



Request for City Council Committee Action from the Department of Community Planning and Economic Development – Planning Division

Date: December 18, 2008

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

Referral to: Zoning and Planning Committee

Subject: Appeal of the Decision of the City Planning Commission by 500 LLC.

500 – 3rd Office Building (BZZ-4193, Ward: 7), 500 3rd St N (Jim Voll). This item was continued from the October 20, 2008 and November 3, 2008 meetings.

B. Site Plan Review: Application by David Kelly, on behalf of 500 LLC, for a site plan review for property located at 500 3rd St N.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review for property located at 500 3rd St N based on the following findings:

1. The absence of ground floor active uses in the project is not consistent with the comprehensive plan and the applicable adopted small area plans.
2. The Downtown East/North Loop Master Plan encourages street level retail along 5th Ave N and designates the street as a primary pedestrian corridor.
3. Crime Prevention Through Environmental Design standards discourage facades without windows that allow views into the building and out onto the public sidewalks.
4. The absence of ground floor active uses does not comply with Policy 9.6 of the comprehensive plan that new development should add value to the surrounding environment.
5. The absence of ground floor active uses does not support Policy 9.11 of the comprehensive plan that requires storefront transparency to assure both natural surveillance and an inviting pedestrian experience.
6. Chapter 8 of the draft Minneapolis Plan for Sustainable Growth has policies that promote ground floor uses in buildings.

Prepared by: Jim Voll, Principal Planner, 612-673-3887
Approved by: Jason Wittenberg, Planning Supervisor, 612-673-2297
Presenters in Committee: Jim Voll

Community Impact

- Neighborhood Notification – The North Loop neighborhood was notified of this application. Please see the letter from the neighborhood group in the original staff report to the City Planning Commission.
- Comprehensive Plan – See staff report.
- Zoning Code – See staff report.
- End of 60/120-day decision period – On November 4, 2008, staff sent a letter to the applicant extending the 60/120 day decision period to no later than January 20, 2009.

Supporting Information

500 LLC applied for a Floor Area Ratio (FAR) variance and site plan review to allow a three-story addition on top of an existing warehouse building at 500 North 3rd Street. The applicant planned to convert the building to office use with parking on the basement and first floor. The City Planning Commission postponed this proposal at its meeting of November 3, 2008, to give the applicant time to explore the addition of active uses to the first floor, such as office space or retail, instead of parking. The applicant chose to reduce the size of the building addition to two floors eliminating the need for the FAR variance, which was withdrawn. In addition, the applicant did not modify the first floor plan to add active uses, but maintained the original plan of first floor parking. The City Planning Commission denied the site plan review 9-0 at its meeting on November 17, 2008. Please see attached memo with the City Planning Commission findings for denial.

Department of Community Planning and Economic Development - Planning Division
Variance and Site Plan Review
BZZ-4193

Date: November 17, 2008

Applicant: 500 LLC

Address of Property: 500 3rd Street North

Project Name: 500 – 3rd Office Building

Contact Person and Phone: David Kelly, Architect 952-922-2220

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

Date Application Deemed Complete: September 22, 2008

End of 60 Day Decision Period: November 21, 2008

Date Extension Letter Sent: November 4, 2008

End of 120 Day Decision Period: January 20, 2009

Ward: 7 Neighborhood Organization: North Loop

Existing Zoning: B4S-1 Downtown Service District and DP Downtown Parking Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 13

Legal Description: Not applicable for this application.

Proposed Use: A three-story addition to an existing four-story building for office use.

Concurrent Review:

Variance: To increase the maximum allowable Floor Area Ratio from 4.0 to 4.78.

Site Plan Review: For a three-story approximately 22,500 square foot building addition.

Applicable zoning code provisions: Chapter 525, Article IX Variances, specifically Section 525.520(3) “to vary the gross floor area ratio...”; and Chapter 530, Site Plan Review.

CPED Planning Division Report
BZZ-4193

Background: This item was continued from the October 20, 2008, meeting of the City Planning Commission to allow staff additional time to review the proposal and the standards of the National Historic District. This item was continued from the November 3, 2008, meeting of the City Planning Commission to allow the applicant to explore alternative to the site and building design.

The applicant proposes to convert a four-story warehouse building to office use. In addition, a three-story addition on top of the existing four stories is proposed that will also be office space. The basement and first floor will be converted to parking space for the building. Additions over 1,000 square feet require site plan review. The proposed addition will increase the building floor area ratio (FAR) to 4.78, which exceeds the allowable FAR of 4.0 in the B4S-1 Downtown Service District, so a variance of this requirement is necessary.

The subject building is currently not a locally designated structure. It is located within the National Register of Historic Places Warehouse District, but outside of the local Warehouse Historic District. The City of Minneapolis Code provides the city clear oversight over proposed exterior alterations to buildings within the *local* Warehouse Historic District, but because the property is only within the National Register boundaries heritage preservation review authority is limited and Heritage Preservation Commission review is not required for the building addition. However, National Register designation still encourages the preservation of historic properties by lending support to local preservation activities.

The *Minneapolis Warehouse Preservation Action Plan* was adopted by the Minneapolis City Council in 2000, and one of the goals is to seek and expanded local historic district in line with the national historic district. In addition, this structure is a contributing structure to the National Register Warehouse District, eligible to be designated as a local individual landmark, national landmark, and/or nomination to the National Register of Historic Places; because of these reasons, CPED-Preservation and Design staff provided the following information as background for the zoning code land use application findings in this report.

The Green & DeLaitre Company Wholesale Grocery Warehouse building, built in 1908, is a simple four-story rectangular brick building with a corbelled cornice. The first story has Chicago windows while the openings in the upper stories are paired in the corner bays and organized as single units in the middle bays. The trim and sills are constructed with cast stone, possibly from C.A. P. Turner's National Stone Manufacturing Company. The building's brick façade does not reveal its revolutionary structural system. This is one of the earliest extant examples in Minneapolis of a flat slab reinforced concrete design by C.A.P. Turner. Concrete columns with mushroom capitals support a slab with no dropped beams. Considering the modest size of this building, these large closely-spaced columns suggest an experimental design (National Register of Historic Places Nomination Form).

The subject property has ties to a significant Minneapolis individual and master engineer/architect. The architect on record for the Green & DeLaitre Company building was Claude Allen Porter (C.A.P.) Turner. Turner was also the engineer of the Pillsbury A. Mill and Northwestern Knitting Co. (International Market Square). Turner was a forerunner in the development of reinforced concrete and eventually patented over thirty processes for various forms of reinforcement and types of centering for reinforced concrete construction. In 1898, he used the slab system supported by girders spanning columns but by 1903 concluded he could delete the beam and thus may have invented the concept of the first flat slab on mushroom columns (which is a construction feature of 500 North 3rd Street). By 1913,

CPED Planning Division Report
BZZ-4193

the process had been used in over 1,000 buildings throughout the world. The process reduced unuseable space as well as construction time and materials. Turner initiated one of the most efficient forms of construction in reinforced concrete and won enduring acclaim from the engineering community (History of Dial Building report).

The subject property also has ties to a significant Minneapolis family, the DeLaittres. The DeLaittre family was a prominent Minneapolis family in the late 19th and 20th century involved with the lumber industry, politics, banking, philanthropy, and the wholesale grocery business. John DeLaittre, who moved to Minneapolis in 1865 and married Clara Towle Eastman, (1832-1912) was a renowned business man in the lumber industry and public servant. Among his accomplishments were being elected the tenth mayor of Minneapolis (April 10, 1877- April 9, 1878), appointment by Governor John Pillsbury as the State Prison Inspector (1879-1887), and service as the commissioner of construction of the State Capital, and Minneapolis City Hall & City Court House in 1900. John's son, Karl DeLaittre (1874-1957), was a prominent banker, state representative for Minneapolis (1905-1906), City of Minneapolis council member, and owner of a wholesale grocery business. Karl's son, John DeLaittre (1907-1992), was also in the banking business. He served as the president of the Farmers & Mechanics Savings Bank and National Association of Mutual Savings Bank. John also served four years on the Federal Home Loan Bank Board, overseeing 4,200 federally chartered savings and loan associations. A Republican, he was appointed by President John. F. Kennedy (New York Times: February 9, 1992).

The subject property at 500 3rd Street North is the only known remaining business building that exists in Minneapolis that can be directly attributed to the Delaittre legacy. The John DeLaittre House, which was a Beaux-Arts mansion built in 1909, stood at 122 Franklin Avenue and was raised in the 1960's (AIA Guide to the Twin Cities).

The Secretary of Interior Standards for Rehabilitation provides guidelines for rehabilitation of historic structures. The proposed plan that add three stories, a roof-top addition, altering of the first floor window openings, adding of new openings to the exterior of the building, and removal of the loading dock is not compliance with the following Secretary of Interior Standards of Rehabilitation:

1. Identifying, retaining, and preserving roofs - and their functional and decorative features that are important in defining the overall historic character of the building. This includes the roof's shape, such as hipped, gambrel, and mansard; decorative features such as cupolas, cresting, chimneys, and weathervanes; and roofing material such as slate, wood, clay tile, and metal, as well as its size, color, and patterning.
2. Identifying, retaining, and preserving windows - and their functional and decorative features - that are important in defining the overall historic character of the building. Such features can include frames, sash, muntins, glazing, sills, heads, hoodmolds, paneled or decorated jambs and moldings, and interior and exterior shutters and blinds.
3. Identifying, retaining, and preserving masonry features that are important in defining the overall historic character of the building such as walls, brackets, railings, cornices, window architraves, door pediments, steps, and columns; and joint and unit size, tooling and bonding patterns, coatings, and color.

CPED Planning Division Report

BZZ-4193

4. Constructing a new addition so that there is the least possible loss of historic materials and so that character-defining features are not obscured, damaged, or destroyed.

As of the writing of this staff report the applicant has not provided alternatives to the original proposal, but has indicated that he will have changes, if any, ready on or before the City Planning Commission meeting.

Please see the attached letter from the neighborhood group.

VARIANCE (to increase the maximum allowable FAR from 4.0 to 4.78)

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.**

The floor area ratio (FAR) is the gross floor area of the building divided by the area of the zoning lot. Gross floor area does not include space devoted to accessory off-street parking or loading facilities, including aisles, ramps and maneuvering space. The total square footage of the building including the parking is 63,078 square feet. The gross floor area of the building that does not include the parking area is approximately 52,925 square feet. The size of the zoning lot is 11,067 square feet. Therefore, the FAR is approximately 4.78. The B4S-1 Downtown Service District allows a base FAR of 4.0 for non-residential buildings, which on this lot would allow 44,268 square feet of gross floor area excluding the parking. The applicant is requesting variance to 52,925 square feet, or an FAR of 4.78; an increase of approximately 20 percent. If the variance were denied the building addition would have to be reduced in size by 8,657 square feet to meet the 4.0 FAR, which would eliminate the proposed seventh floor and part of the proposed sixth floor.

While the addition of three floors may be reasonable on their own, in the context of the National Historic District they may not be reasonable due to the adverse effect it would have on the character of the building. In addition, the site is flat and square, so staff can identify no undue hardship that would necessitate the increase in the floor area ratio.

- 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.**

This site square and there is no grade change on the site that mitigates the proposed bulk of the building or that is a unique circumstance not created by the applicant.

CPED Planning Division Report

BZZ-4193

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 set the parameters for the size of buildings, while allowing the developer some flexibility in the design of the building, and to ensure that the new structure is compatible with surrounding structures. The buildings in the immediate area are one to six stories in height with taller buildings to the northwest of the site. While the height of the proposed addition may not be out of character with the surrounding area, the proposed addition would be injurious to the potential future historic district and to a historic resource.

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 may have an effect on congestion in the public streets, as it will bring a more intense use to the site converting the building from warehouse space to office space; however, adequate parking is provided that meets the requirements of the zoning code and the site is in close proximity to bus routes, parking structures, and a future LRT stop and these are mitigating factors that should reduce the need for employees to drive and should mitigate potential congestion. The variance should not endanger public health or safety or increase the danger of fire.

SITE PLAN REVIEW

Required Findings for 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 and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND DESIGN:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.

CPED Planning Division Report

BZZ-4193

- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances and windows:
 - Residential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - Nonresidential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
 - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
 - e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
 - f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.

Minimum window area shall be measured as indicated in section 530.20 of the zoning code.
- The form and pitch of roof lines shall be similar to surrounding buildings.
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

CPED Planning Division Report

BZZ-4193

The building is existing and is located up to the property lines on the street frontages. There are no amenities between the building and public sidewalk as the building is up to the public sidewalk.

There are entrances proposed for the 3rd Street North and 5th Avenue North sides of the building.

There are no surface parking areas.

The exterior materials of the addition are durable metal panels. The northwest elevation is plain faced concrete block painted to match the brick, which is allowed by the zoning code for an elevation that does not face a public street or that is not adjacent to an office residence or residential district.

The new building walls will contain architectural detail including windows and recesses and projections, but the northwest elevation does not meet the prohibition on blank facades greater than 25 feet in length. Staff recommends alternative compliance as it is not visible from a public street or an office residence or residence district and additional architectural detail may detract from the historic character of the building. Future changes in materials from this proposal may require review and approval by the City Planning Commission.

Non-residential uses are required to provide 30 percent windows on the first floor and 10 percent windows on the second floor of facades facing a public street or on-site parking lot, for the new construction, and the existing windows in the existing building can not be reduced below the amount currently provided.

Where original window openings that are filled in with block exist, staff has typically required that they be reopened to meet the 30 percent window requirement where practical and where it is supported by adopted small area plans. In this case the *Downtown East/North Loop Master Plan* encourages street level retail along 5th Avenue North and designates this street as a “primary pedestrian movement corridor” (pages 38 and 56). In addition there are CPTED standards that discourage facades without windows (see the Additional Standards section of this staff report for more detail). While retail can not necessarily be required on the first floor, the installation of vision glass, or even glass block, will make the first floor elevation more pedestrian friendly and will preserve the ability to convert the first floor to retail or office space in the future.

The floors of the addition meet the window requirements and provide 75 percent windows on the 5th Avenue North elevation on all floors and 57 percent on 3rd Street North elevation on all floors.

The roof is a flat mansard type roof. The majority of structures in the immediate area have flat roofs with cornices and without a mansard style. Staff does not recommend alternative compliance and recommends that the roof of the addition have a roof line with a cornice similar to the existing building.

CPED Planning Division Report

BZZ-4193

ACCESS AND CIRCULATION:

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.
- Site plans shall minimize the use of impervious surfaces.

The entrances to the building open onto the public sidewalks.

There are no transit shelters on the site.

Vehicular access and circulation has been designed to minimize conflict with pedestrians. The parking garage will open onto the alley.

Public Works and the Fire Department have reviewed the site plan for vehicular access and circulation and find them acceptable (please see attached PDR report). The proposed loading dock at the rear of the building will not be approved by Public Works.

In order to reduce impervious surfaces staff recommends the area for the proposed loading dock at the rear of the building, which has been denied by Public Works, be converted to a landscaped area.

LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
 - Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.
- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.

CPED Planning Division Report

BZZ-4193

- All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.

The site plan shows zero percent landscaping. The zoning lot area is 11,067 square feet and the footprint of the building is 10,153 square feet. This leaves 914 square feet, of which 20 percent (183 square feet) is required to be landscaped. Staff recommends that the area for the proposed loading dock at the rear of the building, which has been denied by Public Works, be converted to a landscaped area. This would add approximately 250 square feet or 27 percent landscaping to the site.

The development is required to provide a minimum of two canopy trees and nine shrubs on site. The site plan shows no trees or shrubs. Staff recommends granting alternative compliance for the canopy trees, as there is no place on the site that can accommodate a tree without it conflicting with the alley, building, or drive aisle to the parking. Staff does recommend that the applicant provide a superior landscaping plan including an ornamental tree, a variety of plant types beyond the nine required that cover the entire landscaped area, and seasonal interest as an amenity in lieu of the two trees.

There are no surface parking lots.

ADDITIONAL STANDARDS:

- All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.
- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260 related to:
 - Natural surveillance and visibility
 - Lighting levels
 - Territorial reinforcement and space delineation
 - Natural access control
 - To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

There are no surface parking areas on the site.

The building addition will not block important views of the city and will not significantly shadow public spaces and adjacent properties. It should not significantly generate wind currents at ground level.

CPED Planning Division Report

BZZ-4193

The plan does not meet the CPTED guidelines for natural surveillance and visibility. The applicant is proposing to keep all existing window openings blocked up. Staff recommends that the blocked window openings be reopened with vision glass or glass block. Vision glass would allow views into and out of the building. Glass block would not allow views into and out of the building, but would preserve the openings and would allow light onto the adjacent spaces during the night. Staff recommends that proper lighting be provided and that the landscaping follow the three-foot seven-foot rule to allow proper views into and out of the site.

As noted in the background section this structure is a contributing structure to the National Register Warehouse District and is eligible to be designated as a local individual landmark, national landmark, and/or nomination to the National Register of Historic Places, but it is not currently designated or in a local district. The ability to address historic preservation issues through the site plan review process is limited, but staff encourages the applicant to meet with CPED Preservation and Design staff to consider alternatives for the building that would be in conformance with the Secretary of Interior Standards for rehabilitation of historic structures.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE: An office building is permitted use in the B4S-1 Downtown Service District.

Off-Street Parking and Loading: The zoning code requires 1 space per 1,400 square feet of gross floor area for all non-residential uses, but not less than four spaces, in the B4S-1 District. The gross floor area of the new construction is approximately 22,466 square feet which results in a parking requirement of 16 spaces and 20 are provided. The existing building has no parking and because the conversion of the warehouse space to office space would not require additional parking (both require one space per 1,400 square feet of gross floor area), no parking is required for the conversion of the existing building, just the new construction. One handicapped van accessible spaces is required and four are provided. No loading spaces are required.

Maximum Floor Area: The maximum FAR in the B4S-1 District is 4.0 for non-residential buildings. The zoning lot in question is 11,067 square feet in area. The site will contain approximately 52,925 square feet of gross floor area on the lot, an FAR of 4.78.

Building Height: Building height is controlled by FAR in the B4S-1 District.

Minimum Lot Area: There is no minimum lot size for offices in the B4S-1 District.

Dwelling Units per Acre: There are no residential units proposed.

Yard Requirements: In general, there are no setback requirements in B4S-1 District unless adjacent to residential zoning, or if there are residential uses with windows facing interior property lines. There are no adjacent or on-site residential uses, so setbacks are not required for this building.

CPED Planning Division Report

BZZ-4193

Specific Development Standards: There are no Specific Development Standards for offices in the B4S-1 District.

Hours of Open to the Public: In the B4S-1 District, uses may be open to the public during the following hours: Sunday through Saturday from 6:00 a.m. to 1:00 a.m. The office will be open 8:00 a.m. to 8:00 p.m. weekdays.

Signs: Signs are subject to 531 and 543 of the Zoning Code. All new signs are required to meet the requirements of Chapter 543 of the zoning code and permits are required from the Zoning Office. The sign plan is not yet determined, but the applicant is aware that all signage requires Zoning Office review and approval and permits.

Refuse storage: 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. The refuse containers are screened per code.

Lighting: 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 arranged so as not to directly or indirectly cause illumination or glare in excess of one-half ($\frac{1}{2}$) 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 source.
- (2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility to a person of normal sensitivities when viewed from any permitted or conditional residential use.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

CPED Planning Division Report BZZ-4193

MINNEAPOLIS PLAN: The *Downtown 2010 Plan* is the part of the comprehensive plan that guides development for downtown. It was adopted by the City Council in 1996. The plan states that “the neighborhoods surrounding the core contain various housing and commercial functions. Although included in the boundaries of the downtown area, specific planning for these neighborhoods generally falls outside the scope of the plan.” More useful guidance for the site area is found in *The Minneapolis Plan*, the draft *Minneapolis Plan for Sustainable Growth*, and the approved small area plans.

The Minneapolis Plan has the following relevant policies and implementation steps:

1.7 Minneapolis will recognize and celebrate its history.

Implementation Steps

Continue to designate buildings, sites and districts as local heritage preservation sites.

Provide educational activities to encourage citizens to understand the city’s history and rich traditions.

Incorporate heritage preservation at the earliest stage of planning for new development and neighborhood revitalization

Encourage new developments to retain historic structures, incorporating them into new development rather than demolishing them.

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.

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.

Strengthen downtown's position as a regional retail center that serves downtown employees, visitors and regional residents.

Strengthen downtown's role as the region's center of arts, entertainment and culture.

Provide a balanced transportation system that ensures continued economic vitality and contributes to the quality of life for downtown, the city and the metropolitan area.

9.4 Minneapolis will promote preservation as a tool for economic development and community revitalization.

Implementation Steps

Use historic preservation goals to encourage development and reinvestment in the city.

Identify, designate and protect sites, buildings and districts in the city with historic or architectural significance.

Designate individual buildings with historic or architectural significance that have been identified by the city's Heritage Preservation Commission.

Protect designated structures, sites and districts from demolition, neglect or inappropriate modifications.

Protect potentially significant historic structures from demolition until the city can determine the significance of the structure and explore alternatives to demolition.

CPED Planning Division Report BZZ-4193

Encourage relocation of historic resources as a last means of preservation for endangered properties.

Continue surveys and studies of property in Minneapolis' in order to maintain and periodically update the inventory of Minneapolis potentially significant historic resources.

Develop creative economic incentives in the public and private sector to promote the rehabilitation, maintenance and reuse of the city's historic resources.

9.6 Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.

Implementation Steps

Facilitate the location of new economic activity (office, research and development, and related light manufacturing) that takes advantage of environmental amenities and co-exists with neighbors in mixed-use environments.

Promote the use of progressive design guidelines and street-oriented building alignments to maximize compatibility with surrounding neighborhoods.

Curb the inefficient use of land by regulating maximum and minimum height, setbacks, build-to lines and parking through master planning methods and zoning code regulations.

Require site designs which maximize the potential for public transit and alternative transportation use in commercial, research and development and light industrial developments.

Provide setbacks, build-to lines and landscaping standards in commercial and industrial districts that are appropriate to the impacts on neighboring uses.

9.11 Minneapolis will support urban design standards that emphasize a traditional urban form in commercial areas.

Implementation Steps

Enhance unique characteristics of the city's commercial districts by encouraging appropriate building forms and designs, historic preservation objectives, site plans that enhance the pedestrian environment, and by maintaining high quality public spaces and infrastructure.

Identify commercial areas in the city that reflect traditional urban form and develop appropriate standards and preservation objectives for these areas.

Enhance pedestrian and transit-oriented commercial districts with street furniture, tree planting, and improved transit amenities.

Orient new buildings to the street to foster safe and successful commercial nodes and corridors.

Expand the scope of site plan review to include most types of commercial development.

Require storefront transparency to assure both natural surveillance and an inviting pedestrian experience.

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

Implementation Steps

Encourage parking strategies that reduce the need for parking in order to avoid spillover into neighboring residential areas, including residential parking permits and the joint use of available parking in mixed-use areas.

Offer incentives so that new parking structures built in high activity areas (e.g. Growth Centers and Activity Centers) are designed to include a mix of uses through the presence of active street-level uses such as general retail or commercial services.

CPED Planning Division Report

BZZ-4193

The Draft Minneapolis Plan for Sustainable Growth echoes and strengthens the above noted policies of *The Minneapolis Plan*. It promotes a walkable city (Transportation-Chapter 2), recommends that downtown remain a Growth Center (Economic Development-Chapter 4), promotes ground floor uses in buildings (Urban Design-Chapter 8), and recommends preserving historic resources (Historic Preservation-Chapter 9).

The adaptive reuse of this building for office use is in conformance with the above noted goals of the plans. The proposed building is not designated, but is a potential historic resource and it is the opinion of staff that the proposed alterations are not in conformance with the comprehensive plan's historic preservation goals. Under site plan review, though, the authority to regulate non-designated buildings for preservation issues is limited. Based on this fact, and with the recommended conditions of approval, the proposed site plan is in conformance with the goals of the comprehensive plan for the applicable site plan review regulations.

SMALL AREA PLANS ADOPTED BY COUNCIL:

The Minneapolis Warehouse District Preservation Action Plan was adopted by the City Council in 2000. The Economic Development chapter of the plan has the goal to "promote the adaptive reuse of buildings in the Plan Area and encourage appropriate development of vacant or underutilized parcels." The plan also seeks the expanded designation of the local warehouse district to match the boundaries of the national district (chapter 1). It also has many policies for protecting designated buildings. It is the staff's opinion that the reuse of the building for offices is in conformance with this plan, but the addition to the building does not meet the goals of the plan, although they apply to designated buildings or potential designated buildings receiving public funds.

The Downtown East/North Loop Master Plan was approved by the City Council in October of 2003. This site is within the plan area. The planning area is divided into precincts and this site is located in the "Warehouse West" precinct. The plan states that "the historic warehouse structures in this precinct should be protected and preserved, with an emphasis on adaptive reuse of existing structures. The majority of the development should be medium intensity, mixed-used development at a scale similar to that of existing buildings." It also states that "street level retail should be encouraged to stretch along 5th Avenue North to create a connection between Washington Avenue and the commercial node at, or near, the new multi-modal station proposed at the new ballpark." The plan also designates 5th Avenue North as a primary pedestrian movement corridor. The proposed reuse of the building is in conformance with this plan, but the addition to the building and the lack of windows and commercial on the first floor is not in conformance with the plan.

CPED Planning Division Report
BZZ-4193

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

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

Alternative compliance is requested by the applicant to meet the following standards:

- Blank walls exceeding 25 feet.

The new building walls will contain architectural detail including windows and recesses and projections, but the northwest elevation does not meet the prohibition on blank facades greater than 25 feet in length. Staff recommends alternative compliance as it is not visible from a public street or an office residence or residence district and additional architectural detail may detract from the historic character of the building.

- Form and pitch of roof.

The roof is a flat mansard type roof. The majority of structures in the immediate area have flat roofs with cornices and without a mansard style. Staff does not recommend alternative compliance and recommends that the roof of the addition have a roof line with a cornice similar to the existing building.

- Number of trees on site.

The development is required to provide a minimum of two canopy trees and nine shrubs on site. The site plan shows no trees or shrubs. Staff recommends granting alternative compliance for the canopy trees, as there is no place on the site that can accommodate a tree without it conflicting with the alley, building, or drive aisle to the parking. Staff does recommend that the applicant provide a superior landscaping plan including an ornamental tree, a variety of plant types beyond the nine required that cover the entire landscaped area, and seasonal interest as an amenity in lieu of the two trees.

CPED Planning Division Report
BZZ-4193

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department - Planning Division for the floor area ratio variance:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **deny** the variance to increase the maximum allowable floor area ratio from 4.0 to approximately 4.78 for property located at 500 3rd Street North.

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the site plan review for property located at 500 3rd Street North subject to the following conditions:

- 1) CPED Planning staff review and approve the site plan, lighting plan, landscaping plan, and elevations before permits may be issued.
- 2) All site improvements shall be completed by November 17, 2009, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 3) The first floor original window openings have the filled-in block removed and replaced with vision glass or glass block. The original window openings on the first floor shall not be enlarged or reduced from their original construction when the new vision glass or glass block is installed.
- 4) The roof of the addition shall have a roof line with a cornice that is similar the existing roof line and cornice on the existing building as required by section 530.120(c).
- 5) The site plan includes a landscaped area at the rear of the building where a loading dock is proposed, but that will not be allowed by Public Works. The landscaping plan in this area shall provide a superior landscaping plan including an ornamental tree, a variety of plant types beyond the nine required that cover the entire landscaped area, and seasonal interest as an amenity in lieu of the two trees required by section 530.160.
- 6) The applicant is encouraged to meet with CPED-Preservation and Design staff to consider alternatives for the building that would be in conformance with the Secretary of Interior Standards for rehabilitation of historic structures. Any demolition of the existing 5th Avenue North loading dock and/or canopy requires the applicant meet with CPED-Preservation and Design staff for compliance with applicable regulations.

CPED Planning Division Report
BZZ-4193

Attachments:

1. Statements from applicant.
2. Correspondence.
3. PDR report.
4. Zoning maps.
5. Site plan, floor plans, and elevations.
6. Photos and aerials.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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

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

MEMORANDUM

DATE: December 5, 2008

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

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

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

SUBJECT: Planning Commission decisions of November 17, 2008

The following actions were taken by the Planning Commission on November 17, 2008. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners present: President Motzenbecker, Gorecki, Huynh, LaShomb, Luepke-Pier, Nordyke, Norkus-Crampton, Schiff, Tucker and Williams – 10

Committee Clerk: Lisa Baldwin (612) 673-3710

4. 500 – 3rd Office Building (BZZ-4193, Ward: 7), 500 3rd St N (Jim Voll). This item was continued from the October 20, 2008 and November 3, 2008 meetings.

A. Variance: Application by David Kelly, on behalf of 500 LLC, for a variance to increase the maximum allowable Floor Area Ratio (FAR) in the B4S-1 Downtown Service District from 4.0 to approximately 4.78 for property located at 500 3rd St N.

Action: The application for the variance to increase the maximum allowable floor area ratio from 4.0 to approximately 4.78 for property located at 500 3rd St N has been **withdrawn** by the applicant.

B. Site Plan Review: Application by David Kelly, on behalf of 500 LLC, for a site plan review for property located at 500 3rd St N.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review for property located at 500 3rd St N based on the following findings:

1. The absence of ground floor active uses in the project is not consistent with the comprehensive plan and the applicable adopted small area plans.
2. The Downtown East/North Loop Master Plan encourages street level retail along 5th Ave N and designates the street as a primary pedestrian corridor.
3. Crime Prevention Through Environmental Design standards discourage facades without windows that allow views into the building and out onto the public sidewalks.
4. The absence of ground floor active uses does not comply with Policy 9.6 of the comprehensive plan that new development should add value to the surrounding environment.
5. The absence of ground floor active uses does not support Policy 9.11 of the comprehensive plan that requires storefront transparency to assure both natural surveillance and an inviting pedestrian experience.
6. Chapter 8 of the draft Minneapolis Plan for Sustainable Growth has policies that promote ground floor uses in buildings.

Staff Voll presented the staff report.

President Motzenbecker opened the public hearing.

David Kelly (3925 W 50th St, Edina): I'm an architect representing the owners. Mr. Voll pretty much covered a majority of the points. As he said, the floor area ratio variance has been removed; we reduced the building by one floor. As far as the site plan review, there is one minor adjustment that we would ask on item number three and that is on the 3rd St elevation, there will be the need to enlarge one of the existing masonry openings over here in order to provide an exit doorway coming out on to 3rd St. That is the only masonry opening on the ground floor that needs to be modified. All the others where we show doors extending down to gray, those are...this is an existing overhead door so we're simply replacing with the glazed opening. The main entry is an overhead door so we're replacing that with glazed opening. Otherwise, the rest of those are the store front windows set above the water table line. We agree to all of the other recommended motions. With regard to the memorandum that Mr. Voll issued this morning, we did take a quick look at it on behalf of the owner. As far as dealing with the need for 30 percent of the ground floor parking structures as being some public activity or having display windows, the owners of the building are willing to consider display windows. Unfortunately, I had to quickly throw this together, but in essence we are showing that we are eliminating the glass block panels and we are putting in aluminum and glass windows. I don't know how easy it is to see, but we're showing a series of display recesses behind each one of these large openings that's not a doorway. They would be used, for example, to show graphics for tenants within the building. The owners of the building are willing to allow the neighborhood organization to use one or more of those display windows for local neighborhood posters, etcetera. The owners are considering,

perhaps, artwork in these. In essence they are retail display windows so that is something the owners are willing to provide in this design.

President Motzenbecker: Can you tell us a little bit about why you chose not to explore a use on that first floor specifically after you showed us a plan last time that had one?

David Kelly: The owners went back and looked through the perspective on the project and determined that they need the parking, full parking, in the basement and the first floor. Based on the ordinance standards, we're only able to get 11 parking stalls in the basement and only 11 on the ground floor, but through the use of valet parking, they're able to get 28 stalls in the basement, 26 stalls on the ground floor so they're able to provide 54 parking stalls for the tenants of that building and they believe they need that in order to make the project viable.

Commissioner Huynh: Part of the comment I had at the last hearing was regarding the necessity for parking and I had addressed, with the applicant, to look at additional bike parking or alternative means, have you looked at that since the last hearing?

David Kelly: Yes we have. In the initial packet it indicated that we were having a loading dock in the southeast corner of the building but because that really wasn't working, Public Works would not allow that. We ended up with this southeast corner of the building as being open, not really accessible for parking so we're providing over 500 square feet of interior bicycle storage. It would be using the second entrance that we're showing off the existing loading dock. The main office entrance is this doorway right here over in the corner, there is an entrance for bicycle storage inside the building. Individuals would park their bike, secure it and then walk through the parking level to get to the main lobby of the building.

Commissioner Huynh: Being able to provide that, did you not feel that it offset some of the parking stalls that you felt that you needed for the site?

David Kelly: The owners believe that probably 50 percent of the tenants in the building will be using public transit or bicycles. They're trying to deal with the other 50 percent and they believe that there is that need for as many parking stalls, interior, that they can get given that the last Planning Commission meeting, the owner of the property across the street indicated that there is really no parking available in her parking lot and the municipal lots a few blocks away.

Mike Norton (200 S 6th St #470): I want to make a couple comments on behalf of the applicant on the issues that have been raised here and previously. I want the Commission to know, when Mr. Abdul called me, he indicated that the active uses, retail on the first floor, was an issue, I asked him to go over that with me. I want to let the Commission know that we did actually look at it. It wasn't just "no, we're not going to do it." We actually looked at it and I asked him to go through some of the finances with me and understand his reasoning. One of the principal problems is that we don't believe that this is a sufficiently developed transit area yet, given the mix of tenants that he thinks he's going to get in there and that is why he feels he needs the parking. I asked him if we could do some of the work on the interior that members of the Planning Commission had asked about and, frankly, it is not financially feasible to put in additional ramps and use parking on the second and third floor, for example. He certainly is more than willing to consider changing the use of the parking if in fact this becomes a much more transit developed area and the mix of the uses indicates that there is the need for that, but at this point in time it is not economically viable for him to do significant interior remodeling to provide for ramps and use the

first floor for the uses that have been suggested. As a practical matter, clearly, I think, if Mr. Abdul were able to do that he would do that because he can certainly command a higher per square foot figure for rental if we did in fact have some retail uses on the first floor, but it's just not economically viable for him to do that. Therefore, based on the material that is provided by Mr. Voll, that's why we've chosen to use the alternative approval under the ordinance and provide the windows. On that basis, we are respectfully suggesting that based on the record we have here that we are hoping that the Commission will approve the site plan as recommended by staff.

President Motzenbecker: The statement is "active" uses, it's not necessarily retail. You could put more office down there on the first floor as well. Was that explored or were you just specifically looking at retail?

Mike Norton: Looking at retail and other things he could do with the first floor, but given the fact that as Mr. Kelly indicated, there isn't enough space in there as it is to have self parking. You can't have reserved stalls or anything like that. In order to get the parking that the developer feels is necessary to support the building and support the redevelopment; he needs to do the valet type of parking. We did explore other types of uses, not just the retail for the first floor because I suspected that would be a question of the Commission. At this point in time it is just not economically feasible for him to do that. He certainly is willing to consider that as the building develops and evolves, to change the uses in there. As a developer he wants to maximize the profit of his investment.

President Motzenbecker: Maybe you can tell me, when you explored this...the proposition we were shown last time, with some corner active use and then as we also discussed last time, the parking that's shown is not the parking system that is apparently going to be explored. It sounds like valet is the way it's going to go even though we're only shown singular self park spots. What is the number of spots that you would use in the valet situation if you had to put in what we were shown last time with an active first floor use?

Mike Norton: I'd have to refer to Mr. Kelly on that, but the idea would be...

President Motzenbecker: I know the idea, but I'm looking for numbers.

David Kelly: I'd quickly estimate about a dozen of the 54.

President Motzenbecker: Even at that point, from what I recall previously, I think you're only required 19 spots for this.

Staff Voll: With the previous proposal we required 16 spaces, but remember we were requiring parking for the addition. The rest of the building was grandfathered. I'm assuming that with this proposal it would be around nine spaces required to meet parking for the addition.

Staff Wittenberg: Keeping in mind, of course, that you Commissioners are reviewing a Zoning Code text amendment that would no longer require parking in the downtown zoning districts of which this is a part. There would be a maximum of one per 1000 for office uses. That would only be applied to the increment that they'd be looking at constructing so we'd have to do that calculation.

Mike Norton: Based the report by Mr. Voll and the fact that we meet requirements of the site plan approval, I think the developer is entitled to the benefit of the doubt here for purposes of determining that economically he needs his parking. There is nothing in the Zoning Code that prohibits us from having additional parking so hopefully the Commission...I appreciate the concerns; it's just not economically feasible for us to do it at this time.

Commissioner Nordyke: You introduced yourself as a neighbor, are you employed by the developer?

Mike Norton: Yes I am.

Commissioner Gorecki: Can you give me a little background on what you mean by economically feasible? You're kind of throwing the term out there as if this is a hardship and I'm not seeing the hardship.

Mike Norton: We're not suggesting that it's a hardship under the Zoning Code that we're seeking the variance for. We're not asking for the variance in this point and time. I don't mean hardship, I'm suggesting that the developer has gone through his own pro forma and his own analysis of what he believes is necessary and important to support his construction costs and the build out and the kinds of activities that he's going to have on this particular site. This is not his first project, he's done a number of projects downtown and elsewhere in the city and it's his considered judgment, that and his investors, that we need the parking in this particular building to support the uses that are going to be in there. It's his judgment. If I suggested it was a hardship, I didn't intend to do so. He needs it because he thinks it will make the building work and make the investment work.

Commissioner Gorecki: So you don't have any particular financial information that goes to support your statement that this is an economic hardship? Basically what we're going on is his judgment as a developer.

Mike Norton: That is correct, it is his judgment and since there is no prohibition on him having this kind of parking in there, the code clearly leaves it to the discretion of the developer as to what is economically feasible here and that is his judgment that it is necessary for him to be able to make the building work and provide the kind of amenities that the folks who are going to rent this particular property are going to request. Given the lack of the kind of transit that ultimately may be here, that just isn't there now.

Staff Wittenberg: Just another point, there have been discussions, the applicant has mentioned valet parking within this parking garage; just looking at 541.210 of the Zoning Code which discusses valet parking and when you have a valet parking situation you can cram cars in whichever way you chose to do so most efficiently, but that is actually only authorized for restaurants, hotels and theaters so that is not a parking layout that's authorized for office uses.

Mike Norton: The valet parking for restaurants is of a particular kind, they don't have any parking on site, and they typically use remote areas in order to do the parking. I'm not aware that there is any regulation that prohibit the kind of parking internally in this building that we're suggesting we're going to be able to use.

Staff Wittenberg: Actually the ordinance, with all due respect, is clear that a parking space has to open on to a parking aisle or drive aisle too so it allows you to maneuver in and out of the space, which wouldn't be the case if you're essentially parking vehicles in back of other vehicles.

Jerry Young [not on sign in sheet]: We had sent a letter to Mr. Voll. One of the items was we were looking to have conditions so that the developer and contractor would be operating under some conditions for protecting our property, the roof of the dome shaped building that abuts the common wall and also I park right against that common wall, I have 16 spaces or so, and I was looking for some help here that would direct the developer to provide for protection of the property there.

President Motzenbecker: I'm not sure what we can... we do have your letter and that was one of the things that I wanted staff to address is if there are things in that that changed opinions or caused concern.

Jerry Young: I have one other question which doesn't relate to my property, but it relates to the parking. If the developer explored parking, I mean, right across the alley from their property there is a 50 car parking lot going unused. Thank you.

Staff Voll: I don't know if you wanted me to address Mr. Young's questions right now or later.

President Motzenbecker: We'll wait until the public hearing.

Michael Katch (111 Marquette Ave) [not on sign-in sheet]: I was at the North Loop Neighborhood Association when this came up for discussion. There were concerns among the neighbors. They wanted, not just retail, but they were hoping for restaurants and bistros on the first floor of this building, but they're concerned about eyes on the street. If parking is on the first floor and you don't have windows and you don't have people behind those windows looking at the street to see what's going on, they were considering that the configuration of developer is showing to be a public safety concern.

David Frank [not on sign-in sheet]: I'm here for myself this afternoon. Most of you heard what I had to say last week so I won't say it all again. To frame tonight's conversation for you from one residents perspective, it's not anything against parking, it is a statement in favor of active uses several hundred feet from the most important transit intersection in the upper Midwest, the Twin Cities, the state of Minnesota, from the new ballpark, from hundreds of new residential units, feet from other retail opportunities, places that people walk, places for eyes on the street, so it's in favor of those things and nothing personal against parking. If this developer of this project wanted to have lots and lots more off-street parking spaces you wouldn't hear me saying it's a bad thing in this case. What I'm asking for or suggesting would be a terrific thing is active uses on the ground floor near all those other public and private investments. Thank you.

President Motzenbecker closed the public hearing.

Commissioner LaShomb: I want to be very clear about what the Commission's authority is or isn't in this situation. There are two issues that clearly raise that confusion in my head; the first one is whether or not the Commission has the authority to require an office retail or active use on this site given the fact that there is no longer a variance involved. As part of the site plan, does the Commission have the authority to mandate either office retail or other active use on this site?

Staff Wittenberg: Just looking at Mr. Voll's memo that includes the relevant section of the site plan review chapter, our reading of this provision of the ordinance essentially gives the applicant the choice of whether to install active uses at ground level or to include display windows or other types of windows.

Commissioner LaShomb: So the answer is no.

Staff Wittenberg: I would say you would be stretching the bounds of your authority.

Commissioner LaShomb: Ok, then let's address the parking issue. Does the Commission have the authority to set a minimum or maximum parking for this project?

Staff Wittenberg: I just looked at the maximum as it would apply to this project that you are considering tonight, which is of course not in effect at the moment, but the one per 1000 would give them roughly 53 or 54 spaces as a maximum under the proposed ordinance.

Commissioner LaShomb: So if I said that as part of the site plan there could only be 20 parking spaces, would we have the authority to do that?

Staff Wittenberg: That sounds like a stretch of your authority on site plan review.

President Motzenbecker: We've run into this before. The findings required for site plan review have that it conforms to all applicable standards of Chapter 530 as well, that the site plan conform to all applicable regulations of the zoning ordinance and is consistent with the applicable policies of the Comprehensive Plan and applicable small area plans adopted by Council, which it is clearly running in the face of blatantly, I can't even count how many. I would respectfully say there might be some wiggle room there. I also have some statements, but I will hold those for later.

Commissioner Norkus-Crampton: At this point we are discussing an ordinance that we will pass this evening, but it is not in effect at the point that we're discussing this proposal, correct? I just think that we need to be careful about what rules we can actually apply because if we haven't passed the rules yet we can't really apply them to this project. We can certainly view it in light of the overreaching goals but it can't apply to this particular project, correct?

Staff Wittenberg: That's correct.

Commissioner Nordyke: The current situation is 16 minimum spaces under zoning for the project the way it stands right now.

Staff Voll: The previous proposal that was at the last Planning Commission would have required 16. I believe since they reduced the square footage that it would now be around nine spaces required.

Commissioner Nordyke: It would be around or it would be?

Staff Voll: I can't do the math in my head, it's 13-some thousand square feet divided by 1400. I'm assuming that's about nine. If someone has a calculator they can double check that for me. You have to remember that we're not counting any parking for the existing building so when we

talk...we're talking two different things, what would be the parking for the entire building if you wanted to get an idea if it was a new building how much would be required or what's required by code. With grandfathered rights, is the parking for the two additional floors because the existing building is grandfathered for parking. Then if the new ordinance is passed there'd be no parking at all. We're talking of three different things, but the addition for the proposal we saw today would be nine spaces if my math is correct.

Commissioner Nordyke: I have great faith in the market over there and also in a lot of things that people have talked about in regards to mass transit. I would love to support the idea of just saying no to parking on the first floor and I will follow a wiser person than myself in doing that, but I'm not getting the impression that that's something we can do. Having said that, I don't want to lock them into a situation where they have to continue to have parking on the first floor under the zoning requirement so what I was thinking was doing some kind of variance where literally when the market does prove us all right they can change the first floor, but it sounds like what you're saying to me is after the end of the evening, presuming things go well on number seven, as far as what they will be required to have for parking in the future they could go to zero if the market proved out that that would work for them.

Staff Voll: If the City Council approves that ordinance, yes. It would be not just the Planning Commission but the City Council. Regardless, as it stands now, you couldn't do a variance of the parking because they didn't apply for it and we didn't notice for it. You don't have the authority to grant a variance that's not been applied for or been noticed to the general public.

Commissioner Nordyke: It sounds to me that they're pretty close to that anyway, right? If you're saying off the top of your head it's nine, there's nine in the basement...

Staff Voll: If they wanted, in the future, to increase the amount of retail space, we would look at what the parking required is. There might be cases where we had determined that there was a parking impact, but in this particular case where there has been an argument that the parking is going to go away, I don't think we would do that.

Commissioner Gorecki: I guess where we started from a couple weeks ago was, first of all, we were talking about the overall design which I wholeheartedly like and supported and thought the creativity that the developer was showing should've been applauded, but then we switched to the parking and the integration of the first floor and how it looked and felt and the eyes on the street. The whole nature of this, of the parking and the hardship and how the developer is reading this, I'm having real trouble with. It really does fly in the face of the small area plan for this particular neighborhood. I think the developer is either ignoring us or just doesn't really care. Having said that, I'm going to move denial of the site plan review based on the small area plan (Luepke-Pier seconded).

Commissioner Schiff: I want to add some other findings there not just a denial based on the small area plan alone, but on other elements of site plan review chapter.

President Motzenbecker: I think the piece that I read before...consistent not only the small area plan, but with the Comprehensive Plan and all other plans. The Downtown East North Loop Plan encourages street level retail along 5th Ave N and designates the street as a primary pedestrian movement corridor. It also states that street level retail should be encouraged to stretch along this between Washington and the ballpark. CPTED standards, as was discussed already, discourage

facades without windows. Policy 9.6 states to invest in new development that is attractive, functional and adds value to the physical environment. Parking on a pedestrian level first floor, while it may add some function to the owner of the building, does not add value to the surrounding environment which is the focus of the policy so I would say it's not addressing that. Policy 9.11 states it should support urban design standards that emphasize traditional urban form in commercial areas, specifically that site plans that enhance the pedestrian environment and maintain high quality public spaces and infrastructure and they require storefront transparency to assure nature surveillance and inviting pedestrian experience. I'd say that that policy is not really supported by this either. Also, the Draft Minneapolis Plan for Sustainable Growth, in Chapter 8 Urban Design promotes ground floor uses and also the historic resource that we can't really address, but is very prevalent in this building as a very strong contender for historic properties. Even to some extent, the chapter that was sited on parking garages. I think that covers it. Jason, do you need anything else?

Staff Wittenberg: Those sound like sufficient findings.

President Motzenbecker: All those in favor? I would also like to offer a staff directive for this item that we encourage HPC staff to look at this as either an interim hold on this to explore its possibilities of designation which has been outlined quite well in the staff report or encourage our colleagues at the HPC to take a look at this property.

The motion carried 9-0.

The following actions were taken by the Planning Commission on November 3, 2008. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners present: President Motzenbecker, Gorecki, Huynh, LaShomb, Luepke-Pier, Nordyke, Tucker and Williams – 8

Not present: Norkus-Crampton (excused) and Schiff (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

2. 500 – 3rd Office Building (BZZ-4193, Ward: 7), 500 3rd St N ([Jim Voll](#)). This item was continued from the October 20, 2008 meeting.

A. Variance: Application by David Kelly, on behalf of 500 LLC, for a variance to increase the maximum allowable Floor Area Ratio (FAR) in the B4S-1 Downtown Service District from 4.0 to approximately 4.78 for property located at 500 3rd St N.

Action: The City Planning Commission **continued** the variance to increase the maximum allowable floor area ratio from 4.0 to approximately 4.78 for property located at 500 3rd St N to the November 17, 2008 meeting.

B. Site Plan Review: Application by David Kelly, on behalf of 500 LLC, for a site plan review for property located at 500 3rd St N.

Action: The City Planning Commission continued the site plan review for property located at 500 3rd St N to the November 17, 2008 meeting.

Staff Voll presented the staff report.

Commissioner LaShomb: Why does the staff not think that this addition...if this addition were put on to the top of the building, fundamentally, why does the staff believe that that would have a negative effect on the historic situation that we're talking about?

Staff Voll: I can let Aaron speak to that, but if you look at the staff report they listed the Secretary of the Interior Standards that talk about preserving roof lines, preserving window openings and not reducing them or not expanding them. If you look on some of the other floors you will see that the windows have been expanded. It talks about identifying, retaining and preserving masonry features and constructing new additions so there's the least possible loss of historic materials. So that information is in there, but I will let Aaron speak to it since he's the expert.

Commissioner LaShomb: The way I'm looking at the pictures, and I'm not very good at looking at architectural issues on sites, but the way I'm looking at it is that there don't seem to be major changes in the existing building, am I not seeing this right?

Staff Voll: I can let Aaron speak to that, but the denial wasn't necessarily because of changes to the existing building, it was because of the character of the addition and not being able to find a hardship.

Commissioner LaShomb: Then maybe both of you can also address a second question I have and then I have a third one and that is if the addition on the top of this building was set back sufficiently on the roof so that you'd basically only see it from a distance, would that fundamentally change the staff position?

Staff Voll: I can't speak from a historic preservation perspective, but based on the information I know, setting it back one bay, which it does for the majority of it, and reducing the height of it brings it closer to what we'd like to see so yes, in general, doing something like that...and by denying the FAR variance, losing a little over a floor and some extra square footage would be one alternative that they would be left with doing.

Commissioner LaShomb: And they're not setting it back in their current plan, is that correct? Oh they are setting it back.

Staff Voll: They are setting some of it back, yes. If you were to look at the roof drawing, it is set back one bay except for this part on the 5th St side that comes all the way out to the existing building wall.

Staff Hanauer: I believe Jim answered the questions right and also noted the somewhat limited review of this property being in the national register district rather than the local district, the review by the cities is not clear and it's not set in the preservation ordinance.

Commissioner LaShomb: That didn't answer the question. The question is, what is it about the addition and other changes to this project that would make it non-historical or would affect its potential historical status? Tied to that, if the addition to the existing building were not put on the top, would the building meet all of the historical guidelines and standards with the changes they are proposing? So if they didn't put the roof on but they wanted to fool around with windows, that'd be ok? This historical thing just sort of drives me up a wall sometimes. I'm all in favor of historical preservation but I sometimes think that we carry this to the point of where nothing can be done with some buildings because we have some standard that requires us to carry them on the tax rolls without any revenue. That's just an opinion. What are the characteristics about this that would make it difficult to support this in a historical situation?

Staff Hanauer: This building is a gem. As far as the addition itself, the three floors, there has not been, in the local historic district, an addition that adds more than one story that's been supported by staff – that's from local district, preservation at the preservation commission. Having three floors on top of a four floor building essentially alters the look of the building and that would not be supported. Going to your question on the design portion of just the building itself right now, again, looking at the Secretary of Interior Standards that Jim cited, this would not be in compliance with those guidelines from a preservation standpoint because it alters the look of the building from the outside. As you see for this building in particular, it's a special case of both interior and exterior having significance.

Commissioner LaShomb: My other question; the other thing that drives me up the wall is this FAR issue. I guess my question is, if this were going to be a residential building, would we allow the FAR to be 478? Why is office segregated out?

Staff Voll: In the B4S district, nonresidential uses are allowed an FAR of 4-0, residential are allowed of 8-0 so they're allowed a larger one. My understand of the reasons for the difference between the two is that the nonresidential buildings typically can qualify for more of the floor area ratio premiums that are allowed in the downtown district so it's assumed that they're going to be able to get those premiums and get a bigger building that way. It was assumed that the residential buildings wouldn't qualify for as many of those premiums so the two FAR's were designed that way to work in conjunction with the floor area ratio premiums which are as of right – you do this, you do build a wider a sidewalk, you provide public art, you get a larger FAR. That was the reason for doing that.

Commissioner LaShomb: We have had residential buildings in the warehouse district where they have made additions to the roof and done other things, haven't we?

Staff Voll: To me the argument that residential buildings get a larger FAR and why would we allow this, all I can say is that the code says 4-0. If we took the argument that the code allowed more FAR for other uses therefore we should allow this, I would say then why did we write the code that way then? Based on the code that I have and based on those reasons I explained it was written that way, we looked at the individual elements. When we looked at the individual elements, I don't want it to be that we did a historic preservation review. What we did is we said we have a flat site, a square site, what is the hardship and unique circumstance. You could probably make arguments either way, but when you know that it's a potential historic resource and you know most of the buildings around them are from one to five stories, it's hard to make an argument where we can't find a hardship and where we kind find circumstance that we should jeopardize a historic resource and build a building that's taller than the other ones on the block.

That's the argument that staff's trying to make, not that this is historic property and one should do a historic preservation review.

Commissioner LaShomb: What I'm hearing you say is that if the developer could demonstrate a reason why we ought to grant a variance in this situation then we would probably grant it, but the staff doesn't see that variance.

Staff Voll: Exactly. I wouldn't say it's a bright line that you could never grant a variance here.

President Motzenbecker: I would just add too, the first finding is property can not be put to reasonable use. I think the building as it exists is completely able to be put to a reasonable use as an office building without any change. I think that's kind of the key decision piece for me right now.

Commissioner Tucker: The applicant had a calculation of an FAR asking for 5.75, your report has 4.78. Can you explain the difference in calculations?

Staff Voll: He was including the parking and I should've corrected that when I put it in the staff report. When he made the application, he was assuming that was included and we talked about it and we understand that it isn't, but I didn't correct that in the report. I'm sorry.

Commissioner Tucker: That's fine. Are there any other opportunities for some sort of greening? The alternative compliance on the landscaping...tucking it in behind with an extra ornamental doesn't seem to do the trick of making that street a little more pedestrian friendly. Doing something within the windows if that were possible or within that areaway on 3rd; I wonder if those are possibilities.

Staff Voll: That could be a possibility if the areaways are removed, which it looks like Public Works is going to require that there might be the ability to do some greening in front of the building that way, yes.

President Motzenbecker opened the public hearing.

David Kelly (730 W 50th #205): I was hired by the owners of the property, 500 LLC, to develop the design and to represent them. I've worked closely with Jim Voll and I guess as far as the floor area ratio variance is concerned, we've pointed out that if it was residential you could go 8-0, nonresidential and the type one zoning district is limited to four. If this was a type two, we could be at 8-0, even for nonresidential. The property is small and the building is large so there's very little left over to do much of anything. We've reviewed with staff the floor area ratio premiums that are available in the city ordinance and with the possible exception of the public art premium; most of the others really aren't applicable. We can't widen the sidewalk because the building is right up to the property line on 5th and on 3rd, we have the loading dock along 5th. There is the mixed use development which is going to be primarily office, that doesn't work. It's not going to be residential so there's no premium for that. There is the energy conservation. Part of the charm of the existing building is the concrete construction on the inside for the columns and the brick façade so it was very popular in the warehouse district. Open area on site isn't available so in working with members of the Planning Department it was suggested that if we wanted to add floors we should try the floor area ratio variance as the approach to take so that's what we've done. The existing building, because it is a warehouse, interior columns have excess

capacity. Given that office building loading requirements are less than warehouse so that's where the addition stories, the idea of adding floors, came from. Adding three floors was based on the highrise requirement in the code. If we go higher than the three floors it becomes a high rise building and you get into more code requirements for additional fire protection, for fire command room on the ground floor for smoke evac on the higher floors. We essentially set it adding the three floors, but at the same time it allowed us to have a higher floor to floor height on the fifth, sixth and seventh floor. Existing buildings go floor to floor less than 10 feet, except on the main floor which is at 12 feet. As we started to develop the project, the owners started to have tenants interested in the upper floor primarily because you have the great view of downtown. Parking is an issue in that part of town so the owners decided we would have parking in the lower level and parking on the main level. Staff has addressed their concerns about the lack of openings on the first floor. The owners are concerned about if there was a lot of glass, they would probably want to mask it, have opaque film behind it so you're not looking in at a series of and there's a vandalism concern. Concrete glass block is a consideration that the owners would entertain. As far the character of the three story addition, the original building is innovative in its structural system for the interior columns with the kind of tulip shape. The weak link in the system is that they didn't carry that design to the outside wall. The exterior walls are essentially load bearing brick and they have very little excess capacity. The intent has been to hold the addition back, go with lighter weight construction and because we could not blend, or essentially align, with the front walls...it'd be difficult to essentially match the existing building by having a three story brick building stepped back behind a four story brick building so we took the approach of a more modern aluminum and glass curtain wall façade, light weight, in between the new floors.

President Motzenbecker: In the variance, the FAR variance, as we've already stated once, the first condition is "cannot be put to a reasonable use as it exists." Tell me just a little bit about why not just do a smaller scale project that doesn't necessitate putting the top hat on this building, that doesn't necessitate putting parking on the first floor, that kind of adheres to a majority of the city plans that you're blatantly going against which I have yet to hear a hardship as to why. You stated in your own letter that the industrial character of the neighborhood reduces potential to develop ground floor retail, which is fascinating to me considering that this developer's done like two or three other buildings in the neighborhood and is very aware that there is multiple street level retail that are just going in and successful. Maybe you can talk a little bit about why there is this particular need to do this extensive a redevelopment on this building and why that's a hardship.

David Kelly: It's probably not a hardship, but there is the market out there for office space in this area. In the preliminary design review meeting, it was brought to our attention that the city is considering upgrading 5th and 3rd so this building is at an important intersection for 5th and 3rd. I really can't speak for the owners, all I can say is they see the potential to rent the space by going and by adding floors, but one of the concerns is parking, therefore they've determined that they want to have the ground floor and the basement as parking.

President Motzenbecker: That's interesting too because there's a ramp a half block away that's continually empty. I live a block away from this place. There's parking all underneath the overpass that's available. I've never really seen anyone struggle for parking over there and you only seem to be off your parking needs, you're four over. Maybe you just reduce it and have the basement parking and take that other nine and have them get a spot a half a block away and then maybe pursue some street level retail that kind of focuses on these ideas. The logic isn't making sense to me.

David Kelly: Back to the parking issues, the owners are looking at providing the tenants valet parking. The number of parking stalls incorporated into the basement and first floor are based on the city requirements for eight and a half foot wide by 19 feet deep. The parking stalls, the column spacing down there, we can actually get two eight foot wide by 19 foot deep parking stalls so with valet parking the owners believe they'll be able to get greater parking and they can stack cars one in front of the other so they're actually seeing that there's a lot more parking available, somewhere in the range of 45 to 50 stalls that they can provide their tenants.

President Motzenbecker: That makes me even more concerned.

Commissioner Tucker: Along that same line, one wonders why you couldn't sacrifice a certain amount of that parking, if not all, on the first floor at the corner of 3rd and 5th. Looking at your diagram, you take away three spots and you've got considerable ground level space at the corner for starters. Why couldn't that be done? Another question, if you'd respond to the concern about the roof; is there any particular need for that sloping roof on your new addition at the top or is that just an aesthetic decision by you or the owner? Had you considered other places to put green or other pedestrian amenities on the sidewalk?

David Kelly: Regarding the parking on the first floor at 5th and 3rd, having a retail space/restaurant/office was considered and it was decided to proceed with having parking on the entire first floor. I already forgot the second questions.

Commissioner Tucker: Why was that idea discarded about pedestrian amenities?

David Kelly: That was a decision made by the owners of the building.

Commissioner Tucker: Was it not feasible for a practical reason like you couldn't get doors or...

David Kelly: No, actually that's the best end of the building for being at grade because of the industrial character of the area.

Commissioner Tucker: Second question was about the roof and why you chose...

David Kelly: Understanding that we are adding a lot of height to the building, one way to taper it back because there is a proposal for a rooftop deck on the seventh floor so there would need to be a railing, solid parapet that starts to generate a triangle of space where you can provide a roof up there to start to bring the edges of the building, the mass of the building, down. If you look at the drawing A3.1, the seventh floor is actually smaller than the fifth and six so again there is a deck or balcony underneath that roof. As far as street amenities, we probably could consider that. It's on public property. We are keeping the development within the property limits. The rear of the building, the northwest side, the southwest side on 3rd to southeast side on 5th, those walls are right on the property line and we only have about a 15 foot strip on the alley side of nonbuilt area.

Commissioner Tucker: Are you proposing to widen the sidewalk at that point or fill in the areaways?

David Kelly: No. Not with this proposal, no, although we've had discussions with...

Commissioner Tucker: What you will you be doing with those?

David Kelly: We're in need of mechanical ventilation for the two parking levels because they will be completely interior and heated so we need to draw air in. We need exhaust air on the alley side. We are eliminating one small area well on the front of the building. It's essentially like an awning window for a residential, just four feet by two feet – something like that.

Commissioner Huynh: I'm wondering about discussions you may have had with the neighborhood. I know that the North Loop neighborhood is looking at introducing a lot more green in terms of boulevard trees and you mentioned that the extent of the work is being done on private property, but have you entertained discussions with potentially putting boulevard trees or doing more greening on the street front since you are providing limited glazing at the street level?

David Kelly: I'm going to quickly sidestep that just for a minute by saying that because the city is developing 5th and 3rd, we're not sure what their going to propose to do so the owners have been reluctant to step in approach the city about planning landscaping. Along 5th Street there is the existing loading dock which goes right up to the back side of the curb. Because of the way that area well or that loading dock is structured, there's a secondary set of columns running right down the length of it. Given the neighborhood's concerns about really a lack of a sidewalk along 5th Street, you literally have to now take steps up on to the loading dock and cut across the loading dock. The owner is proposing to pull that loading dock back roughly seven feet in order to provide a public sidewalk. That still would allow access to the entrance for the building, but there is the historic aspects of cutting back that loading dock because that is part of the image of the building. Beyond that, no. I guess the owners are waiting to find out about redevelopment on 5th and 3rd. There are discussions about 5th Avenue becoming a pedestrian causeway between Washington and...

Commissioner Huynh: There are other temporary elements that you can use green in terms of potted plants or other type of measures. The importance here that we're trying to iterate is that you want to make this development be as pedestrian friendly and inviting as possible on the first floor. It doesn't seem that the first floor makes that attempt currently.

David Frank: (730 4th St N): There are a lot of volunteers that are working awfully hard within a couple hundred yards of this location including business owners, property owners, developers, landscape architects, architects to make this part of town something special, to turn what is very much an industrial area into a mixed use, residential, urban, transit oriented place to live and work. As you can see from the letter from the North Loop neighborhood, the thing that the Planning and Zoning Committee of the neighborhood association cared about the most was on that ground floor parking use. If 5th Avenue is to be the gateway from Washington Ave to the new multi-modal transportation hub, to the new Target field – Twins ballpark, to the one part of the neighborhood away from the river. The right way to do that, in the neighborhood's opinion and in my personal opinion, is not to have parking as a ground floor use. I leave to you all of the other elements you're speaking about this evening about how many of the windows that should be glass or be bricked up if it stays as parking or if it's permitted as parking, but I'm here personally to urge you not to allow parking as a ground floor use. I think that is a huge mistake, one that takes away from the pedestrian oriented character. I believe that there are other far more viable uses for this space. If you stand at this corner and turn in a circle, you can see retail that is happening, you can see other retail that will soon be happening and for what it's worth you can almost see two big mistakes in this same direction. One is the minimart at 5th Ave and 2nd Street

with its glazed over windows where you can't see in and at 5th and Washington where there is a sub storage facility in what passes for ground floor windows. I would urge you not to go for the same thing a third time with parking at the ground level, especially in this prominent location. Thank you.

Commissioner Tucker: Did you have any objection if they have parking on the interior portion of the first floor?

David Frank: No, certainly not. What's important to me is that as you walk along the street that what you see is an active use and what you encounter is other people coming and going to active uses.

Commissioner Gorecki: Did the neighborhood take a stand on the three story addition at all?

David Frank: As you can see in the letter, this was the neighborhood's action, not supportive of parking as a ground floor use. It seemed like that was such a fundamental thing that we spent all our time on that.

Chris Aho [not on sign-in sheet]: This is a drawing that was given to us by Mr. Kelly. The perspective of the property that Mr. Young owns is depicted up here in this corner. There's currently a blank wall of the four story structure. What we understand to be involved here is the construction of three more stories on that wall, which is shown here, so instead of four stories of blank walls, there will now be seven. There are three concerns involved here. First, there is a common wall agreement and we're concerned about the structural integrity of that wall if this three story addition is constructed. Second, the blank wall is not particularly attractive to three more stories, but Jerry's building is two stories tall and it has windows that face this building and there's a concern about shadowing from this new three story addition. Finally, there is a concern because of the location of this wall right on the common property line. There is currently parking on both sides. This is a structure on Jerry's property that has kind of a dome to it. There are off-street parking areas for Jerry's tenants on both sides of this dome that abut this wall on Jerry's property. The concern is going to be that if there's going to be construction up here that he's going to lose use of those stalls and is also potentially looking at damage to the dome. I don't think that there's an objection to improvement of the site as such, but the building steps away from the corners on each side except this one and that doesn't make a lot of sense. The blank wall is very unattractive; the shadows are a concern and finally is this issue during construction of the safety and use of their parking spaces. Thanks.

Sandy Steelman (411 Washington Ave) [not on sign-in sheet]: We have the parking lot that's directly across from this building, across 5th. Our concern is that with this new addition this brings this building to approximately the same size we are and we're currently using all 100 parking spaces that we have. The parking in the area is so tight right now. The Designer Guild ramp is full. I'm having tenants who are getting kicked out of there. The Gardner parking ramp, the Gardner parking lots are unavailable and we're having trouble getting underneath the bridges down by the Ford Center. This addition would add quite a strain on the parking in that area also. It would be great to see something done with the building. We would like to see some kind of retail on that first floor. I just can't see 20 or even 40 parking spaces being anywhere close to enough.

Ned Abdul [not on sign-in sheet]: I'm just trying to understand a few things. Basically, we've asked you for two things here; one is a variance for the floor area ratio and the other is a site plan review. In reviewing the staff's comments on both of these items, I guess I'm not totally understanding. This building is in a national register, it's not a protected building under the Minneapolis Heritage Preservation Commission or whatever you want to call it. Why we're putting so much emphasis on the historic part of the building seems to be circumventing the system to a certain extent. What the Planning Department is suggesting, trying to mimic this cornice is really counterproductive to what the national register guidelines base things on. If you are to add or make any changes to a historic building, you don't want to try to mimic that building, but you actually want to differentiate that building, the old part and the new part. In several of the projects we've added on when things are actually in the protected district and we've gotten clearance to move forward, that was one of the elements very much looked at by the Preservation Commission. On this parking issue, I guess I'm not understanding the discussion on this. We realize that there's not a lot of parking and that's why we're suggesting we need some kind of parking to develop this parcel. We're not adding...by eliminating 20,000 feet of usable space, which is in the basement on the main floor, we're only adding 25,000 feet or something, we're not really adding much more footage to the building. We're trying to compensate for the lack of parking in the neighborhood by adding it on the inside. It's obviously not the best and most economical use for us for the space. Obviously we would love to have it as retail space from an economic point of view, however, fundamentally this area won't support office without some form of parking. As you can see, all the parking in the area is pretty well full and for use to try to stick another 100 people, which let's just assume half of them use public transit, there's going to be nowhere for them to park. It's a realistic issue that we have to deal with and this is the way we've attempted to approach that issue. The other thing I want to point out to the Planning Commission is that is that the zoning allows for up to eight stories for a residential use. It's interesting to me that we need a variance to convert this thing into an office. What if we did this as a mixed-use project, if we did office on the first five stories and residential on the top two? We would conform with the FAR because the FAR isn't really looked at, it's based on units. If we were to convert this building to residential, which the zoning allows, we would be required to have .90 for every unit, assume we need to provide 30 or 40 parking spots that way. We're trying to develop the best use of this building that makes any economic sense at all as opposed to just leaving it some type of warehouse. We've owned this building for a few years now and this is really the best opportunity we've had to make some type of development of the building. These points to me don't seem to add up. What we're asking for from a site plan review seems like it's evolved into a historic review.

President Motzenbecker: It has not. The Historic Preservation was put in there just for an understanding; that's not something that we're charged to decide on.

Ned Abdul: We'll just look at the site issues then as individualistically.

President Motzenbecker: I did have a question that I asked to Mr. Kelly before you arrived. Part of the FAR variance first finding, as I'm sure you're well aware, is the property can not be put to reasonable use as it stands, strict adherence causing you undue hardship. My question was, why not just do a smaller scale project that fits within the framework of your building, that needs less parking, that has first floor retail? Why is that so hard to do?

Ned Abdul: Because we need to provide the parking, first of all, so we it's not economically feasible...

President Motzenbecker: You're only required right now to provide 16 spots.

Ned Abdul: I don't mean from a zoning requirement, I'm referring to the fact that, realistically, if there is no parking people are not going to office there. It's not going to be feasible for a leasable space. Uptown Minneapolis doesn't have any parking and there are certain pedestrian overlay districts, but if you can't provide actual parking, not parking credits, you can't rent the space so it's not feasible. We have the option to lop one of these stories off and we'd probably make the FAR and just do a story on top of the building instead of a three story, which I think keeps us right around the 4.0 or our other option is to seek one of the credits that are available through zoning that you can get for display of public or a certain type of insulation and so on that we could try if we have to.

Commissioner Huynh: You addressed parking as part of your criteria in terms of why you need it on the first floor and lower level; my question is, have you looked at other options in terms of how you can incentivize other people that may be using the building to use bicycles instead? Currently, on the northwest corner of the building you have secured bicycle parking for only four stalls. Have you looked at increasing that to potentially like 30 or 40 and providing a showering facility for people that may want to bike to work instead of driving?

Ned Abdul: We haven't investigated that any further, however, we do have a tenant for this building that's going to take 20,000 feet and they want the ability to have their employee's bike.

Commissioner Huynh: Having that option in terms of just discussing that with the tenant or the owners is a legit option for this site considering that the LRT is on the way, it's a developing site and you want to keep the area as pedestrian friendly as possible and minimize the amount of single occupancy vehicles, but there's increased ridership in bicycles and I just think that I would encourage you to explore that option instead of providing parking onsite.

Ned Abdul: I think we're open to more parking. I guess the way I analyzed it is this building if it were full would have somewhere around 150 employees. If 25 or 30 percent of them actually drive, then we can supply parking for them. The other 60 to 70 percent would be bicycles or public transit. We are in Minnesota and I don't think people will be bicycling in the middle of winter, but maybe some will.

Commissioner Gorecki: I really don't have an issue regarding the three stories and am kind of excited about it. It looks good; I like the creativeness. I do think the lost opportunity though is putting the parking on the ground floor. I think you're short-sided in the sense of what is going to be happening in that particular area. People walk four blocks. I walk four blocks, I work downtown. It is doable. You could look at some of the ramps that are approximately four blocks away, maybe five blocks. I have to agree with some of the neighborhood comments. The first floor is critical. I think long term, even for you from a development perspective; I think you're better off going from some sort of an office retail perspective than putting parking on the ground floor. I think that's the biggest struggle we're having here...or at least that I'm having with it.

Ned Abdul: We're kind of building this building on a spec, we only have one tenant, we don't have the whole building leased up. Do we turn tenants away if they say they need a certain amount of spots and we don't have them? They're going to go somewhere else. At the end of the day we need to be fiscally responsible of the rental rates and so on and provide the amenities and services that the client needs and obviously parking is one of them. If the Planning Commission

is saying they would consider the FAR and in lieu of maybe a portion of that first floor we've brought one schematic we can show you of maybe the corner of 5th and 3rd potentially being some type of retail that would maybe work that would offer less parking but it wouldn't be no parking on the first floor just because we can't make this project work with 25 spots.

President Motzenbecker: I'm just intrigued in the sense that nine spots doesn't seem like a make or break for a project. You've got nine spots on that top floor, you've got 11 on the bottom floor. It's been stated that if you restripe and refigure your spots, you could get quite a bit more on that lower level and then you would be able to free up that first floor. I'm just having a hard time with nine spots as a make or break for your entire office development. As opposed to flying in the face of nearly six or 10 city policies, Comprehensive Plan things, everything... neighborhood issues that are begging you, more or less, to look at this with a longer vision and more perspective for the greater context as well as your own interests, obviously, and say that maybe there can be a compromise reached here.

Ned Abdul: We've looked at that option and for code issues we submitted the plan as it sits. We even considered like we have in some of the other buildings that we own in the warehouse district, a valet situation where we can actually cram more cars on the lower level and some on the upper level and get more vehicles in there. Once again, all this goes back to the economics of the project. I know that that's not the only thing that the Planning Commission looks at, but it's just something that we have to take into consideration that if we can't park sufficient cars... I would love it if there were a municipal ramp across the street like there is on 1st Avenue, but we just don't have that option here.

President Motzenbecker: There's one just across the tracks.

Ned Abdul: Which one is that?

President Motzenbecker: Right next to JD Hoyts, it's a giant ramp right there. I believe it's "B Ramp."

Ned Abdul: Right, but you're really walking. I guess when the bridge opens up with the stadium, it's more pedestrian friendly. We own a lot of this other stuff in the warehouse district and a lot of our folks are concerned about security and their young gals walking to their cars at night. The shorter the walk, the shorter the distance, it's just more appealing to the tenant. Not saying that nobody will do that and even if we do provide this parking, a certain amount of people are still going to have to walk over that bridge.

Commissioner Tucker: Did you have a schematic of this alternate first floor use?

Ned Abdul: I do.

Commissioner Tucker: Perhaps Mr. Voll could start thinking about how using the first floor for office in total or in part will affect the FAR calculations because that might be a consideration in how we resolve this.

Ned Abdul: The entrance and the exit to the parking would be the same, the lobby would be the same, but what we've done is we've carved out about 2400 feet on the corner of 5th and 3rd for

some type of a ground floor use whether it be retail or some type of trendy office use or something like that. We lose some parking and so on.

Commissioner Tucker: How many parking places show on that diagram?

Ned Abdul: It shows eight.

David Kelly: One of the differences in the plan is in the lower right hand corner we're not showing the loading dock. The city department is saying we really can't have a loading dock off of that alley so we've gained that space back.

Commissioner Tucker: So that's not a loss because you can't work it anyway, right?

Ned Abdul: It would increase the other plan with the full parking by the same amount of spots also. We feel like we're going to be able to get more parks in here just simply because if we do try to introduce this valet situation that will probably double these parks. That's not something that I think you take into consideration for a code review from a parking standpoint.

Commissioner Tucker: These other scheme that just came by would include the three new stories as your proposal, right? It would add square footage to your proposal that was submitted formally [tape ended]...then require an FAR variance of even greater...

Ned Abdul: Of a little bit more, but I guess it gives you the first floor retail.

Commissioner Tucker: Or if you took away the third floor and added this in, you might still need a variance to make that work. I'm just curious if that might be where the numbers are.

Staff Voll: The 7th floor is 6, 558 so if you took off a complete floor and this is 2300 plus or minus, you'd have enough under an FAR variance. You can't grant a bigger FAR variance today because we didn't notice for a bigger one, but if you did something like that you'd have enough room to do a first floor retail.

President Motzenbecker closed the public hearing.

Staff Voll: Commissioner Tucker asked about doing landscaping and the opportunities for it and I said Public Works wanted the areaways removed and that would be an opportunity, but as I read the report, they just wanted a clarification of what's happening with the areaways and area wells. I heard Mr. Kelly say that they weren't planning on getting rid of them. If people were thinking that you could just put some dirt in there and you can do some plantings; Public Works won't allow that, it'd doesn't meet building code. They have to actually remove areaways, which is a very expensive process. You should just be aware that it's not as easy as I made it sound just a few minutes ago. Unless they are physically taking out the areaways, then yes, it would be easy to put it in, but if they aren't planning to do that, which it sounds like they're not and they're not required to do, that's not an easy solution.

Commissioner LaShomb: I'm going to move approval of the variance, but Jim I wasn't clear what you said about...is the 4.78 now moot if the retail space is put in on the first floor?

Staff Voll: The way the site plan works now is that parking is not included in FAR so the first floor, which is 10,000 some square feet, we're not including in that 4.78 number so if you take parking away and add retail, that's adding square footage to the FAR. Since we did a public notification of 4.78, you can't go above that. What that means is that every square foot that you add on the first floor is a square foot you have to take away on one of the other floors.

Commissioner LaShomb: Are you telling me basically that we ought to layover the variance until they can come in with a...what's the process that...

Staff Voll: I'm not suggesting that, no. If you wanted to continue it, they would have to give us additional time because there wouldn't be enough time under the 120...

Commissioner LaShomb: Here's the scenario I think is developing, I think my personal opinion about this is that it is in the public interest to have a larger office project here than the existing building. If you're not going to use land downtown to create office space and office density when you've got all the amenities and everything else there, then I think it's kind of a strange public policy. I understand that there are historical implications but I think there are a lot of places in Minneapolis where there are historical implications where we're doing awfully big stuff and the two areas that I think about immediately, and I realize they are predominately residential, one is the Mills District where we've approved some things with huge FARs and we're doing to have one on the 17th next to the Dinkydome where the City Council's justification was that if we allow them to rebuild the Dinkydome we're going to allow a 13 story building. I think that's a pretty big project for Dinkytown. I think the basic point I'd make is that I think adding the additional space on top of this building if it's set back in a way that doesn't get particularly noticed from the street, is not a bad thing. I think it's reasonable to say that it's in the public interest and there is some hardship. I think in the letter from Mr. Kelly it identifies four of them, maybe the second one regarding retail doesn't quite hold as much water. I think we're basically saying it isn't the additional office space that's the problem on top of the existing building, it's utilizing retail space on the first floor and to do that you're going to have to reduce parking. Any developer that comes within a mile and a half from downtown Minneapolis that comes in and says they have to have a bunch of parking, needs to start developing in suburbs where they have lots of open farmland. I've lived downtown for 17 years and there are a large number of people who didn't move into office space in anticipation they were going to have a parking space within 50 feet of their office. That's not what downtown is about. Downtown is about having a bunch of amenities that outweigh some of the issues that you might get in suburban projects. I'm struggling with what to do with item A because we don't know if it's 4.78. I guess we can make a guess and if we're not right they can come back a second time or we can lay it over.

Staff Voll: If you lay the whole thing over you will not have enough time under the 120 day law. The application will have to grant us a...

Staff Wittenberg: It looks like we have not yet sent an extension. End of the 60 days is November 21st so that would allow us to extend to January 20th which would allow us only a one cycle continuance, taking into account any potential appeals of the November 17th Planning Commission meeting.

Staff Voll: As I figured it, the 120 days was January 20th. If we went to the next Planning Commission, that'd be December 8th and that would mean a January City Council meeting that would probably be the second City Council meeting which would be January 23rd.

Staff Wittenberg: The way I'm looking at it is a November 17th decision, any appeal would be heard at December 18th Zoning and Planning Committee which would go to the December 30th City Council.

Staff Voll: I'm forgetting about November 17th, so yes, we could continue it.

President Motzenbecker: If, for instance, this was as staff recommended, denied tonight. The applicant could still get something in there, maybe not the three floors but perhaps two or one and half or something and then they may be able to put in that first floor retail as we see on the screen which would kind of bring it right back in the same realm. Is that correct?

Staff Voll: I don't have a calculator here to do the math, but if you did a variance to 4.78, it would allow them the two stories that they wanted to do, and this and possibly a little bit extra, but probably not enough to do a full third floor. If you want to continue it you should give him some guidance on what you'd like to see.

President Motzenbecker: I still don't find the findings we need to make. I understand what Commissioner LaShomb is saying and I agree with it. I'm not seeing an undue hardship. I think it could be put to reasonable use. I think the spirit, intent and essential character is definitely altered by not having this first floor retail, especially with all the Comprehensive Plan and city plan things that are in place.

Commissioner Nordyke: We can lay this over and we can do that without having the applicant agree? Is that motion on the table? I will wait and see.

Commissioner Tucker: I move that we lay this over one cycle to clarify the FAR variance that might be required with adding ground floor retail, but I think we want to add some instruction to that (Huynh seconded). I think the reason we want to continue this rather than simply deny is to get that ground floor activity. We're looking for more than just what was in that diagram showing the 2400 square feet on 3rd in the first three bays along 5th. I think we want all of 5th to be their lobby, their office, a use that relates to the street in some way. If the interior of it is still parking, that's perfectly reasonable if that's their decision. It's active use on the street frontage is what we're trying to get to. With that, I imagine there might be some flexibility in an FAR variance to go up, maybe not all three stories, but certainly two stories added to this ground floor retail will have to go above four and I'm thinking that this will be received favorably, most likely. There are other issues that came up; one was the support for the staff recommendation that the roof line be changed and we understand it's not...you're not trying to mimic the old but you are trying to be sympathetic and that didn't seem sympathetic and I think that's what staff with HPC and CPC were saying. The other thing is that we want more exploration of more ways to activate the street level, perhaps green somehow in that areaway. Any sort of scheme I think would be well received.

Commissioner Huynh: I'd also like to add, if you could also explore options of providing more bike parking on site. Currently there are only four, but with the potential add on of retail at 3rd and 5th, you'll be below the minimum requirements as Zoning requires. If you can add more parking, it will off-set automobile parking on site.

President Motzenbecker: Ok, we'd love to see an active use on both street facades, pulling all the way along 5th as well as 3rd, we are fine if you have parking behind that, but just that whole façade Commissioner Tucker would like exploration there. Explore more bike parking within the facility or nearby and a more sympathetic roof to the historic designs that were outlined. Anything else Commissioners? All those in favor of continuing to November 17th? Opposed?

The motion carried 7-0.