



**Request for City Council Committee Action  
From the Department of Community Planning & Economic Development**

**Date:** May 20, 2004

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

**Prepared by:** Jason Wittenberg, Senior City Planner, (612) 673-2297

**Approved by:** Barbara Sporlein, Director, Planning

**Subject:** Appeal of the decision of the City Planning Commission by Apurva Patel

**Previous Directives:** At the April 19, 2004, City Planning Commission meeting, eight of the Planning Commission members were present. The Commission unanimously voted to approve the applications to allow 30 residential dwelling units in an existing building located at 918 N. 3<sup>rd</sup> Street.

<b>Financial Impact:</b> Not applicable
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<b>Community Impact:</b> See staff report
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<b>Ward:</b> 5
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<b>Neighborhood Notification:</b> Notice was sent to the North Loop Neighborhood Association on March 18, 2004.
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<b>City Goals:</b> See staff report
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<b>Comprehensive Plan:</b> See staff report
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<b>Zoning Code:</b> See staff report
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<b>Living Wage/Job Linkage:</b> Not applicable
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<b>Other:</b> Not applicable
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**Background/Supporting Information:** Apruva Patel has filed an appeal of the decision of the City Planning Commission. Mr. Patel appeals conditions of approval requiring certain noise attenuation measures to reduce the potential impact that noise from a nearby industrial use could have on residents of the project. At its meeting of April 8, the Commission heard testimony from a nearby business owner stating concern that residents of the proposed project would complain about the noise and odor that results from operation of his business. The Planning Commission continued the application and requested information about the noise-related conditions of approval related to the Stone Arch Apartments, a residential project adjacent to a steel manufacturing facility.

On April 19, the Commission approved Mr. Patel's land use applications and included conditions of approval on the conditional use permit that are nearly identical to those adopted for the Stone

Arch Apartments. Mr. Patel suggests that the some of the conditions are excessive and cost prohibitive, particularly given his agreement with the adjacent industrial user that a partial enclosure would be constructed around the loading dock area where significant noise is produced.

## CPED Planning Division Report

Conditional Use Permits, Site Plan Review, Variance

**BZZ – 1633**

**Date:** April 19, 2004

**Date Application Deemed Complete:** March 17, 2004

**End of 60 Day Decision Period:** May 16, 2004.

**End of 120 Day Decision Period:** On April 13, 2004, Planning staff sent a letter to the applicant extending the decision period to no later than July 15, 2004.

**Applicant:** Apurva Patel

**Address of Property:** 918 N. 3<sup>rd</sup> St.

**Contact Person and Phone:** Apurva Patel, 952-403-0655

**Planning Staff and Phone:** Jason Wittenberg, 673-2297

**Ward: 5      Neighborhood Organization:** North Loop Neighborhood Association

**Existing Zoning:** I2 with the IL (Industrial Living) and DP (Downtown Parking) Overlay Districts

**Project Name:** 918 Lofts

**Proposed Use:** 30 residential dwelling units in an existing building

**Conditional Use Permits:** A conditional use permit is required to establish dwelling units in an Industrial Living Overlay District. A conditional use permit is also required to alter the existing accessory parking lot in the Downtown Parking Overlay District.

**Site Plan Review:** Site plan review is required to establish five or more dwelling units as indicated in Table 530-1 of the zoning code.

**Proposed Variances:**

Variance to increase the number of off-street parking spaces in an accessory parking lot in the Downtown Parking Overlay District from 20 to 30.

**Zoning Code Section Authorizing Proposed Variances:** 525.520 (20)

**Previous Actions:** N/A

**Concurrent Review:** Site plan review, conditional use permits, and variance as noted above.

**Background:** The applicant proposes to convert the existing building located at 918 N. 3<sup>rd</sup> Street into 30 for-sale dwelling units. The three-story building, which was designed by the prominent architectural firm of Long & Kees, is not historically designated,. The building was most recently used by Flo Pac, a company that manufactured brushes and related products.

The application was continued from the meeting of April 8, 2004, to address concerns related to potential conflict related to noise and odor produced by a nearby industrial use. Specifically, the Commission requested information about noise-related conditions of approval for the Stone Arch Apartments, a multi-family residential project that was recently constructed next to a steel plant and near a power generating facility and flour mill. The Planning Commission granted the conditional use permit for that project based on the following conditions related to noise mitigation:

1) Appropriate transitions between the industrial use and the residential use shall be provided;

2) The following mitigation steps are necessary:

- Notification on lease and rental information about the context of the area. The information shall contain the type and intensity of uses adjacent to the site and the hours of operation.

- Sound attenuation is at least 40 dB.

- The building shall have year round climate control.

- There shall be no areas or accommodations that are intended for outdoor activity.

- ASTM rated windows of 50 or better shall be provided.

- The noise information from the developer shall be entered into the records.

(There were additional conditions of approval for the project that were not noise related.)

Please see attached information for excerpts from City noise and odor ordinances.

### **Findings as Required by the Minneapolis Zoning Code for the Conditional Use Permit for Dwelling Units in the IL Overlay District:**

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

Renovation of the existing building into dwelling units would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

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

Provided residents of the development understand that they are living in an industrial area that involves large truck traffic and other industrial activity, surrounding uses should continue to operate (and may continue to operate in a legal fashion) without incident. Existing and future development of uses allowed in the industrial districts or Industrial Living Overlay District should not be

negatively affected by the project. The property includes shared access with an industrial use, which may be terminated. All efforts should be made to reduce conflicts between these uses by physically defining the parking and access points.

**3. Will have adequate utilities, access roads, drainage and/or other necessary facilities.**

The site is served by existing infrastructure. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way. The final plan must indicate all drainage patterns, including roof drains. The roof drains will be disconnected from the sanitary sewer system. Water may not drain onto adjacent properties. The size of the curb cut along 10<sup>th</sup> Avenue should be reduced or eliminated for traffic safety purposes, to increase on-street parking area, and to allow for landscaping along the public sidewalk.

**4. Will take measures to minimize traffic congestion in the public streets.**

The project would comply with the required number of off-street parking spaces. The applicant is exploring the feasibility of providing parking in the basement level of the building. Narrowing or eliminating the curb cut along 10<sup>th</sup> Avenue would provide additional on-street parking capacity.

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

The following policies are relevant to the conditional use permit/p.u.d.:

*Relevant Policy:* **3.2** Minneapolis has adopted Downtown 2010 plan as a component of the city's Comprehensive Plan and envisions downtown Minneapolis in the year 2010 as one of the nation's finest urban centers; a place of prosperity, civilization and civic pride, that will serve as the center for the metropolitan area, the state and surrounding region.

*Relevant Implementation Steps:*

- Enhance downtown as a special place that offers the finest qualities and experiences associated with cities.
- Maintain downtown as the economic center for the Twin Cities metropolitan area and Upper Midwest region.
- Develop residential areas into neighborhoods that offer a variety of housing types and affordability levels, as well as traditional urban neighborhood qualities and experiences.

*Staff comment:* The proposed project will cater to the market for urban living in the downtown area and, with the other residential projects recently completed or underway, would enhance the downtown economy and contribute to the character of the warehouse district.

*Relevant policy:* **4.9** Minneapolis will implement its adopted Housing Principles and the Housing Impact Measures through community-based strategies directing future housing development.

*Relevant Implementation Steps:*

- The variety of housing types throughout the city, its communities and the metropolitan area shall be increased, giving prospective buyers and renters greater choice in where they live.
- Identify and support private sector development for changing housing demographics in markets such as seniors, empty nesters and the physically challenged.
- Develop/provide incentives for placing new housing on transportation corridors.
- Up to 20 percent of the units in new multifamily housing developments should be affordable.
- Develop/provide tax and zoning incentives to developers for infill housing that is well designed, serves several income levels, adds to the tax base and fits the urban environment.
- *The quality of Minneapolis' housing stock shall be improved.*
- Neighborhood livability, including safety, traffic calming, streetscape, green space, retail development and community schools are recognized as vital to housing success.

***Staff comment:* The project would contribute to housing variety in the North Loop and the city.**

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, the variance, and site plan review.

**If all of the applications are granted and the final plan complies with all action of the city planning commission, staff is unaware of any conflict between the proposal and the I2 District or the IL Overlay District. The applicant has applied to vary the regulations of the DP Overlay District.**

**Findings as Required by the Minneapolis Zoning Code for the Conditional Use Permit to Alter an Existing Accessory Parking Lot in the DP Overlay District:**

1. **Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The physical confines of the parking lot would not be expanded. The parking spaces and drive aisles would be brought into conformance with dimensional requirements of Chapter 541 of the zoning code, which would increase the safety of the parking lot. (Note that three of the spaces, as shown, must be designated as compact due to the narrow drive aisle at the south end of the site.)

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.**

Staff does not believe that the proposed parking lot alteration would impede other property owners from using their own property for maneuvering or for other lawful uses.

3. **Will have adequate utilities, access roads, drainage and/or other necessary facilities.**

The site is served by existing infrastructure. The applicant has an access agreement over the property to the north, accessed from 10<sup>th</sup> Avenue. The neighboring property owner has written a letter to cancel this agreement. Following the 120-day cancellation period, this agreement will be terminated. According to staff calculation, the applicant can fit 30 surface parking spaces on the site without using any neighboring property or properties. With termination of this agreement, staff recommends that the applicant install a barrier between the residential use and the industrial use to both reduce conflicts and define the property in a manner that is consistent with Crime Prevention Through Environmental Design (CPTED) principles. The applicant may close the curb cut to the site from 10<sup>th</sup> Avenue. The Public Works Department will review the final drainage plan. A curb should be extended along the east/southeast property line so that water will not drain onto the adjacent property.

4. **Will take measures to minimize traffic congestion in the public streets.**

The size of one curb cut would be reduced. The proposed parking lot plan would allow the applicant to comply with the minimum number of off-street parking spaces; one per dwelling unit.

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

***Relevant Policy:* 9.12. Minneapolis will promote design solutions for automobile parking facilities that reflect principles of traditional urban form.**

***Relevant Implementation Steps:***

- **Require the landscaping of parking lots.**

*Staff comment:* The parking lot must be landscaped and screened along the public rights of way to the standards of Chapter 530 of the zoning code.

***Relevant Policy:* 9.15. Minneapolis will protect residential areas from the negative impact of non-residential uses by providing appropriate transitions between different land uses.**

***Relevant Implementation Steps:***

- **Provide appropriate physical transition and separation using green space, setbacks or orientation between residential and non-residential uses.**

*Staff comment:* The parking lot should be defined to minimize conflicts between the residential use and the adjacent non-residential use to the extent possible.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, the variance, and site plan review.

**Provided the accompanying variance is granted and corrections are made to the site plan (e.g., identifying compact parking spaces and providing a detailed landscaping plan), staff is not aware of a conflict between the proposed parking lot and the regulations of the I2 District and IL and DP Overlay Districts.**

### **Required Findings for Major Site Plan Review**

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

### **Section A: Conformance with Chapter 530 of Zoning Code**

#### **BUILDING PLACEMENT AND FAÇADE:**

- 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.
- 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 façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- 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 where visible from a public street or a residence or office residence district.
- Entrances and windows:
  - Residential uses shall be subject to section 530.110 (b) (1).
  - Nonresidential uses shall be subject to section 530.110 (b) (2).
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

***Conformance with above requirements:***

**The building is located in a position that maximized natural surveillance and will accommodate pedestrian access.**

**The existing building is constructed up to both the front and corner side lot lines.**

**There is no space between the building and the front lot line.**

**The principal entrance to the building would continue to face N. 3<sup>rd</sup> St.**

**Parking would continue to be located to the rear and side of the building.**

**The existing building is constructed of brick and stone on all sides.**

**The amount of window area facing the public streets would remain the same. Opaque windows facing the parking lot would be replaced with transparent windows.**

**ACCESS AND CIRCULATION:**

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

***Conformance with above requirements:***

The principal entrance to the building would open directly to the public sidewalk along N. 3<sup>rd</sup> Street. An entrance would also be located near the east side of the building, along the off-street parking area. Note that a raised sidewalk along 10<sup>th</sup> Avenue would be replaced by a typical grade-level sidewalk.

There are no transit shelters on the site.

The curb cut along 10<sup>th</sup> Avenue should be narrowed or eliminated to reduce conflicts between vehicles and pedestrians.

There are no public alleys adjacent to the site. There is a low concrete wall spanning much of the southeast lot line. A similar barrier must also be constructed up to the northeast corner of the property in order to reduce potential conflicts between the existing industrial/commercial uses and the proposed residential use. If the shared access agreement is cancelled, a barrier should also be included between the proposed residential property and the commercial and industrial properties to the north/northeast. The existing layout essentially allows vehicles to use the site as a public alley, which could prove dangerous (or at least annoying) to prospective tenants. If and when the applicant intends to provide parking within the building, a plan must be submitted indicating compliance with required parking space and aisle dimensions within the building. The applicant should also speak with the Inspections Department about the minimum clearance for van accessible spaces that would be required within the enclosed parking area.

The applicant will haul significant snow amounts to an off-site location.

Existing permeable areas are located primarily southeast of the building. If parking is located within the building, this would provide an opportunity to remove out door parking and provide additional permeable landscaped, which would offer aesthetic and functional benefits to both residents and the public.

#### LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
  - Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).
- Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
  - A decorative fence.
  - A masonry wall.
  - A hedge.

- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).
- Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).
- The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.
- Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.
- All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.
- All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.

***Conformance with above requirements:***

**The lot in question has approximately 29,097 square feet of area. The building footprint is approximately 14,145 square feet, leaving a net site area of 14,952 sq. ft. At least 20 percent of the net site area (2,990 sq. ft.) should be landscaped. According to the applicant's survey, 305 square feet—two percent of the net site area—is currently landscaped. The applicant has not proposed new landscaping. A minimum of three canopy trees and 15 shrubs are required. There are three existing deciduous trees on the site. Shrubs must be added. Given the existing constraints related to maintaining proper parking spaces and maneuvering aisles, staff recommends that the Commission grant alternative compliance to allow landscaping on less than 20 percent of the site provided that decorative fencing is incorporated along the perimeter of the parking lot (including atop the existing low concrete wall and atop any extension of the concrete wall or concrete curbing) and further provided that the amount of landscaping must be increased if and when underground parking is incorporated into the plan.**

**Landscaped yards and screening are required between the parking area and the public sidewalks. This screening should consist of (at least) masonry and/or wrought iron fencing.**

**A concrete wall along the southeast lot line serves the purpose of directing drainage on a portion of the lot. A similar barrier must be incorporated extending to the northeast corner of the property and water must not drain onto adjacent properties from the site. Shared access agreements may prevent similar definition of the north/northeast end of the parking lot. If this agreement is terminated, however, the parking lot should be defined so that the applicant's entire property is self-contained.**

**Any areas not covered by buildings, walkways, driveways, seating, and parking and loading must be covered with turf.**

**Landscaping must be installed and maintained properly.**

**ADDITIONAL STANDARDS:**

- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- Site plans shall minimize the blocking of views of important elements of the city.
- Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- 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.
- 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:***

**Lighting must comply with chapters 535 and 541. Lighting must be shielded/hooded to prevent excess glare.**

**Headlight glare would have a significant effect on nearby residential properties.**

**Views would not be blocked.**

**The project would have no impact on shadowing of the public sidewalk and would have no impact on wind speed or direction in the vicinity.**

**From a crime prevention standpoint, the site should be adequately lighted and fenced. Fencing should be incorporated atop the concrete wall that separates the property from the property to the east/southeast. The applicant is strongly encouraged to work with neighboring property owners to install a decorative barrier that would separate the parking/maneuvering area from the 928 bar and the neighboring industrial use.**

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

**ZONING CODE:** The property is zoned I2 and is also within the IL and DP Overlay Districts. The IL Overlay district is the mechanism allowing new residential uses in an industrial district.

**Parking and Loading:** The applicant proposes 30 off-street parking spaces—one per dwelling unit as required by Chapter 541 of the zoning code. A plan submitted on 3/31/04 appears to show 31 spaces. With the granting of the proposed variance, only 30 spaces would be allowed. The three spaces at the southeast corner of the property must be labeled as compact spaces and must include signs designating them as such. The applicant is exploring the feasibility of providing off-street parking in the basement level of the building. If this is done, a scaled and dimensioned plan must be provided indicating compliance with Chapter 541. The accessible parking spaces should be eight feet in width and should be adjacent to eight-foot-wide accessible aisles, the dimensions of van accessible spaces.

**Signs:** The might incorporate a sign into the decorative wall along 10<sup>th</sup> Avenue. A sign permit would be required.

**Minimum Lot Area:** The IL Overlay District requires not less than 900 square feet of lot area per dwelling unit. The lot has approximately 29,087 square feet, which would allow 32 dwelling units on the site. The applicant seeks approval for 30 dwelling units.

**Maximum Floor Area:** The existing project is within with the maximum permitted floor area ratio allowed in the I2 District.

**Yard Requirements:** There are no setback requirements. Landscaped yards of five feet in width are required between the parking areas and the public sidewalks.

**Specific Development Standards:** N/A

**Hours of Operation:** N/A

**Dumpster screening:** The applicant proposes a refuse storage container near the northeast corner of the site. Refuse storage containers must be screened as required by section 535.80 of the zoning code or must be located in the building.

**535.80. Screening of refuse storage containers.** Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse

container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. Single and two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall not be governed by this provision.

**MINNEAPOLIS PLAN:**

**The proposal is consistent with the relevant policies of the Minneapolis Plan, including the following:**

*Relevant Policy: 9.32* Minneapolis will promote housing development that supports a variety of housing types at designated Major Housing Sites throughout the city.

*Relevant Implementation Steps:*

- Promote the development of new housing that is compatible with existing development in the area, as well as to existing historic or older housing stock where appropriate.
- Provide the flexibility in the City's ordinances to accommodate new housing development tailored to meet a range of different housing submarkets.

*Staff comment:* The North Loop contains a Major Housing Site centered closer to the riverfront area.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the \_\_\_\_\_ City \_\_\_\_\_ Council:

**Staff is not aware of a conflict between the proposed use and any development plan or objective adopted by the city council.**

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

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

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

**As indicated above, staff is recommending alternative compliance exceptions for the following aspects of the proposal:**

- Given the existing constraints to maintaining proper parking spaces and maneuvering aisles, staff recommends that the Commission grant alternative compliance to allow landscaping on less than 20 percent of the net site area and, where necessary, landscaped yards of less than five feet in width. However, the applicant must also include screening between the parking lot and the public sidewalk. This screening could consist of decorative fence of masonry and wrought iron. Decorative fencing must also be incorporated into the concrete wall on the east/southeast lot line.

**Findings Required by the Minneapolis Zoning Code for the Proposed Variance to Increase the Number of Off-Street Parking Spaces in a Parking Lot in the DP Overlay District:**

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

The applicant proposes to provide 30 surfacing parking spaces. The Downtown Parking Overlay District limits accessory off-street parking lots to a minimum of 20 spaces. Thirty spaces would provide one parking space per dwelling unit, the minimum number required in the district. Without the requested variance, the applicant would be unable to meet the parking requirement based on the proposed number of dwelling units. The applicant is exploring the idea of providing some of the required off-street parking within the building. If off-street parking spaces are added to the basement level, the number of off-street parking spaces at grade should be reduced in order to provide more landscaping consistent with Chapter 530 of the zoning code.

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

The parking lot is existing. However, there are fewer than 20 legal, conforming parking spaces on the site. The fact that the applicant would not be physically expanding the parking lot (by razing buildings, for example) and the fact that the parking spaces are needed in order to comply with parking requirement of Chapter 541, are unique factors that are not generally applicable.

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

The intent of the Downtown Parking Overlay District is stated in the zoning code as follows: "The DP Downtown Parking Overlay District is established to preserve significant and useful buildings and to protect the unique character of the downtown area and the mixed-use downtown neighborhoods by restricting the establishment or expansion of surface parking lots." The parking lot is already established and would not be physically expanded. The lot would be re-striped to comply with the minimum parking space and aisle dimensions. Staff is concerned, however, about the conflict between complying with the minimum parking requirement and providing the required landscaping on the lot. Two ways to mitigate this conflict are to (a) reduce the number of parking spaces in the surface lot if underground parking is incorporated, and (b) incorporate decorative fencing around much of the perimeter of the off-street parking lot, particularly between the public sidewalks and the parking lot.

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

Granting the variance would allow the applicant to comply with the required number of off-street parking spaces and would not increase congestion of the public streets nor would it be detrimental to public health, welfare, or safety.

**Recommendation Of The Minneapolis CPED Planning Division for the Conditional Use Permit to Allow Dwelling Units in the Industrial Living Overlay District:**

The CPED Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application to allow thirty (30) dwelling units in the Industrial Living Overlay District located at 918 N. 3<sup>rd</sup> St.

**Recommendation Of The Minneapolis City Planning Department for the Conditional Use Permit to Alter an Existing Accessory Parking Lot in the Downtown Parking Overlay District:**

The CPED Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application to alter an existing accessory parking lot with up to thirty (30) spaces in the Downtown Parking Overlay District at 918 N. 3<sup>rd</sup> St.

**Recommendation of the CPED Planning Division for the Site Plan Review Application:**

The CPED Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for thirty (30) dwelling units in an existing building located at 918 N. 3<sup>rd</sup> St., subject to the following conditions:

- 1) A barrier along the east/southeast property line shall connect the existing concrete wall to the northeast corner of the property in order to reduce conflicts between commercial/industrial uses and the proposed residential use. Decorative fencing shall be incorporated into the barrier.
- 2) If parking is incorporated within the building, the number of outdoor parking spaces shall be reduced. For every three parking spaces located within the building, one outdoor parking space shall be removed and not less than one hundred fifty (150) square feet of landscaping shall be added to the site.
- 3) The off-street parking area shall be screened from the public streets by landscaping, decorative fencing, and/or masonry wall consistent with section 530.150(c) of the zoning code.
- 4) All off-street parking spaces and drive aisles on the site shall comply with the minimum dimensions of section 541.330 of the zoning code.
- 5) The Planning Department shall review and approve the final site plan, landscaping plan, and fences.
- 6) If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit.
- 7) Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by April 19, 2005, unless extended by the zoning administrator, or the permit may be revoked for non-compliance.

**Recommendation of the CPED Planning Division for the Variance Application to Increase the Number of Off-Street Parking Spaces in an Accessory Parking Lot in the Downtown Parking Overlay District:**

The CPED Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to increase the permitted number of off-street parking spaces in an accessory parking lot in the Downtown Parking Overlay District from twenty (20) to thirty (30) for the property located at 918 N. 3<sup>rd</sup> St., subject to the following conditions:

- 1) If parking is incorporated within the building, the number of outdoor parking spaces shall be reduced. For every three parking spaces located within the building, one outdoor parking space shall be removed and no less than one hundred fifty (150) square feet of landscaping shall be added to the site.

**Attachments:**

- Noise and odor ordinances
- Written statements from the applicant
- Letters to neighborhood group and council member
- Zoning map

- Aerial photograph
- Site plan
- Floor plan
- Building elevations
- Photographs



**Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES**

350 South Fifth Street, Room 210  
Minneapolis, MN 55415-1385  
(612) 673-2597 Phone  
(612) 673-2728 Fax  
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**MEMORANDUM**

DATE: April 20, 2004

TO: Blake Graham, Community Planning & Economic Development - Planning Div.  
Phil Schliesman, Licenses

FROM: Neil Anderson, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

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

SUBJECT: Planning Commission decisions of April 19, 2004

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The following actions were taken by the Planning Commission on April 19, 2004. 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:

**ATTENDANCE**

President Martin, Vice President Hohmann, G. Johnson, Krause, Kummer, LaShomb, MacKenzie, and Schiff - 8

**CONSENT AGENDA –Committee of the Whole**

None.

**INTRODUCTION TO PUBLIC HEARING**

**PUBLIC HEARING**

**17. 918 Lofts (BZZ-1633, Ward 5)**

**918 North 3<sup>rd</sup> Street** (Jason Wittenberg) *This item was continued from the April 8, 2004 meeting.*

**A. Conditional Use Permit**

Application by Apurva Patel for a conditional use permit to allow thirty (30) dwelling units in an existing building located at 918 North 3<sup>rd</sup> Street.

**Motion:** The City Planning Commission adopted the findings and **approved** the application to allow thirty (30) dwelling units in the Industrial Living Overlay District located at 918 N. 3<sup>rd</sup> Street with the following conditions:

1. Appropriate transitions between the industrial use and the residential use shall be provided.
2. The following mitigation steps are necessary:
  - Notification on condo sale information about the context of the area. The information shall contain the type and intensity of uses adjacent to the site and the hours of operation.
  - Sound attenuation is at least 36 dB.
  - The building shall have year round climate control.
  - There shall be no areas or accommodations that are intended for outdoor activity.
  - ASTM rated windows of 50 or better shall be provided.
  - The noise information from the developer shall be entered into the records.

**B. Conditional Use Permit**

Application by Apurva Patel for a conditional use permit to alter an existing accessory parking lot in the Downtown Parking Overlay District for property located at 918 North 3<sup>rd</sup> Street.

**Motion:** The City Planning Commission adopted the findings and **approved** the application to alter an existing accessory parking lot with up to thirty (30) spaces in the Downtown Parking Overlay District at 918 N. 3<sup>rd</sup> St.

**C. Site Plan Review**

Application by Apurva Patel for a site plan review at 918 North 3<sup>rd</sup> Street.

**Motion:** The City Planning Commission adopted the findings and **approved** the site plan review application for thirty (30) dwelling units in an existing building located at 918 N. 3<sup>rd</sup> St., subject to the following conditions:

1. A barrier along the east/southeast property line shall connect the existing concrete wall to the northeast corner of the property in order to reduce conflicts between commercial/industrial uses and the proposed

residential use. Decorative fencing shall be incorporated into the barrier.

2. If parking is incorporated within the building, the number of outdoor parking spaces shall be reduced. For every three parking spaces located within the building, one outdoor parking space shall be removed and not less than one hundred fifty (150) square feet of landscaping shall be added to the site.
3. The off-street parking area shall be screened from the public streets by landscaping, decorative fencing, and/or masonry wall consistent with section 530.150(c) of the zoning code.
4. All off-street parking spaces and drive aisles on the site shall comply with the minimum dimensions of section 541.330 of the zoning code.
5. The Planning Department shall review and approve the final site plan, landscaping plan, and fences.
6. If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit.
7. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by April 19, 2005, unless extended by the zoning administrator, or the permit may be revoked for non-compliance.

**D. Variance**

Application by Apurva Patel for a variance to increase the number of off-street parking spaces in an accessory parking lot in the Downtown Parking Overlay District from twenty (20) to thirty (30) for property located at 918 North 3<sup>rd</sup> Street.

**Motion:** The City Planning Commission adopted the findings and **approved** the variance to increase the permitted number of off-street parking spaces in an accessory parking lot in the Downtown Parking Overlay District from twenty (20) to thirty (30) for the property located at 918 N. 3<sup>rd</sup> St., subject to the following conditions:

1. If parking is incorporated within the building, the number of outdoor parking spaces shall be reduced. For every three parking spaces located within the building, one outdoor parking space shall be removed and no less than one hundred fifty (150) square feet of landscaping shall be added to the site.

Staff Wittenberg presented the staff report. Staff Wittenberg reviewed the information requested by the Planning Commission April 8, 2004 regarding the conditions of

approval for the Stone Arch apartments, a large residential development situated adjacent to a steel manufacturing and is also near a power plant and at that time was also close to an operating flour mill (noted in the background section of the staff report and as follows):

- Sound attenuation is at least 40 dB.
- The building shall have year round climate control.
- There shall be no areas or accommodations that are intended for outdoor activity.
- Notification on condo sale information about the context of the area.

Staff also noted that the applicant had hired a consultant to take a look at noise and acoustic issues. The applicant has also been discussing with the adjacent industrial user the possibility about constructing a possible enclosure on the loading dock. The consultant states that if a structure is constructed, and windows are closed, that would result in a 30 decibel reduction that would mitigate the sounds from the industrial activity.

Staff also noted that there was a letter in the packet from Schaefferrichardson, a property owner in the area. They have indicated, "Commercial tenants have not complained about noise or other impacts from All Safe Fire. We have not noticed any noise during the sales and construction process for the Bassett Creek Lofts project which is at 901 North 3<sup>rd</sup> Street".

Staff Wittenberg also mentioned that the site plan had been revised which shows a different parking lot layout and shows closure of the curb cut along 10<sup>th</sup> Avenue and at staff's request, also includes a masonry wall that sort of defines the parking lot that separates the vehicular traffic of the industrial and residential uses.

Commission President Martin: Could you point that wall out please?

Staff Wittenberg: Here, at the property line.

President Martin: You said there would be no curb cut on 10<sup>th</sup>?

Staff Wittenberg: To the applicant's property, that's correct. OK, but the curb cut for the industrial operator remains.

Staff Wittenberg: Certainly our applicant in this case would not be authorized to alter the curb cut in front of other people's property.

Commissioner Hohmann: That concrete wall that runs in on an east-west plane, is there a north leg on the end of that?

Staff Wittenberg: Yes, it extends from this point and along the property line. I believe the loading dock is in this location, here and the industrial user has access through this area here.

Commissioner LaShomb: Are you telling us that the applicant has agreed to make the kinds of accommodations that are presently in the Stone Arch Lofts? Or are we just saying that's what happened over there?

Staff Wittenberg: I have not heard from the applicant that they have agreed to any specific sound attenuation measures at this point. They were in discussions with the industrial property owner about having a joint agreement to partially enclose that loading dock, but I don't know if that agreement has been formalized.

Commissioner LaShomb: Would that be at the expense of the applicant or the expense...?

Staff Wittenberg: I don't know the specifics of that. I believe the applicant should be here to explain.

Commissioner LaShomb: If you did the enclosed dock and then reduced it by 30 decibels, did anyone do any kind of analysis to figure out what the present decibel level is inside that building?

Staff Wittenberg: The consultant that was hired by the applicant was not able to visit the site to do that kind of testing.

Commissioner LaShomb: So we would assume that dropping it 30 would be good. Also, if we approve this project, is this a statement by the City of Minneapolis that it was the determination of the City that the noise levels in this building were acceptable; therefore noise complaints would not be favorably received by the City?

Staff Wittenberg: I would say that we don't know for sure at this point whether the noise emanating from that industrial user is acceptable. We just don't have that information. Presumably the applicant's consultant would be able to get that information. I don't know how long that would take to put that together.

President Martin: In a sense, it is like what we were faced with the Stone Arch Apartment, where we didn't know what the level of noise was. We couldn't fully require whatever reasonable mitigation could be imagined.

Commissioner MacKenzie: With the Stone Arch Apartments, we had the condition of the sound attenuation of 40 decibels. Why did we pick 40 decibels, how did we get there?

Staff Wittenberg: I've got to believe that they had some reasonable information about the sound level that was emanating from the steel facility and that they must have picked 40 decibels that would make it an acceptable noise level within those dwelling units.

Commissioner Schiff: Do we have copies of the additional conditions from the Stone Arch in front of us?

Staff Wittenberg: They are in the background section of the staff report.

Commissioner Schiff: So those are not conditions of your report, but if you think they are applicable, we could...?

Staff Wittenberg: Correct.

Commissioner Schiff: Can you explain the letter from Midwest Hospitality Incorporated?

Has Midwest Hospitality Incorporated been hired by Mr. Patel?

Staff Wittenberg: Midwest Hospitality Incorporated is Mr. Patel's company. Veneklasen is the consultant that has been hired by Midwest Hospitality Incorporated.

Commissioner Schiff: And everything in the memo is regarding the industrial property. And has Mr. Patel agreed to pay for those?

Staff Wittenberg: As I mentioned, Mr. Patel was in conversations with the owner of All Safe Fire indicated he was going to fax me some kind of agreement. If they have reached that today, I have not heard that from them.

Commissioner Schiff: In addition to sound, there is mention in the industrial user's letter that talks about fumes and the prevailing winds are north to northwest.

Staff Wittenberg: A note on that, I did speak with the Fire Department at some length about that issue and my understanding is that propane releases are only supposed to be happening on an emergency basis from this site. That there are not supposed to be regular releases of propane.

Commissioner Schiff: Do you know where the vents are located on the industrial property.

Staff Wittenberg: I don't know that.

Commission President Martin opened the public hearing.

Apurva Patel (applicant): I have had considerable amount of discussions with Mike Stitch of All Fire Safety and I'm sure we will talk after this. I just wanted to clarify with regards to the work Veneklasen did for us on sound attenuation. There is one extra sheet that did not get sent out to Jason. These are the selected condominium units that were a set of projects that they had looked at. One of them happened to be the Stone Arch project. What we've got within our building is masonry of 12 inches and on top of that we have some additional insulation of 5 ½ inches insulated wall that will attenuate sound up to 36 decibel which is approximately 80 to 85 percent of total noise emanating outside. Now this report was also generated physically with a similar project type out in Denver where there was some noise of canisters right outside of the condominium complex, so that is why the recommendations came in the way they did with 9 foot and 7 foot walls. The second issue is obviously, Mike and I have come to terms with the project costs and we're going to be contributing towards the building of the actual enclosure. So in regards to that, maybe Mike can give you a vote of confidence we have come to some sort of agreement. This report gives you a basis to work with in making sure that is the same company that did the Stone Arch project.

Mike Stitch (All Safe Fire & Security, 915 Washington Avenue North): Certainly I have some concerns as you all were made aware of at the last meeting. Mr. Apurva, I did some background checking and find him to be a very honorable person. He has indeed agreed to help put forth the cost to extend the shelter around our facility that should keep everyone, especially his tenants, happy. I did my decibel reading at Grainger for

the heck of it and one cylinder that was expelling and I believe the reading I got was 142. Not that it's a factor, but we will do everything in our power to limit these decibel readings. We also have decided over the last week to change our operation away from propane cylinders. It is not necessary for the future profit of our company that we stay in that business. Whatever smells there may have been in the past will be less and less as time goes by. I think we can work it out. Mr. Apurva seems to be a man of his word and we should be able to come to a solution.

President Martin closed the public hearing. She noted that the conditions that mimic the Stone Arch Apartments were on page 2 of the staff report.

Commissioner LaShomb moved staff recommendation for item A (Hohmann seconded).

Commissioner Schiff: Are you intending to move these as additions to the site plan, or where do you think it's most appropriate?

Commissioner LaShomb: I'm not quite sure where the additional conditions should be. Perhaps they do belong here. It seems to me that A just simply says we're going to allow it and I would assume they would go under B.

Commissioner Schiff: The Stone Arch report said that they were added to the conditional use permit.

President Martin: And Mr. Voll thinks that we should do it here, so Commissioner LaShomb, is it your desire to add those conditions that were devised for Stone Arch to this one?

Commissioner LaShomb: With one exception, that the sound attenuation shall be at least 36 decibels.

President Martin: So you are moving the CUP with the conditions coming from the background statement on the Stone Arch that are on page 2 of the staff report.

Commissioner LaShomb: I'm still nervous about this. I have this funny feeling that realtors aren't going to be very direct about this and that someone down the road is going to say I didn't know about this and Council Member Johnson Lee will be the beneficiary of all these kind letters.

President Martin: I think one alteration of these, the Stone Arch says "notification of use in rental information" should be "notification on condo sale information about the context of the area"

The motion carried 7-0.

Commissioner LaShomb moved item B (Hohmann seconded).

The motion carried 7-0.

Commissioner LaShomb moved item C (Hohmann seconded).

The motion carried 7-0.

Commissioner LaShomb moved item D (Hohmann seconded).

The motion carried 7-0.