

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit
BZZ-5199

Date: August 1, 2011

Applicant: D&J Steele Construction, Inc.

Address of Property: 3501 20th Avenue South

Project Name: D&J Steele Construction, Inc.

Contact Person and Phone: Donald Steele, (612) 728-9909

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

Date Application Deemed Complete: June 30, 2011

End of 60-Day Decision Period: August 29, 2011

Ward: 9 **Neighborhood Organization:** Corcoran Neighborhood Organization

Existing Zoning: C1 Neighborhood Commercial District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 26

Legal Description: Not applicable for this application

Proposed Use: Contractor's office

Concurrent Review: Conditional use permit to allow a contractors office.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits.

Background: Donald Steele, on behalf of D&J Steele Construction, Inc., is requesting a conditional use permit to allow the existing business at the property of 3501 20th Avenue South. A mixed use building and a 1,050 square foot detached garage are located on the site. D&J Steele Construction, Inc. occupies the first floor and two dwelling units are located on the upper floor.

In November of 2010, a notice of noncompliance was sent to Donald Steele by the Zoning Office. The notice identified that outdoor storage was not permitted in the C1 district and all production, processing, storage, sales, or other business activity must be conducted within an enclosed building. When there is outdoor storage, the use is classified as a contractor's yard (an establishment providing general contracting or building construction services, and which involves outdoor storage of machinery or

equipment). A contractor's yard is not allowed in the C1 district. Since the notice was sent, most of the outdoor storage has been removed.

The applicant has indicated that the business has been established at the site for 19 years. At the time it was established, a conditional use permit was required for a contractor's office, but one was not obtained. Since the use was established, the City adopted a new zoning code. The site is located in the C1 district where a contractor's office is a conditional use. By definition of the zoning code, a contractor's office is "An office providing building construction or property maintenance services, and which does not involve outdoor storage of machinery or equipment. Examples include but are not limited to plumbing, electrical and cleaning contractors." Therefore the applicant has also submitted an application to bring the existing use into compliance with the zoning code. Upon approval of a conditional use permit, the action must be recorded with Hennepin County as required by state law.

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.

CONDITIONAL USE PERMIT

Findings as required by the Minneapolis Zoning Code for the conditional use permit:

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings below 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.

A contractor's office should 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 site is located at the southeast corner of the intersection of 20th Avenue South and 35th Street East in a predominantly low-density residential area. The subject site is surrounded by residential properties with the exception of a vehicle repair use north of 35th Street. The subject site shares its south lot line with a property occupied by a single-family dwelling located in the R1A Single-Family District. The south and east walls of the garage have been tagged with graffiti multiple times. The applicant is encouraged to apply a paraffin wax or other substance that removes graffiti more easily. The landscaped areas indicated on the site plan next to the garage are mostly weeds and bare ground. To improve compatibility with surrounding residential properties, staff is recommending that the planning commission require the applicant to landscape and maintain these areas with trees, shrubs, perennials, annuals, native grasses and/or sod. The proposed use should have little effect on surrounding properties if all production, processing, storage, sales, display or

other business activity is conducted within a completely enclosed building and the on-site improvements recommended by staff are implemented.

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

Utilities and access roads are existing and adequate.

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

At least two parking spaces, including an accessible space, can be provided in the paved area behind the building. The garage could accommodate one or more vehicles as well. The applicant has indicated that there are a total of 4 employees and usually one employee stays on-site to perform office and clerical duties. If there are any trucks or commercial vehicles for the use, the parking location of that vehicle(s) will need to comply with applicable zoning ordinances as well as any other applicable City ordinances to prevent congestion in the public streets.

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

The future land use of the site is designated as urban neighborhood by *The Minneapolis Plan for Sustainable Growth*. The site is not located within or adjacent to any designated land use features. According to the principles and polices outlined in the plan, the following apply to this proposal:

Policy 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users.

1.4.3 Continue to implement land use controls applicable to all uses and structures located in commercial districts and corridors, including but not limited to maximum occupancy standards, hours open to the public, truck parking, provisions for increasing the maximum height of structures, lot dimension requirements, density bonuses, yard requirements, and enclosed building requirements.

Policy 1.6: Recognize that market conditions and neighborhood traditions significantly influence the viability of businesses in areas of the city not designated as commercial corridors and districts.

1.6.1 Allow for retention of existing commercial uses and zoning districts in designated Urban Neighborhood areas, to the extent they are consistent with other city goals and do not adversely impact surrounding areas.

Staff comment: With the adoption of the staff recommendation, the proposed use should be consistent with these goals of the comprehensive plan.

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.

Some existing conditions on the site are not in compliance or will need to be maintained in

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compliance with zoning requirements:

In the C1 district, outdoor storage of equipment is not allowed and is subject to section 548.180 of the zoning code. There are no exceptions to the enclosed building requirement that are authorized for a contractor's office. If compliance with this ordinance is not maintained, the use is classified as a contractor's yard. A contractor's yard is not a permitted use in the C1 district.

548.180. Enclosed building requirement. (a) *In general.* All production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) and (c) below or elsewhere in this ordinance.

Truck and commercial vehicle parking is restricted by section 548.250 of the zoning code. Any vehicle for the use must comply with this ordinance to park on-site.

548.250. Truck and commercial vehicle parking for nonresidential uses. Outdoor parking of trucks and other commercial vehicles shall be limited to operable, single rear axle vehicles of not more than fifteen thousand (15,000) pounds gross vehicle weight. All outdoor parking of trucks shall be screened from view, as specified in this zoning ordinance.

Some areas of the existing fences are in need of repair and maintenance. Maintaining fences is required by section 535.410 of the zoning code.

535.410. Fence maintenance. Every fence shall be kept in good repair, consistent with the design thereof. The property owner shall be responsible for maintaining the area between the property line and the owner's fence.

Refuse and recycling storage containers are required to be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. Refuse containers were screened from adjacent residential properties, but not from the street. Additional screening will need to be provided.

The site would conform to the applicable regulations of the district in which it is located upon the approval of the conditional use permit and the implementation of the recommended conditions of approval.

RECOMMENDATION

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit to allow a contractor's office at the property of 3501 20th Avenue South, subject to the following conditions:

- 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.
- 2) To improve compatibility with surrounding residential properties, areas on the site not covered by paving or buildings shall be maintained and landscaped with trees, shrubs, perennials, annuals, native grasses and/or sod.
- 3) The use shall comply with the enclosed building requirement of section 548.180 of the zoning code.
- 4) The use shall comply with the truck and commercial vehicle parking requirement of section 548.250 of the zoning code.
- 5) Fences shall be repaired consistent with the design thereof or replaced as required by section 535.410 of the zoning code.
- 6) Refuse containers shall be screened as required by section 535.80 of the zoning code.
- 7) CPED Planning staff review and approval of the final site and landscaping plans.
- 8) All site improvements shall be completed by August 1, 2012, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

Attachments:

1. Applicant statement of use/findings
2. Zoning map
3. Plans
4. Photos