

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variances and Site Plan Review
BZZ-4853

Date: August 16, 2010

Applicant: Michael Lander

Addresses of Property: 3800 Nicollet Avenue

Project Name: 38

Contact Person and Phone: Michael Lander, (612) 250-6655

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: July 15, 2010

End of 60-Day Decision Period: September 13, 2010

End of 120-Day Decision Period: Not applicable for this development

Ward: 8 **Neighborhood Organization:** Kingfield Neighborhood Association

Existing Zoning: C2, Neighborhood Corridor Commercial District

Proposed Zoning: Not applicable for this development

Zoning Plate Number: 31

Legal Description: Lot 1, Block 1, Hinkley's Addition to Minneapolis; also that part of the adjacent 12 feet of vacated Van Nest Avenue, which lies between the westerly extensions of the north and south lines of said Lot 1.

Proposed Use: Five-unit residential development

Concurrent Review:

Conditional use permit: for 5 dwelling units.

Variance: to reduce the front yard setback along 38th Street from the required 15 feet to 0 feet.

Variance: to reduce the rear yard setback along the alley from the required 7 feet to 2 feet.

Site plan review.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, specifically Section 525.520(1) "to vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations" and Chapter 530 Site Plan Review.

Background: The property located at 3800 Nicollet Avenue was previously occupied by Theisen Vending, an industrial warehouse and office. After Theisen Vending closed the building sat vacant from the summer of 2004 through January of 2008. In late 2008 the applicant began renovating the existing building by opening up the windows that had been blocked up and retrofitting the interior space. Currently the second floor of the building is occupied by four office tenants and the first floor of the building is being renovated to accommodate a restaurant tenant. All of the work that has been or is currently being done in the existing building has been approved under separate building permits.

Now the applicant is proposing to convert the westernmost portion of the first floor into an accessible dwelling unit and construct four additional dwelling units in a new addition to the building that will be constructed over the surface parking area on the west side of the property. The addition will be built on stilts. The addition will connect into the existing building on the first floor at the back of the building. The accessible dwelling unit will be accessed directly from the public sidewalk along East 38th Street and the four new dwelling units will be accessed from one of two new staircases.

CONDITIONAL USE PERMIT: for 5 dwelling units

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The Planning Division does not believe that constructing five dwelling units on the site would be detrimental to or endanger the public health, safety, comfort or general welfare. The area hosts a mixture of uses including commercial and residential.

2. The conditional use 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 Planning Division does not believe that constructing five dwelling units on the site would 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 development would redevelop the back portion of the property. The existing parking lot is accessed from one curb cut that runs the entire length of the parking area. The proposed development would reduce the length of the curb cut, green the perimeter of the parking lot and increase the density in the neighborhood.

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

The applicant will be working closely with the Plan Review Section of the Inspections Department and the various utility companies during the duration of the project to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

The parking requirement for a dwelling unit is one space per unit so the parking requirement for the residential portion of the development is five parking spaces. The parking requirement for the rest of the uses within the building totals nine spaces; five for the restaurant and four for the office uses. The total parking requirement for the building is 14 spaces.

The minimum automobile parking requirement for each non-residential use within the building may be reduced ten percent or one space, whichever is greater, where bicycle parking spaces are provided equal to 25 percent of the number of required automobile spaces, but not less than four bicycle parking spaces. The applicant is proposing to provide four bike racks in the public right-of-way along East 38th Street. Each bike rack can accommodate two bicycles for a total bicycle parking capacity of eight bicycles. Providing this number of bike racks reduces the parking requirement by two automobile parking spaces for a total parking requirement of 12 spaces.

The building has grandfathered parking rights for 12 spaces. However, since there will be a total of eight parking spaces provided on the site the number of grandfathered parking spaces is reduced from 12 to four.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

This site is located on the southwest corner of Nicollet Avenue and East 38th Street. Both Nicollet Avenue and East 38th Street are designated Community Corridors. In addition, the site is located in the designated 38th Street and Nicollet Avenue Neighborhood Commercial Node. The future land use map in *The Minneapolis Plan for Sustainable Growth* designates the site as Mixed Use. According to the principles and policies outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

- Preserve the stability and diversity of the city’s neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses (Land Use Policy 1.8).
- Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features (Implementation Step for Land Use Policy 1.8).
- Through attention to the mix and intensity of land uses and transit services, the City will support development along Community Corridors that enhances residential livability and pedestrian scale (Land Use Policy 1.9).
- Encourage the development of low- to medium-density housing on Community Corridors to serve as a transition to surrounding lot-density residential areas (Implementation Step for Land Use Policy 1.9).
- Preserve and enhance a system of Neighborhood Commercial Nodes that includes a mix of housing, neighborhood-serving retail, and community uses (Land Use Policy 1.11).

Department of Community Planning and Economic Development – Planning Division
BZZ-4853

- Encourage the development of medium- to high-density housing where appropriate within the boundaries of Neighborhood Commercial Nodes, preferably in mixed-use buildings with commercial uses on the ground floor (Implementation Step for Land Use Policy 1.11).
- Support housing density in locations that are well connected by transit, and are close to commercial, cultural and natural amenities (Housing Policy 3.2).

The Planning Division believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan for Sustainable Growth*.

The *Nicollet Avenue: The Revitalization of Minneapolis' Main Street* small area plan was adopted by the Minneapolis City Council in May of 2000. The plan says to support and invest in commercial developments at 38th Street to encourage emerging ethnic businesses in the area. The plan also says to promote facade and signage improvements at the intersection. Since the plan was written the existing building on the site has been renovated. With the addition of the new building the parking area on the site will be enhanced also. For these reasons the Planning Division believes that the proposed project is in conformance with the policies of the *Nicollet Avenue: The Revitalization of Minneapolis' Main Street* small area plan.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

With the approval of the conditional use permit, variances and site plan review this development will meet the applicable regulations of the C2, Neighborhood Corridor Commercial District.

VARIANCE - to reduce the front yard setback along 38th Street from the required 15 feet to 0 feet

Findings as Required by the Minneapolis Zoning Code for the Variance:

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

Front yard setback along 38th Street: The applicant is seeking a variance to reduce the front yard setback along 38th Street from the required 15 feet to 0 feet. The existing building is located up to the front property line along East 38th Street. The back portion of the property, where the addition is proposed to be built, is 68 feet wide and 40 feet deep (2,720 square feet). The applicant has indicated that given the site constraints the building addition has been designed to match the setback of the existing building.

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.

Front yard setback along 38th Street: The fact that the existing building is located up to the front property line along East 38th Street and that there is less than 3,000 square feet of buildable area on the property are unique circumstances of this parcel of land.

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.

Front yard setback along 38th Street: The intent of having yard controls is to provide for the orderly development and use of land and to minimize conflicts between adjacent land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The Planning Division believes that 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 nearest residential structure is located across the public alley and to the west of the site. The two properties are approximately 16 feet from one another and the two buildings will be approximately 21 feet from one another.

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.

Front yard setback along 38th Street: The Planning Division believes that the granting of the variance would have little impact on congestion of area streets or fire safety, nor would the proposed setback variance be detrimental to welfare or public safety.

VARIANCE - to reduce the rear yard setback along the alley from the required 7 feet to 2 feet

Findings as Required by the Minneapolis Zoning Code for the Variance:

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

Rear yard setback along the alley: The applicant is seeking a variance to reduce the rear yard setback along the alley from the required 7 feet to 2 feet. It should be noted that the building itself is not located in the required rear yard setback. However, the staircase is located three feet from the rear property line and the entrance landing is located two feet from the rear property line. Both of these building elements are permitted obstructions in the required rear yard but they exceed the dimensional allowances for permitted obstructions.

The zoning code allows stairs not exceeding four feet in width, and entrance landings not exceeding sixteen square feet in area and not more than the height of the level of the first floor or four feet above the average level of the adjoining natural grade whichever is less, and handrails for such stairs not more than three feet in height and not more than 50 percent opaque, not including permanently roofed porches. The stairs are less than four feet in width but the entrance landing is 35 square feet in size. In addition, both the stairs and the entrance landing are higher than the level of the first floor.

The applicant has indicated that the staircase and the entrance landing serve the second floor of the building where the residential units are located. Although there is another means of accessing the second floor addition, for building code purposes there needs to be two means of egress into and out of the building. It should also be pointed out that from the front of the property along East 38th Street to the back of the property the site slopes downwards five feet.

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.

Rear yard setback along the alley: The grade change on the site is a unique circumstance of this parcel of land.

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.

Rear yard setback along the alley: The intent of having yard controls is to provide for the orderly development and use of land and to minimize conflicts between adjacent land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The Planning Division believes that 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 nearest residential structure is located across the public alley and to the west of the site. The two properties are approximately 16 feet from one another and the two buildings will be approximately 21 feet from one another.

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.

Rear yard setback along the alley: The Planning Division believes that the granting of the variance would have little impact on congestion of area streets or fire safety, nor would the proposed setback variance be detrimental to welfare or public safety.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by**

the city council. (See Section B Below for Evaluation.)

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND DESIGN:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- 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, windows, and active functions:
 - 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.**
 - g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.**
 - Minimum window area shall be measured as indicated in section 530.120 of the zoning code.**
 - Ground floor active functions: Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.**
- 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. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.**

PLANNING DIVISION RESPONSE:

- The building addition reinforces the street wall, facilitates pedestrian access and maximizes natural surveillance. The building addition is set up to the front property line, there is an entrance and exit at street level that can be accessed by residents and guests and there are large windows on all sides of the building that maximize the opportunities for people to observe adjacent spaces and the public sidewalks.**
- The building addition is located up to the front property line along East 38th Street.**
- There will be landscaping located in front of the building addition but it will be located in the right-of-way since the building is located at the front property line.**

Department of Community Planning and Economic Development – Planning Division
BZZ-4853

- The accessible dwelling unit has its own entrance facing East 38th Street. The main entrance for the dwelling units located in the building addition faces East 38th Street but is setback approximately 34 feet from the front property line. This entrance is located on the east side of the addition. There is a second entrance for the dwelling units in the building addition that faces the alley. This entrance is elevated above grade and is setback approximately 36 feet from the front property line along East 38th Street.
- There will be a total of eight parking spaces provided on site. All eight of the parking spaces will be located underneath the building addition.
- The exterior materials of the building addition will include cement board siding and metal. The sides of the building addition are similar to and compatible with the front of the building addition.
- The walls of the building addition have been broken up into smaller sections through the use of windows.
- There are no areas of the building addition that are over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements.
- At least 10 percent of the upper floors of the building addition that face a public street, public sidewalk, public pathway, or on-site parking lot are required to be windows. The window requirement pertains to the East 38th Street side of the building. The analysis of the project's compliance with these requirements follows:
 - East 38th Street: the percentage of windows on the upper level of the building is floor is 60 percent.
- The windows are vertical in nature and are evenly distributed along the wall of the building addition.
- The active functions requirement is not applicable to this development since there is no ground level of the building.
- The principal roof line of the building addition will be flat. This roof line matches that of the existing building on the site. The buildings in the area have a mixture of flat roofs and pitched 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.**

PLANNING DIVISION RESPONSE:

- The accessible dwelling unit has its own entrance directly off of East 38th Street. The main entrance for the dwelling units located in the building addition is connected to the public sidewalk along East 38th Street by a three-foot wide walkway and the secondary entrance for the dwelling units in the building addition is connected to the public sidewalk along East 38th Street by a three-foot four-inch wide walkway. The walkways connecting the building entrances to the public sidewalk need to be four feet in width to meet the zoning code standards in Chapter 530, Site Plan Review. The Planning

Division is recommending that both of the walkways leading to the entrances of the building addition be at least four feet in width.

- No transit shelters are proposed as part of this development.
- There will be a total of eight parking spaces provided on site. All eight of the parking spaces will be located underneath the building addition. The parking area will be accessed from a single curb cut along East 38th Street.
- There is a public alley adjacent to the site but there will not be any access to it from the site.
- There is no maximum impervious surface requirement in the C2 zoning district. According to the materials submitted by the applicant 98 percent of the site will be impervious.

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.**

PLANNING DIVISION RESPONSE:

- The zoning code requires that at least 20 percent of the site not occupied by the building be landscaped. The lot area of the entire site is 7,640 square feet. The footprint of the buildings is

Department of Community Planning and Economic Development – Planning Division
BZZ-4853

6,400 square feet. When you subtract the footprint from the lot size the resulting number is 1,240 square feet. Twenty percent of this number is 248 square feet. According to the information that was submitted there is approximately 120 square feet of landscaping on the site or approximately ten percent of the site not occupied by the building. The areas of the site that are not occupied by the building are used for walkways and the trash and recycling area. The remainder of the site is being landscaped. The Planning Division is recommending that the City Planning Commission grant alternative compliance to not require 20 percent of the site not occupied by the building to be landscaped.

- The zoning code requires at least 1 canopy tree for each 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space be planted on the site. The tree and shrub requirement for this site is one and two respectively. The applicant is not proposing to have any trees on the site but is proposing to provide a total of 12 shrubs on the site. In addition, the applicant is proposing to plant five canopy trees, 14 shrubs, 304 perennials and some vines in the right-of-way along East 38th Street. Since the building is occupying the majority of the site there is no room on the property to plant a canopy tree that would allow it to grow to its mature height. Because of this the applicant is proposing to add a green boulevard along East 38th Street and plant five canopy trees. The Planning Division is recommending that the City Planning Commission grant alternative compliance to not require one canopy tree on the property.
- The zoning code requires that a seven-foot wide landscaped yard be provided along a public street, sidewalk or pathway when adjacent to a parking lot or a loading area. The applicant is not proposing to have an on-site landscaped yard between the public street and sidewalk and the parking area. However, the applicant is proposing to have a landscaped yard in the right-of-way between the public street and sidewalk and the parking area. The landscaped yard is two feet wide. The applicant has indicated that in order to provide some parking on the site the area underneath the building was maximized for parking and the landscaped area was located in the right-of-way. If the landscaped yard was built underneath the building very little would grow there due to a lack of natural light. The landscaped yard in the right-of-way was designed to be two feet in width in order to maintain a ten-foot wide public sidewalk. Between the curb and the public sidewalk the applicant is proposing add a green boulevard that will be six feet in width. Given the site constraints the Planning Division is recommending that the City Planning Commission grant alternative compliance to not require a seven-foot wide landscaped yard between the public street and sidewalk and the parking area.
- Screening three feet in height and equal to 60 percent opacity is required around parking lots and loading areas in order to screen them from a public street, sidewalk or pathway. According to the landscaping plan there will be a row of Annabelle Hydrangea planted between the parking area and the public street and sidewalk. This plant material will grow to a height of four feet which meets the screening requirement.
- The zoning code requires that a seven-foot wide landscaped yard be provided along parking and loading facilities where abutting or across an alley from a permitted or conditional residential use. The west property line is across an alley from a residential use. The building is setback seven feet from the property line adjacent to the public alley but only three feet of it is landscaped. The remaining four feet is occupied by a staircase and a walkway. The staircase and walkway are required for building code purposes. Given this the Planning Division is recommending that the City Planning Commission grant alternative compliance to allow a three-foot wide landscaped yard between the public alley and the parking area.

- Screening six feet in height and equal to 95 percent opacity is required along parking and loading facilities where abutting or across an alley from a permitted or conditional residential use. According to the landscaping plan there will be a hedge row of Hedge Cotoneaster planted between the parking area and the public alley. This plant material will grow to between six and ten feet in height which meets the screening requirement.
- Not less than one tree shall be provided for each 25 linear feet, or fraction thereof, of parking or loading area lot frontage. The parking lot is 58 feet in width. This width requires that three canopy trees be planted along East 38th Street. The building addition is being constructed up to the front property line along East 38th Street. There will be a two-foot wide landscaped area located in the right-of-way adjacent to the building addition. Given the width of this planting area the applicant is not proposing to plant any canopy trees in this location. However, the applicant is proposing to plant a series of five canopy trees in a new green boulevard that will be installed along East 38th Street. Given the site constraints the Planning Division is recommending that the City Planning Commission grant alternative compliance to not require three canopy trees be planted along East 38th Street.

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.**

PLANNING DIVISION RESPONSE:

- The surface parking area will drain to a catch basin on the south side of the property.
- This building should not impede any views of important elements of the city.
- This building should not significantly shadow public spaces and adjacent properties.
- This building should have minimal wind effects on the surrounding area.

- The site plan complies with crime prevention design elements as there are walkways that direct people to the building entrances, there are windows where people can see in and out of the building and there are lights near the building entrances.
- This site is neither historically designated nor located in a historic district.

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:

- **Use:** Multiple-family dwellings of five or more units require a conditional use permit in the C2 zoning district.
- **Off-Street Parking and Loading:**
- **Minimum automobile parking requirement:** The parking requirement for a dwelling unit is one space per unit so the parking requirement for the residential portion of the development is five parking spaces. The parking requirement for the rest of the uses within the building totals nine spaces; five for the restaurant and four for the office uses. The total parking requirement for the building is 14 spaces.

The minimum automobile parking requirement for each non-residential use within the building may be reduced ten percent or one space, whichever is greater, where bicycle parking spaces are provided equal to 25 percent of the number of required automobile spaces, but not less than four bicycle parking spaces. The applicant is proposing to provide four bike racks in the public right-of-way along East 38th Street. Each bike rack can accommodate two bicycles for a total bicycle parking capacity of eight bicycles. Providing this number of bike racks reduces the parking requirement by two automobile parking spaces for a total parking requirement of 12 spaces.

The building has grandfathered parking rights for 12 spaces. However, since there will be a total of eight parking spaces provided on the site the number of grandfathered parking spaces is reduced from 12 to four.

Maximum automobile parking requirement: There is no parking maximum for residential developments in the R3 zoning district. However, no more than two vehicles per dwelling unit may be parked outdoors.

Bicycle Parking: The bicycle parking requirement for a residential development in the C2 zoning district is one space per two dwelling units. The bicycle parking requirement for this development is three spaces. Not less than 90 percent of the required bicycle parking spaces shall meet the standards for long-term bicycle parking. Required long-term bicycle parking spaces shall be located in enclosed and secured or supervised areas providing protection from theft, vandalism and weather and shall be accessible to intended users. Required long-term bicycle parking for residential uses shall not be located within dwelling units or within deck or patio areas accessory to dwelling units.

Department of Community Planning and Economic Development – Planning Division
BZZ-4853

There will be an enclosed area underneath one of the staircases for bicycle parking. The area will be able to accommodate four bicycles.

Loading: There is no loading space required for this development.

- **Maximum Floor Area:** The maximum FAR in the C2 zoning district is 1.7. The lot in question is 7,640 square feet in area. The applicant proposes a total of 10,000 square feet of gross floor area, an FAR of 1.31.
- **Building Height:** Building height in the C2 zoning district is limited to four stories or 56 feet. The applicant proposes a building that is three stories or 31 feet in height.
- **Minimum Lot Area:** The minimum lot area in the C2 zoning district is 700 square feet per dwelling unit. The lot in question is 7,640 square feet. With five dwelling units proposed the lot area per dwelling unit is 1,528 square feet.
- **Dwelling Units per Acre:** The applicant proposes a development with 27 dwelling units per acre.
- **Yard Requirements:** The required front yard setback in the C2 zoning district is zero feet except where a street frontage includes property zoned as a residence or office residence district and property zoned as a commercial district, or where a street frontage includes structures used for permitted or conditional residential purposes, a front yard equal to the lesser of the front yard required by such residence or office residence district or the established front yard of such residential structure shall be provided in the commercial district for the first 40 feet from such residence or office residence district boundary or residential property. Although the adjacent dwelling is located 21.5 feet from the property line along East 38th Street the front yard setback in the R5 zoning district is 15 feet so the lesser of the two setbacks is 15 feet. The interior side yard and rear yard setbacks in the C2 zoning district are $5+2x$, where x equals the number of stories above the first floor. This setback is applied where the use contains windows facing an interior side or rear yard. The resulting setback along the rear yard is seven feet. However, the resulting setback along the south interior side property line is zero feet as there are no windows on this side of the building. The applicant has applied for a variance to reduce the front and rear yard setbacks.
- **Specific Development Standards:** Multiple-family dwellings of five or more units are not subject to specific development standards.
- **Hours of Operation:** Residential uses are not subject to hours of operation.
- **Signs:** Signs are subject to the requirements of Chapter 543, On-premise Signs. In the C2 zoning district one can have one-and-a-half square feet of signage for every one foot of primary building wall. However, if there is a freestanding sign on the zoning lot then there can only be one square foot of signage for every one foot of primary building wall. Wall signs are limited to 180 square feet in size. Projecting signs are limited to 20 square feet in size. The height limitation for both wall signs and projecting signs is 28 feet. Freestanding signs are limited to 80 square feet and can be no

- **Refuse storage:** The trash and recycling area will be located in an enclosure between the existing building and the building addition.
- **Lighting:** A lighting plan showing footcandles was not submitted as part of the application materials. The Planning Division is recommending that the final lighting plan conform to the standards of Chapter 535, Regulations of General Applicability.

MINNEAPOLIS PLAN:

This site is located on the southwest corner of Nicollet Avenue and East 38th Street. Both Nicollet Avenue and East 38th Street are designated Community Corridors. In addition, the site is located in the designated 38th Street and Nicollet Avenue Neighborhood Commercial Node. The future land use map in *The Minneapolis Plan for Sustainable Growth* designates the site as Mixed Use. According to the principles and polices outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

- Support the development of residential dwellings that are of high quality design and compatible with surrounding development (Urban Design Policy 10.4).
- Support the development of multi-family residential dwellings of appropriate form and scale (Urban Design Policy 10.5).
- New multi-family development or renovation should be designed in terms of traditional urban building form with pedestrian scale design features at the street level (Urban Design Policy 10.6).
- Orient buildings and building entrances to the street with pedestrian amenities like wider sidewalks and green spaces (Implementation Step for Urban Design Policy 10.6).
- Street-level building walls should include an adequate distribution of windows and architectural features in order to create visual interest at the pedestrian level (Implementation Step for Urban Design Policy 10.6).
- Reduce the visual impact of automobile parking facilities (Urban Design Policy 10.18).
- Locate parking lots to the rear of interior of the site (Implementation Step for Urban Design Policy 10.18).

The Planning Division believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan for Sustainable Growth*.

The *Nicollet Avenue: The Revitalization of Minneapolis' Main Street* small area plan was adopted by the Minneapolis City Council in May of 2000. The plan says to support and invest in commercial developments at 38th Street to encourage emerging ethnic businesses in the area. The plan also says to promote facade and signage improvements at the intersection. Since the plan was written the existing building on the site has been renovated. With the addition of the new building the parking area on the site will be enhanced also. For these reasons the Planning Division believes that the proposed project is in conformance with the policies of the *Nicollet Avenue: The Revitalization of Minneapolis' Main Street* small area 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.**

PLANNING DIVISION RESPONSE:

- **The zoning code requires that at least 20 percent of the site not occupied by the building be landscaped.** According to the information that was submitted there is approximately 120 square feet of landscaping on the site or approximately ten percent of the site not occupied by the building. The areas of the site that are not occupied by the building are used for walkways and the trash and recycling area. The remainder of the site is being landscaped. The Planning Division is recommending that the City Planning Commission grant alternative compliance to not require 20 percent of the site not occupied by the building to be landscaped.
- **The zoning code requires at least 1 canopy tree for each 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space be planted on the site.** The tree and shrub requirement for this site is one and two respectively. The applicant is not proposing to have any trees on the site. Since the building is occupying the majority of the site there is no room on the property to plant a canopy tree that would allow it to grow to its mature height. Because of this the applicant is proposing to add a green boulevard along East 38th Street and plant five canopy trees. The Planning Division is recommending that the City Planning Commission grant alternative compliance to not require one canopy tree on the property.
- **The zoning code requires that a seven-foot wide landscaped yard be provided along a public street, sidewalk or pathway when adjacent to a parking lot or a loading area.** The applicant is not proposing to have an on-site landscaped yard between the public street and sidewalk and the parking area. However, the applicant is proposing to have a landscaped yard in the right-of-way between the public street and sidewalk and the parking area. The landscaped yard is two feet wide. The applicant has indicated that in order to provide some parking on the site the area underneath the building was maximized for parking and the landscaped area was located in the right-of-way. If the landscaped yard was built underneath the building very little would grow there due to a lack of natural light. The landscaped yard in the right-of-way was designed to be two feet in width in order

to maintain a ten-foot wide public sidewalk. Between the curb and the public sidewalk the applicant is proposing add a green boulevard that will be six feet in width. Given the site constraints the Planning Division is recommending that the City Planning Commission grant alternative compliance to not require a seven-foot wide landscaped yard between the public street and sidewalk and the parking area.

- **The zoning code requires that a seven-foot wide landscaped yard be provided along parking and loading facilities where abutting or across an alley from a permitted or conditional residential use.** The west property line is across an alley from a residential use. The building is setback seven feet from the property line adjacent to the public alley but only three feet of it is landscaped. The remaining four feet is occupied by a staircase and a walkway. The staircase and walkway are required for building code purposes. Given this the Planning Division is recommending that the City Planning Commission grant alternative compliance to allow a three-foot wide landscaped yard between the public alley and the parking area.
- **Not less than one tree shall be provided for each 25 linear feet, or fraction thereof, of parking or loading area lot frontage.** The parking lot is 58 feet in width. This width requires that three canopy trees be planted along East 38th Street. The building addition is being constructed up to the front property line along East 38th Street. There will be a two-foot wide landscaped area located in the right-of-way adjacent to the building addition. Given the width of this planting area the applicant is not proposing to plant any canopy trees in this location. However, the applicant is proposing to plant a series of five canopy trees in a new green boulevard that will be installed along East 38th Street. Given the site constraints the Planning Division is recommending that the City Planning Commission grant alternative compliance to not require three canopy trees be planted along East 38th Street.

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 findings above and **approve** the conditional use permit for 5 dwelling units located at 3800 Nicollet Avenue subject to the following conditions:

1. There shall be a total of four bike racks provided in the public right-of-way along East 38th Street. Each bike rack shall accommodate two bicycles for a total bicycle parking capacity of eight bicycles.
2. 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 Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the front yard setback along 38th Street from the required 15 feet to 0 feet located at 3800 Nicollet Avenue.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the rear yard setback along the alley from the required 7 feet to 2 feet located at 3800 Nicollet Avenue.

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for the property located at 3800 Nicollet Avenue subject to the following conditions:

1. Both of the walkways leading to the entrances of the building addition shall be at least four feet in width.
2. The final lighting plan shall conform to the standards of Chapter 535, Regulations of General Applicability.
3. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development – Planning Division.
4. All site improvements shall be completed by August 16, 2011, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Department of Community Planning and Economic Development – Planning Division
BZZ-4853

Attachments:

1. Preliminary Development Review report from July 30, 2010, meeting
2. Statement of proposed use and description of project
3. Responses to the conditional use permit and variance findings
4. June 10, 2010, and June 21, 2010, letter to the Kingfield Neighborhood Association and Council Member Glidden
5. Zoning map
6. Civil plans, landscaping plan and architectural plans
7. Wooden fence detail
8. Bike rack detail
9. Photos of the site and the surrounding area