

Department of Community Planning and Economic Development – Planning Division
Rezoning Petition and Variance
BZZ-3955

Date: March 17, 2008

Applicant: Jacqueline Hamilton

Address of Property: 2015 Lowry Avenue N

Contact Person and Phone: Jacqueline Hamilton, 612-588-0086

Planning Staff and Phone: Michael Wee, (612) 673-5468

Date Application Deemed Complete: February 15, 2008

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

End of 120-Day Decision Period: An extension letter was mailed on March 6, 2008

Ward: 4 **Neighborhood Organization:** Jordan and Folwell

Existing Zoning: OR1 Neighborhood Office Residence District

Proposed Zoning: C1 Neighborhood Commercial District

Zoning Plate Number: 7

Legal Description of Property to be Rezoned: THAT PART OF LOTS 27 AND 28 LYING E OF A LINE RUNNING FROM A PT 55 ft E of NW COR OF LOT 28 TO A PT 54FT E OF SW COR OF LOT 27 LOTS 27 AND 28, HAMISCHS 3RD ADDN TO MPLS, MINNEAPOLIS, HENNEPIN COUNTY, MINNESOTA.

Proposed Use: Allow existing second store space for lease as commercial use.

Concurrent Review: Petition to rezone a property at 2015 Lowry Avenue N from OR1 to C1 district; and variance to reduce the required parking spaces from 9 to 7.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments and Article IX Variances

Background: Applicant owner, Jacqueline Hamilton, submitted an application to amend the zoning classification of her property at 2015 Lowry Avenue N from OR1 to C1 district. The applicant obtained the consent of two-thirds of the property owners within 100 feet of the property as is required when rezoning from a residence district to a commercial district. The existing building on subject property is a two-story mixed use with two retail store spaces on the ground floor and a residence used by the applicant on the second floor. One of the retail stores is occupied by the applicant who is in the business of selling wigs. The property changed ownership in 2006 and extensive work was completed by the

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applicant to make the building and the surroundings clean and safe. An African retail clothing store occupied one of the store spaces when the applicant bought the property, but has since moved out when they broke their lease agreement. That space has remained vacant for over a year and has lost its legal nonconforming rights. The applicant uses the second floor space as her residence. A retail use is not permitted in the OR1 district, thus the applicant is seeking to rezone the property to make the vacant retail space available for lease for a retail shop.

The property is located along a designated Community Corridor and in proximity to an established Neighborhood Commercial Node. It is along a corridor segment with a variety of land uses ranging from R4 to C1 and C2 districts.

Seven off-street parking spaces are provided at the rear of the existing building, which is accessed through the north-south public alley. With two retail spaces for lease and one residential use on the second floor, code requires 9 parking spaces. Since one of the retail spaces lost its legal nonconforming right, staff believes it also lost its grandfathered parking rights. The applicant is also requesting a parking variance to reduce the required 9 spaces to 7 spaces. Existing driveway will not be changed. Additional landscaping and screening will be required in compliance with section 541.360 and 530.170 of the zoning code. Striping is required by section 541.320 of the zoning code. The southwest corner of the property is reserved for snow storage.

REZONING: Petition to rezone a property located at 2015 Lowry Avenue N from OR1 to C1

Findings as required by the Minneapolis Zoning Code for the rezoning petition:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan identifies Lowry Avenue between I-94 and city boundary as a community corridor and Lowry Avenue at Penn Avenue as a Neighborhood Commercial Node. Community Corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented toward the pedestrian experience. The subject property is along Lowry Avenue and within a block from an established commercial node. Rezoning the subject property from OR1 to C1 will reinforce the retail businesses in the surrounding areas to either direction along Lowry Avenue. High density residential uses are located adjacent and across the applicant's property. Allowing additional retail businesses at this location will be consistent with the Minneapolis Plan as supported by the following policies:

Policy 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.

Implementation Step: Support a mix of uses on Commercial Corridors – such as retail sales, office, institutional, higher density residential, and clean low-impact light industrial – where compatible with the existing and desired character of the street.

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

Policy 4.4 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

Implementation Steps: Encourage the economic vitality of the city's commercial district while maintaining compatibility with surrounding areas.

Under the draft update to the comprehensive plan, Lowry Avenue would continue to be designated a community corridor.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The rezoning is in the interest of the property owner to allow additional retail space for lease. The applicant also maintains that rezoning the property will be beneficial to the public as it will provide additional retail space to serve the neighborhood. There are two retail spaces in the building, one occupied by the applicant and the other one was once a clothing store that moved out. Granting the rezoning petition will allow the applicant to lease the vacant retail space again and at the same time enhancing the economic vitality of the neighborhood, which is consistent with the goals of the Minneapolis Plan.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

Properties adjacent to the applicant's include commercial uses and high density residential uses. The rezoning from OR1 to C1 district will be compatible with surrounding areas where properties on both directions are zoned C1 with OR1 and R1/R4 district in between them. The northern side of Lowry Avenue one block east of the subject property is already zoned C1 district. Granting the rezoning petition will be compatible with zoning classification of properties within the general area of the property in question.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

Under its current zoning of OR1, the property at 2015 Lowry Avenue N can not utilize its available retail space for commercial uses except for an office, child care center, or medical or dental clinic. An office in a neighborhood where it is close to an established commercial node may not be the optimum use of a real estate and at the same time be consistent with the goals of the Minneapolis Plan. Rather, a retail that can serve the surrounding neighborhood and increase the availability of goods and services to the neighborhood will enhance neighborhood vitality.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in

its present zoning classification, where the amendment is to change the zoning classification of particular property.

Where the established commercial node to the west of the property in question prompted more and more properties being developed into commercial uses, the proposed rezoning continues to follow the trend in the general area. A fairly new fire station was construction in a C1 district across the street from the subject property. Farther to the east are commercial uses as it nears the Lowry-Emerson neighborhood commercial node. With limited lot area, the property in question could not possibly be developed for automobile oriented commercial uses. Thus, granting the rezoning for commercial retail will maintain the general character of the surrounding area

VARIANCE: to reduce the required parking from 9 spaces to 7 spaces for property located at 2015 Lowry Avenue N.

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.

The applicant acquired the property in 2006 when one of the retail spaces was occupied by a tenant in a clothing business, while the applicant herself occupied the other space for her wig business. When the tenant moved out, the space remained vacant and lost its non-conformity status, including its parking requirements. With two retail spaces and one residential use on the second floor, code requires a total of 9 parking spaces. Only 7 surface parking are provide at the rear of the building. The applicant could also provide 4 bicycle parking spaces in lieu of the one required automobile parking space; but that option could limit the applicant to few neighborhood oriented businesses. Due to its lot area limitation, it is not possible to add two more onsite parking spaces. Staff believes that strict adherence to Chapter 541 requirements would cause undue hardship to the applicant. Staff further recommends that parking layout be marked as required by Section 541.320 of the code.

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

The property has a lot area of 6,457 square feet, with an existing building that was constructed in the northern half of the lot. The rear 46 percent of the lot is bituminous and used for parking. The unique circumstance in which the variance is sought due to tight land area was not created by the applicant. Therefore, the variance request is reasonable.

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.

Granting approval to the variance sought will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality. The parking is located at the rear of the building and accessed only through a public alley. It is not fenced and screened from a residential use to the east. Staff is recommending that landscaping be required along the alley as required by section 530.170(c) of the zoning code.

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

The variance sought will not substantially increase the congestion of the public street, or increase the danger of fire, or be detrimental to the public welfare and public safety. Staff believes the parking is well designed and located that no negative impacts will result to the surrounding residential neighborhoods. The variance will in fact reduce the number of traffic into and out of the premise. While C1 district permits restaurant uses, the property is not large enough for this type of use to possibly comply with parking requirements.

RECOMMENDATIONS

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the petition to rezone the property at 2015 Lowry Avenue N from OR1 to C1 district.

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 and City Council adopt the above findings and **approve** the variance to reduce the required parking spaces from 9 to 7 spaces for the property at 2015 Lowry Avenue N subject to the following conditions:

1. CPED Planning staff review and approval of the final site plan and landscaping plan in compliance with section 530.170 and 541.360 of the zoning code.
2. Parking spaces must be marked per requirements of Section 541.320 of the zoning code.
3. Parking area and driveway must be designed with wheel stops or discontinuous curbing as required by section 530.230 of the zoning code.
4. All site improvements shall be completed by March 17, 2008, unless extended by the zoning administrator, or the permit may be revoked for noncompliance.

Attachments:

1. Statement of use
2. Findings
3. Zoning map
4. Plans
5. Photos
6. City Attorney's letter and rezoning forms