

**Department of Community Planning and Economic Development – Planning Division**  
Expansion of a Nonconforming Use  
BZZ-3461

**Date:** April 9, 2007

**Applicant:** ERS Development, LLC

**Address of Property:** 925 4<sup>th</sup> Street Southeast

**Project Name:** University Inn Extended Stay Hotel

**Contact Person and Phone:** Bjorn Bowman, (651) 644-4445

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

**Date Application Deemed Complete:** March 16, 2007

**End of 60-Day Decision Period:** May 15, 2007

**Ward:** 3

**Neighborhood Organization:** Marcy Holmes Neighborhood Association

**Existing Zoning:** R5 Multiple-Family District

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

**Zoning Plate Number:** 15

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

**Proposed Use:** A wall sign and a freestanding sign for a hotel.

**Concurrent Review:**

**Expansion of a nonconforming use** to allow a wall sign and a freestanding sign for a hotel.

**Applicable zoning code provisions:** Chapter 525, Nonconforming Uses and Structures, specifically Section 531.50(b).

**Background:** In 1958, a 30-room hotel was built at the property of 925 4<sup>th</sup> Street Southeast. At that time it was zoned B3-2, which permitted a hotel. In 1967, an 18-room addition was added to the hotel. Over the years, two rooms were converted to offices and one room was converted to a boiler room, reducing the total number of rooms to 45. The site was down-zoned from the B3-2 district to the R5 district in 1986 as a part of a 40-acre rezoning study making it a legal non-conforming use. The present

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owners purchased the property in 1992. In 1996, various criminal activity occurred at the site culminating in a drug raid by the Minneapolis Police and a City initiated action to revoke the hotel license in 1998. The owners proposed improvements to the site based on information gathered during the license revocation hearings. The proposed improvements included remodeling all 45 rooms, a card access systems being installed to all rooms, installation of new fences and railings, resurfacing the parking lot and improved landscaping. The fencing and access card system were security recommendations made by the Licensing Division of the Regulatory Services department. In addition, a new entry, lobby, and seating area were constructed on the south side of the building. On June 21, 1999, the Planning Commission approved the following applications to allow the addition and the location of the parking area:

**925 4<sup>th</sup> Street Southeast (2<sup>nd</sup> Ward – NCE-41)**

Application by Larry Hopfensperger for Solar Corporation for expansion of a legal non conforming use by the addition of a lobby to the existing 45-room Gopher Motel. (Staff, Jim Voll)

**Motion:** The City Planning Commission adopted the findings and **approved** the application.

**925 4<sup>th</sup> Street Southeast (2<sup>nd</sup> Ward – V-4505)**

Application by Larry Hopfensperger for Solar Corporation for the following variances: the front yard setback on 4<sup>th</sup> Street Southeast from 15 feet to zero feet to permit parking in the front yard in the vicinity of access to I-35W Northbound; from the required 5 foot setback to zero feet along the Northwest lot line to permit parking in the setback; and, from the required 5 foot setback to 2.5 feet along the Northeast property line to permit parking in the setback. (Staff, Jim Voll)

**Motion:** The City Planning Commission adopted the findings and **approved** the application subject to the condition that the applicant provide a signed agreement from the Minnesota Department of Transportation giving permission to park in the right-of-way.

Several improvements that were proposed on the approved site plan have not been installed and repairs are necessary on the exterior of the building. Additional landscaping was proposed around the periphery of the site. A five foot tall decorative metal fence was proposed between the building and 10<sup>th</sup> Avenue (This fence was proposed in a corner side yard. Under the current code, the maximum allowed height is four feet if the fence is constructed of open, decorative ornamental fencing that is less than 60 percent opaque). A three foot six inch tall decorative metal fence was proposed between the building and the parking area. The fences would restrict access to the lower level windows. The site is not in compliance with the final approved plan. Further, many of the new windows on the east building wall are broken. These items must be addressed whether or not this expansion of nonconforming use application is approved.

Although the hotel has not been in operation since 1998, building construction has occurred over the last eight years. Also, the owners have kept their license active since 1999. For these reasons, the zoning administrator has determined that the use has not been abandoned and is legally nonconforming.

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The applicant is proposing to install a wall sign on the south façade of the 1999 approved addition. The sign would be approximately 19 square feet in area, 14 feet above grade, and internally illuminated<sup>1</sup>. The applicant is also proposing to install a sign on an existing pole located on the west side of the parking area. The freestanding pylon sign would be 32 square feet in area (four feet high by eight feet wide), 25 feet in height including the pole, and back-lighted.<sup>2</sup> The proposed signage is considered an intensification of a nonconforming use, therefore authorization from the planning commission is required. Please note: Because hotels are not a permitted use in the R5 district, there are not specific sign standards in Ch. 543 On-Premise Signs of the zoning code that pertain to this use.

Upon a site visit and reviewing the previously approved plan, staff discovered that the pole is actually located in the I-35W right-of-way. The applicant would need to provide a signed agreement from the Minnesota Department of Transportation giving permission to install a sign in the right-of-way. Because the freestanding sign is not located on-site, it is considered off-premise advertising. A sign has not been located on the pole for more than a year, therefore nonconforming rights do not exist and a sign cannot be installed at the poles present location. If the proposed freestanding sign is located on-site, it cannot be located in a required yard without obtaining authorization from the Planning Commission. For the purpose of this report, staff is assuming that the applicant will locate the sign on-site.

As of the writing of this report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

**EXPANSION OF A NONCONFORMING USE:**

**Findings as Required by the Minneapolis Zoning Code for the Expansion of a Legal Nonconforming Use:**

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

Hotels are only allowed in the C3A, C3S, C4, I1, I2 and downtown zoning districts. This site was down-zoned from the B3-2 district (similar to the C1 district in today's zoning code) to the R5 district in 1986 as a part of a 40-acre rezoning study. It is surrounded by R5 zoning and residential uses. The nearest commercial zoning is located across I-35W. University Avenue is designated as a community corridor by the comprehensive plan, but 4<sup>th</sup> Street is not. A rezoning of the property would not be appropriate.

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

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<sup>1</sup> Section 543.70(a)(3) of Ch. 543 On-Premise Signs defines internal lighting as "A light source contained within the sign cabinet that illuminates by directing light onto the sign surface, or that illuminates only the letters of the sign copy, and which is not back-lighting."

<sup>2</sup> Section 543.70(a)(1) of Ch. 543 On-Premise Signs defines back-lighted as "A light source contained within the sign element or sign cabinet that illuminates by shining through a translucent surface or sign face, except where only the letters of the sign copy are illuminated."

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The site is adjacent to two residential properties located north of the site. The wall sign would face 4<sup>th</sup> Street Southeast. The nonconforming sign pole is located approximately 80 feet from the closest residential property.

Because hotels are not a permitted use in the R5 district, there are not specific sign standards, such as size, height, and lighting, in Ch. 543 On-Premise Signs of the zoning code that pertain to this use. Larger, permitted uses, such as a nursing home or place of assembly on a zoning lot greater than 20,000 square feet in area, in the residential districts are typically allowed to have:

One wall identification sign not exceeding 32 square feet with a maximum height of 12 or 16 feet or top of wall, whichever is less. On a corner lot, two such signs per building are allowed. In addition, one freestanding ground sign not exceeding 32 square feet in area and eight feet in height. Either the wall sign or the ground sign, but not both, may be illuminated.

Further, lighted signs for permitted uses in the residence districts cannot be back-lighted, cannot be closer than 20 feet from the nearest residence district or OR1 District property line, and can only be illuminated by white light.

The lot size of this site is over 30,000 square feet in area. The area of each proposed sign would not exceed what is allowed for permitted uses. However, the height and type of lighting of the freestanding sign would not be allowed for permitted uses in a residential district. To be more compatible with the surrounding properties, the signs should not be back-lighted. The proposed height of the freestanding sign including the pole is 25 feet. If the sign is located adjacent to the on-ramp, but is not located in the required front yard or within 20 feet of an adjacent residential property, the proposed height should have little effect on surrounding properties. If the freestanding sign is located to the required front or corner side yard, a height of eight feet would be more compatible with surrounding properties.

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

The proposed signage would increase the amount of lighting on the site. Both signs would not be located near residential uses. With the adoption of the staff recommendations, the signs should not result in a significant increase of adverse off-site impacts.

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

Sign regulations are established to allow effective signage appropriate to the planned character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse effects on nearby property, and to protect the public health, safety and welfare. In order for the signage to improve the appearance of the site, staff believes that the signage should not significantly increase or lead to sign clutter or result in a sign that is

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inconsistent with the purpose of the zoning district in which the property is located. Also, the sign should be of exceptional design or style that will enhance the area or that is more consistent with the architecture and design of the site. No signage currently exists on the site. Two signs would not result in clutter. Staff does not believe a back-lighted, Lexan-faced pylon sign is of an exceptional design and does not enhance the area. Plastic is not considered a high quality material and should not be allowed as a primary sign face material. An aluminum-routed face with internal lighting, as proposed for the wall sign, is a higher quality design. If the signs are not back-lighted, less plastic is allowed on the sign face, and the sign standards, specifically landscaping, for freestanding signs are implemented, the signs would be more consistent with the purpose of the R5 zoning district.

The hotel was shut down because it was used for illegal activities negatively affecting the neighborhood. In 1999, the owner proposed changes to the site that the planning commission found would improve the appearance of the site and stability of the neighborhood. Some of those changes, such as fencing and landscaping, have not been implemented. Broken windows in the building also need to be repaired. Addressing these items would improve the appearance of the site the most. With completion of the improvements that were proposed in 1999, replacement of the broken windows, and not allowing back-lighted signs, the appearance of the site would improve and would lessen the potential security risks of reopening the hotel.

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

No dwelling units are proposed or existing. The hotel will continue to have 45 rooms with one reserved for the manager and 44 for occupancy.

- (6) **The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Expansion of Nonconforming Use:**

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the expansion of nonconforming use application to allow an on-site freestanding sign and a wall-mounted sign for a hotel located at the property of 925 4<sup>th</sup> Street Southeast, subject to the following conditions:

1. Before sign permits are granted by the CPED Zoning Office, the decorative metal fences, complying with the height requirements of the zoning code, and the landscaping shown on the site plan approved as part of the previously approved expansion of nonconforming use shall be installed.
2. If located in a front or corner side yard, the freestanding sign shall be no more than 8 feet in height.
3. The freestanding sign shall comply with the landscaping requirement for freestanding signs in section 543.240 of the zoning code.
4. The signs shall not be back-lighted, the signs shall be illuminated only by white light and shall be located at least 20 feet from adjacent residential properties as required by section 543.70(b) of the zoning code for lighted signs in the residential districts, and the primary sign face material shall not be plastic.

### **Attachments:**

1. Statement of Use
2. Applicant Findings
3. Zoning map
4. Residential sign standards
5. Plans
6. Photos