



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

Date: December 6, 2004

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

Prepared by: Jim Voll, City Planner, (612) 673-3887

Approved by: Barbara Sporlein, Director, Planning

Subject: Appeal of the decision of the City Planning Commission by Thomas Dolphin

Previous Directives: None.

Financial Impact: Not applicable

<p>Community Impact:</p>

<p>Ward: 5</p>

<p>Neighborhood Notification: The Downtown Neighborhood Association was notified of the application.</p>

<p>City Goals: See staff report</p>
--

<p>Comprehensive Plan: See staff report</p>
--

<p>Zoning Code: See staff report</p>

<p>Living Wage/Job Linkage: Not applicable</p>

<p>Other: Not applicable</p>

Background/Supporting Information: Shamrock Development and 21st Century Bank applied for a conditional use permit, a setback variances and a site plan review to allow a 133 unit mixed use residential building at 240 Hennepin Avenue South. The City Planning Commission approved the conditional use permit for 133 units, but denied the setback variance and the site plan review at its meeting of November 8, 2004. Thomas Dolphin of 21st Century Bank filed an appeal of the Planning Commission's decision (please see attached appeal) on November 18, 2004.

**Department of Community Planning and Economic Development - Planning
Division**

Conditional Use Permit, Variance, and Site Plan Review
BZZ-1983

Date: November 8, 2004

Applicant: 21st Century Bank/Shamrock Development

Address Of Property: 240 Hennepin Avenue South

Contact Person And Phone: Jim Stanton – Shamrock Development 763-421-3500

Planning Staff And Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: September 13, 2004

End of 60 Day Decision Period: November 12, 2004

Date Extension Letter Sent: October 15, 2004

End of 120-Day Decision Period: January 11, 2005

Ward: 5 Neighborhood Organization: Downtown

Existing Zoning: B4S-2 Downtown Service District

Existing Overlay Districts: DP Downtown Parking Overlay District.

Proposed Zoning: Not applicable for this application.

Plate Number: 19

Legal Description: Not applicable for this application.

Proposed Use: A 24-story, mixed-use building, with 133 residential units, retail space and a bank.

Concurrent Review:

Conditional Use Permit: To allow 133 dwelling units.

Variance: Variance to decrease the west interior side yard from 41 feet to approximately 20 feet and to allow balconies to encroach into the setback.

Site Plan Review.

Applicable Zoning Code Provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations”; and Chapter 530 Site Plan Review.

Background: This item was continued from the October 13, 2004, and October 25, 2004 meetings of the City Planning Commission to allow staff time to review the Travel Demand Management Plan. Public Works has not yet given final approval to the TDM, but has stated that the site plan may move forward.

The 21st Century Towers is a two phase project. The first phase will consist of 133 residential units in a 24-story mixed use building built on the site of the Food and Drug Administration building that will be demolished. The new building will have 7 levels of parking, 2 below grade and 5 above grade. The parking on the first floor will be lined with retail uses and a bank. The parking on floors 2-5 will have a façade that will look like an office uses with windows and lighting. Floors 6-24 (19 floors) will be residential. Residential buildings of five or more units in the B4S-2 District require a conditional use permit and site plan review.

There are no height limits in the B4S-2 zoning district. The height of the building is determined by the floor area ratio (FAR). The base FAR in the B4S-2 zoning district is 8 for all uses. To calculate the FAR of the development you divide the gross floor area of the building by the lot size. The gross floor area of the building is 309,902 square feet. The lot size is 30,711 square feet. The resulting FAR is 10.09, which exceeds the allowable base FAR in the district.

Section 549.110 allows a twenty percent density bonus when all of the required parking is provided within the building, entirely below grade, or in a parking garage of at least two levels. With the density bonus for enclosed parking the base FAR is 9.6 ($8 \times .2 = 1.6 + 8 = 9.6$). In addition, the applicant has applied for three FAR premiums. One is for street level retail (premium value of 1), one is for sidewalk widening (premium value of 2), and the third is for mixed-use residential (premium value of 3) for a total premium value of 6. The premiums added to the density bonus provides an allowable FAR of 15.6, which is greater than the FAR of the development.

In general, setbacks are not required in the downtown districts where the property is not adjacent to residential properties or zoning. However, residential uses are required to provide a setback of 5 feet plus 2 additional feet for every floor above the first floor for side and rear facades with windows. This setback requirement begins with the first residential floor, which is the 6th floor. The building is 24 stories. There are 19 residential (floors 6-24), so the required setback is 41 feet ($2 \times 18 = 36 + 5 = 41$). The first five floors are not subject to this setback, but on the west side of the site they are setback 5 feet from the property line. Floors 6-24 meet the required setback on the south side of the site, but can only meet 20 feet. In addition, balconies will extend into the setback approximately 8 feet. The building and balconies will require a setback variance to encroach onto the 41 foot setback on the west side.

As of the writing of this report, staff has not received comments from the Downtown Minneapolis Neighborhood Association.

CONDITIONAL USE PERMIT (to allow 133 residential units)

Findings as required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department 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.

The downtown area is appropriate for higher density residential development because of its proximity to jobs, transit, and cultural and entertainment amenities. The building will provide parking as required by code and the design is subject to site plan review. With proper conditions of approval it should not be detrimental to the public health, safety, or general welfare.

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

The surrounding area is developed, but there are individual parcels that are undergoing or will undergo redevelopment in the surrounding area including the new Central Library to the southeast of the site. The site plan has been designed so that the building will meet all city requirements and therefore it should not impede the orderly or normal development in the area, nor should it be injurious to surrounding properties.

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

Utilities and access are existing and adequate. Public Works and the Fire Department have reviewed the plans for access and circulation and they tentatively find plans acceptable. The final access and circulation for the site will be approved as a part of the TDM plan and at the final site plan stage. One hundred and thirty-three parking spaces are required and 289 are provided. Preliminary drainage plans have been reviewed by Public Works and found to be acceptable. The final drainage plan is required to be approved by Public Works before any permits may be issued.

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

Access to the parking is from the alleys at the rear of the site. There is adequate parking in the building. With an approved TDM the proposed development should have little impact on congestion in the public streets.

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

The *Downtown 2010 Plan* is the part of the comprehensive plan that guides development for downtown. *Downtown 2010* identifies this area as on the border of the core and the riverfront. Policy number four of the Downtown Living chapter of the plan (see page 43) states that the city should “locate medium to high-density housing in areas designated as a Riverfront Residential District located adjacent to and near the West River Parkway. This district should provide locations for housing that can take

advantage of the open space and recreational amenities of the riverfront. The primary use of this district should be housing. Other retail, office, cultural and recreational uses should be encouraged, especially those that revitalize historic structures, but should be compatible with housing.” This development is in conformance with this policy.

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

VARIANCE (to reduce the west side yard setback from 41 feet to 20 feet)

Findings Required by the Minneapolis Zoning Code:

- 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.**

In general, setbacks are not required in the downtown districts where the property is not adjacent to residential properties or zoning. However, residential uses are required to provide a setback of 5 feet plus 2 additional feet for every floor above the first floor for side and rear facades with windows. This setback requirement begins with the first residential floor, which is the 6th floor. The building is 24 stories. There are 19 residential (floors 6-24), so the required setback is 41 feet ($2 \times 18 = 36 + 5 = 41$). The first five floors are not subject to this setback, but on the west side of the site they are setback 5 feet from the property line. Floors 6-24 meet the required setback on the south side of the site, but can only meet 20 feet. In addition, balconies will extend into the setback approximately 8 feet. The building and balconies will require a setback variance to encroach onto the 41 foot setback on the west side.

The property could be put to reasonable use if the variance is denied, but would result in a reduction in the size of the floor plates of the tower that could result in a loss of units, or a taller building. The building meets all other setbacks, meets the required floor area ratio, and would not have to meet the setbacks if it were not a residential building, so the variance is not necessary because the applicant is overbuilding the site. The site is not a full block, so it has a narrow lot width. Requiring the building to meet the 41 foot setback could be a hardship. The building will be setback 20 feet with balconies extending into the setback. This should be adequate to provide light and air for the units, even if a high-rise is built to the west of the site on the adjacent lot. This is a reasonable use of the property.

- 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 narrow size of the lot is a condition that has not been caused by the applicant. The project is not exceeding the allowable FAR, but has a setback because of residential

windows. If windows were eliminated the building could be built up to the property line.

- 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 ordinance is to provide a setback for facades with windows along interior and rear yard setbacks where a building could be built along the property line on an adjacent parcel. This is to meet building code requirements for fire protection and to prevent a situation where a building would be built on the adjacent parcel blocking the windows. The building will be setback 20 feet from the property line and the balconies that extend into the setback will be 12 feet from the property line. This will allow access to light and air for these units and therefore should not circumvent the intent of the ordinance.

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.

The proposed variance should have no effect on congestion in the public streets. Adequate parking is provided. The variance should not endanger public health or safety or increase the danger of fire.

SITE PLAN REVIEW

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.

The buildings are located up to the property lines on Hennepin and Washington Avenues. The principal entrances face the street. The facades of the building provide architectural detail and varied materials including granite, stone, and brick. The second through fifth floor parking garage facades are designed to look like an office building. Twenty percent of the first floor facades are windows. The first floor retail spaces will have awnings.

The applicant has not provided an elevation of the west side of the building. The first five stories of the parking garage, although partially blocked by the building to the west, are required to provide architectural detail. In addition, the first five floors of the south side of the building are an area of concern. Eventually, Phase II will connect to this part of the building, but the applicant should have a proposal to be implemented if phase two is not constructed, so that a blank façade is not created.

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.

The main entrances to the building open onto the public sidewalk. Public Works and the Fire Department have given them tentative approval subject to the approval of the TDM plan and this will be subject to Public Works approval at the final site plan stage.

On hundred and thirty-three parking spaces are required and 289 are provided.

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.

The applicant has not submitted a landscaping plan. The only part of the site that can be landscaped is along the west property line. If this entire area is landscaped it will exceed twenty percent of the site minus the building. It will not be possible to provide trees in this area, so staff recommends that the tree requirement be waived. The landscape plan shall be approved at the final site plan stage.

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.

The lighting will 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 not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).

(2) No exterior light source located on a nonresidential property shall be visible from 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 from any permitted or conditional residential use.

(4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.

(5) Lighting shall not create a hazard for vehicular or pedestrian traffic.

(6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

The design of the buildings has been planned to minimize the blocking of important views of the city, to minimize the shadowing of public spaces and adjacent properties, and to minimize the generation of wind currents at ground level.

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

ZONING CODE:

Dumpster screening: Section 535.80. 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. A trash enclosure will be provided.

Signage: All new signage is required to meet the requirements of the Zoning Code and permits are required from the Zoning Office when the final sign plan is finalized.

MINNEAPOLIS PLAN: Please see finding number 5 under the conditional use permit of this report.

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

The Downtown East/North Loop Master Plan was approved by the City Council in October of 2003. This site is within the plan area. There are several policies from the plan that apply to this project area:

Policies regarding transit oriented development and mixed use development:

- Promote downtown living by forging Complete Communities that include a mixture of transit stations, commercial office, retail, housing, and parks/plazas.
- All land uses within one-quarter mile of new and potential rail transit stations in Downtown Minneapolis to incorporate either high- or medium-density mixed-use development in order to capitalize on the benefits of creating vibrant transit nodes that can become the heart of both new and revitalized Downtown neighborhoods.
- Medium-density mixed-use development (generally 5 - 14 floors) should be considered the norm for new construction and rehabilitation projects in the Project Area. This recommendation is made specifically because medium-density, mixed-use projects have already become the norm in most parts of the Project Area, particularly the Warehouse District.
- High-density mixed-use development (generally 14 floors and higher) should be pursued primarily within the Downtown Core, but also in a limited number of specifically designated locations outside of the core.

Policies for Downtown Housing

- City policy must encourage development of downtown housing that is twice the growth that is otherwise suggested by current market predictions (see Chapter Three). Specifically, the City should ensure that adopted policies and ordinances support the creation of 10,000 new residential units within the Project Area over the next twenty years.
- New housing should accommodate a diversity of end users by offering various kinds of units, typologies / configurations, and price points.

- Medium and high-density residential development will be highly required within the Project Area (except within the 9th Street Historic District).
- Issues of overshadowing, view protection, and other quality of life considerations should be regulated through development of comprehensive design guidelines.
- A percentage of all housing units should be set aside for non-market and "hard-to-house" tenants.
- A portion of all new housing should have larger, ground floor units, with outdoor recreation areas that are visually accessible from indoors to accommodate families with children.

Policies for Retail Strategies

- Develop distinct neighborhood retail centers, which are at-grade and easily accessible to and from city sidewalks.
- Discourage second level retail in neighborhoods and districts outside of the established Downtown Core, as it detracts from on-street pedestrian activity.
- Designate full street corners as catalyst community retail centers; encourage retail development to continue along streets, but only once street corner retail development has matured.
- Wherever possible, develop street corner retail with an urban plaza that includes neighborhood icons, public art and the like.
- Encourage retail uses that promote extended hours of operation - such as restaurants, coffee shops, bookstores, and the like - in pursuit of city streets that are lively at most hours of the day and night.
- Prohibit surface parking lots between sidewalks and retail storefronts.
- On-street parking is encouraged wherever practicable.
- Maintain and enhance existing restrictions on all new auto-oriented development. Encourage new development at sites where auto-oriented development already exists.

The plan states the following about the West Hennepin area:

“Given the mostly built-up nature of this station area, there is limited potential for new large-scale development projects (see Figures 4.1 and 4.3). The majority of development in this precinct should be medium intensity, mixed-use development at a scale similar to that of existing buildings. Several high-profile "infill" development sites are located adjacent to, or within, very short walking distance to the proposed Warehouse District / Hennepin LRT Station. These sites provide opportunities to intensify and fill-out the existing neighborhood. All new development in this precinct should maintain and enhance the historic character of this district. Development should be consistent with the existing theater / entertainment uses, but should also include new commercial and residential spaces for those who seek to live and work within the entertainment district. Street-level retail should be encouraged throughout the district, particularly in locations directly adjacent to the LRT station.”

The plan states the following about view corridors and gateways:

The quality of the public realm in Downtown Minneapolis - its livability and economic vitality - could be greatly improved by taking the opportunity to adopt a series of measures aimed at enhancing the visual scope of the city. The visual scope of the city is that set of qualities which increases the range and penetration of vision through and within the built environment, either actually or symbolically. Enhancing the visual scope of the city includes taking note of and making the most of what already exists in the landscape but needs further articulation - broad vistas and panoramas, markers that punctuate the end of a long linear path through the city, and transitional zones between districts and neighborhoods that have their own distinct qualities. Future development that deliberately frames existing views, or makes the most of an otherwise unmarked gateway, will make the city easier to "read" and more accessible. In doing so, it will encourage greater interaction between the various districts of Downtown.

The plan states the following about building design:

Massing of all new construction must be composed in such a manner as to create a positive, pedestrian oriented street environment. A major factor in producing such an environment is the scale of surrounding buildings. The Master Plan proposes a simple, straightforward approach to the articulation of building height, elevation and massing. Most rights-of-way in the downtown are 80 feet wide. To achieve a street environment with comfortable proportions, it is recommended that any building that is taller than fifty feet in height should have a set back above the fourth story. Upper levels of buildings would be set back a minimum of 15 feet from the building base to help maintain the proportions set by the building base. By building the base of buildings up to the property line and creating setbacks above the fourth floor (or 50 feet), the height of mid-rise and high-rise buildings will not overwhelm the neighborhood scale of the surrounding streets and sidewalks.

All buildings should be developed as tripartite forms consisting of a base, a mid-section and a top, whether full-block, half-block, or quarter-block. Each building should have a recognizable building base set off by a uniform cornice line four floors above grade. The middle portion of the building should be setback above the fourth floor to provide a better scaled pedestrian environment at the street level. The top should, at the least, consist of a distinctively expressed penthouse. Regardless of their height, new structures built on infill sites (sites that are less than one-quarter block and can be found between existing structures) should be of similar height to adjacent buildings, wherever practicable (see Figure 5.4).

The City should devise guidelines for parking structures to promote higher standards of development within the Project Area. Such guidelines should include - or continue to include - consideration of design as well as corollary uses (within the same structure). Specifically, these guidelines should encourage construction of underground parking structures wherever possible. When below-grade parking is not feasible, the guidelines should call for the following: Above ground parking structures should be incorporated into mixed-use projects in such a way that the parking structure is "lined" with or surrounded by active uses facing the street; all parking structures should limit vehicular access to no more than one combined entrance / egress point per block located as close as possible to the middle of the block face; and pedestrian entry / stairs should be located mid-block to allow for high-visibility uses at street corners.

In general, the proposed development meets many of the goals of the *Downtown East/North Loop Plan*; however there are aspects of the development that are not in compliance with the plan. The building is taller than the recommended medium density of 4-15 stories. In addition, staff has raised concern about the lack of active uses on the 2nd through 5th floors where there is a parking garage behind a false façade as well.

It should be noted that the design is in conformance with Downtown 2010 (the comprehensive plan) and the requirements of the zoning code.

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.

Alternative compliance is necessary to waive the tree requirement for the west side of the building. It would not be practical to install trees in this area.

RECOMMENDATIONS

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for 133 dwelling units for property located at 240 Hennepin Avenue South.

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the required interior yard setbacks from 41 feet to 20 feet and to allow balconies to extend into the setback for property located at 240 Hennepin Avenue South.

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 above findings and **approve** the site plan review application for property located at 240 Hennepin Avenue South subject to the following conditions:

- 1) Staff review and approval of the final site and landscaping plans and elevations before building permits may be issued. All site improvements shall be completed by November 30, 2005 (unless extended by the Zoning Administrator) or permits may

be revoked for noncompliance.

- 2) If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before building permits can be issued.
- 3) Provision of the required landscaping on the west side of the site.
- 4) The building elevations shall include drawings for the west and south sides of the building including the parking garage. The west side of the parking garage (floors 1-5) shall contain architectural detail. A plan for the south side of the garage shall be developed that shows what the south façade (floors 1-5) will look like if Phase II is not built. This façade shall be similar to the north and east facades and shall be implemented within two years of the completion of Phase I if an application for Phase II is not submitted and approved by the City and implemented by the compliance deadline set by the Planning Commission for Phase II.
- 5) Implementation of the Hennepin and Washington Avenue streetscapes on the applicable streets subject to Public Works approval.
- 6) The floor area premiums are subject to the applicable standards listed in the code for each individual premium.

Attachments:

- 1) Statement from the applicant.
- 2) Letter from neighboring property owner.
- 3) Site map.
- 4) Site plan, floor plans, and elevations.
- 5) Photos.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

**Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: November 12, 2004

TO: Blake Graham, Manager, Community Planning & Economic Development -
Planning Division; 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 November 8, 2004

The following actions were taken by the Planning Commission on November 8, 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, Krause, Kummer, LaShomb, and Schiff – 6

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

**REPORT
of the**

**CITY PLANNING COMMISSION
of the City of Minneapolis**

The attached report summarizes the actions taken at the City Planning Commission meeting held on November 8, 2004. The findings and recommendations are respectfully submitted for the consideration of your Committee.

18. 21st Century Towers (BZZ-1983, Ward 5), 240 Hennepin Avenue South (Jim Voll). This item was continued from the October 13, 2004 and October 25, 2004 meetings.

A. Conditional Use Permit: Application by Shamrock Development for a conditional use permit for 133 residential units to allow the construction of a 24-story, 133 residential unit building with retail, bank, and office space for property located at 240 Hennepin Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application for 133 dwelling units for property located at 240 Hennepin Avenue South.

B. Variance: Application by Shamrock Development for a variance to decrease the required interior side yard from 41 feet to approximately 20 feet for property located at 240 Hennepin Avenue South.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the required interior yard setbacks from 41 feet to 20 feet and to allow balconies to extend into the setback for property located at 240 Hennepin Avenue South.

C. Site Plan Review: Application by Shamrock Development for site plan review for property located at 240 Hennepin Avenue South.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review application for property located at 240 Hennepin Avenue South.

Staff Jim Voll presented the staff report.

Commissioner Krause: Mr. Voll, I did have some questions about the parking. The 133 required is obviously tied to the number of residential units. There are no requirements for parking for the commercial uses because we're in the downtown district?

Staff Voll: That's not the way I understand it. They're reduced in the downtown district, but I think we came up with 35 if you were to use the regular standards, and then with the transit reductions and so forth, I believe it's 32 spaces would be required for what they're proposing in Phase II.

Commissioner Krause: So then the 32 plus 133 plus the 30 that are being leased to Lerner which is losing it. I'm still coming up with, what is that, about 195, so there's about 73 additional parking...

Staff Voll: When I did my numbers here, I didn't even factor in the Lerner part, but came up with about 100 extra, maybe a little bit less than 100 extra spaces in Phase I. As you know, the ramp will be set up so that the underground parking is commercial and the

above ground parking is residential and then the underground commercial, although it's for around 32 spaces required, they want to have about 52 spaces there. So that part will have that extra. Then on the residential part, it will end up being about 216 spaces for 133 units. So while we do have about 100 extra on Phase I, it's not all double for the units, I guess is what I'm trying to say.

Commissioner Krause: I'll save my other questions for the developer.

Commission President Martin opened the public hearing.

Andrew Hauer (19 South 1st Street): I'm the Chair of the Land Use for the Downtown Minneapolis Neighborhood Association and we oppose this development and we oppose it for a number of reasons. Some of the major reasons are number one, the open balconies. With the increase of the new library in that particular area and the development across the street of the Hotel Nicollet site, and then with the Downtown Pontiac site being up for sale, there's going to be a huge increase of pedestrians in that area and with open balconies there's going to be falling material within that area and there's a huge safety concern that we have. The second major concern that we have is the above ground parking. Most of the buildings within that area have a huge amount of parking. The River Towers where I've lived almost 30 years, just two months short of 30 years, we have two levels of underground parking. We have 352 slots of indoor and 57 exterior. The Crossing, which is at 121 Washington Avenue South, has four levels of underground parking, 324 spaces. ING, which is diagonal from this location at 20 Washington Avenue South and 100 Washington Avenue South, both of those particular commercial buildings, both have underground parking. The new public library at 300 Nicollet Avenue, that's going to have two levels of underground parking; 273 spaces. The old Federal Reserve which is Marquette Plaza, they have underground parking including the underground vault. And of course, the RFP going out for the Hotel Nicollet site with the transit station, that's going to have a huge amount of underground parking. So the board of the Downtown Minneapolis Neighborhood Association strongly suggests that there's no reason whatsoever that this developer can not give us underground parking for this development. And the third and final reason, major concern that we have with this development is: "this building does not inspire us". We've been kind of used to some huge, beautiful, functional, high diversity buildings that have come forth like Grant Park, the Carlyle, the new structure that's going at 10th and Nicollet. Just outstanding buildings and when we look at this particular building, it doesn't inspire us – it just do anything to us. It's just an ugly, ugly structure. And so we just honestly feel as a board that we have such three talented individuals here who have done great works in the past and we really ask you to reject this proposal and send them back. We'd love to see a development here, but this just doesn't do it. Thank you very much.

President Martin: Others to speak to item number 18?

Jim Stanton (Shamrock Development): Sorry I can't inspire him, but basically, I've done quite a few buildings downtown and I think you can look at them and I think they'll speak for themselves. And I'll take the items, if I can remember, I'm getting older and don't remember everything, but I'll take them as we go. The parking, we've got approximately 1.73. Now I don't care what anyone else has parked around there and how many other

people have. I've got to address the buyers that buy in our building. 1.73 is probably minimal for the type of units we have here. I did Rock Island Lofts and I got more than 1.73 and I didn't have any extra. And Lindsay, I had a few extras, but it was understood from the first place that ties into the adjoining River Walk and was built because we took River Walk's parking away. As to the Lerner, and I don't want to confuse things, that's the second phase. Mr. Lerner has a piece of property back there that basically we trapped and no use made of it. What's going to be proposed, and we'll be very, very honest is he wants to work with us and change that – the indoor parking and we will use the air rights above it and you'll get more units. So yes, Mr. Lerner, we're not trying to lease property, we're not trying to go into the parking business. Lease might be the wrong word. We're probably good to sell enough parking spaces as you'd sell them to anyone else. This building is right tight against this one. He can't get any parking that isn't surface parking. If you want to put all his parking out on the street, that's what we'd basically accomplish. This will give him more spaces. You know, we've got different goals in this city, one is to get rid of outdoor lots and every time I go to get rid of an outdoor lot, we have the controversy we don't want indoor or underground parking. As to the 4 stories above, I think all you have to do is review what the happened [at the] library when they started to work there. And they tried to put pilings down past, because there were several fissures in there, and get into the St. Peter, which is normally as strong as a base as you'd want. You can put 50 tons on your square foot. But the top 8 or 9 feet of St. Peter are contaminated in that area. I don't care to dig down and to open that up. And they're avoiding it in other places to. And you can just review the library engineering and you'll find that's true. I'm sorry if I've got an ugly building, but I don't feel it is. And you'll look at it – other people have different thoughts. We came in with a glass curtain wall and there were people that suggested that wasn't the greatest. So I think it's in the eye of the beholder. I don't think it's ugly, maybe some people prefer glass, maybe some people prefer other things, but that building conforms, it's brick, it's solid looking, it's going to look nice when it's done. We have changed a few thing since we met with the Committee of the Whole. You've seen we've put some continuation up at the top and changed those units, got some glass. The parking as to adding has been alluded to several times. I've asked everyone how you can do it. Put a double aisle of parking in less than 120 feet and nobody has told me yet unless you diagonal and that doesn't solve anything really, all it does is narrow it up a couple of feet. So that's the 120. I'd be glad to hang units on the outside if it was physically possible, I've told you that before, we can't do it. With that, I'll stand for questions.

Commissioner Schiff: What are the exterior materials? Could you have your architect address that? And do you have drawings of what the original glass curtain wall looked like that you...

Bruce Knutson (architect): [comment off microphone, not clear] ...the finish materials on the very base, we would have black granite plinth blocks at the bottom of the columns. The first 5 stories are going to be a better stone, a white marbleized looking stone. The rendering is of small scale, you can't see it, but each of the columns are articulated, the windows are set back so there will be shadow lines both horizontally and vertically through the first 5 levels. At the fifth level, and toward the top, we would have an Arriscraft; a man made stone that would be an accent like a corbel or a crown molding. The brown portion of the building would be 2-story tall, pre-fabricated, real brick, pre-

cast panels. It's an installation process, but it's real brick, it's got real mortar. And then the window assemblies, whether they're going to be full height with Spando panels between or we're going to have brick between, that's yet to be designed in the final drawings. So that's a quick overview of the materials on the outside.

Commissioner Krause: Mr. Knutson, while you're there, I actually had a question about your letter from October 20 that mentions the possibility of a drive-through for the bank. It said there are no plans to incorporate a drive-through in the near future; it will be submitted as a separate item when appropriate. Can you give me some sense or some idea of if, in fact, there was a drive-through at some point, where that would go?

Bruce Knutson: Yes, I don't have the letter in front of me, but in Phase I, there is a drive-through.

Staff Voll: That's a response to some of the comments for the TDM, there was talk about a drive through for the Dolphin Staffing building which is to the south of this project and I wanted to have it clarified whether there was going to be a drive-through there or not when we were doing our review of the TDM and their response was: 'No, not at this time'. But in this actual development, there is a drive-through bank in Phase I. If you want, when you're done talking with Mr. Knutson, I'll be happy to put that drawing up there and show it to you, but the drive-through is in the inside of the building and is a permitted use in the B4S district. So yes, I should have mentioned there is a drive-through bank, but it's not a drive-through you would see from the outside. You drive into the building and I can show the site plan if you'd like.

Bruce Knutson: So this is the overall site plan of the entire block and in Phase I, you come in off of Hennepin Avenue and the drive through would be right at this particular portion, right here. Comes in off of ... Sorry, this is one of the original presentations; let me get to the current one. I'm sorry about that. Here we go. This is our existing building right here and the existing drive in for Phase I occurs off of Washington Avenue, comes in, goes through the drive-through at this point, would exit and go down the alley out to 1st Street North or onto 3rd Street on this side. Also on this drawing right here, this is the existing Dolphin Temporary facility right now and it is contemplated at sometime in the future, although not directly part of this, it's a timing issue, but there would be a drive-through that would be added coming in at this point on the existing curb cut around the building with their machines at that particular point entering off of 3rd Street. So I was responding to Jim's letter which was separate from our application part of the TDM.

President Martin: That answer your question, Commissioner Krause? OK. Anything else, Mr. Knutson?

Bruce Knutson: Any other questions?

President Martin: I don't see any.

Bruce Knutson: OK, thank you.

President Martin: Anyone else wanting to speak to item number 18? OK, I'm going to close the public hearing. So we have many things. We have a conditional use permit, we have a variance, we have a complicated site plan. Commissioner LaShomb?

Commissioner LaShomb: Well, Madam President, when this was in the Committee of the Whole, there was some discussion about whether this project was compatible with the North Loop Plan, apparently the staff has resolved that issue in their own mind because they're not telling us that per se. So given that fact, I'm going to move...

President Martin: Let me see what Jim would say to that.

Staff Voll: Let me ask for Neil's help and Jack Byers is here as well, if you'd like to pick his brain, he knows a lot more about the plan but there's quite a bit of information in the plan and I tried to put relevant sections in to the staff report to let people read it. I suppose on some of these issues, it's a matter of opinion as to whether it's in conformance with the Downtown East North Loop Plan. I think what staff was saying is that we have a plan that's been approved that has quite a bit of information in it, but it's not adopted as part of the Comprehensive Plan, so when staff is saying that we're approving this project, we're saying it meets our zoning code and it meets our Comprehensive Plan. And in general it meets a lot of the stuff in the Downtown East North Loop Plan. There are certain items where it would raise issues of concern: parking, we talked about the active, it talks about active uses on the street façade. Now Jack and I when we came to the Committee of the Whole, we had that discussion about wanting to have active uses lining the parking. So that's an issue that I'll leave it up to you as to whether they've met it or not. I mean, I think they've made an effort and explained why they can't provide active uses. I don't know if staff is saying that it meets every element of the Downtown East North Loop Plan, there's a lot of stuff there, but in general it meets quite a bit of the stuff. It has retail on the first floor... For example, it doesn't meet the Downtown East North Loop Plan in height, the height there is limited to 15 stories, we had that discussion at the COW. But when you look at the fact that our zoning code allows FAR, gives you bonuses and premiums if you do all of these things, it seems from my standpoint from talking to other people on staff, it seems strange to say that we have a code that encourages you to build to this FAR, and then the developer comes in and meets those goals, and then to turn around and say well it doesn't meet the Downtown East North Loop Plan, so I can't say it meets every element of the plan, but I think the developer has met most of the elements except for those things that I had talked about where the parking and we did have the concern about the active use and as I said he's addressed both of those issues I think, and I guess I'd leave it up to you that it's a difference of opinion I guess.

Commissioner LaShomb: Madame President, I've been properly educated, I was trying to over-simplify the issue and clearly the staff has thought about this. I'm going to move the conditional use permit (Hohmann seconded).

President Martin: Discussion?

Commissioner LaShomb: I think there are a lot of arguments for whether this is a beautiful building or whether you should have balconies or the parking issues, but I think the fact of the matter is this building will add an important element to downtown which is

housing and while we have a lot of housing going on downtown, I think this building is still needed and I'm not always fond of buildings downtown that have balconies – I lived in a building with balconies, but I don't know how you could build a building for residential use anywhere these days without having balconies. I think this is just becoming a reality of the housing market in high rise buildings, so I think this is a reasonable proposal so I think it should move forward.

President Martin: OK, all those in favor of the motion to approve the CUP, please signify by saying aye.

Motion carried 4-0. (Commissioner Kummer not present for vote)

Commissioner LaShomb: I'll move the variance (Hohmann seconded).

Commissioner Schiff: Madame Chair, I want to kind of understand what the need for the variance is and whether or not that really is a hardship imposed or if that's just something that allows the developer to build a building that is more bulky. I guess I'm not convinced this variance is needed. Maybe I'll direct that to Mr. Voll.

Staff Voll: Well, once again, I don't have a really concrete answer for you. We've been having this debate about height and setbacks – it happens on almost all of these towers. What is an appropriate setback? I wish we had a criteria where we could say this makes sense, this doesn't make sense. At some level we've been trying to make our best judgment on a case by case basis and I know when we talked about this on staff, it's a close call as to whether there's actually a hardship there or not. But when you think about variances, there's two tests, there's the hardship on the first finding and then there's reasonableness. And I suppose we were making more of an argument of reasonableness, so I'll leave it up to you as to whether you think that was an appropriate decision or not. But the whole idea behind that setback is to provide light and air for the units and to keep the residential [tape end]... the building itself in case something is built on the adjoining property and certainly as you get further down to 5th floor level, the 40-foot setback makes more sense. As you go further up, I'm not sure it's as necessary. So I don't know, I feel like I'm talking in circles here but I think the point we were trying to balance is that the hardship and the reasonableness and what is an appropriate distance and I realize it can be kind of a close call but we felt that the building would be set back 20 feet, that would be enough to let light and air down in there without doing a full-fledged study, that's the best answer we could come up with.

Commissioner Schiff: Well no, but I guess I'll just direct it back to my colleagues. That reflects, I think, some of the contradictions that appear as Mr. Voll said in the staff report that it goes back and forth. I'm not finding a hardship. We have setback requirements in order to increase light and air, particularly this being a residential development, I think we want to maximize light and air and if the variance is denied as the staff report says, it will result in a reduction of the size of the floor plates of the tower and that could mean a taller building. Well I'd be fine with a taller building, I don't think we've had lots of issues with height in downtown, but not in the central business district, which this is just on the edges of – I think height is fine here. But it's so squat looking, so bulky and granting the variance helps the building get to that status, so I just don't see this as a hardship.

Commissioner Krause: Madame Chair, I concur with that and I'm looking at this site plan and I'm starting to see Center Village where I live and it's probably about the worst project downtown, why do I still live there I guess is the question. And I've sort of vowed that some of the mistakes I've made...

President Martin: It looks better from the inside than from the outside.

Commissioner Krause: Yes, it does, it looks better, yeah... But I think some of the issues of pulling this building back and going taller or trying to pull those balconies back would address some of the Downtown Neighborhood's concerns and I think we might get a more architecturally interesting building if you do pull the residential floor plates back inside of the entire footprint of that building so I'm not in favor of the variance either.

Commissioner Hohmann: Much as I don't like to get involved in a design issue, I recognize that side of the building is on Washington Avenue where the Washington lot adjacent to it on the west there, if that is developed and it undoubtedly will be, as that too is part of the gateway as you come across the bridge from different angles, so I guess I would like to see more setback assuming that there will be something of substantial size on that western lot.

President Martin: OK, the motion that's on the floor is to approve the variance. All those in favor of that motion, please signify by saying aye.

The motion was not approved 1-3 (Commissioner Kummer not present for vote. Krause, Schiff, and Hohmann opposed.).

President Martin: Does someone want to substitute a different motion?

Commissioner Schiff: No, actually.

President Martin: OK, so it's just not approved. Do we have to formally deny it or just not approve it? [comment off microphone, not clear]. So we're clear about that. Site plan, anybody want to do site plan?

Commissioner Schiff: I'm going to move to deny the site plan because given that the FAR variance was denied, I think we need to see a new site plan (Krause seconded).

President Martin: Further discussion, anybody want to talk about it? No. All those in favor of that motion please signify by saying aye.

Motion carried 4-0. (Commissioner Kummer not present for vote)