

**Department of Community Planning and Economic Development - Planning Division**  
Expansion of a Legal Nonconforming Use, Variance, and Site Plan Review  
BZZ-3368

**Date:** February 5, 2007

**Applicant:** DMH I, LLC dba Kirschbaum & Krupp Metal Recycling, LLC

**Address of Property:** 1728 2<sup>nd</sup> Street North

**Project Name:** Kirschbaum & Krupp Metal Recycling, LLC

**Contact Person and Phone:** Bill Schoen 701-746-1439

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

**Date Application Deemed Complete:** December 28, 2006

**End of 60 Day Decision Period:** February 26, 2007

**Date Extension Letter Sent:** January 23, 2007

**End of 120 Day Decision Period:** April 27, 2007

**Ward: 5     Neighborhood Organization:** Northside Residence Redevelopment Council (Near-North)

**Existing Zoning:** I2 Medium Industrial District and MR Mississippi River Overlay District

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 13

**Legal Description:** Not applicable for this application.

**Proposed/Existing Use:** An approximately 17,000 square foot addition to an existing building in a legally nonconforming scrap yard.

**Concurrent Review:**

**Expansion of a Legal Nonconforming Use:** For a 17,000 square foot building addition.

**Variance:** To increase the maximum allowable height of a fence from eight feet to ten feet.

**Site Plan Review:** For a 17,000 square foot building addition and site modifications.

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, specifically Section 525.520(5) “to permit an increase in the maximum height of a fence”; Chapter 530, Site Plan Review; and Chapter 531 Nonconforming Uses and Structures.

## CPED Planning Division Report

BZZ-3368

**Background:** DMH I, LLC has recently purchased the Kirschbaum & Krupp Recycling facility at 1728 2<sup>nd</sup> Street North. They propose to continue operating the site as a scrap yard, but propose a new 17,000 square foot addition to move the majority of operations indoors and to prevent customer traffic spilling onto the public streets. Two sheds on the north side of the building will be demolished. Other improvements include a new stormwater basin, paved parking, a new ten-foot high screen fence around the site (this requires a variance), and improved landscaping.

Kirschbaum & Krupp is a scrap metal recycler that is classified as a scrap/salvage yard under the zoning code. It has operated at this site since the 1940's. In 1989, the site was downzoned from M3-3 to M1-2 and it then became a legal nonconforming use. On January 8, 1996, the City Planning Commission granted an expansion of a nonconforming use to build a 40 foot by 50 foot storage shed (NCE-16). In 1999, the zoning of the site was changed from M1-2 Light Manufacturing to I2 Medium Industrial as a part of the general remapping of the City with the adoption of the 1999 zoning code. The site remained legally nonconforming.

In 2001, Kirschbaum and Krupp applied for an expansion of a nonconforming use to legalize the change made to the building approved in 1996 (it was built 54 feet by 64 feet rather than the approved 40 feet by 50 feet) and to add another addition for a can densifier on the south side of the east wing of the building. It is not clear to staff if the can densifier was ever constructed.

A scrap yard requires the I3 General Industrial District to be a conforming use, but the site is zoned I2 Medium Industrial, so the current proposal requires an expansion of a nonconforming use, site plan review, and a fence height variance. If all of the processing and storage were located indoors, then this use could be classified as a recycling facility, which is a conditional use in the I2 District. The applicant has indicated that this is not possible; however, the majority of processing and storage will be moved indoors.

As of the writing of this report, staff has not received any correspondence from the neighborhood group, but will forward comments, if any, at the Planning Commission meeting. The Above the Falls Citizen Advisory Committee (AFCAC) has sent a letter that finds that the proposed improvements comply with the vision of the *Above the Falls* plan (please see attached letter).

### **EXPANSION OF A LEGAL NONCONFORMING USE**

#### **Findings as Required by the Minneapolis Zoning Code:**

**The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):**

**1. A rezoning of the property would be inappropriate.**

A scrap/salvage yard is first allowed as a conditional use permit in the I3 General Industrial District. *The Minneapolis Plan* designates this area an industrial park opportunity area. While I3 may be appropriate in some circumstances, in general the goal of the comprehensive plan is to promote low-

## CPED Planning Division Report

BZZ-3368

impact, job-intense, light industrial uses as the preferred land use in industrial park areas. In addition, heavy industrial uses are encouraged to mitigate negative impacts or relocate where possible (see pages 1.2.2-1.2.3). The site was downzoned in 1989 from the M3-3 General Manufacturing District to the M1-2 Light Manufacturing District. In 1999, it was rezoned I2 Light Industrial as a part of the general remapping of the City with the adoption of the 1999 zoning code. A rezoning of this site to I3 would be inappropriate.

**2. The enlargement, expansion, relocation, or intensification will be compatible with adjacent property and the neighborhood.**

The addition will be relatively small. While it will be 17,000 square feet, it will replace two sheds that total 5,759 square feet and it will be used to consolidate much of the activity that is presently occurring outdoors on the site and sometimes in the public streets. No new equipment or overall increase in capacity is proposed. The applicant also proposes improving the site by adding stormwater retention, paved parking, a new screen fence, and improved site landscaping. The surrounding area is industrial with a historical transition from scrap metal and other metal processing uses to light industrial uses. The use is nonconforming, but the proposed improvements, with the recommended conditions of approval, will make the use more compatible with the surrounding area.

**3. The enlargement, expansion, relocation, or intensification will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

There should not be a significant increase in off-site impacts. No new major equipment will be added to the facility. The intent is to clean up the site and move the majority of the activity indoors. The addition should reduce the odor, dust, noise, and congestion in the streets by moving activity indoors and providing adequate vehicle stacking, parking, and maneuvering on site. Please see the specific developments standards section at the end of this section of the staff report.

**4. The enlargement, expansion, relocation, or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

The majority of the activity that occurs at the site will be moved indoors. The outdoor areas will be paved for parking, customer queuing, and truck maneuvering. A new screen fence, landscaping, and stormwater management will be provided. This should be an improvement for the area.

**5. In districts in which residential uses are allowed, the enlargement, expansion, relocation, or intensification will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located.**

The use is not a residential building. The expansion will not add additional units.

**CPED Planning Division Report**  
BZZ-3368

**6. The enlargement, expansion, relocation, or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

**In addition, to the above findings, the zoning code has the following specific development standards for scrap/salvage yard, metal milling facility:**

(1) Scrap/salvage yards, metal milling facilities established or expanded after the effective date of this ordinance shall be located at least three hundred (300) feet from any residence or office residence district.

The facility was established legally before the zoning on the site was changed making the use legally nonconforming. It is located at least 300 feet from any residence or office residence district.

(2) Any new scrap/salvage yard, metal milling facility and any substantial intensification of an existing facility shall require approval of a conditional use permit. For the purposes of regulating scrap/salvage yards, metal milling facilities, substantial intensification shall mean any of the following:

a. Any geographic expansion of the facility.

b. The addition of any structure or expansion to the bulk of any structure, except additions or expansions designed primarily to provide weather protection or noise or air pollution abatement for existing shredding, milling, grinding, baling or packing equipment for the handling of scrap or salvage materials included on a certified list of such equipment properly submitted to the zoning administrator by August 31, 1992, in accordance with the requirements of the zoning code of 1963, and which do not change machine capacity or facility capacity.

c. The addition of any shredding, milling, grinding, baling or packing equipment for the handling of scrap or salvage materials, or the replacement of any existing shredding, milling, grinding, baling or packing equipment for the handling of scrap and salvage materials not included on a certified list of such equipment properly submitted to the zoning administrator by August 31, 1992, in accordance with the requirements of the zoning code of 1963.

d. The replacement of any existing shredding, milling, grinding, baling or packing equipment for the handling of scrap and salvage materials included on a certified list of such equipment properly submitted to the zoning administrator by August 31, 1992, in accordance with the requirements of the zoning code of 1963, which results in an increase of greater than ten (10) percent in the rated compression capacity, shear force capacity or other appropriate power or capacity measurement approved by the zoning administrator for the piece of equipment being replaced.

The expansion will be to enclose existing operations and no new equipment is being added to the site. Please see the attached inventory of existing site equipment.

## CPED Planning Division Report

BZZ-3368

(3) All scrap/salvage yard, metal milling facilities shall provide the following with any application for conditional use permit:

The applicant has provided a written statement that answers the following items. Please see attached letter for the detailed information.

a. A vicinity plan that includes the following:

1. A description of natural features, including streams, rivers, lakes, wetlands and major topographical features located within three hundred fifty (350) feet of the site.

The surrounding area within 350 is industrial with few significant natural features. The Mississippi River is to the east over 350 feet away.

2. A description of the proposal and how it compares to land uses within three hundred fifty (350) feet of the site.

The surrounding area is industrial with scrap and metal processing uses to the north, south, and east and the majority of the remaining area being utilized for light industrial uses. There is a rail line to the east.

3. A description of any potential environmental hazard due to existing or proposed land uses, including soil, water and air contamination.

The applicant has indicated that there may be some environmental harm from past operations, but the applicant is entering into a voluntary Environmental Compliance Agreement with the Minnesota Pollution Control Agency to address these issues.

b. An air quality plan describing stationary and mobile source air emissions, their quantities and composition, and indicating conformance with all applicable air quality regulations.

The enclosed building should eliminate most emissions from the site. The site will comply with all local, state, and Federal air quality requirements.

c. A dust management plan describing dust emission sources, their quantity and composition, and how dust will be collected, managed and disposed of, and indicating conformance with all applicable dust emission regulations.

The majority of operations will be moved indoors. Please see the attached dust management plan that will identify sources of dust generation, assign dust control methods, and keep a record of this activity.

d. A sound attenuation plan describing sources of sound and indicating conformance with all applicable sound and noise regulations.

No new noise sources are proposed and the majority of operations will be moved indoors. The building will be designed with materials to mitigate noise impacts.

## CPED Planning Division Report

BZZ-3368

e. A vibration dampening plan describing sources of vibration and indicating conformance with all applicable vibration regulations.

No new sources of vibration are proposed. Please see the applicant's statement for maintenance, education, and engineering solutions relating to vibration.

f. A drainage plan for stormwater management and runoff.

A drainage, stormwater management, and erosion control plan will be reviewed and approved by Public Works at the final site plan stage before building permits may be issued. See the attached PDR report for Public Works commentary on these items.

g. A landscape plan showing compliance with the requirements of Chapter 350, Recycling Activities and Salvage Yards, of the Minneapolis Code of Ordinances and Chapter 530, Site Plan Review.

A landscape plan will be approved by Planning staff at the final site plan stage before building permits may be issues.

h. A traffic plan describing the number of truck trips the proposal will generate and the principal access routes to the facility, including a description of the facility's traffic impact on the surrounding area.

The applicant does not anticipate any increase in truck traffic to and from the site. One of the main goals of the building addition and improvements to the north and south yard is to have all customer and truck traffic, maneuvering, loading and unloading occur on site.

### **VARIANCE (to increase fence height from eight feet to ten feet)**

#### **Findings Required by the Minneapolis Zoning Code:**

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

The applicant proposes to replace the old fencing at the side with a ten-foot concrete screen fence around the perimeter of the entire site except where there are buildings near the property line. In no case shall fencing exceed eight feet without a variance and it shall not exceed six feet within five feet of a public sidewalk. All fencing is shown five feet or more from the public sidewalk and there are no required yards, so the height limit is eight feet. A variance is necessary to go to ten feet. The applicant claims the fence is necessary for security and screening (please see attached statement from the applicant). A lower fence may be less secure and would be less effective at screening any outside storage and operations. The industrial character of the area, the fence design, and recommended landscaping will mitigate the effects of the taller fence. Strict adherence would be impractical and could be a hardship. It is staff's opinion that the proposed fence is reasonable for this site.

## CPED Planning Division Report

BZZ-3368

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

The site already has a fence that is in poor condition. The variances are necessary to allow the fencing to be replaced with a more secure fence. The fencing is part of a larger site that has buildings up to the property line that makes the height less out of scale with the property. The majority of the fencing will be along the north, south and east sides of the property, so the impact of the reduced height is reduced. In addition, the recommended landscaping should mitigate the increased height of the fence. However, a long fence of this type along the front of the site on 2<sup>nd</sup> Street North might not be appropriate. These are circumstances that are not generally applicable to most other properties in the area.

- 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 prevent fences from blocking views up and down the street in the front yard setbacks, to prevent a fortress like appearance, and to allow some visibility into and out of the site. There are no setbacks on this property and the majority of the fencing will be along the north, south and east sides of the property, so the impact is reduced. The fence will have patterns to break up the length (please see attached elevations). In addition, the recommended landscaping should mitigate the increased height of the fence. However, a long fence of this type along the front of the site on 2<sup>nd</sup> Street might not be appropriate. The proposed variance should not circumvent the intent of the ordinance.

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

The fence should have no impact on traffic. The fence should not be detrimental to the public 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.)**

**CPED Planning Division Report**  
**BZZ-3368**

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

**BUILDING PLACEMENT AND FAÇADE:**

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. 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

## CPED Planning Division Report

BZZ-3368

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.

The existing building is located up to the property line on 2<sup>nd</sup> Street North and 17<sup>th</sup> Avenue North. This will not be altered. The addition will be at the east side of the building. There will be landscaping between the fence and the property line and between the building and the public sidewalk in the right-of-way, where allowed by Public Works through an encroachment permit. Currently a principal entrance faces 2<sup>nd</sup> Street North and this will not change.

The building addition will include architectural detail including a decorative horizontal band along the north side and horizontal projections or bands as a part of the panels on the east side of the addition. There will also be windows on this façade. The east side facade has blank uninterrupted walls greater than 25 feet for the portion that would be considered a first story (14 feet and under), but staff recommends alternative compliance as this part of the wall will be behind the screen fence and will not be visible. A portion of the north façade of the addition between the garage doors is 32 feet wide and the taller portion of the addition at the eastern part of the north façade have blank walls that are greater than 25 feet. Staff recommends alternative compliance as the façade does have a horizontal decorative band and this elevation is at the back of the site and less visible from the public right-of-way.

The existing windows on the existing building will not be reduced from the current configuration and some on the first floor will be changed from glass block to clear pane glass windows. The east side façade of the addition is not required to provide windows, but some are provided. Industrial buildings may provide less than 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. The north facade facing the parking lot has no windows.

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

There are no parking garages proposed for the site. The parking will be located on the north and south sides of the building.

### 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.

## CPED Planning Division Report

BZZ-3368

The entrances to the building open onto the parking areas and to the the public sidewalk on 2<sup>nd</sup> Street North.

There are no transit shelters or alleys on the site and there are no adjacent residential properties.

Public Works and the Fire Department have reviewed the site plan for access and circulation and find them acceptable with the changes to the curb cuts on 2<sup>nd</sup> Street North and 17<sup>th</sup> Avenue North as outlined in the attached PDR report.

The site has been designed to minimize impervious surfaces and all areas that are not covered by buildings, pedestrian access, and paved areas necessary for parking, loading, and the associated maneuvering are pervious surfaces used for landscaping and stormwater management.

### **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.**
- **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 21 percent landscaping. The lot area is 160,670 square feet and the footprint of the buildings is approximately 80,966 square feet. This leaves 79,704 square feet, of which 20 percent (15,941 square feet) is required to be landscaped.

## CPED Planning Division Report

BZZ-3368

The development is required to provide 32 trees and 159 shrubs. The site plan shows 15 trees and an extensive planting list, but staff can not determine the number of shrubs. The final landscaping plan shall show at least 159 shrubs on-site. The 22 columnar arborvitae listed as trees on the landscaping plan can not be counted as trees under zoning code requirements (the code requires canopy trees), so the applicant is required to provide 17 more trees. Staff recommends adding at least two trees in the stormwater filtration basin, such as Swamp Oak, River Birch, Green Ash, or other species that will survive in wetter areas. In addition, staff recommends planting eight smaller trees or four larger trees along the east side of the south yard between the truck loading area and the new fence. It is not possible to provide any more trees on the site without reducing required parking, truck loading, or necessary stacking and maneuvering areas, so staff recommends alternative compliance for the difference of trees. If the small tree option is used for the south yard, then the applicant will have to provide ten additional trees and will receive alternative compliance for seven trees. If the large tree option is used for the south yard, then the applicant will have to provide six additional trees and will receive alternative compliance for nine trees.

A seven-foot wide landscaped area with a ten-foot screen fence is provided along the 2<sup>nd</sup> Street North frontage and a five-foot wide landscaped area with a ten-foot screen fence is provided on 17<sup>th</sup> Avenue North between the parking and loading and the public street (the fence heights require variances). It is not possible to have a seven-foot yard along 17<sup>th</sup> Avenue North as it would encroach into the existing loading dock area, so staff recommends granting alternative compliance due to practical difficulties. No other screening is required on site.

Even with the additional recommended trees, not all parking spaces will be within 50 feet of a deciduous tree. There will be five spaces at the northeast corner of the addition on the east side of the north yard that will be over 50 feet of a tree. It is not possible to provide any more trees on the site without reducing required parking, truck loading, or necessary stacking and maneuvering areas, so staff recommends alternative compliance to allow this parking further than 50 feet from a deciduous tree.

### **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.**

Curbing is shown around the surface parking area with breaks around the filtration area to allow stormwater flow.

## CPED Planning Division Report

BZZ-3368

The buildings do not block of important views of the city, shadow public spaces and adjacent properties, and will not significantly generate wind currents at ground level.

The plan meets the CPTED guidelines. The crime prevention specialists recommends that proper lighting be provided and that graffiti protection be provided for the fence along the railroad property.

There are no historic structures on the site, however HPC staff have indicated that the building may have potential historic value that would have to be evaluated if the building were ever proposed to be demolished, but the proposed addition does not require HPC review.

### **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:** This use is classified as a scrap/salvage yard, metal milling facility. The zoning code defines this as “a use where scrap or salvage materials are shredded, milled, crushed, ground, bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, bottles, plastics and aluminum cans. A scrap/salvage yard, metal milling facility may include automobile wrecking or dismantling.” The proposed use is a permitted use in the I3 Medium Industrial District. The site is zoned I2 and is a legal nonconforming use that does not have rights for automobile wrecking or dismantling. Because the use is nonconforming, the applicant has requested an Expansion of a Legal Nonconforming Use.

**Off-Street Parking and Loading:** The zoning code parking requirement for a scrap yard is as approved by the conditional use permit. This operation will be very similar to a recycling facility, which has a parking requirement that is as approved by conditional use permit, but not less than 1 space per 1,000 square feet of gross floor area up to 20,000 square feet plus 1 space per 2,000 square feet of gross floor area in excess of 20,000 square feet. The gross floor area of the building after demolitions and the new addition will be 80,966 square feet. This would require 50 parking spaces. The proposed site plan shows 51 parking spaces in the north yard. It is staff’s opinion that there is adequate parking for this project. Two handicapped accessible spaces are required and three are provided; of which two are van accessible. Three large loading spaces are required and seven are provided.

**Maximum Floor Area:** The maximum FAR in the I2 District is 2.7. The lot in question is 160,673 square feet in area. The site will contain approximately 80,966 square feet of gross floor area on the lot, an FAR of 0.5.

**Building Height:** Building height in the I2 District is limited to 4 stories or 56 feet, whichever is less. The existing/proposed building is two stories.

**Minimum Lot Area:** There is no minimum lot size for this use in the I2 District.

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

**Yard Requirements:** No setbacks are required for this use in the I2 District.

## CPED Planning Division Report

BZZ-3368

**Specific Development Standards:** Please see the expansion of a nonconforming use section of this report for the discussion of the specific development standards.

**Hours of Open to the Public:** In the I2 District, uses may be open to the public during the following hours: Sunday through Thursday from 6:00 a.m. to 10:00 p.m. and Friday and Saturday from 6:00 a.m. to 11:00 p.m. The site will be open to the public 7:30 a.m. to 4:30 p.m. Monday through Friday and from 7:30 a.m. to noon on Saturday.

**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 proposed sign plan is not yet finalized. The applicant is aware that signs require zoning office 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 as required by 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 shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.
- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.
- (5) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

**CPED Planning Division Report**  
BZZ-3368

**MINNEAPOLIS PLAN:**

Map 1.2.1, of the *Minneapolis Plan* identifies this area as part of the North Washington Jobs Park and as an Industrial Park area. The plan states that “Minneapolis will support the existing economic base by providing adequate land and infrastructure to make city sites attractive to business willing to invest in high job density, low impact light industrial activity.” The existing use is legally nonconforming and may not be in conformance with the goals of the comprehensive plan; however, it is legally established and nonconforming and the proposed expansion and improvements will greatly improve the facility and in that sense the proposed expansion is in conformance with the goals of the *Minneapolis Plan*.

**SMALL AREA PLANS ADOPTED BY COUNCIL:**

The *Above the Falls* plan (adopted 2000) shows this area as a light industrial/business park. It does not provide any specific direction beyond existing plans regarding land use (see page 61). The proposed improvements do not appear to be in conflict with the goals of the plan.

This site is in the MR Mississippi River Critical Area Overlay District. *The Mississippi River Critical Area Plan* was approved by the City Council on June 16, 2006. The plan states that “the City will follow the land use guidelines of *The Minneapolis Plan* except where modified by small area plans...” Please see *The Minneapolis Plan* commentary in the section above.

The *Industrial Land Use* study was adopted by the City Council on November 3, 2006, and shows this site as part of an Employment District which, are areas designated for continued industrial use.

**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.**

## CPED Planning Division Report

BZZ-3368

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

- 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.

The building addition will include architectural detail including a decorative horizontal band along the north side and horizontal projections or bands as a part of the panels on the east side of the addition. There will also be windows on this façade. The east side facade has blank uninterrupted walls greater than 25 feet for the portion that would be considered a first story (14 feet and under), but staff recommends alternative compliance as this part of the wall will be behind the screen fence and will not be visible. A portion of the north façade of the addition between the garage doors is 32 feet wide and the taller portion of the addition at the eastern part of the north façade have blank walls that are greater than 25 feet. Staff recommends alternative compliance as the façade does have a horizontal decorative band and this elevation is at the back of the site and less visible from the public right-of-way.

- Number of trees.

The development is required to provide 32 trees. The plan shows 15 trees. The 22 columnar arborvitae listed as trees on the landscaping plan can not be counted as trees under zoning code requirements (the code requires canopy trees), so the applicant is required to provide 17 more trees. Staff recommends adding at least two trees in the stormwater filtration basin, such as Swamp Oak, River Birch, Green Ash, or other species that will survive in wetter areas. In addition, staff recommends planting eight smaller trees or four larger trees along the east side of the south yard between the truck loading area and the new fence. It is not possible to provide any more trees on the site without reducing required parking, truck loading, or necessary stacking and maneuvering areas, so staff recommends alternative compliance for the difference of trees due to practical difficulties. If the small tree option is used for the south yard, then the applicant will have to provide ten additional trees and will receive alternative compliance for seven trees. If the large tree option is used for the south yard, then the applicant will have to provide six additional trees and will receive alternative compliance for nine trees.

- Seven-foot wide landscaped yard on 17<sup>th</sup> Avenue North adjacent to parking and loading.

It is not possible to have a seven-foot yard along 17<sup>th</sup> Avenue North as it would encroach into the existing loading dock area, so staff recommends granting alternative compliance due to practical difficulties.

- Parking spaces within 50 feet of a on-site deciduous tree.

Even with the additional recommended trees, not all parking spaces will be within 50 feet of a deciduous tree. There will be five spaces at the northeast corner of the addition on the east side of the north yard that will be over 50 feet of a tree. It is not possible to provide any more trees on the site without reducing required parking, truck loading, or necessary stacking and maneuvering areas, so staff recommends alternative compliance to allow this parking further than 50 feet from a deciduous tree due to practical difficulties.

**CPED Planning Division Report**  
BZZ-3368

**RECOMMENDATIONS:**

**Recommendation of the Community Planning and Economic Development Department - Planning Division for the expansion of a legal nonconforming use:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the expansion of a legal nonconforming use for property located at 1728 2<sup>nd</sup> Street North subject to the following conditions:

- 1) Compliance with the Specific Development Standards for scrap/salvage yards, the applicant's proposed plan for compliance with the development standards, and all applicable City regulations regarding, but not limited to, air quality, dust management, noise, vibration, drainage and stormwater management as required by code, including but not limited to Chapter 20, Zoning, Article IX, General Performance Standards; Chapter 47, Air Quality; and Chapter 389, Noise.
- 2) All processing, storage, loading and unloading of material shall occur on site and not in the public right-of-way as required by Chapter 541 of the Zoning Code.

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance application to increase the maximum allowable height of a fence from eight feet to ten feet for property located at 1728 2<sup>nd</sup> Street North subject to the following conditions:

- 1) The fences shall be setback five feet from the public sidewalks.
- 2) Provision of vines along the entire east side fence as a graffiti prevention measure.
- 3) Provision of additional columnar or prickly landscaping material on the west and south sides of the fence as a graffiti prevention measure.
- 4) The gate designs shall be shown on the final site plan and shall be made of a material that complies with zoning code standards, is of an attractive design that is compatible with the proposed fencing, and shall not exceed ten feet in height.

## CPED Planning Division Report

BZZ-3368

### **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 1728 2<sup>nd</sup> Street North subject to the following conditions:

- 1) 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 February 5, 2008, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 3) Provision of a revised landscaping plan that shows the following: two additional trees in the retention basin that are Swamp Oak, River Birch, Green Ash, or a similar species that can survive in a wet area; provision of eight small canopy trees or four large canopy trees along the east side of the south yard between the truck loading area and the new fence; the area between the building and the east fence shall be included in the landscape plan and shall be maintained; and a more detailed plan that shows the plant layout on the areas along the public sidewalks shall be provided at the final site plan stage.
- 4) The applicant is encouraged to protect and preserve the large tree on the adjacent property to the east during building construction and fence installation.

### **Attachments:**

1. Statements from applicant.
2. Letters from neighbor and AFCAC
3. PDR report.
4. Zoning map.
5. Site plans and elevations.
6. Photos.