

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variances, and Site Plan Review
BZZ – 3799

Date: December 17, 2007

Applicant: Fung's Property, Inc.

Address of Property: 2528 & 2548 Nicollet Avenue South

Project Name: Ice House Redevelopment

Contact Person and Phone: Craig Wilson, (612) 455-2177

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: November 16, 2007

End of 60-Day Decision Period: January 15, 2008

Ward: 6 **Neighborhood Organization:** Whittier

Existing Zoning: C3A Community Activity Center District and PO Pedestrian Oriented Overlay District

Proposed Zoning: Not applicable

Zoning Plate Number: 20

Legal Description: Not applicable

Proposed Use: Mixed use development including a hotel, restaurants, a reception hall (event space), retail and office

Concurrent Review:

Conditional use permit to allow a shopping center.

Variance to reduce the rear yard requirement along the alley from 11 feet to 0 feet to allow windows.

Variance to reduce the loading requirement from 4 spaces to 3 spaces.

Variance of the PO district standard to increase the maximum width of a driveway from 20 feet to 24 feet.

Site plan review.

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Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, Section 525.520 (1) “To vary the yard requirements...”, (6) “To reduce the applicable off-street...loading requirements by up to 20 percent of the applicable regulations or one space, whichever is greater,” and (20) “To vary the standards of any overlay district...”; and Chapter 530, Site Plan Review.

Background: The applicant proposes to redevelop the properties of 2528 and 2548 Nicollet Avenue into a mixed use development with a hotel, restaurants, a reception hall, retail and offices. Three buildings exist on the site. A one-story building located at the interior of the site would be demolished to allow for a 4-story addition that would connect a two-story building located at the intersection of Nicollet Avenue and 26th Street and the “Ice House” building located adjacent to the alley. Restaurants located on the first floor of the Nicollet/26th Street building would remain. The hotel would occupy part of the addition and the second floor of the Nicollet/26th Street building. The retail spaces would occupy the first floor of the addition and offices would be located in part of the second floor of the addition. The “Ice House” would be converted to a reception hall and a second level would be added to the space. Three levels of below-grade parking including 216 parking spaces are also proposed. The parking would be accessed from 26th Street. A loading area would be located at the rear of the site adjacent to the alley.

As part of a zoning study for the Nicollet Franklin Area, the City Council amended the zoning of this site from the C1 district to the C3A and added the PO district in August of this year.

Because not all of the commercial uses would include a separate principal entrance facing the street, the development is also classified as a shopping center. A shopping center is a conditional use in the C3A district. Upon approval of the conditional use permit, the actions must be recorded with Hennepin County as required by state law.

The total loading requirement for the development is 3 small spaces and one large space. Only three small spaces would be provided. A variance is required.

A yard is required where windows for the hotel face the rear lot line adjacent to the alley. The minimum rear yard requirement is equal to $5+2x$, where x is equal to the number of stories above the first floor. A 4-story building is proposed, therefore the minimum requirement is 11 feet. No building setback is proposed where the windows would face the alley. A variance is required.

The driveway width for all parking facilities located in the PO Pedestrian Oriented Overlay Districts cannot exceed 20 feet of street frontage. The driveway leading to the below-grade parking would be 24 feet wide. A variance is required.

The development would increase the gross floor area of the existing buildings by more than 1,000 square feet, therefore a site plan review is required.

Correspondence from the Whittier Alliance neighborhood was received and is attached to this report. Staff will forward comments, if any are received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT: to allow a shopping center.

Findings as required by the Minneapolis Zoning Code:

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

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

The establishment of a shopping center on the site would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

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

The proposed shopping center should have little more, if any, effect on surrounding properties than the existing uses. However, the loading facility at the rear of the site could have a negative effect if trucks cannot maneuver into the loading area without crossing onto the residential properties located across the alley.

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

The site is served by existing infrastructure. Access to the below-grade parking garage would be provided from 26th Street. Access to the loading area would be from the alley. To the extent practical, all maneuvers associated with loading must occur in the off-street loading area as required by Chapter 541 of the zoning code. Staff is concerned that the proposed loading configuration would require maneuvering on the residential properties across the alley. Also, Public Works has stated that they will not allow any maneuvering in the alley. Access to the loading area from the alley should not significantly impact surrounding uses as long as all maneuvering is restricted to the alley and on-site. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way.

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

The applicant completed a TDMP as required by the PO district. No major issues were identified in that document. The minimum parking requirement for the development is 200 parking spaces. A total of 216 spaces are proposed. The applicant is also proposing 30 bike parking spaces. The development should have little effect on congestion in the streets.

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

Please refer to the site plan review section of this report.

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

The development will conform to the applicable regulations of the districts in which it is located upon the approval of the conditional use permit, variances, and site plan review.

VARIANCES: 1) to reduce the rear yard requirement along the alley from 11 feet to 0 feet to allow windows; 2) to reduce the loading requirement from 4 spaces to 3 spaces; and 3) variance of the PO district standard to increase the maximum width of a driveway from 20 feet to 24 feet.

Findings as required by the Minneapolis Zoning Code:

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

Yard variance: A yard is required where windows for the hotel face the rear lot line adjacent to the alley. The minimum rear yard requirement is equal to $5+2x$, where x is equal to the number of stories above the first floor. A 4-story building is proposed, therefore the minimum requirement is 11 feet. No building setback is proposed where the windows would face the alley. The building is adjacent to an alley providing air and light to the hotel rooms. The variance request is reasonable.

Loading variance: The total loading requirement for the development is 3 small spaces (10 feet wide by 25 feet deep each) and one large space (12 feet wide by 50 feet deep). Only three small spaces would be provided. The applicant indicated that the proposed uses would share the use of the loading area. They also indicated that they do not expect the hotel or any of the other uses would require a loading space for large semi-trailers. The request to reduce the number of spaces is reasonable.

Driveway variance: The driveway width for all parking facilities located in a PO Overlay cannot exceed 20 feet of street frontage. The driveway leading to the below-grade parking would be 24 feet wide. The redevelopment includes preserving two existing buildings, which limits where ingress and egress to a below-grade parking area could be located. The existing vehicle access to the site is located on Nicollet Avenue. Nicollet Avenue is designated as a commercial corridor by the comprehensive plan and is the center of the 26th Street and Nicollet Avenue activity center. The primary intent of the Nicollet/Franklin Avenue PO district is to preserve the pedestrian character of Nicollet Avenue. The applicant has indicated that narrowing the driveway would increase the potential for congestion when vehicles are entering and exiting at the same time. Because of the existing buildings, there is not an alternate location available for a second, separate driveway access. The variance request is reasonable.

- 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.**

Yard variance: The fact that the parcel shares a rear lot line with a public alley instead of another building is not generally applicable to other projects. The redevelopment of the site includes preserving two existing buildings, which limits where construction can occur.

Loading variance: The redevelopment includes preserving two existing buildings, which constrains where a loading area could be located. The buildings limit access to the alley or Nicollet Avenue. Nicollet Avenue is designated as a commercial corridor by the comprehensive plan and is the center of the 26th Street and Nicollet Avenue activity center. A loading facility adjacent to Nicollet Avenue would not be appropriate. These circumstances have not been created by the applicant.

Driveway variance: The redevelopment includes preserving two existing buildings, which limits where ingress and egress to a below-grade parking area could be located. The existing vehicle access to the site is located on Nicollet Avenue. Nicollet Avenue is designated as a commercial corridor by the comprehensive plan and is the center of the 26th Street and Nicollet Avenue activity center. The primary intent of the Nicollet/Franklin Avenue PO district is to preserve the pedestrian character of Nicollet Avenue. The applicant has indicated that narrowing the driveway would increase the potential for congestion when vehicles are entering and exiting at the same time. Because of the existing buildings, there is not an alternate location available for a second, separate driveway access. These circumstances have not been created by the applicant.

- 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.**

Yard variance: In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The windows would be provided on the second floor of a two-story addition adjacent to an alley. A green screen would be attached to this wall as well. The applicant has indicated it would project only three inches from the wall and thereby not project into the alley. Surface parking for multifamily dwellings are located on the opposite side of the alley. The variance should have little effect on access to light and air for the subject site and surrounding properties. It should not be injurious to the use of other property, specifically users of the alley, if the green screens do not project into the right-of-way. Public Works has stated that they will not approve an encroachment permit because the entire alley width is needed for snow plows and garbage trucks to operate.

Loading variance: Loading regulations are established to provide for the loading needs of uses and structures, to enhance the compatibility between loading areas and their surroundings, and to regulate the number, design, maintenance, use and location of required off-street loading spaces and the driveways and aisles that provide access and maneuvering space. The applicant does not expect the proposed and existing uses would require a loading space for large semi-trailers.

They also indicated the three small loading spaces would be shared and sufficient for all loading needs. Reducing the number of required loading spaces should have little effect on surrounding uses.

Driveway variance: The purpose of the PO standards is to preserve and encourage the pedestrian character of commercial areas and to promote street life and activity by regulating building orientation and design and accessory parking facilities, and by prohibiting certain high impact and automobile-oriented uses. If the site was not located in a PO district, a 25-foot wide curb cut would be allowed as-of-right. Currently, vehicle access to the site is from Nicollet Avenue through a 24-foot wide curb cut. The applicant is proposing to relocate vehicle access to 26th Street and construct an addition fronting Nicollet Avenue. A wider driveway should have little effect on the pedestrian character of the area because it would not increase the driveway street frontage that currently is located on the site and should not reduce on-street parking once the existing curb cut is closed.

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.**

Yard variance: The CPED Department does not expect that granting the variance would affect congestion, public safety or public welfare as long as the green screens do not project into the alley right-of-way.

Loading variance: The CPED Department does not expect that granting the variance would affect congestion or public safety.

Driveway variance: The CPED Department does not expect that granting the variance would affect congestion once the existing curb cut is closed. If adequate provisions to alert pedestrians of oncoming cars and vice-versa are provided at the parking garage entrance, the wider driveway should have little effect on public safety. Public Works requires that the applicant install a vehicle warning system.

SITE PLAN REVIEW

Findings as required by the Minneapolis Zoning Code for the 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 the Zoning Code

BUILDING PLACEMENT AND DESIGN:

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- 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 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.

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Minimum window area shall be measured as indicated in section 530.120 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.**

Conformance with above requirements:

The building would reinforce the street wall on Nicollet Avenue and 26th Street. The new walls adjacent to Nicollet Avenue would be angled creating a “jagged” appearance. Windows would be provided on both side of the angled walls at ground level to provide natural surveillance and visibility with views up and down the street. All public entrances would have direct access to the public sidewalks.

All first floor walls would be within 8 feet of the lot lines adjacent to Nicollet Avenue and 26th Street.

Landscaping would be provided where the building would not be built up to the front lot line.

Multiple entrances would face Nicollet Avenue and 26th Street.

All parking would be located below-grade.

The building design includes recesses and projections and windows on all levels to divide the building into smaller identifiable sections.

There would be several blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length. On the west elevation, the first floor wall adjacent to the parking garage entrance would be blank for 61 feet. The south elevation of the third and fourth floors of the hotel would be a blank wall 32 feet in width. The north elevation of the third and fourth floors of the hotel would be a blank wall 56 feet in width. The exterior materials of west and south walls would be a composite panel siding system with a green wall over the system. The south walls would be set back approximately 80 feet from 26th Street. Further, a large window helps to divide the mass of the walls as a whole. Granting alternative compliance for these walls should have little affect on the security of surrounding areas because the walls are elevated or windows are provided on other nearby walls. The west and south walls are not prominent walls because they do not abut streets. The Nicollet Avenue façade is very prominent. The applicant has indicated that the primary exterior material along Nicollet would be either metal panels or a composite panel siding system. Staff believes providing metal panels would emphasize its prominence more than a composite system. Staff believes alternative compliance is warranted for the aforementioned reasons on the west and south walls and if the metal panels are used as the primary exterior material on the Nicollet Avenue façade. The north walls would be clad only in a composite panel siding system. It would project above the adjacent structure and would be visible from Nicollet Avenue. A large blank wall would likely detract from the Nicollet Avenue elevation. Additional architectural

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elements could be provided making alternative compliance unnecessary. Staff is recommending that alternative compliance not be granted for the north walls.

The primary exterior materials of the existing buildings are brick and glass. The primary exterior materials of new construction would include metal panels, composite siding panel systems, concrete block masonry, and glass. The applicant has indicated that the composite system may be substituted for the metal panels proposed on the Nicollet Avenue elevation if the metal proves cost prohibitive. Staff is recommending that the applicant use metal panels as the primary material on the Nicollet Avenue façade as an alternative compliance measure for blank walls proposed on the west and south elevations. Please note, exterior material changes at a later date would require review by the Planning Commission and an amendment to the site plan review.

All sides of the building would be compatible with the front of the building.

The applicant has indicated that along the alley and in the loading area, the primary exterior material would be concrete block masonry. These walls are located across an alley from residential uses. Staff is recommending that plain face concrete block not be used as a primary exterior building material. Rock-face concrete block would be acceptable.

All sides of the building would be compatible to each other and similar in appearance.

Multiple entrances would be provided facing both Nicollet Avenue (proposed and existing) and 26th Street (existing). The applicant has not indicated that any changes would be made to the existing entrances. The new entrances would be recessed and sheltered by an overhang in the building to emphasize their importance.

The walls facing Nicollet Avenue and 26th Street are subject to the minimum window requirements. Where the windows are angled (not parallel to the street), measurements were calculated from the plan view. Because the site is located in the PO district, at least 40 percent of the first floor walls are required to be windows. On the Nicollet Avenue façade, the first floor would contain over 42 percent windows meeting all design standards. On the 26th Street façade, over 45 percent windows exist. The amount of windows would not be reduced. At least 10 percent of the walls above the first floor are required to be windows. On Nicollet Avenue, the second floor would contain over 30 percent windows and the third and fourth floors would contain 18 percent windows. Facing 26th Street, the second floor would contain over 20 percent of windows and the third and fourth floors would contain 8.6 percent. Alternative compliance is requested for the third and fourth floor window requirements facing 26th Street. To comply with the requirements, at least 7.2 square feet must be added on each wall. The walls are set back approximately 80 feet from 26th Street. They are adjacent to a stairway, elevator shaft and two hotel rooms. Additional windows could be provided in the hotel rooms or in the stairway; however, it is not likely that these windows would increase safety for the surrounding area. The applicant has also requested alternative compliance for allowing blank walls on this elevation. Staff recommended that alternative compliance be granted because green screens would cover most of the wall. Also, staff recommended that prominence be given to the Nicollet Avenue façade by using metal panels as the primary exterior material. Staff believes the alternative meets the intent and recommends that the planning commission grant alternative compliance.

All windows would be vertical in proportion and distributed in an even manner.

The applicant has indicated that all windows would be clear and non-tinted.

On the new construction, a flat roof is proposed. Most of the nonresidential buildings in the area also have flat roofs.

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.

Conformance with above requirements:

All building entrances would have direct access to the public sidewalks.

A transit shelter is not proposed or adjacent to the site.

The below-grade parking would be accessed through a curb cut located on 26th Street. The applicant is requesting a variance to increase the driveway width from 20 feet to 24 feet. The variance should have little effect on pedestrians if adequate provisions to alert pedestrians of oncoming cars and vice-versa are provided at the parking garage entrance. Public Works requires that the applicant install a vehicle warning system. The parking access would be directly adjacent to the alley resulting in limited visibility for both vehicles exiting the parking garage and vehicles using the alley. Staff is recommending that the applicant install a mechanism to improve visibility, such as mirrors or an opening in the wall.

The loading area would only be accessible from the alley. Residential uses occupy the west half of the block. Predominantly commercial uses are located east of the alley. Most of the properties, both residential and commercial, have vehicle access to the alley. The existing parking area on the site has access to the alley. The location of existing buildings limit where access to the loading area can be provided. The applicant expects two vehicle trips per day for the hotel, five trips for the retail tenants, and six trips for the restaurants. For the reception hall, the applicant expects seven vehicle trips per week. Delivery days would depend on which days the reception hall would hold events. To the extent practical, all maneuvers associated with loading must occur in the off-street loading area as required by Chapter 541 of the zoning code. Staff is concerned that the proposed loading configuration would require maneuvering on the residential properties across the alley. Also, Public Works has stated that they will not allow any maneuvering in the alley. Significant changes made to the site plan as a result of reconfiguring

the loading area would require review by the Planning Commission and an amendment to the site plan review. Access to the loading area from the alley should not significantly impact surrounding uses as long as all maneuvering is restricted to the alley and on-site.

The building would occupy most of the site. Green roofs would be located on part of the new construction to mitigate the amount of impervious surfaces.

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.**

Conformance with above requirements:

The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is approximately 51,724 square feet. The building, including the below-grade parking area, would occupy the entire site. The applicant is providing planters along Nicollet Avenue where the first floor of the building is recessed. Green roofs are proposed on the roofs of the second and third floors that would contain over 9,000 square feet of pervious area. Over 50 deciduous canopy trees and 60 shrubs are proposed. The rest of the pervious areas would be covered by perennials and ornamental grasses

The loading area would be located across an alley from residential uses. A 7-foot wide landscaped yard and screening that is 6 feet in height and not less than 95 percent opaque are required to screen the loading area. No landscaping or screening is proposed for the loading space. The loading area is located beneath the second floor of the building where landscaping is impractical. The opening for the loading area is 53 feet wide. Providing screening that cannot be moved could hinder truck access and service to the loading area necessary for the operation of the proposed uses. Staff is recommending that the planning commission grant alternative compliance for the landscaping and screening requirements.

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.

Conformance with above requirements:

The building should not impede any views of important elements of the city.

The new construction should not significantly shadow the adjacent streets or properties.

Wind currents should not be major concern.

The Nicollet Avenue and 26th Street elevations would have an abundant amount of windows to allow for natural surveillance and visibility. Along the alley, very few windows would be provided. Lighting should be provided that maintains a minimum level of security while not creating glare or excessive lighting of the site. The applicant is encouraged to apply a paraffin wax or other substance that removes graffiti more easily on the Ice House building and in the loading area. Loitering non-customers has been a problem for businesses along Nicollet Avenue. The seating areas shown in the perspectives should contain planters to indicate that they are private areas, rather than public seating.

The existing structures on the site are not historic. However, the applicant is proposing to retain two existing buildings of local significance.

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: The properties of 2528 and 2548 Nicollet Avenue are zoned C3A with the PO overlay. Hotels, sit-down restaurants, reception halls, general retail sales and services and offices are all permitted uses in these districts. Because not all of the commercial uses would include a separate principal entrance facing the street, the development is also classified as a shopping center. A shopping center is a conditional use in the C3A district.

Parking and Loading: The minimum parking requirement for uses in the development are as follows:

- Restaurants are required to provide parking equal to 30 percent of the capacity of persons (each person is assumed to occupy 15 square feet). All of the restaurants exist on the site and are proposed to remain unchanged. The parking requirements for Azia, Caterpillar Lounge, and Taco Morelos were reduced to 30 spaces by previous variances. Anemone has 950 square feet of seating/lobby area, which requires 19 spaces. Therefore the total parking requirement for the restaurants is 49 spaces.
- Offices are required to provide one space per 300 sq. ft. in excess of 4,000 sq. ft. Two office spaces less than or equal to 4,800 square feet each are proposed. Therefore the parking requirement for the offices is 8 spaces.
- General retail sales and services uses are required to provide one space per 300 square feet in excess of 4,000 square feet. Three retail spaces less than or equal to 4,630 square feet each are proposed. Therefore a total of 12 spaces are required for the retail spaces.
- Reception halls require parking equal to 30 percent of the capacity of persons. The applicant has indicated that 6,160 square feet of the Ice House building would be used as seating/lobby area. Therefore 123 spaces are required.
- For hotels, one space per three guest rooms plus parking equal to 30 percent of the capacity of persons of affiliated uses such as dining and meeting rooms is required. The hotel would have 75 guest rooms. The current proposal does not include any affiliated uses. The parking requirement of the hotel is 25 spaces. However, if any areas of the hotel are converted to affiliated uses, in effect open to the public and are not strictly limited to use by guests of the hotel, the parking requirement will increase.

Through section 541.190 of the zoning code, the applicant applied to reduce the parking requirement by utilizing shared parking. A reduction in the total number of required parking spaces is authorized when two or more uses jointly provide off-street parking when their respective hours of peak operation do not overlap. Shared parking reduces the requirement by 10 spaces. The parking requirement for each use can also be reduced by providing four bike parking spaces in lieu of one vehicle space. Thirty bike spaces are proposed. Five would be located next to the shopping center entrance and 25 would be located in the below-grade parking garage. Therefore, the bike parking further reduces the parking requirement by seven spaces.

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After the parking reductions are applied, the minimum parking requirement for the development is 200 spaces. The applicant is proposing to provide 216 spaces.

The minimum loading requirements for uses in the development are as follows:

- Approximately 9,000 square feet of floor area would be devoted to restaurant uses. The zoning code assigns a low rating to determine the loading requirement. For the amount of floor area proposed, adequate shipping and receiving facilities, accessible by motor vehicle off any adjacent alley, service drive or open space are required on the same zoning lot.
- Offices would occupy 6,715 square feet of floor area. The zoning code assigns a medium rating to determine the loading requirement. For the amount of floor area proposed, one small loading space (10 feet wide by 25 feet deep) is required.
- The reception hall would occupy approximately 10,000 square feet of floor area. The zoning code assigns a medium rating to determine the loading requirement. For the amount of floor area proposed, one small loading space is required.
- Retail tenant spaces would occupy approximately 13,400 square feet of floor area. The zoning code assigns a medium rating to determine the loading requirement. For the amount of floor area proposed, one small loading space is required.
- The hotel would occupy approximately 36,000 square feet of floor area. The zoning code assigns a medium rating to determine the loading requirement. For the amount of floor area proposed, one large loading space (12 feet wide by 50 feet deep) is required.

The total loading requirement for the development is 3 small spaces and one large space. Only three small spaces would be provided. The applicant is requesting a variance to reduce the loading requirement.

Maximum Floor Area: The lot area is 51,724 square feet. The maximum FAR allowed in the C3A District is 2.7. The building would have a total of 94,439 square feet, which is an FAR of 1.83.

The maximum floor area of retail sales and services uses in the C3A district is 8,000 square feet if no parking is located between the principal structure and the street and the structure is at least two-stories. The largest retail tenant space would be 4,800 square feet.

Minimum Lot Area: Not applicable.

Building Height: In the C3A district, the maximum height is limited to 4 stories or 56 feet, whichever is less. The proposed height is 4 stories and 56 feet.

Yard Requirements: A yard is required where windows for the hotel face the rear lot line adjacent to the alley. The minimum rear yard requirement is equal to $5+2x$, where x is equal to the number of stories above the first floor. A 4-story building is proposed, therefore the

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minimum requirement is 11 feet. No building setback is proposed where the windows would face the alley. The applicant is requesting a variance to reduce the yard requirement.

PO Pedestrian Oriented Overlay District Standards: General standards apply to all development located in the PO overlay.

- The first floor of the building must be located within eight feet of a lot line adjacent to a street. First floor building walls facing a street would be within 8 feet of the lot line.
- The first floor façade of the building that faces a public street or a sidewalk is required to have at least 40 percent clear or lightly tinted glass that allows views into and out of the building at eye level and are distributed in a more or less even manner. On the Nicollet Avenue façade, the first floor would contain over 42 percent windows meeting these standards.
- Pole signs, back-lighted awning and canopy signs, and back-lighted insertable panel projecting signs are prohibited. The applicant has indicated that no new signs are proposed at this time.
- Accessory parking is required to be located at the rear or interior of the site, within the building, or entirely below grade. The proposed parking would be located below-grade. The maximum amount of accessory parking spaces cannot exceed the minimum parking requirements more than 150 percent. The proposed amount of parking is only 108 percent of the minimum requirement. The driveway width for all parking facilities cannot exceed 20 feet of street frontage. The driveway leading to the below-grade parking would be 24 feet wide. The applicant is requesting a variance of this standard.

Additional standards apply to development located in the Nicollet Franklin Area PO overlay.

- For nonresidential uses, at least one bicycle space must be provided for each ten accessory automobile parking spaces. Because 216 automobile parking spaces are proposed, at least 22 bicycle parking spaces are required. The applicant proposes 30 bicycle spaces.
- A Travel Demand Management Plan is required for any commercial development containing more than 10,000 square feet of new floor area. The applicant has completed a TDMP.
- Building alterations are not allowed to reduce the height of buildings existing on the site. The development would increase the building height.
- A minimum floor area ratio of 1.0 is required. The development would have an FAR of 1.83.
- New development on the corner of two streets is required to have a setback at the sidewalk level on the corner of the building. The existing building located at the corner of Nicollet Avenue and 26th Street has a corner cut. The corner cut would remain.

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- No single commercial use is allowed to extend more than 120 linear feet of the first floor facade of a building fronting any street. None of the existing or proposed uses would exceed 120 linear feet of frontage on the first floor.

Specific Development Standards: Hotels and sit-down restaurants are subject to development standards. Hotels are required to provide at least 50 guest sleeping rooms when located outside of the downtown districts. Seventy-five rooms are proposed. Where alcoholic beverages are served in sit-down restaurants, not less than 60 percent of total gross sales revenue must be from the sale of food and beverages not containing alcohol, and the use must comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter. Also, restaurants are required to regularly inspect the premises, all adjacent streets, sidewalks and alleys for the purposes of removing any litter found thereon.

Hours of Operation: The hours of operation for the commercial tenant(s), except the hotel, must comply with the district requirements. In the C3A District, nonresidential uses may be open to the public during the following hours: Sunday through Saturday from 6:00 a.m. to 1:00 a.m.

Refuse screening: Refuse storage containers must be enclosed on all four sides by screening compatible with the principal structure not less than two feet higher than the refuse container to effectively screen them from the street and adjacent residential uses. The refuse storage containers would be contained in the loading area. The building would screen them from the street and a six foot high wood fence would be provided to screen them from residential uses located across the alley.

Screening of mechanical equipment: Mechanical equipment would be located on the roof of the second floor. Its location should minimize visual impact as required by Chapter 535 and district requirements.

Lighting: Existing and proposed lighting must comply with Chapter 535 and Chapter 541 of the zoning code including:

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.

Signs: The applicant has indicated that no new signage is proposed at this time. Any new signage will require Zoning Office review, approval, and permits.

MINNEAPOLIS PLAN:

The site is adjacent to Nicollet Avenue, which is designated as a commercial corridor by *The Minneapolis Plan*. It is also within a designated activity center. According to the principles and polices outlined in the plan, the following apply to this proposal:

4.3 Minneapolis will support development in Commercial Corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.

Applicable Implementation Steps

Support a mix of uses on Commercial Corridors--such as retail sales, office, institutional, higher density residential (including Major Housing Sites where designated), and clean low-impact light industrial--where compatible with the existing and desired character of the street.

Develop parking facilities and management strategies that balance the following goals: improved customer access, protection of sidewalk traffic; reduced visual impacts and shared use of parking facilities.

Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

4.7 Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.

Applicable Implementation Steps

Ensure that land use regulations support diverse commercial and residential development types which generate activity all day long and into the evening.

Preserve traditional urban form in buildings where it currently exists, and encourage new development to relate to traditional siting and massing, where it is already established.

Develop parking facilities and management strategies that accommodate high customer demand, promote shared facilities and minimize visual impact and adverse effects on pedestrian and sidewalk traffic.

Require that buildings in Activity Center districts incorporate a pedestrian orientation at the street edge.

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

Applicable 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.

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

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

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

Applicable Implementation Steps

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

Encourage site planning for new developments that orients the “back” of proposed buildings to the “back” of existing development.

Require screening and buffering for new developments next to residential areas.

Promote quality design and building orientation of commercial and industrial development that is appropriate with the surrounding neighborhoods.

Staff comment: The new construction would reinforce the street wall along Nicollet Avenue. Along Nicollet Avenue and 26th Street, the pedestrian orientation of the buildings would be maintained. The proposed uses are appropriate for a commercial corridor and activity center. All parking would be provided within the building, minimizing its visual impacts and impacts on surrounding residential uses. The parking would also be shared among the uses. The parking access should have little effect on pedestrians if adequate provisions to alert pedestrians of oncoming cars and vice-versa are provided at the garage entrance. The development would be separated from surrounding residential properties by an alley. Only the loading area would have access to the alley. The loading facility at the rear of the site could have a negative effect if trucks cannot maneuver into the loading area without crossing onto the residential properties located across the alley. The loading area needs to be reconfigured if turning movements cannot be confined on-site and within the alley. Staff is recommending that turning movements be provided. With the adoption of the staff recommendations, the proposed development would be consistent with the comprehensive plan.

ALTERNATIVE COMPLIANCE:

The Planning Commission or zoning administrator 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

There would be several blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length. On the west elevation, the first floor wall adjacent to the parking garage entrance would be blank for 61 feet. The south elevation of the third and fourth floors of the hotel would be a blank wall 32 feet in width. The north elevation of the third and fourth floors of the hotel would be a blank wall 56 feet in width. The exterior materials of west and south walls would be a composite panel siding system with a green wall over the system. The south walls would be set back approximately 80 feet from 26th Street. Further, a large window helps to divide the mass of the walls as a whole. Granting alternative compliance for these walls should have little affect on the security of surrounding areas because the walls are elevated or windows are provided on other nearby walls. The west and south walls are not prominent walls because they do not abut streets. The Nicollet Avenue façade is very prominent. The applicant has indicated that the primary exterior material along Nicollet would be either metal panels or a composite panel siding system. Staff believes providing metal panels would emphasize its prominence more than a composite system. Staff believes alternative compliance is warranted for the aforementioned reasons on the west and south walls and if the metal panels are used as the primary exterior material on the Nicollet Avenue façade. The north walls would be clad only in a composite panel siding system. It would project above the adjacent structure and would be visible from Nicollet Avenue. A large blank wall would likely detract from the Nicollet Avenue elevation. Additional architectural elements could be provided making alternative compliance unnecessary. Staff is recommending that alternative compliance not be granted for the north walls.

▪ Plain-face concrete block

The applicant has indicated that along the alley and in the loading area, the primary exterior material would be concrete block masonry. These walls are located across an alley from

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residential uses. Staff is recommending that plain face concrete block not be used as a primary exterior building material. Rock-face concrete block would be acceptable.

- Window requirements

The walls facing 26th Street, including the third and fourth floors, are subject to the minimum window requirements. At least 10 percent are required on each floor. The third and fourth floors would contain 8.6 percent. To comply with the requirements, at least 7.2 square feet must be added on each wall. The walls are set back approximately 80 feet from 26th Street. They are adjacent to a stairway, elevator shaft and two hotel rooms. Additional windows could be provided in the hotel rooms or in the stairway; however, it is not likely that these windows would increase safety for the surrounding area. The applicant has also requested alternative compliance for allowing blank walls on this elevation. Staff recommended that alternative compliance be granted because green screens would cover most of the wall. Also, staff recommended that prominence be given to the Nicollet Avenue façade by using metal panels as the primary exterior material. Staff believes the alternative meets the intent and recommends that the planning commission grant alternative compliance.

- Vehicular and service alley access

The loading area would only be accessible from the alley. Residential uses occupy the west half of the block. Predominantly commercial uses are located east of the alley. Most of the properties, both residential and commercial, have vehicle access to the alley. The existing parking area on the site has access to the alley. The location of existing buildings limit where access to the loading area can be provided. The applicant expects two vehicle trips per day for the hotel, five trips for the retail tenants, and six trips for the restaurants. For the reception hall, the applicant expects seven vehicle trips per week. Delivery days would depend on which days the reception hall would hold events. To the extent practical, all maneuvers associated with loading must occur in the off-street loading area as required by Chapter 541 of the zoning code. Staff is concerned that the proposed loading configuration would require maneuvering on the residential properties across the alley. Also, Public Works has stated that they will not allow any maneuvering in the alley. Significant changes made to the site plan as a result of reconfiguring the loading area would require review by the Planning Commission and an amendment to the site plan review. Access to the loading area from the alley should not significantly impact surrounding uses as long as all maneuvering is restricted to the alley and on-site.

- Landscaping and screening of the loading area

The loading area would be located across an alley from residential uses. A 7-foot wide landscaped yard and screening that is 6 feet in height and not less than 95 percent opaque are required to screen the loading area. No landscaping or screening is proposed for the loading space. The loading area is located beneath the second floor of the building where landscaping is impractical. The opening for the loading area is 53 feet wide. Providing screening that cannot be moved could hinder truck access and service to the loading area necessary for the operation of the proposed uses. Staff is recommending that the planning commission grant alternative compliance for the landscaping and screening requirements.

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow a shopping center for the properties located at 2528 and 2548 Nicollet Avenue, subject to the following condition:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

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 above findings and **approve** the application for a variance to reduce the rear yard requirement along the alley from 11 feet to 0 feet to allow windows for the properties located at 2528 and 2548 Nicollet Avenue, subject to the following condition:

1. The green living wall screen shall not project into the alley right-of-way.

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 above findings and **approve** the application for a variance to reduce the loading requirement from 4 spaces to 3 spaces for the properties located at 2528 and 2548 Nicollet Avenue.

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 above findings and **approve** the application for a variance of the PO district standards to increase the maximum width of a driveway from 20 feet to 24 feet for the properties located at 2528 and 2548 Nicollet Avenue.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan

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review to allow a mixed use development for the properties located at 2528 and 2548 Nicollet Avenue, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, floor, site and landscape plans.
2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by December 17, 2008, or the permit may be revoked for non-compliance.
3. The primary exterior material on the Nicollet Avenue façade shall be metal panels as an alternative compliance measure for standards of section 530.120 of the zoning code.
4. The north walls of the addition shall not be blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length as required by section 530.120 of the zoning code.
5. Plain face concrete block shall not be used as a primary exterior material as required by section 530.120 of the zoning code.
6. Maneuvering of vehicles using the loading area shall be restricted to the subject site and the public alley as required by section 530.150 of the zoning code. The applicant shall provide turning movements showing how this can be accomplished.
7. To comply with CPTED principals required in section 530.260 of the zoning code, lighting shall be provided that maintains a minimum level of security while not creating glare or excessive lighting of the site along the alley and the seating areas along Nicollet Avenue shall contain planters. The applicant is encouraged to apply a paraffin wax or other substance that removes graffiti more easily on the Ice House building and in the loading area.

Attachments:

1. PDR comments
2. Statement of use
3. Findings
4. Correspondence
5. Zoning map
6. Plans
7. Photos
8. TDMP