

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permits and a Variance  
BZZ-3732

**Date:** October 15, 2007

**Applicant:** Rochelle Barrett with Bakery Properties, LLC

**Address of Property:** 2603 Bloomington Avenue South

**Project Name:** Mercado Phillips Este

**Contact Person and Phone:** Jose Cano, (612) 202-2262

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

**Date Application Deemed Complete:** September 17, 2007

**End of 60-Day Decision Period:** November 16, 2007

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

**Ward:** 9      **Neighborhood Organization:** East Phillips Improvement Coalition

**Existing Zoning:** C4, General Commercial District

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

**Zoning Plate Number:** 26

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

**Proposed Use:** Mixed-use building including a shopping center, reception hall, restaurant, small retail spaces and four dwelling units

**Concurrent Review:**

**Conditional use permit:** for a shopping center.

**Conditional use permit:** for extended hours (closing at 2 am).

**Variance:** to reduce the minimum off-street parking requirement from the required 180 spaces to 29 spaces (where the 29 spaces are grandfathered) to allow a shopping center, reception hall, restaurant, small retail spaces and four dwelling units in an existing building.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, specifically and Section 525.520(7) “to reduce the applicable off-street parking requirements up to one hundred percent, provided the proposed use or building serves

pedestrian or transit-oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guest of the use”.

**Background:** The applicant is proposing to renovate the existing building located at 2603 Bloomington Avenue South. The building is currently used to manufacture restaurant furniture. On the second floor of the building there are four dwelling units however, they are currently being used for storage purposes. The applicant is proposing to renovate the entire building into a mixed-use building including a shopping center, reception hall, restaurant, six small retail spaces and four dwelling units.

The four dwelling units would remain on the second floor of the building. An entrance along the Bloomington Avenue South side of the building would provide access to the units. The first floor of the building would be divided up amongst the different commercial uses proposed. The shopping center would occupy the southern portion of the building, the six retail spaces would front along Bloomington Avenue South, the restaurant would front along East 26<sup>th</sup> Street and the reception hall would be located between the restaurant and the shopping center (see floor plan for more details). Please note that the restaurant and the reception hall would share one kitchen.

According to the applicant the concept for the shopping center is similar to an outdoor farmers’ market. The zoning code specifically defines a farmers’ market as an open air establishment. Because of this the only use that defines an indoor farmers’ market is a shopping center.

The parking requirement for the various uses within the building are as follows:

**Shopping Center:** as determined by the Zoning Administrator based on the principal uses in the building, the same calculation as one would use for retail sales and service uses was used for this use, 1 space per 300 square feet of GFA over 4,000 square feet, 10,925 square feet of space, 10,925 square feet minus 4,000 square feet is 6,925 square feet, 6,925 divided by 300 is 23, total of 23 spaces required.

**Reception Hall:** parking equal to 30 percent of the capacity of persons (based on a capacity of one person per 15 square feet of public space), there is 5,240 square feet of seating area, 5,240 square feet divided by 15 square feet per person is 349, 30 percent of 349 is 105, total of 105 spaces required.

**Restaurant:** parking equal to 30 percent of the capacity of persons (based on a capacity of one person per 15 square feet of public space), there is 1,200 square feet of seating area, 1,200 square feet divided by 15 is 80, 30 percent of 80 is 24, total of 24 spaces required.

**Retail sales and service uses:** 1 space per 300 square feet of GFA over 4,000 square feet with a minimum of four spaces per use that is over 100 square feet, all 6 of the retail spaces are under 4,000 square feet, total of 24 spaces required.

**Dwellings:** one space per dwelling unit, total of 4 dwellings, total of 4 spaces required.

Combined, the total parking requirement for the building is 180 spaces. There are no parking spaces on the site. However, the building has grandfathered parking rights for 29 parking spaces based on the current use of the building. Given this the applicant is seeking a variance to reduce the minimum off-street parking requirement from the required 180 spaces to 29 spaces. Because there is no parking provided on site the applicant is seeking a variance to reduce the applicable off-street parking

requirement by up to 100 percent. In order to approve a parking variance up to 100 percent it must be shown that the proposed use or building serves pedestrian or transit-oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guests of the use.

**CONDITIONAL USE PERMIT** - for a shopping center

**Findings as Required by the Minneapolis Zoning Code:**

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above 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.**

The Planning Division does not believe that locating a shopping center in the building would be detrimental to or endanger the public health, safety, comfort or general welfare. Uses in the surrounding area include residential dwellings of varying densities and a clustering of non-residential uses at the intersection of Bloomington Avenue South and East 26<sup>th</sup> Street. A shopping center in the building would compliment existing uses in the area.

**2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division does not believe that locating a shopping center in the building would be injurious to the use and enjoyment of other property in the vicinity or impede the normal or orderly development and improvement of surrounding property. If operated correctly the shopping center could prove to be a good compliment to the existing uses in the area. However, the Planning Division believes that the proposed mix of uses for the building is too intense from a parking requirement standpoint. The commercial portion of the building is approximately 28,560 square feet in size. The applicant could convert the building to a series of retail sales and service uses and possibly not need a parking variance or a very minimal one at the very least.

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

If approved, the applicant would be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

As proposed, the shopping center has a parking requirement of 23 spaces. Because there is no parking provided on the site all of the people who drive to the building will have to park on the street which will only increase traffic congestion in the public streets. The Planning Division believes that the proposed mix of uses for the building, including the shopping center, is too intense from a parking requirement standpoint. If in the future small food vendors decided to locate in the shopping center the parking requirement for the use would go up.

The Planning Division would point out that there may be opportunities for parking in the area. Currently, the south end of the building is accessible by vehicle. The applicant could explore using this portion of the building for parking instead of the proposed shopping center. To provide parking in the building the applicant would need to explore issues regarding ventilation. In addition, there are a few surface parking lots located within a block of this site. If the applicant were to work with the property owners of those sites the parking lots may be viable options for off-site parking for this building.

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

The site is located along Bloomington Avenue South which is a designated Community Corridor. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets (Policy 4.2).
- Ensure that commercial uses do not negatively impact nearby residential areas (Implementation Step for Policy 4.2).
- Continue to provide a wide range of foods 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 (Policy 4.4).

The Planning Division does not believe that locating a shopping center in the building is in conformance with the above policies of *The Minneapolis Plan*. Although the use itself may complement existing uses in the area the parking implications of such a use on the neighborhood outweigh its merits.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located.**

- **Use:** Shopping centers require a conditional use permit in the C4 zoning district. None of the other proposed uses in the building require a conditional use permit.
- **Off-Street Parking and Loading:** The parking requirement for all of the uses within the building total 180 spaces. The building has grandfathered rights for 29 spaces. Because there are no parking spaces provided on the site the applicant is seeking a variance to reduce the parking requirement from 180 spaces to 29 spaces.

- **Maximum Floor Area:** The maximum FAR in the C4 zoning district is 1.7. The lot in question is 29,230 square feet in area. The building is 40,320 square feet in size which yields an FAR of 1.38.
- **Building Height:** Building height in the C4 zoning district is limited to four stories or 56 feet. The building is two stories or 25 feet in height.
- **Minimum Lot Area:** The minimum lot area per dwelling unit in the C4 zoning district is 900 square feet. With 4 proposed dwelling units on a lot of 29,230 square feet, the applicant proposes 7,307 square feet of lot area per dwelling unit.
- **Dwelling Units per Acre:** The site is 0.67 acres in size. There are 5.97 dwelling units per acre proposed on the site.
- **Yard Requirements:** The building is existing and no additions are proposed as part of this development that would trigger yard requirements.
- **Specific Development Standards:** Of the uses proposed in the building the following are subject to specific development standards:

Restaurants, sit down, are subject to 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.

Shopping centers are subject to specific development standards:

- (1) Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.
- (2) Uses which require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this zoning ordinance.
- (3) 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:** Residential uses are not subject to hours of operation. The hours of operation for the non-residential uses in the building are 6 am to 10 pm Sunday through Thursday and 6 am to 11 pm Friday and Saturday.
- **Signs:** Signs are subject to the requirements of Chapter 543 of the Zoning Code. In the C4 zoning district one can have one-and-a-half square feet of signage for every one foot of primary building wall unless there is a freestanding sign on the zoning lot then there can only be one square foot of signage for every one foot of primary building wall. Wall signs are limited to 180 square feet in size. Projecting signs are limited to 16 square feet in size. The height limitation for both wall signs and projecting signs is 24 feet. Freestanding signs are limited to 80 square feet and can be no taller than 25 feet. The zoning code also limits the number of freestanding signs on a zoning lot to one.

No sign information was submitted as part of this application.

- **Refuse storage:** The building occupies the entire lot. Given this the refuse storage area must be located inside the building.
- **Lighting:** There was no lighting plan submitted as part of the application materials.

**CONDITIONAL USE PERMIT** - for extended hours (closing at 2 am)

**Findings as Required by the Minneapolis Zoning Code:**

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above 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.**

The Planning Division believes that extending the hours of operation for the restaurant and the reception hall until 2 am will be detrimental to or endanger the public health, safety, comfort or general welfare. Uses in the surrounding area include residential dwellings of varying densities and a clustering of non-residential uses at the intersection of Bloomington Avenue South and East 26<sup>th</sup> Street. Allowing the restaurant and the reception hall to operate until 2 am in an area that is primarily residential in nature would most likely lead to conflicts.

**2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.**

The Planning Division believes that extending the hours of operation for the restaurant and the reception hall until 2 am would be injurious to the use and enjoyment of other property in the vicinity and impede the normal or orderly development and improvement of surrounding property. The

allowed hours of operation in the C4 zoning district are Sunday through Thursday 6 am until 10 pm and Friday and Saturday 6 am until 11 pm. Allowing the restaurant and the reception hall to operate until 2 am only increases the amount of noise, glare from required lighting and pedestrian and vehicular traffic to linger in the neighborhood until the early morning hours when surrounding residents are trying to sleep.

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

Extending the hours of operation for the restaurant and the reception hall will have no impact on utilities, access roads or drainage.

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

Because there is no parking provided on the site all of the people who drive to the building will have to park on the street which will only increase traffic congestion in the public streets. Extending the hours of operation for the restaurant and the reception hall until 2 am means that those who drive to the site will have their cars parked on the surrounding streets until the early morning hours which will create conflicts with those who live in the area.

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

The site is located along Bloomington Avenue South which is a designated Community Corridor. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets (Policy 4.2).
- Ensure that commercial uses do not negatively impact nearby residential areas (Implementation Step for Policy 4.2).
- Continue to provide a wide range of foods 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 (Policy 4.4).
- Protect residential area from the negative impact of non-residential uses by providing appropriate transitions between different land uses (Policy 9.15)
- Mitigate, through screening and buffering, limiting the size and scale of a building, and a business' hours of operation, the effects of commercial properties on residential areas (Implementation Step for Policy 9.15).

The Planning Division does not believe that expanding the hours of operation for the restaurant and the reception hall until 2 am is in conformance with the above policies of *The Minneapolis Plan*. Although the Planning Division believes that rehabbing the building for commercial purposes would be appropriate it does not believe that expanding the hours of operation for uses in the building would be consistent with the policies of the comprehensive plan.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located.**

In addition to the conditional use standards, the city planning commission shall consider, but not be limited to, the following factors when determining the hours open to the public:

**1. Proximity to permitted or conditional residential uses.**

Immediately to the east and south of the site are residential uses. In addition, across the street from the site is a mixture of non-residential and residential uses. The Planning Division believes that allowing the restaurant and the reception hall to operate until 2 am in an area that is primarily residential in nature would most likely lead to conflicts.

**2. Nature of the business and its impacts of noise, light and traffic.**

Allowing the restaurant and the reception hall to operate until 2 am only increases the amount of noise, glare from required lighting and pedestrian and vehicular traffic to linger in the neighborhood until the early morning hours when surrounding residents are trying to sleep.

**3. Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.**

Both restaurants and reception halls are permitted uses in the C4 zoning district. The building where the uses are proposing to locate is existing and only façade renovations are proposed.

**4. History of complaints related to the use.**

Although there are no specific complaints related to this building the Minneapolis Police Department has indicated that there has been an on-going problem with loitering, drugs, prostitution and assaults in this area.

**VARIANCE** - to reduce the minimum off-street parking requirement from the required 180 spaces to 29 spaces (where the 29 spaces are grandfathered) to allow a shopping center, reception hall, restaurant, small retail spaces and four dwelling units in an existing building

**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.**

**Parking space reduction:** The applicant is seeking a variance to reduce the minimum off-street

parking requirement from the required 180 spaces to 29 spaces (where the 29 spaces are grandfathered) to allow a shopping center, reception hall, restaurant, small retail spaces and four dwelling units in an existing building. The applicant has indicated that because there is no parking on the site that it would be virtually impossible to operate any business in the building without seeking a variance of the parking requirement.

**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.**

**Parking space reduction:** The Planning Division does not believe that the circumstances are unique to the parcel of land for which this variance is being sought. The Planning Division believes that the proposed mix of uses for the building is too intense from a parking requirement standpoint. The commercial portion of the building is approximately 28,560 square feet in size. The applicant could convert the building to a series of retail sales and service uses and possibly not need a parking variance or a very minimal one at the very least.

The Planning Division would point out that there may be opportunities for parking in the area. Currently, the south end of the building is accessible by vehicle. The applicant could explore using this portion of the building for parking instead of the proposed shopping center. To provide parking in the building the applicant would need to explore issues regarding ventilation. In addition, there are a few surface parking lots located within a block of this site. If the applicant were to work with the property owners of those sites the parking lots may be viable options for off-site parking for this building.

**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.**

**Parking space reduction:** The zoning code authorizes a variance to reduce the applicable off-street parking requirement up to 100 percent provided the proposed use or building serves pedestrian or transit-oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guests of the use. The applicant is requesting an 84 percent variance of the parking requirement. Although there is bus service on both Bloomington Avenue South and East 26<sup>th</sup> Street, the Planning Division does not believe that all of the uses proposed for the building are pedestrian or transit-oriented; especially the reception hall. In addition, the site is not located near an off-street parking facility that would be available for the customers, occupants, employees and guests of 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.**

**Parking space reduction:** The Planning Division does not believe that the granting of the variance would increase the danger of fire safety, nor would the proposed parking variance be detrimental to

welfare or public safety. However, the Planning Division does believe that reducing the parking requirement from the required 180 spaces to 29 spaces would significantly increase congestion in the public streets. Because there is no parking provided on the site all of the people who drive to the building will have to park on the street which only reduces the amount of parking for those uses already in the neighborhood.

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit application for a shopping center located at 2603 Bloomington Avenue South.

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit application for extended hours (closing at 2 am) for the restaurant and reception hall located at 2603 Bloomington Avenue South.

### **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 **deny** the variance application to reduce the minimum off-street parking requirement from the required 180 spaces to 29 spaces (where the 29 spaces are grandfathered) to allow a shopping center, reception hall, restaurant, small retail spaces and four dwelling units in an existing building located at 2603 Bloomington Avenue South.

### **Attachments:**

1. Statement of proposed use and description of the project
2. August 21, 2007, and September 17, 2007, letters from the applicant regarding off-site parking possibilities

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3. Conditional use permit and variance findings including information from the Minneapolis Police Department regarding crime in the surrounding area
4. July 5, 2007, letters to Council Member Schiff and the East Phillips Improvement Coalition
5. August 4, 2007, and August 13, 2007, letters from the East Phillips Improvement Coalition
6. Written comments from surrounding property owners
7. Preliminary Development Review notes from the meeting held on September 5, 2007
8. Zoning Map
9. Site plan, floor plans and elevations
10. Aerial view of the block and photographs of the site