or will that just happen administratively?

Staff Holien: If the door were moved on the property, it depends on the degree of the modification whether or not it could be considered a minor change or not. If it's something that would require additional alternative compliance then it would come before you, but if it were a minor change it would not.

President Motzenbecker opened the public hearing.

Scott Harris (150 S 5th St): I'm an attorney with Leonard, Street and Deinard and I am here on behalf of UB Liquors LLC which does business as Merwin Liquors and is located at 700 W Broadway in Minneapolis. It sounds like, from some of the questions about the distances, the commissioners are familiar with some issues that Merwin Liquors has raised previously about requirements that both were referred to in the staff report in May of 2010, there was a reference by the staff in your consideration of conditional use permit issues, variance issues and site plan approval issues that there was no liquor store within 2000 feet and we were not notified, my client that is, because of his distance, was not notified with regard to that particular meeting of your mission so was not heard at the time.

President Motzenbecker: We do have your letter in our packets and we've read it and as we just discussed, the distance issue is a licensing issue and so if there are other issues in there that are critical for you, please address those, but I don't want to spend any time on this distance issue because we're not deciding on it.

Scott Harris: Well, I would like to make a record because there's been an indication here that the conditional use permit issue is not before you at this time either and the conditional use

permit, in order for you to grant one about this project, not the project that was before you in May, but this project that has changes in uses from the wind and spirits application that you considered, that has changes in bulk...

President Motzenbecker: Ok, you can speak to those, that's fine, I just wanted to clarify.

Scott Harris: But, the conditional use permit, which we are contending today, we're here to object on grounds of both this distance issue as it applies to conditional use permit standards...

President Motzenbecker: Let's save that until the end and focus on the other two first please, the change in use.

Scott Harris: I appreciate that you have our letter. We submitted, previously, to the Zoning and Planning Committee of City Council an affidavit by a Bonestroo Engineering representative, Tim Larson...

President Motzenbecker: We do have that as well.

Scott Harris: Your staff has now stated for purposes of your approval of the site plan that there is a survey as you've noted that's in the record that suggests that there appears to be compliance with the 2000 foot requirement. We understand from both your May 24th consideration and this consideration that that is, in fact, a consideration by this commission in this recommendation that you approve the site plan at this point. We also understand that the staff is telling you that your previous approval on another development plan, the one that was before you May 24th, your previous approval of a conditional use permit, should now somehow apply to this development plan. This development plan is reflected in the staff report on pages one and two, there is an additional 384 square feet, additional gross floor area in this application as compared to the application that was before you in May. The staff has also, I believe, or the record reflects, that this is now an application not for any wine and cheese use but for a liquor store and a restaurant. The pertinent ordinances with regard to conditional use permits, I believe the comment by Ms. Holien went to this was, and a question from a commissioner, whether there needed to be, should there be a moving of the door, whether there needed to be any reconsideration by this commission right now. Right now, this commission, with due respect, we believe cannot pass on this site plan and submit for council approval this matter without considering whether there is a conditional use plan amendment relating to the change in bulk regulations that have occurred since the application that was before you in May. I am referring you to MN ordinance 525.360 and that, of course, as Ms. Holien referred to in sub paragraph A talks about minor changes that would only involve placement and size of improvements and only where those minor changes are required because conditions that were unknown at the time the permit was approved, then the Zoning Administrator can approve minor changes without your involvement. Subdivision B says, changes to development plan affecting uses, bulk regulations, park and loading are components of the conditional use permit other than minor changes would require a conditional use permit amendment. The definition of bulk regulations, that's found at Minneapolis 520.160, are standards and controls that establish maximum size of structures and buildable area within such structures may be located including height, floor area ratio, gross floor area, lot coverage and yard requirements. We have before you now an application on a different development project that has changed height, as been acknowledged by Ms. Holien, because now you disapproved of this plan that was before you that was one story throughout and now there is this mezzanine that allegedly makes it a different two story but unquestioningly changes its height, changes its floor

area ratio as the staff report reflects, changes its gross floor area as the staff report indisputably reflects, yet, we understand that the staff is telling you that there has to be no new submission of an application for a conditional use permit amendment and that the commission might, tonight, pass on a site plan approval based on a conditional use permit application approved on a different project.

President Motzenbecker: Mr. Harris, did you bring any of these concerns to staff prior to this meeting?

Scott Harris: We did not know about the staff report until Thursday. I brought up this matter immediately with the city attorney Erik Nilsson because, in fact, my client, Merwin Liquors, is right now has submitted to the city, ironically, for a construction that would change his façade on Merwin Liquors and the city has said that because of that you have to go through a conditional use permit amendment even though you're not changing your use but you're changing under bulk regulations. I called Mr. Nilsson when I found out, when I saw the staff report, and asked how this could possibly be. We have an arguably, certainly if there is a change in our bulk regulations, much more insignificant than what has happened between May 24th and today with regard to the Land Ho application yet the staff is taking the position Land Ho already has its conditional use permit and we need to go through an amendment process.

President Motzenbecker: Do we have a response from Mr. Nilsson?

Scott Harris: I don't. I have Mr. Nilsson telling me on a telephone conversation he and I had on Thursday, "I acknowledge, that's quite peculiar, I can't explain it" and perhaps Ms. Holien can. I understand that the commission believes, and Ms. Holien has represented, that you don't have before you the distance issue between the main entrances but the staff has apparently has relied on for purposes of its recommendation to you, this survey that reflects a distance of 2000 feet. I would just note since you had that survey, I understand within the record before you, that that survey is a preliminary survey and purports to say that only to measure a distance between the northeast property marker of the applicant's space and the interior main entrance to Merwin Liquors and says that's 2011 feet. The very site plan that has been submitted to you on behalf of Land Ho for purposes of tonight's meeting indicates that measuring from an interior door to Merwin Liquors and the center of Merwin Liquors interior door to the center of the Land Ho applicant's proposed main entrance on Broadway comes to a distance of slightly more than 2000 feet but acknowledges, and you can see it right on there, they show the 2000 foot line and it is within the doorway. The 2000 foot line is within the main entrance to the Land Ho facility on Broadway. You have to forgive me because we only received this material right at the end of last week and we were doing our research on this over the weekend and it was a holiday weekend, but I will represent to the commission that the Supreme Court of Minnesota has looked wherever it is dealing with measurement issues between facilities has looked to the edges of the respective facilities and I'm citing to MN Supreme Court Case "State of MN vs. Hopf, 323 N.W.2d 746", that was dealing with the distance between two buildings, one being a liquor establishment...I'm sorry, an advertising facility but the pertinent language is most of the courts have taken the view that the grounds are part of institution or establishment and therefore measurement must be from the edge of the grounds. This wasn't dealing with distances between two main entrances of liquor stores but it's our position that even if you were to say to measure it from the center of Merwin's door and find a radius, so long as the main entrance of this new facility is within that 2000 foot radius, we say that doesn't comply with these requirements.

President Motzenbecker: I think we understand.

Scott Harris: I also want to note that the specific case law dealing with where you would measure because this survey that you have before you says to look at the interior door to the Merwin's facility and not the exterior door to the building, the case law on that indicates the entrance from and two which a distance is to be computed for purposes of determining what buildings are within a radius of a certain number of feet to the entrance...this was a liquor establishment, is the entrance into the wall of the building, that is, if you measure from the exterior wall entrance to Merwin's, it is indisputably less than 2000 feet.

President Motzenbecker: Now have these citations been forwarded to the clerk or to staff?

Scott Harris: No. I'm happy to submit everything that I'm presenting to you tonight including the cases and citations. We would note that the neighborhood group letter that was referred to by Ms. Holien as being supportive, I understood from her comments that there was another letter that was received today, that I haven't seen. The previous one that was shared with us...

President Motzenbecker: Yes, we did receive an affidavit from Egan, Field and Nowak.

Scott Harris: The letter that we saw, which was earlier than today's letter, included a comment, "we don't need another liquor store" and it is our contention that that's consistent with the fact that within less than 2000 feet of this liquor store in the neighborhood is another liquor store.

President Motzenbecker: I think we're clear on the point. If there's new information it would help us.

Scott Harris: I think our other position on this besides conditional use permit, bulk regulation changes and the distance issue is that the reference that now there is no need for variances and that this is an expansion of an existing building. We would suggest that what you've had before you and this matter was removed from the agenda as you're probably familiar with the last couple times it came up, it was removed with specifically the staff indicating that there didn't appear to be compliance with the 2000 foot requirement and now that we have a new plan and a movement on that front. We also now have a suggestion and there was an inquiry about this, that adding a mezzanine with regard to the proposed liquor store somehow brings that portion into compliance with the two floor requirement in the overlay. I would just remind the commission that in the application that was made to you on May 24th, and that is the staff report at that point, indicated that the restaurant space was a one story space that was going to have a mezzanine. Staff never understood that a mezzanine constituted a second floor so the application that you may recall that was before you previously, called for a restaurant that would be on the western end of the building, same as the current application, that application had a mezzanine on the restaurant but it was not described as a two story restaurant it was described as a one story restaurant with a mezzanine and then there wasn't going to be a mezzanine on this new section of the facility. Now the staff is telling you that the restaurant is grandfathered in for being one story and a mezzanine added to the liquor store suddenly makes the liquor store two stories even though the staff in the same breath notes that there will be no elevator to that second story because it really isn't a second story, it doesn't need to comply with elevator requirements because it's really a façade of a second story and there isn't a second story and we would suggest that's not within the letter or spirit of this. We understand that the staff is suggesting that there is no need to comply fully with these requirements because, presumably, this is a, under your ordinance 531.50,

expansion or alteration of nonconforming uses and structures that this is apparently should be deemed as such and doesn't have to comply with the overlay. We would just point out, if this is deemed an expansion, and we would note for you by the way that in fact, BJ's space is being reduced by some 836 feet. They're going to knock down space then they're going to add this nearly 9000 foot addition. In order for there to be an approval or deemed expansion on nonconforming, "such structure may be enlarged, altered or relocated so long as such enlargement, alteration or relocation does not increase its nonconformity." What you have here now is a 9000 square foot addition supposedly that is increasing the nonconformity with regard to the overlay. We would just suggest that for that reason, for these other reasons, for the fact that there is no CUP even applicable to this project as it stands before you that there should not be approval of this particular site plan.

President Motzenbecker: Kimberly, can you please speak to some of these points that were brought up by Mr. Harris?

Staff Holien: Sure, I'll start with the CUP. The conditional use permit that was granted in May effectively was a hypothetical...well, the conditional use permit was granted for a hypothetical liquor store because the site plan review application was denied at that time. The conditional use permit that was granted was assuming that there would be additional applications before you and that the commission would have an opportunity to review the bulk as part of the additional applications. In this particular case, there was no building that was approved, there was no specific size for the liquor store that was approved as part of the conditional use permit understanding that they would need to come back through for additional city approvals, in this case the site plan review application which is before you today which gives you an opportunity to review the bulk. It's not a change to an existing building, the conditional use permit was approved notwithstanding staff recommendation, hypothetically, understanding that it would be back before you because any new construction on that property would require your approval. That has been discussed with the city attorney. The site plan review does address those issues. The findings for the conditional use permit were evaluated in May along with the surrounding area, all of those requirements, the Comprehensive Plan findings that you're required to meet at that time and they have not changed. This application is now an opportunity for you to review the specifics of the building and the specifics of the bulk.

President Motzenbecker: Change in use? I do remember specifically the stated use previously.

Staff Holien: The use that was stated previously was a wine and cheese shop and that's actually not something that's permitted under licensing regulations so the change now to be an off sale liquor store without that cheese portion, that was really an accessory function to the liquor store at that time and wasn't a separate use.

President Motzenbecker: Why is that not allowed?

Staff Holien: Licensing requires that if you do that you actually need to have separate entrances.

Staff Wittenberg: From a zoning and land use standpoint, either classification would require the same applications and it would be considered an off sale liquor store regardless of whether it's a wine and cheese store or not.

Commissioner Tucker: I wonder if you could just expand a bit on what Erik Nilsson said in response to these questions.

Staff Holien: Basically what I just said right now. I'm paraphrasing, but yes, the commission approved a hypothetical liquor store to which there was no size, no bulk, no building layout and no design and it's now before you today as part of the site plan review chapter which is your opportunity to review that design and to review that bulk.

Commissioner Tucker: So he believes it to be a valid CUP for us to work off of?

Staff Holien: Correct.

Commissioner Cohen: Our responsibilities do not encompass dealing with survey issues does it?

Staff Holien: No. In this case the survey that the applicant is referring to is...

Commissioner Cohen: It's a licensing issue isn't it?

Staff Holien: That's correct. The 2000 feet is a licensing issue that will be reviewed by Licensing staff at the appropriate time and there will be a separate public hearing held for that issue.

Commissioner Cohen: So we're free to not take the survey question into consideration in making our judgment?

Staff Holien: Correct.

David Stahl (901 N 3rd St) [not on sign-in sheet]: There's been some discussion on the changes. We worked very closely with staff. Most of the changes were made specifically to become more in line. The mezzanine was a way, for instance, that if you were to do a second floor that currently at that location would be tough to park, tough to rent and you'd have dark windows. With the mezzanine you will have active people up there, we've moved all the administrative and office uses up there. Going by at night, you'd see through and it'd be light and you'd see fans that were in the large two story volume at the other area, therefore, hopefully, it is perceived as a real second floor that people can go by versus a façade with blacked out windows or other things like. The past survey just showed a line between the distance to the corner. We said that didn't really explain the situation well. We asked for an arch to be drawn as the 2000 foot radius. I've taken that arch, which is 11.6, which is 11' 7.2" and have put it over the current plan which is in the packet and here you can see the building entry is outside of that. In the zoning ordinance it's measured center to center and we followed that. We've got 2'5" from our center line to the line. We have to be to the east of that line, we are two and a half feet...

President Motzenbecker: Hopefully that will help you in your licensing.

Commissioner Huynh: I have a question about the mezzanine plan, can you walk us through that as far as what you're showing in the hatched areas as far as what is circulation space versus what is deemed to be occupiable fulltime personnel space?

David Stahl: We thinned the building down to get our 20 percent green and open space on the site. The building used to jog at this point, we thinned it down and moved all the administrative functions upstairs and then we have some nodes for displaying things but this not a public accessible area. Both of the exit and entry stair points are behind secure walls so nobody could wander up there accidentally. In these bays are deeper areas for meeting rooms, copy areas or other things like that. In front of the windows it is thinner and that would probably be a good place to put displays to make it look vibrant, active, but most likely not used but more for like desks or other things like that. The volume of 7029 square feet, that's our total area and we can go up to a third of that for our mezzanine but we are a little below that, we're at 2000. We can go up to 3000 square feet without having an elevator.

Commissioner Huynh: I can only see two areas where it look like it may have offices and I'm not sure if those are restrooms. With that whole façade, how much of that area adjacent to the façade there is actually with a desk or with someone near?

David Stahl: Where someone would be sitting in front of the window? There's nothing preventing the owner from laying it out any way that they'd like, but as a designer I would say keep that somewhat clerical behind the walled portions and using the windowed portions as some type of secondary display or other things like that. So I'd probably say you're asking for a percentage and I haven't calculated but I'd probably say 50 percent.

President Motzenbecker: You're showing four desks in each spot.

David Stahl: I'm not showing any, those bathrooms are below.

President Motzenbecker: In those little bump outs there are shown four squares tied together.

David Stahl: Those are shelves that are on the lower level for display showing that's the only area of wall, the rest of the areas that are windowed we don't have any shelving or anything against that. The idea is to keep visibility in from the outside.

Commissioner Huynh: I think the concern is also just making sure it's not circulation space so it's not void space so you're not just having a mezzanine for the sake of having one to comply with what you think is the intent of West Broadway Alive and the floor plans, as far as your layout, wasn't shown on the mezzanine level so it was good to hear some of your explanation for that.

Commission Luepke-Pier: I'd like to hear a little more explanation on that because it looks to me like a ten foot wide catwalk and from your description I'm hearing about display purposes and keeping a few desks in the bump outs, it sounds to me like that's really what it is and so maybe you could elaborate on that.

David Stahl: The idea is you want an active area on a street, people going by, things going on, light windows above. We propose a project that a second floor is beyond what it needs to operate but we can utilize some of those spaces, for instance meeting space for staff. We don't want to have the public up there because then elevators and things. You would have activity if you found it better to have seating, for instance. This is more of my marketing side thinking it would be more...

Commissioner Luepke-Pier: How many staff does a liquor store tend to have?

David Stahl: I can't answer that question specifically.

Commissioner Luepke-Pier: I'm just wondering if a monthly meeting is enough to activate a second floor space, which is what the purpose of a second floor requirement was. It sounds to be like display space up there might almost be giant cardboard standees of football players holding beers facing inside the store so I'm wondering how that activates the street and how that engages what is the main corridor in north Minneapolis in the way that was intended by the West Broadway Alive plan.

Ariel McDonald [not on sign-in sheet]: As far as that question is concerned, our idea, because we will have about 14 employees, we're looking to use that as office space where everyone can have a little area where they can work and function. We want to utilize that space and given everyone a chance to use it to the effect.

Commissioner Luepke-Pier: How many people will be up in the offices at one time versus down on the floor? I can't imagine check out people will have offices or even use them if they did.

Ariel McDonald: At this current time, we're thinking 14 employees so for the time being you're talking about a store manager, myself and another current manager and possibly maybe even a consultant, someone that we would have working with us since we're just new owners and operators so we genuinely plan on using that for office space.

Commissioner Luepke-Pier: So it sounds like three offices, maybe a meeting room or break room for the other people and then the rest of the ten foot strip will be what?

Ariel McDonald: The general idea is office. We want to activate it as offices. As we get into it we plan on making sure that we utilize the space to activate it because I understand the intention under which the code was set for.

Commissioner Gorecki: When I was at the University of MN I worked at Surdyk's Liquor Store. This layout that you've got here with the mezzanine is very similar to that particular store, the only difference is you're activating the store front where there were offices, break rooms, accounting. It seems to be that type of a function. Is that kind of in keeping with what you're thinking?

David Stahl: That is correct. All of the uses and functions you mentioned, there are no spaces on the main floor. The main floor is just sales. If I didn't articulate the functioning behind it's because I don't run liquor stores, I'm an architect that helps them define the space that they can then use.

Ariel McDonald: I'm glad you made that comment. As you all have heard before, this is a Surdyk's inspired experience so a lot of the ideas that we've had have been generated from that inspiration. I went to the U of M on campus and I lived over near Surdyk's so I have a lot of experience over there.

Commissioner Luepke-Pier: This is a question for the architect, I notice that there are a couple of bike parking stations, how many bikes will those accommodate?

David Stahl: Right now we're showing just a length depending on what model we use, they are both 10 feet in length. It depends on if they are two sided or spiral.

Commissioner Luepke-Pier: Is there a reason why didn't see a floor plan showing all these offices?

David Stahl: Because this is the preliminary site plan review and not the plan review.

Louis Dachis (700 West Broadway): I'm the owner of Merwin Liquors. My store in Minneapolis is similarly sized to the one that's proposed and I have one office out of that office. We run both that operation as well as the operation in Maplewood. I have a regional manager, I have three assistant managers, a manager and accounting people and it's probably 100 square feet.

Scott Harris: I'm now confused on this conditional use permit matter. I want to make sure the record is clear that in my conversation with the city attorney, Nilsson, his indication to me, and that was on Thursday of last week, was that he has no explanation for why this particular staff report states on page two that the...

President Motzenbecker: We don't need to read it again, Mr. Harris. He said he was unclear and I think probably between now and then I think we have the response from Ms. Holien.

Scott Harris: I understand Ms. Holien to be suggesting that you now, arguably, have before you some application for an amendment to the conditional use permit. I've looked at the record and I see no such thing.

President Motzenbecker: No, we have a site plan review before us.

Scott Harris: My understanding is that, based on how this matter came before you previously, that you would address at some point a conditional use permit amendment if there were one or a conditional use permit application assuming that what you had before you before you before was a comments abstract or without any particulars about the May 24th design. We didn't understand the May 24th design to be that abstract and we understood that you had taken action on that application and you would now be obliged to take action on some application that's never been presented to you. As to the question about the mezzanine, whether that might comply in some way with the West Broadway Alive Plan, you're probably best versed better than I, my understanding, and it's quoted in your report on page 12, was that plan has in mind making the district attractive for purposes of the general public and that is to have goods and services available for multiple business and it would deter low intensity development, particularly single story commercial developments. Based on what was submitted to you in May and what's been submitted now, we do not understand that you have in front of you anything that is keeping with the letter or spirit of this plan, a two story project, and for that reason it can't be approved and staff is wrong to suggest it's an expansion.

President Motzenbecker closed the public hearing.

Commissioner Gorecki: I will move staff recommendation of the site plan review (Cohen seconded).

Commissioner Luepke-Pier: I'm constantly amazed at the extraordinary lengths that some people will go to do the least amount possible in north Minneapolis even if it undermines the vision set by the community. This project seems to be consistent in doing that. As an architect who worked on the steering committee for the West Broadway Alive planning project, I am offended at this mezzanine. It's so clearly a ten foot catwalk that may or may not have stuff in it, that may or may not activate the space. It seems to me we've been pretty consistent every time we see this project that we want two stories because that's what's required and you've found ways to get around it a little. I don't think this one quite cuts it. I don't think this meets the requirement of the pedestrian overlay district at all. If you think it meets it to the letter, it does not meet the intent and you should be ashamed of yourself. Architects are guardians of the public good and if we cannot look out for the vision of a community that spent two years planning this, then what are we there for. Master Development, I like what you do, but I do not like this. I like the businesses you proposed to bring in here even, but I am just distraught at what I'm seeing. It's obvious that you don't believe in the vision for West Broadway or you wouldn't mind having a little bit of extra space for when it does reach what its potential could be. I guess I will summarize by saying that if I have to base this strictly on the site plan, even though there is little intent to engage West Broadway, I would say that those four tables that are not even close to the entrance to the café, they need to be put into a condition that those are required to be there and they need to be the same quality as the other tables that are scooted around the back and along Washington Ave since that seems to be where you want to get your attention and I would also say that there needs to be exterior lighting required as there is none shown on the elevation and there needs to be an effort to engage as an inviting place because right now it is a table sitting in front a liquor store window rather than anything remotely associated with the other lovely seating available adjacent to the café. With that, I guess I would say I don't think this meets the pedestrian overlay requirement at all. I'm glad they added more green space.

Commissioner Tucker: My main concern was also about this second floor mezzanine and how much it really does what we wanted with this pedestrian overlay. I know the intent to have it look from the Broadway side like a two story building, but also to have it add density. We wanted more function and more people there. I think that was probably more important otherwise a building that's a little taller and has a large parapet would do the job. I agree with Commissioner Luepke-Pier that this is really trying to do the minimum that may look like a second floor but it's not really a second floor. If it were a second floor it would have an elevator and useable space rather than ten feet you could put a couple of desks in but it's not really intended to bring a lot of people up there. I don't think we have a second floor and I don't think it reaches the intent of the pedestrian overlay district.

Commissioner Huynh: I agree with Commissioner Luepke-Pier and Commissioner Tucker on the previous comments. With the mezzanine what we have, there's a disconnect with zoning interpretation of floors and building code interpretation of floors and that's where, as an architect, you kind of cut it off with what is being served and therefore for economic reasons you don't build all the way out for those additional costs. However, because of the West Broadway Alive Plan, there is the intent and spirit to activate uses that face along the pedestrian realm there along Broadway. I'm not sure if it was intentional to leave that area, the mezzanine, hatched, but it doesn't seem like it would activate the pedestrian realm with keeping eyes on the street just because you have a 10 foot width that's consistent throughout the mezzanine and that's pretty much just a glorified circulation space, there's not much you can do as far as a work cubicle. A cubicle is probably six by six or 10 by six so you may have limited space to walk by but it doesn't seem like there's that many employees that would be up there using that space that would justify

an active second floor. The other comment that I have is if this was a case where we had ground floor retail along West Broadway and we wanted some kind of coffee space and if a developer was to propose a 10 foot strip and wasn't showing the floor plans and was a little hazy about what was being proposed, I'm not sure if we would be in acceptance of that space being proposed as a 10 foot retail to justify mixed use. Therefore, I don't think that the mezzanine would satisfy, and doesn't satisfy, the intent of the West Broadway Alive Plan with how it's being proposed currently.

Commissioner Cohen: Our staff tells us that it meets the requirements that are required as far as a second floor is concerned, but I'd like to address a broader question, but I think this brings something to West Broadway and Washington that is needed. I think that a quality restaurant and place that replaces what has [tape ended]...facility that brings a new spirit and vitality to this intersection. I think this will be a very nice addition to the city and I wholeheartedly support it.

Commissioner Luepke-Pier: I would just remind my fellow commissioner that the planning guideline for north Minneapolis is not "just as long as it was better than it was before." We have policies and standards too.

President Motzenbecker: Commissioner Luepke-Pier, did you want to formalize your conditions?

Commissioner Luepke-Pier: Yes I would. If it gets approved, I would like the condition attached that the seating adjacent to the West Broadway entrance be required to have the four table and 16 seats shown on the plan with adequate exterior lighting to be determined by staff and I would like an increase in pedestrian friendly plantings if at all possible.

President Motzenbecker: Four tables, 16 chairs adjacent to West Broadway with adequate exterior lighting...

Commissioner Luepke-Pier: And any sort of increased plantings that way mitigates the fact that they're looking into a liquor store window.

President Motzenbecker: In front, behind the tables or just all the way along the front?

Commissioner Luepke-Pier: I will leave that up to staff and the architects.

President Motzenbecker: So just increased plantings along West Broadway.

Commissioner Luepke-Pier: And that the seating be of the same quality as the other seats.

President Motzenbecker: Commissioners, a request to add conditions that the four tables and 16 chairs that are shown on the West Broadway façade elevation be required to be placed there and of the same quality as the rest of the chairs and tables shown on the plan, adequate exterior lighting for pedestrian safety be included in that area, that increased plantings in all the planting beds along West Broadway...all the plantings along West Broadway be increased. Is that correct? (Tucker seconded) All those in favor? Opposed?

The motion to add the conditions carried 5-0.

President Motzenbecker: Motion before us is staff recommendation of approval for the site plan review with the conditions as outlined. All those in favor? Opposed?

The motion carried 3-2.