

**Department of Community Planning and Economic Development – Planning Division**  
Variance, Site Plan Review  
BZZ – 3628

**Date:** July 30, 2007

**Applicant:** Swervo Development Corporation

**Address of Property:** 126 N 5<sup>th</sup> St and 110 5<sup>th</sup> St N

**Project Name:** 126 N 5<sup>th</sup> St Addition

**Contact Person and Phone:** Ned Abdul, 612-332-8323 x.3

**Planning Staff and Phone:** Tara Beard, (612) 673-2351

**Date Application Deemed Complete:** June 11, 2007

**End of 60-Day Decision Period:** August 10, 2007

**End of 120-Day Decision Period:** Not applicable

**Ward:** 7      **Neighborhood Organization:** Downtown Minneapolis Neighborhood Association

**Existing Zoning:** B4S-1 Downtown Service District

**Zoning Plate Number:** 19

**Lot area:** 24,426 square feet

**Proposed Use:** Three story addition for a restaurant use.

**Concurrent Review:**

- Variance to reduce the parking requirement from 6 to 0 spaces
- Variance to increase the maximum Floor Area Ratio from 4.0 to 7.25, an increase of 45%.
- Site Plan Review

**Applicable zoning code provisions:** Chapter 525, Article IX, Variances – Chapter 530 Site Plan Review

**Background:** The applicant is proposing to construct a three story addition to the existing Wyman Partridge Building located at 110 5<sup>th</sup> St N. The addition is located on the adjacent property at 126 5<sup>th</sup> St N. The subject site is within the Warehouse Historic District; the project was granted a Certificate of Appropriateness by the Heritage Preservation Commission on February 13, 2007.

A tenant for the space has not been identified but the proposed use is restaurant. The proposed addition is three stories per the Zoning Code but functions as a two story space. The first floor is a 20 ft. 6 in. high dining area and kitchen; the second floor consists of bathrooms, prep area, and vertical circulation between the main floor and rooftop dining.

The addition is greater than 1,000 sq. ft. and faces the public street, therefore requiring Site Plan Review. The downtown zoning district in which the subject site is located requires 6 new parking spaces for the addition. The applicant is not proposing any parking and is requesting a variance to 0 parking spaces. Finally, the addition increases the Floor Area Ratio of the existing Wyman Partridge building from 6.91 to 7.25. This requires a variance to increase the FAR that was not originally noticed by staff. Therefore this project was continued from the Planning Commission meeting of July 16, 2007 to allow time to properly notice the FAR variance.

At the time of the writing of this report staff has not received any written correspondence from stakeholders.

## **VARIANCES**

### **Findings Required by the Minneapolis Zoning Code for the Variance to reduce required parking from 6 to 0 spaces.**

- 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.**

The footprint of the addition is not large enough to reasonably accommodate enclosed parking and the existing use of the site as surface parking is not ideal for the location on a corner downtown. There is no existing parking within the Wyman Partridge 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.**

The built environment around the site is what limits the ability to accommodate both a new use and parking on the addition site. The west corner of the site is under easement for MNDoT to provide Light Rail Transit Line construction, further reducing the size of the site. There is no alley access to the addition site and a curb cut from the public street is not desirable. The applicant is not responsible for any of these unique circumstances.

- 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.**

The spirit and intent of the ordinance in question is in part to avoid traffic congestion in the public streets. The site location is an urban downtown environment and will be adjacent to Light Rail Transit. The site is one block or closer to two large municipal parking ramps, the B and C

ramps. The required 6 parking spaces should be easily absorbed by adjacent parking and transit options.

- 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 would have no impact on fire and safety standards, and using existing parking facilities in the vicinity to meet parking needs will avoid the increase in traffic congestion parking on site would likely create.

**Findings Required by the Minneapolis Zoning Code for the Variance to increase the Floor Area Ratio from 4.0 to 7.25.**

- 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.**

The existing Wyman Partridge building already exceeds the maximum FAR of 4.0. Any addition to the building would further increase the FAR. It is reasonable to add structure to the existing building on what is now a surface parking lot facing two public streets downtown.

- 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 vacant land at 126 5<sup>th</sup> St N is not the creation of the applicant. The proposal to construct the new restaurant as an addition to the existing building rather than as a stand-alone structure will allow for shared loading facilities, utilities, and access.

- 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.**

The spirit and intent of the ordinance in question is in part to avoid the overbuilding of a site. The proposed addition will allow a restaurant with storefront windows and roof top seating on what is now a surface parking lot. The new use would increase eyes on the street and improve the street walls on both 5<sup>th</sup> St N and 2<sup>nd</sup> Ave N. The proposed increase in the FAR will not add height to the existing building and will not alter the essential character of the area.

- 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 would have no impact on fire and safety standards, nor be detrimental to the public welfare or safety. See variance finding for a parking variance for analysis of congestion of the public streets related to the proposed use.

## **SITE PLAN REVIEW**

### **Findings as Required By the Minneapolis Zoning for Site Plan Review**

#### **Required Findings for Site Plan Review**

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

#### **Section A: Conformance with Chapter 530 of 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 and windows:
  - Residential uses:  
Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
    - a. Windows shall be vertical in proportion.
    - b. Windows shall be distributed in a more or less even manner.

- **Nonresidential uses:**

**Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**

- a. Windows shall be vertical in proportion.**
- b. Windows shall be distributed in a more or less even manner.**
- c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.**
- d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.**
- e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.**
- f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.**

**Minimum window area shall be measured as indicated in section 530.120 of the zoning code.**

- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

### **Conformance:**

- The proposed addition would reinforce the street wall both along 5<sup>th</sup> St N and 1<sup>st</sup> Ave N. Pedestrian access is provided from both street frontages directly to the sidewalk.
- The building is on a corner lot. The building addition is proposed to be built up to the property line except for a small portion of the corner of 5<sup>th</sup> St N and 1<sup>st</sup> Ave N, where the building curves to allow the LRT easement.
- Principal entrances to the addition are located off both 5<sup>th</sup> St N and 1<sup>st</sup> Ave N.
- The addition is relatively small in comparison to the existing Wyman Partridge building.
- There are no blank wall conditions shown on the submitted elevations.
- The majority of the exterior material is standard brick. The base of the building is to be precast concrete to match the base of the adjacent Wyman. These materials were approved by the HPC.
- Windows are required on 30% of the first floor and 10% of the second floor for two sides of the building because they face a public street. The proposed windows provided are as follows:
  - 5<sup>th</sup> St N (south) Elevation
    - 1<sup>st</sup> floor facing a public street: 30% required, 67% provided
    - 2<sup>nd</sup> floor facing a public street: 10% required, 32% provided
  - 1<sup>st</sup> Ave N (west) Elevation
    - 1<sup>st</sup> floor facing a public street: 30% required, 61% provided
    - 2<sup>nd</sup> floor facing a public street: 10% required, 25% provided
- Plain-face concrete block is not proposed as an exterior material for any part of the building.
- The existing roof is flat, similar to nearby buildings.

**ACCESS AND CIRCULATION:**

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.
- Site plans shall minimize the use of impervious surfaces.

**Conformance:**

- Addition entrances are located directly off the sidewalk.
- There are no transit shelters on or adjacent to the site.
- There is no vehicular access or circulation on the addition site.
- There is no alley access adjacent to the addition site. There is alley access to the existing Wyman Partridge building.
- Because the footprint of the building takes up essentially the entire site, no landscaping is proposed.

**LANDSCAPING AND SCREENING:**

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
- Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
  - A decorative fence.
  - A masonry wall.
  - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.
- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.

- All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.

**Conformance:**

- The lot area (6,930 sq. ft.) less the building footprint (6,634 sq. ft.) yields a net site of 296 sq. ft. The code requires a minimum of 59 sq. ft. of landscaping, 1 tree and 3 shrubs. There is no landscaping proposed and because of the minimal net site staff recommends alternative compliance for this requirement.
- There is no parking proposed on site.

**ADDITIONAL STANDARDS:**

- All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.
- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260 related to:
  - Natural surveillance and visibility
  - Lighting levels
  - Territorial reinforcement and space delineation
  - Natural access control
- To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

**Conformance:**

- There is no surface parking proposed on the site.
- The project will not block views of important elements of the city nor create any substantive shadows on adjacent buildings. The building is shorter than most buildings in the area.
- The project would not be expected to contribute significantly to ground-level winds.
- The site plan allows views from the public sidewalk into the site.
- The addition has been designed to integrate with the existing Wyman Partridge building, which is a contributing resource in the Warehouse Historic District. “Ghost signs” on the building to the northeast will not be obscured by the addition per conditions of approval of the Certificate of Appropriateness.

**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.

**Conformance:** Staff is recommending alternative compliance for landscaping requirements because of the small amount of the net site and the urban context in which the site is located.

**Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council**

**Zoning Code:** The proposed use is permitted in the B4S-1 District.

**Off-Street Parking and Loading:** Chapter 541 of the code requires one parking space for each 1,400 sq. ft. of building area. The requirement for the proposed addition, 6 spaces (8,203 sq. ft. / 1,400 sq. ft. = 6 spaces), is not being provided and is the subject of variance findings above.

**Maximum Floor Area:** The maximum floor area ratio for a non-residential building in the B4S-1 district is 4.0. The applicant proposal results in a floor area ratio of 7.25. See variance findings for analysis of an increase in the maximum FAR.

**Building Height:** There is no maximum height requirement in the B4S-1 District.

**Minimum Lot Area:** Neither offices (the existing building use) nor food and beverages uses (the addition use) have a minimum lot area requirement in the B4S-1 District.

**Dwelling Units per Acre:** Not Applicable.

**Yard Requirements:** The subject site does not have any yard requirements. The addition site is not adjacent to any residential uses.

**Specific Development Standards:** A sit down restaurant is subject to the following specific development standards:

1. Where alcoholic beverages are served, not less than sixty (60) percent of total gross sales revenue shall be from the sale of food and beverages not containing alcohol, and the use shall comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter.
2. The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

**Hours of Operation:** Permitted hours of operation in the B4S-1 District are from 6am to 1am 7 days a week, however, a liquor license may allow later hours.

**Signs:** No signs are proposed at this time. Any signs will require a signage permit and must comply with the requirements of Chapter 543.

**Refuse storage:** All storage of refuse and recyclable materials will be located inside the building.

**Lighting:** All lighting must be in compliance with must comply with Chapter 535 and Chapter 541 of the zoning code.

**Minneapolis Plan:** Chapter 9.11 of *The Minneapolis Plan* states: “Minneapolis will support urban design standards that emphasize a traditional urban form in commercial areas.” One of the implementation strategies for this policy is to “enhance unique characteristics of the city's commercial districts by encouraging appropriate building forms and designs, historic preservation objectives, site plans that enhance the pedestrian environment, and by maintaining high quality public spaces and infrastructure.” Downtown Minneapolis is a core commercial area of the city and the proposed building addition has met historic preservation objectives and is using appropriate building forms and designs for the area.

Chapter 9.23 of *The Minneapolis Plan* states: “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.” One of the implementation strategies for this policy is to “facilitate the redevelopment of underutilized commercial areas and promote their reuse as infill development, such as office or housing, while maintaining neighborhood compatibility.” The Warehouse District neighborhood of Downtown Minneapolis is an active area with many restaurants, offices, and residences. The addition site is currently a vacant corner on a block in a vibrant part of Downtown. The infill development proposed is a compatible use with a compatible design for the area.

Downtown 2010 shows the area in which the subject site is located as primarily for entertainment uses. It also shows the same area as a place where walkability should be a priority. The proposed building meets the property line and exceeds fenestration requirements along the two public streets it faces. Downtown 2010 further states: “Encourage new buildings adjacent to historic buildings, sites and districts to be compatible in design.” The proposed addition matches the existing contributing structures it is adjacent to in materials and design. The building is significantly shorter than adjacent buildings.

Another policy in Downtown 2010 is that “all new development should provide uses and street level building designs that contribute to the visual excitement of the area.” The addition site is a block from the site of the future Twins Stadium and provides large storefront windows to allow views into the building and a rooftop seating area to encourage more outdoor activity in warmer months.

The Downtown East/North Loop Master Plan recommends mixed use office and commercial on the subject site. The existing building use is office and the proposed addition is food and beverage commercial. The plan further calls for projects in the subject area to “intensify and fill-out the existing neighborhood.” The proposed addition adds intensity and fills in a surface parking lot in the West Hennepin section of the North Loop.

### **RECOMMENDATIONS:**

#### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance to reduce the required parking at 126 5<sup>th</sup> St N from 6 to 0 spaces:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the required parking from 6 to 0 spaces at 126 N 5<sup>th</sup> St.

#### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance to increase the maximum floor area ratio from 4.0 to 7.25:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to increase the maximum floor area ratio from 4.0 to 7.25 at 126 N 5<sup>th</sup> St.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a Site Plan Review at 126 N 5<sup>th</sup> St and 110 5<sup>th</sup> St N, subject to the following conditions:

1. CPED Planning staff review and approval of the final site plans.
2. All site improvements shall be completed by July 16, 2008, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

**Attachments:**

1. Statement of use
2. Findings
3. Correspondence
4. PDR comments
5. Site plans, Elevations, Floor plans, and Zoning map
6. Photos