

CPED - Planning Division Report

Contractors office at 2605 2nd Ave. S. (BZZ-1407): Petition to rezone site from R2B to C1, conditional use permit for the contractor's office, variance to reduce the parking requirement from 6 to 4, and a variance to reduce the rear yard setback from 7 ft. to zero ft.

Hearing Date: March 22, 2004

Date Application Deemed Complete: September 11, 2003

End of 60-Day Decision Period: The applicant has extended the time frame for 60-day rights for agency action under MSA 15.99 in order to continue with this application.

Applicant: Charles Cox, Jr., 1111 McKnight Rd. S., St. Paul, MN 55119, 651-775-8182, fax: 612-486-4004; Applicant's representative-David J.Schoenecker, Attorney at Law, 3109 Hennepin Avenue South, Minneapolis, MN 55408, tel: 612-827-6619, fax: 612-827-3564, email: dave@lawyersofminnesota.com

Address of Property: 2605 2nd Avenue South

Contact Person and Phone: Same as above, David Schoenecker, Attorney, 612-827-6619

Staff Contact Person and Phone: J. Michael Orange, Principal Planner transferred file to: Lonnie Nichols, Senior Planner, tel: 612-673-5468; fax: 612-673-2526; TDD: 612-673-2157; e-mail: lonnie.nichols@ci.minneapolis.mn.us

Ward: Six (6) **Neighborhood Organization:** Whittier Alliance

Existing Zoning: R2B, Two-Family District (no Overlay Districts)

Proposed Zoning: C1 (Neighborhood Commercial District)

Proposed Use: To allow a contractor's office

Authority:

- **Petition:** Table 546-1 does not allow contractor offices as a permitted or conditional use in the R2B District. They are first allowed as conditional uses in the C1 District.
- **Conditional Use Permit:** contractor offices are conditional uses in C1 zoning (Table 548-1).
- **Parking variance:** Section 525.520(6, 7, 8) allows a reduction in required parking stalls and location requirements for off-street parking.
- **Yard variance:** Section 525.520 (1) allows a variance for yards.

Concurrent Review: None

If you need more information or have special needs, please call the
Minneapolis CPED-Planning Division at 612-673-2597.

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Prior approvals: None.

Background:

- **Project description:** The existing building was formerly a residence. It became vacant and boarded, before the applicant acquired the property, made improvements without required permits, and started to operate a business(es) from the premises. The building at 2605 2nd Avenue South is currently occupied by the applicant and at least one other business, although the site is not zoned appropriately for these uses. The applicant proposes to rezone the property from R2B to C1 to allow its use as a contractor office for the applicant's business, Alliant Builders. The applicant needs a conditional use permit for the use and a variance of the rear yard setback requirement, (which is 7 feet because the site is adjacent to residential zoning), to zero feet to allow room to park four vehicles. The applicant also needs a parking variance.
- **Neighborhood review:** Minutes from the March 17, 2003 meeting of the Whittier Alliance Land Use and Transportation Committee and March 25, 2003 Whittier Alliance Board of Directors meeting have been submitted which show support from the neighborhood group for this project.
- **Rezoning petitions:** On 6/25/03, the City Attorney's Office verified that the petition signatures complied with the State's consent requirements.
- **Reason for previous recommendations to continue the project:** The applicant was asked to provide revised site plan drawings for the project, a plan of resolution for the fence on the NW side of the property, and answer the questions for the variances and conditional use permit.

REZONING

Findings As Required By The Minneapolis Zoning Code to rezone the site at 2605 2nd Avenue South from R2B (Two-family Residence District) to C1 (Neighborhood Commercial District):

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

Planning staff has identified the following goals and policies of the Minneapolis Plan as being relevant to the request to rezone the property from R2B to C1.

The rezoning would allow for C1 commercial uses to locate on the property and for the property to be used for parking accessory to these commercial uses. This runs counter to several of the implementation steps noted below. The rezoning would allow commercial zoning to creep further down an otherwise residential block. The C1 District allows uses that can generate impacts on adjacent residential properties

4.11 Minneapolis will improve the availability of housing options for its residents.

Applicable Implementation Steps

Provide and maintain areas that are predominantly developed with single and two family structures.

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Promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.

Promote accessible housing designs to support persons with disabilities.

Encourage the rehabilitation and sensitive reuse of older or historic buildings for housing including affordable housing units.

4.12 Minneapolis will reasonably accommodate the housing needs of all of its citizens.

Implementation Steps

Permanent housing for people with disabilities shall not be excluded by the zoning ordinance or other land use regulations from the benefit of residential surroundings. Special housing shall be available as needed and appropriately dispersed throughout the city.

Appropriate departments and agencies of the city shall actively enforce anti-discrimination laws and activities that promote Fair Housing practices.

4.14 Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city.

Implementation Steps

Continue using high quality materials for new construction and historic preservation that reinforce long-term housing maintenance goals.

Halt the illegal stripping of abandoned or condemned properties and assign a public or non-profit agency to manage the removal and sale of historic and architectural features of these properties.

Encourage adaptive re-use, retrofit and renovation projects that make the city's housing stock competitive on the regional market.

Provide the flexibility in the city's ordinances to improve and maintain existing structures.

Ensure attractive, livable neighborhoods through increased efforts to maintain a clean environment (graffiti, street cleaning, sweeping, etc.) and through increased enforcement of housing and property maintenance codes.

Attain the greatest possible degree of enhancements to neighborhood livability when making infrastructure improvements or modifications.

Control ice and snow on city streets, alleys and pedestrian bridges.

Conduct housing complaint investigations and take corrective actions up to and including condemnation.

Ensure maintenance and cleaning services for all landscaped areas in the public right-of-way.

9.8 Minneapolis will maintain and strengthen the character of the city's various residential areas.

Implementation Steps

Encourage the rehabilitation of older and historic housing stock over demolition.

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Ensure that city grants and programs are targeted to housing development or rehabilitation that reflects the traditional architectural character of residential areas.

Prohibit new driveways on block faces with alley access and where there are no existing driveways.

Infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of surrounding one and two family dwellings.

Create traditional setbacks, orientations, pattern, height and scale of dwellings in areas where no clear architectural pattern exists.

9.21 Minneapolis will preserve and enhance the quality of living in residential neighborhoods, regulate structures and uses which may affect the character or desirability of residential areas, encourage a variety of dwelling types and locations and a range of population densities, and ensure amenities, including light, air, privacy and open space.

Implementation Steps

Apply the form and density approach within the context of a neighborhood or a site and within the framework of The Minneapolis Plan and NRP Plans when evaluating the appropriateness of development proposals for specific sites.

Limit non residential land uses allowed in low density residential areas to religious institutions, specific public facilities such as schools, libraries and parks and other non residential land uses that can be integrated with low density residential uses through proper location, site planning and facilities design.

9.24 Minneapolis will support continued growth in designated commercial areas, while allowing for market conditions to significantly influence the viability of a commercial presence in undesignated areas of the city.

Implementation Steps

Develop land use controls which include a variety of commercial districts and, in addition to establishing the uses allowed in the commercial districts, establish regulations applicable to all uses and structures located in the commercial districts, including maximum occupancy standards, hours open to the public, truck parking, provisions for increasing the maximum height of structures, lot dimension requirements, density bonuses, yard requirements, and an enclosed building requirement.

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

Facilitate the redevelopment of underutilized commercial areas by evaluating possible land use changes against potential impacts on neighborhood compatibility.

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

The amendment to rezone the property from a residential designation to a commercial designation is in the interest of the property owner. The applicant made improvements to the property without pulling building permits or obtaining applicable approvals.

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

The nearest commercial zoning (C4) is one block to the west and located at the intersection of Stevens Avenue and 26th Street East. Commercially zoned parcels (C1 and C2) are located along 26th Street for a three-block stretch, from Stevens Avenue through Nicollet Avenue. The subject property is located south of and immediately adjacent to the Jimmy Jingle building, which is zoned OR2. There is an OR3 district on the North side of 26th Street East at 2nd Avenue. The general area, between 35W to the East and 1st Avenue to the West and bounded by 24th Street to the North and 28th Street to the South, is otherwise zoned residential (R2B, R4, R5, OR1).

As per section 548.200 of the zoning code, the C1 Neighborhood Commercial District is established to provide a convenient shopping environment of small scale retail sales and commercial services that are compatible with adjacent residential uses. In addition to commercial uses, residential uses, institutional and public uses, parking facilities, limited production and processing and public services and utilities are allowed.

The existing uses of property and the zoning classification of property within the general area are not compatible with the proposed (C1) zoning classification because they are zoned residential.

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

There are reasonable uses for the property under the existing zoning classification. The properties in question could continue to be used for residential purposes.

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

Staff is not aware of a change in the character of trend of development in the general area since the property was placed in the R2B District.

CONDITIONAL USE PERMIT

Findings as required by the Minneapolis Zoning Code for a contractor's office in the C1 district at 2605 2nd Avenue South:

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The Community Planning and Economic Development Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

A contractor's office, is defined in Chapter 520.160 of the code as an office providing building construction or property maintenance services, and which does not involve outdoor storage of machinery or equipment. Examples include but are not limited to plumbing, electrical and cleaning contractors. Assuming appropriate zoning (minimum of C1) and code compliance, the use should not be detrimental to or endanger the public health, safety comfort or general welfare.

2. May be injurious to the use and enjoyment of other property in the vicinity and may impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The establishment of a contractor's office at this location may be injurious to the use and enjoyment of other property in the vicinity. The contractor's office would be a commercial use, creating commercial traffic and parking, on an otherwise residentially zoned block. The existence of a commercial business at this location may impede the normal or orderly development and improvement of the surrounding residential properties due to increased activity at the site and increased parking demand from commercial vehicles.

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

Adequate access roads have been provided. The provision and existence of adequate utilities, drainage, necessary facilities or other measures, including HC accessible entrances have yet to be determined.

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

The Parking Requirement of six (6) stalls was calculated as per Table 541-1 for a Contractor's Office, one (1) space per 300 square feet of gross floor area in excess of 4000 square feet (calculations: building footprint of 32 x 90 = 2880 sq. ft. x 2 floors = 5760 - 4000 = 1760/300 = 5.867 or 6 parking stalls). The applicant has requested a parking variance as part of this application and has proposed to remove an existing concrete patio from the rear (East) of the building to provide off-street parking stalls. The proposed site plan shows a parking stall in front of the rear door of the building that will need to be striped for ingress/egress to meet code requirements. Due to the existing constraints of the site, the proposed parking stalls will need to use the public alley as a drive aisle space.

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

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See Finding #1 in the Rezoning section of this report.

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.

In order to be in conformance with the applicable regulations of the district in which the proposed contractor's office is located, the property will need to be rezoned from R2B to C1, and a minimum of a parking variance and a setback variance will need to be approved.

VARIANCE

Findings Required by the Minneapolis Zoning Code for a variance to reduce the parking requirement from 6 to 4 off-street parking stalls:

1. The property can 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 proposed use is not reasonable in this residential area as this would impact residential streets with commercial vehicles. The building can be restored to its intended use, a two-family dwelling, under its existing R2B zoning classification. The application was noticed for a variance from 6 to 4 parking stalls, see Finding #4 in the Conditional Use Permit section of this report. Staff is hereby reminding the applicant that the required parking calculation was made based on one contractor's office, and not multiple contractor's offices, locating in the building.

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

The circumstances are not unique to the parcel of land for which the variance is sought. The applicant has created the need for the parking variance by establishing a contractor's office, a commercial business in a residential district, without required permits and applicable approvals. The building can be restored to its intended use, a two-family dwelling, under its existing R2B zoning classification, without the need for a parking variance.

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

Granting the variance may alter the essential character of the locality, which is residential. It could be injurious to other property in the area, as the proposed parking variance may inadvertently be a catalyst for commercial parking in a residential area on the streets and commercial traffic in a residential alley. Granting of the variance will not be in keeping with the spirit and intent of the ordinance.

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4. **The proposed variance may 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.**

The proposed variance could increase congestion in the public streets. The proposed contractor's office will invite commercial traffic into a residential area.

VARIANCE

Findings Required by the Minneapolis Zoning Code for a variance to reduce the rear yard setback from 7 feet to zero feet:

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 building is existing. The only place on the lot for parking is in the rear yard. A variance would be required for any use to provide parking.

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

The circumstances have not been created by the present owners. If the site is to be used as a contractor's office, then there is no room to accommodate parking spaces except in the rear of the lot which would require this variance.

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

Granting the variance will not alter the essential character of the locality since the property has been used in this way since 1951.

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 proposed variance should not 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.

RECOMMENDATIONS of Community Planning & Economic Development-Planning Division:

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- A. Rezoning Petition:** The CPED-Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the petition to rezone the site at 2605 2nd Avenue South from R2B to C1.
- B. Conditional Use Permit:** The CPED-Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the Conditional Use Permit (CUP) application for a Contractor's Office at 2605 2nd Avenue South.
- C. Parking Variance:** The CPED-Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the parking variance from 6 to 4 parking stalls for 2605 2nd Avenue South.
- D. Rear Yard Variance:** The CPED-Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the rear yard variance from 7 to 0 feet for parking and maneuvering at 2605 2nd Avenue South.

Attachments:

- 1. Staff Report
- 2. Written Statements from Applicant
- 3. Zoning Letter from City Attorney's Office
- 4. Written Statements from Neighborhood and the General Public
- 5. Zoning Maps
- 6. Site Plan, Floor Plans, Elevations
- 7. Photographs