

Department of Community Planning and Economic Development – Planning Division
Variances
BZZ-4376

Date: May 18, 2009

Applicant: Eitel Building City Apartments

Address of Property: 1367 Willow Street (1310 Willow Street will be the address of the restaurant space)

Project Name: Birch's on Loring Park

Contact Person and Phone: Shawn Zimny, Village Green Companies, (312) 907-4493

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

Date Application Deemed Complete: April 20, 2009

End of 60-Day Decision Period: June 19, 2009

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

Ward: 7 **Neighborhood Organization:** Citizens for a Loring Park Community

Existing Zoning: OR3, Institutional Office Residence District, DP Downtown Parking Overlay District and SH Shoreland Overlay District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 18

Legal Description (properties to be rezoned): Not applicable for this application

Proposed Use: Restaurant in a mixed-use building

Concurrent Review:

Variance: to increase the size of a neighborhood serving retail sales and services use from the maximum 2,000 square feet to 3,000 square feet.

Variance: to increase the amount of seats in a restaurant from the maximum of 30 seats up to 110 seats.

Applicable zoning code provisions: Chapter 525, Article IX, Variances, specifically Section 525.520(3) "to vary the gross floor area, floor area ratio and seating requirements of a structure or use".

Background: The Eitel Building City Apartments received their development approvals from the City of Minneapolis in June of 2006. The approved project was part of a larger Planned Unit Development.

At this time Phase II of the Planned Unit Development has not been constructed. The Eitel Building City Apartments contains 215 dwelling units and a small retail space located on the corner of Willow Street and Grant Street West.

The site is located in the OR3 zoning district which limits the type, number, and size of commercial spaces that can be in a building. In the OR3 zoning district there can be up to two commercial spaces in a building each totaling 2,000 square feet. The retail space that was approved as part of the development was 2,000 square feet in size. The applicant is proposing to remove an unoccupied dwelling unit and add it to the commercial space for a total square footage of 3,000 square feet. Increasing the size of the commercial space requires a variance.

Sit down restaurants with limited entertainment, no alcoholic beverages and a maximum amount of 30 seats is one of the permitted commercial uses in the OR3 zoning district. The applicant is applying for a variance to increase the number of seats in the restaurant from 30 to 110. Please note that the applicant will be serving alcohol at this location. The property owner was granted an exemption from the State of Minnesota of the City's liquor licensing requirements allowing them serve alcohol at this location.

The parking requirement for a restaurant in the OR3 and DP Downtown Parking Overlay district is "not less than one space for each 4,000 square feet of gross floor area in excess of 4,000 square feet". In this situation the four space minimum parking requirement shall not apply. The parking requirement for the proposed 3,000 square foot restaurant is zero spaces. Although the restaurant does not have a parking requirement the applicant is proposing to allocate eight of the parking spaces located underneath the building to the restaurant tenant.

VARIANCE - to increase the size of a neighborhood serving retail sales and services use from the maximum 2,000 square feet to 3,000 square 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.

Size of neighborhood serving retail sales and service uses: The applicant is seeking a variance to increase the size of a neighborhood serving retail sales and services use from the maximum 2,000 square feet to 3,000 square feet. The applicant has indicated that although the site is located in the OR3 zoning district it is the *Minneapolis Downtown 2010 Plan* that provides guidance for this area within the City of Minneapolis. In the *Minneapolis Downtown 2010 Plan*, this property is located in an area designated as a downtown neighborhood as found on the concept plan map. Downtown Living Policy number 2 says that the City should "Capitalize on sites that are well suited for housing, especially along the riverfront and around Loring Park, by encouraging medium to high-density housing development". And Downtown Living Policy number 3 says that the City should "Locate medium to high-density housing in an area designated as a Downtown Residential District located between Loring Park and the Office and Retail Districts. This district should provide a location for housing that is near the downtown employment and retail. Other retail, office and educational uses should be encouraged to provide diversity, but should be compatible with housing". In addition, the extra 1,000 square feet that the

applicant is proposing to combine with the approved 2,000 square foot commercial space is located internal to the development site.

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.

Size of neighborhood serving retail sales and service uses: The location of the site in an OR3 zoning district but in a designated Downtown Residential District where retail uses are encouraged in order to promote diversity 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.

Size of neighborhood serving retail sales and service uses: The granting of the variance to increase the size of the commercial space would not significantly affect the essential character of the area given that the space is located within a larger development and that there is off-street parking provided for the commercial use in the building.

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.

Size of neighborhood serving retail sales and service uses: The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed size of the neighborhood serving retail sales and service use be detrimental to welfare or public safety.

VARIANCE - to increase the amount of seats in a restaurant from the maximum of 30 seats up to 110 seats

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.

Seating capacity: The applicant is seeking a variance to increase the amount of seats in a restaurant from the maximum of 30 seats up to 110 seats. The applicant has indicated that although the site is located in the OR3 zoning district it is the *Minneapolis Downtown 2010 Plan* that provides guidance for this area within the City of Minneapolis. In the *Minneapolis Downtown 2010 Plan*, this property is located in an area designated as a downtown neighborhood as found on the concept plan map. Downtown Living Policy number 2 says that the City should “Capitalize on sites that are well suited for housing, especially along the riverfront and around Loring Park, by encouraging medium to high-

density housing development”. And Downtown Living Policy number 3 says that the City should “Locate medium to high-density housing in an area designated as a Downtown Residential District located between Loring Park and the Office and Retail Districts. This district should provide a location for housing that is near the downtown employment and retail. Other retail, office and educational uses should be encouraged to provide diversity, but should be compatible with housing”.

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.

Seating capacity: The location of the site in an OR3 zoning district but in a designated Downtown Residential District where retail uses are encouraged in order to promote diversity 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.

Seating capacity: The granting of the variance to increase the amount of seats in a restaurant from the maximum of 30 seats up to 110 seats would not significantly affect the essential character of the area given that the space is located within a larger development and that there is off-street parking provided for the commercial use in the building.

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.

Seating capacity: The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the increased number of seats be detrimental to welfare or public safety. It is anticipated that much of the commercial traffic would be the residents in the surrounding area and would be walking to and from the site.

RECOMMENDATIONS

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 increase the size of a neighborhood serving retail sales and services use from the maximum 2,000 square feet to 3,000 square feet located at 1367 Willow Street (1310 Willow Street will be the address of the restaurant space).

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 increase the amount of seats in a restaurant from the maximum of 30 seats up to 110 seats located at 1367 Willow Street (1310 Willow Street will be the address of the restaurant space).

Attachments:

1. Written statement of proposed use and description of project
2. Responses to the variance findings
3. April 14, 2009, memo to Council Member Goodman and the Citizens for a Loring Park Community
4. Meeting minutes from the Citizens for a Loring Park Community meeting on April 27, 2009
5. Comments from surrounding residents
6. Zoning Map
7. Architectural and civil plans
8. Photos of the property