

Department of Community Planning and Economic Development - Planning Division
Expansion of a Legal Nonconforming Use, Variance, and Site Plan Review
BZZ-4334

Date: April 6, 2009

Applicant: Whitebox Commodities Holding Corporation

Address of Property: 2901 5th Street NE

Project Name: Malt One Expansion

Contact Person and Phone: Carol Lansing – Faegre & Benson 612-766-7005

Planning Staff and Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: February 19, 2009

End of 60 Day Decision Period: April 20, 2009

Ward: 3 Neighborhood Organization: Columbia

Existing Zoning: I2 Medium Industrial District

Proposed Zoning: Not applicable

Zoning Plate Number: 5

Legal Description: Not applicable

Proposed/Existing Use: Addition of three grain bins to an existing grain elevator facility.

Concurrent Review:

Expansion of a Legal Nonconforming Use: To allow the addition of three grain bins and a small 3,200 accessory building to an existing grain elevator facility.

Conditional Use Permit: To allow an increase in height from 4 stories, or 56 feet to 8 stories or 110 feet for the proposed elevators (125 feet to the peaks) and 146 feet to the tallest portion of the bridge conveyor system connecting the bins.

Variance: Of the surfacing requirements.

Site Plan Review.

Applicable zoning code provisions: Chapter 525, Administration and Enforcement, Article VII, Conditional Use Permits; Article IX, Variances, Specifically Section 525.520(16), “to vary the surfacing requirements of Chapter 541; Chapter 530, Site Plan Review; and Chapter 531 Nonconforming Uses and Structures.

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Background: The applicant proposes to add three grain storage bins to an existing grain elevator facility. In addition, a small accessory building will be constructed on the site. Please see the attached statement form the applicant for a more detailed description of the project. Any addition to a legal nonconforming use requires an expansion of a legal nonconforming use and any addition of 1,000 square feet or more requires site plan review. The new structure will be taller than four stories, so a conditional use permit to allow an increase in height is necessary. The applicant proposes to continue utilizing gravel for a surfacing material in the truck parking and maneuvering areas, so a variance is necessary to allow this surfacing material. A letter from the Columbia Park Neighborhood Association in support of the project is attached to this report.

CONDITIONAL USE PERMIT (to increase the height)

Findings as required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department 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 proposed elevator expansion is located within an industrial area and is surrounded by a rail yard and trucking uses. The existing facility has elevators that are 90 feet tall, a manlift that is 140 feet tall, and tower at the south end that is 175 feet high. Truck traffic will utilize existing routes through the industrial area to University Avenue NE, the same as other trucking uses near the site. The applicant states there will not be significant increases in odor, dust, or noise. The increase in the proposed height should not be detrimental to the surrounding area.

- 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 surrounding area is developed as industrial land that is part of an industrial employment district. It is surrounded by a rail yard and trucking uses. The nearest residential district and uses are approximately 950 to 1,000 feet to the south. The site is currently has grain elevators that were constructed in the early 1900s. With appropriate conditions of approval the increase in height should not be detrimental to nearby properties and should be an improvement to the area.

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

Utilities and access are existing and adequate. Public Works and the Fire Department have reviewed the plans for access and circulation and they find the plans acceptable. A stormwater management plan is required to be approved by Public Works before and permits may be issued.

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

The zoning code requires that the parking requirement is as determined by the conditional use permit approval process, but because the applicant is applying for an expansion of a nonconforming use rather than a rezoning to I3 with a conditional use permit for a grain elevator (the only C.U.P. applied for is for the height increase), the zoning administrator has assigned a parking value for the use of one per employee. At nine employees this would require nine spaces. The applicant has designed the site to provide adequate parking for the proposed use based on their operations and demand. There is adequate maneuvering, queuing, and parking area for trucks. There are four paved spaces at the office including on van accessible space and room at other parts of the site for the additional vehicle parking. Public Works has approved a Travel Demand Management Plan for the expansion.

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

The Minneapolis Plan designates Shoreham Yards as an Industrial Park/Business Park Opportunity Area (Map 2.1) and a Potential Growth Center. *The Minneapolis Plan for Sustainable Growth* designates this area as industrial, but no longer has the Potential Growth Center designation. *The Minneapolis Plan* has the following relevant policies and implementation steps:

2.2 Minneapolis will support the existing economic base by providing adequate land and infrastructure to make city sites attractive to businesses willing to invest in high job density, low impact, light industrial activity.

Implementation Steps

Identify appropriate areas for the retention and expansion of existing industry and the development of new industry in specific industrial and business park opportunity areas.

Promote light industrial uses as the preferred use of industrial land, but discourage warehouse or distribution uses in areas where truck traffic will negatively impact residential neighborhoods.

Continue to protect a healthy physical environment that is attractive for private investment and compatible with neighborhoods.

Allow for a limited amount of heavy industrial uses where appropriate, but minimize negative impacts on their surroundings.

Relocate conflicting heavy industrial uses from impacted areas as more appropriate sites in the city or the region become available.

Encourage heavy industry to locate at appropriate sites, such as those that have with immediate freeway access, are distant from natural or cultural amenities, and with no significant residential uses in the immediate vicinity.

9.25 Minneapolis will establish industrial districts to provide locations for industrial land uses, while ensuring that new industrial development is compatible with its surroundings.

Implementation Steps

Develop regulations for industrial districts that promote compatible industrial development and the efficient use of land.

Allow for a limited amount of heavy industrial uses where appropriate, but minimize negative impacts on their surroundings.

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Relocate conflicting heavy industrial uses from impacted areas as more appropriate sites in the city or the region become available.

Encourage heavy industry to be located at appropriate sites, such as those that have with immediate freeway access, are distant from natural or cultural amenities, and with no significant residential uses in the immediate vicinity.

It is the staff's opinion that the proposed increase in height is in conformance with these goals of the comprehensive plan as there is an industrial area between the use and residential uses and there is already an existing grain elevator facility that exceeds the four story height limitation.

In addition to the comprehensive plan policies the *Industrial Land Use* study was adopted by the City Council on November 3, 2006, and shows this site as part of an Employment District (District 2 – Shoreham Yards - please see attached map), which are areas designated for continued industrial use. The plan does not speak directly to the issue of height, but does recommend buffering of industrial uses for non-industrial uses. This site is surrounded by industrial uses, but will be visible from the residential area to the south. The existing elevators are 90 feet tall, the associated manlift is 140 feet, and the highest point of the tower is 175 feet. Considering the distance from residential, the existing grain elevator height, and the conditional use permit height evaluation criteria the increase in height is in conformance with the above noted small area plan.

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

The proposal will conform to the applicable regulations of the I2 Light Industrial District upon the approval of the conditional use permit, expansion of a nonconforming use, variance, and site plan review.

In addition to the conditional use standards contained in Chapter 525 and this article, the city planning commission shall consider, but not be limited to, the following factors when determining maximum height:

(1) Access to light and air of surrounding properties.

The increase in height will shadow parts of an existing industrial property to the north that has loading docks facing the site, so there will be no significant impact.

(2) Shadowing of residential properties or significant public spaces.

The addition will not shadow any residential properties or significant public spaces.

(3) The scale and character of surrounding uses.

The site is surrounded by industrial uses. The addition will be next to existing grain elevators that are 90 feet tall and that have associated equipment and structures that rise to 175 feet.

(4) Preservation of views of landmark buildings, significant open spaces or water bodies.

The building will not block views of landmark buildings, significant open spaces or water bodies.

EXPANSION OF A LEGAL NONCONFORMING USE

Findings as Required by the Minneapolis Zoning Code:

The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

1. A rezoning of the property would be inappropriate.

A grain elevator is first allowed in the I3 General Industrial District under the current zoning ordinance. The original facility was constructed in the early 1900s. The site was zoned Heavy Industrial District under the 1924 zoning code, which allowed grain elevators. In 1963, the zoning of the site was changed from the Heavy Industrial District to the M2-2 Limited Manufacturing District, which allowed storage of materials based on conformance with performance standards. In 1984, the zoning code was amended to specifically listed grain elevators as first allowed in the M3 General Manufacturing District, so at this time the use was nonconforming. The site was zoned I2 Medium Industrial in 1999, with the adoption of the current zoning code. The I2 District does not allow grain elevators. The structure, however, is legally nonconforming. While the I3 District could be appropriate for the site, it has been zoned M2 and I2 for over 40 years and there has not been a change in city policies or development in the area that would indicate a change is necessary; therefore, a rezoning of this site to I3 may not be appropriate, especially due to the other heavy industrial uses that would then be allowed at the site.

2. The enlargement, expansion, relocation, or intensification will be compatible with adjacent property and the neighborhood.

The facility is surrounded by the Shoreham Yards rail facility that includes an intermodal truck facility next to the site. The site is in an industrial employment district. The new grain bins should not be out of character with the adjacent truck and rail uses. It requires truck and rail access for shipping and receiving. The closest residential area is approximately 950 to 1000 feet to the south.

3. The enlargement, expansion, relocation, or intensification will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors, and parking congestion.

There will be a doubling of truck traffic to the site with varying amounts throughout the year. The anticipated maximum the facility could handle would be 50 trucks a day; however, the applicant indicates that this amount of activity would be rare and would usually be around 3.5 trucks per day. Trucks will continue to travel through the industrial area to University Avenue as they do now. No trucks from the site travel through residential areas to get to University Avenue. There are other trucking uses that utilize the same route, so the increase should not be significant. The required parking and queuing for trucks is provided on site. The number of employees may increase from five to nine. There is adequate on-site employee parking.

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The applicant has indicated that noise at the site would be generated by trucks and rail cars coming and going from the site and operation of the dust collecting bag house, conveyors, and grain cleaning machines within the elevator. The noise levels are not great enough to require ear protection for employees and should not exceed the sound levels generated by other industrial uses in the area for the residential uses to the south.

The applicant has indicated that no dust or odors are generated by the facility and that dust is collected through the bag house dust collector system. In addition, an air quality permit is required for the facility by the Minnesota Pollution Control Agency.

4. The enlargement, expansion, relocation, or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.

The site is surrounded by rail and truck uses. The new construction will require site plan review and a stormwater management plan which will result in a large green area at the east end of the site and improved stormwater treatment. The expansion, with staff recommended conditions of approval, should not be a detriment to the neighborhood.

5. In districts in which residential uses are allowed, the enlargement, expansion, relocation, or intensification will not result in the creation or presence of more dwelling units or rooming units on the subject property than is allowed by the regulations of the district in which the property is located.

The expansion will not create or add residential units.

6. The enlargement, expansion, relocation, or intensification will not be located in the Floodway District.

The property is not located in the Floodway District.

VARIANCE (to vary the surfacing requirements)

Findings Required by the Minneapolis Zoning Code:

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.

Section 541.300(a) of the zoning code requires that “all open off-street parking areas, all driveways leading to such parking areas, and all other areas upon which motor vehicles may be located, except where accessory to a single-family dwelling, shall be surfaced with a dustless all-weather hard surface material capable of carrying a wheel load of four thousand (4,000) pounds. In addition, all driveways in commercial and industrial districts leading to areas other than off-street parking areas shall be surfaced with a dustless all-weather hard surface material capable of carrying a wheel load of four thousand (4,000) pounds for a minimum of twenty (20) feet from the curb line. Acceptable surfacing materials shall include asphalt, concrete, brick, cement pavers or similar material installed and maintained per industry standards.”

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Section 525.520(16), the authorized variance for surfacing requirements, states that “factors to be considered in varying the surfacing requirements for the industrial districts shall include but not be limited to the following: The yard and parking uses are in the same area; use of heavy equipment will cause excessive hard surface breakup; parking movements are infrequent; the area is distant from other non-industrial zone uses; or water infiltration is ecologically desirable.”

Trucks leaving the site would travel over gravel surfaces and the surrounding area has many gravel yards, so the paving of the yard would do little to prevent the trucks from tracking gravel off the site into public streets. The site is approximately 950 to 1,000 feet from the residential area to the south. The applicant indicates that the use of Class 5 gravel is a reasonable request for this type of facility. Requiring paving would be an expensive alternative for an area this large in exchange for little public benefit.

- 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 site has a large truck storage queuing, and maneuvering area that has historically been gravel. It is surrounded by a rail yard and trucking uses that also utilize gravel for parking and storage areas. It is not adjacent to residential. This condition is not generally applicable to other properties in the city. The continued use of gravel surfacing in this area is a reasonable use of the property.

- 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 intent of the ordinance is to provide a durable parking surface that does not produce dust, erode, or allow dirt or other matter to be tracked over the public sidewalks and in to the public streets. In general, paved surfaces also allow for a more permanent and organized parking layout through striping. This site is surrounded by industrial uses that also utilize gravel for parking and storage areas. As trucks leave the site they travel on gravel surfaces, so paving to prevent gravel from migrating from the site is not workable. The low volume of traffic and location in the middle of an industrial area not fronting on a public street makes the need for a more organized parking area less necessary. The variance should not circumvent the intent of the ordinance.

- 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 type of surfacing should have no effect on congestion in the public streets. The variance should not endanger public health or safety or increase the danger of fire.

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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

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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 530.20 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.

The site is landlocked and does not front on any street, so the standards regarding building location in relation to the street wall, amenities between the buildings and the street, and principal entrance location, parking location, are not applicable.

The new elevators and the accessory building are made of corrugated metal and have no architectural detail. Staff recommends alternative compliance as this site is located in an industrial area surrounded by rail and trucking uses and does not front onto a public street.

The new structures do not face a public street, sidewalk, or pathway, so no windows are required. The small accessory building will have windows though.

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.

The site is landlocked and does not front on any street, so the standards regarding walkways connecting to the public sidewalk are not applicable.

There are no transit shelters on the site.

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There are no adjacent sidewalks or residential and truck traffic will travel through the industrial area to University Avenue, so the conflicts with pedestrian traffic and surrounding residential uses will be minimal. There is only one way in and out of the site for vehicles.

Public Works and the Fire Department have reviewed the site plan for access and circulation and find them acceptable.

The site has been designed to minimize impervious surfaces and all areas that are not covered by buildings and areas necessary for parking, loading, and the associated maneuvering are pervious surfaces used for landscaping and stormwater management.

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.**

The site plan shows 23 percent landscaping. The lot area is 318,279 square feet and the footprint of the buildings will be approximately 76,117 square feet. This leaves 242,162 square feet, of which 20 percent (48,432 square feet) is required to be landscaped. There is 67,748 square feet of landscaping on site, of which 42,748 square feet is grass around the railroad tracks and 23,000 square feet is new plantings on the east side of the site for the stormwater management retention area.

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The development is required to provide 97 trees and 484 shrubs. The site plan shows no trees or shrubs. Staff recommends partial alternative compliance for the trees and shrubs as planting the required number would interfere with the truck maneuvering and rail operations. Staff recommends that at least six trees be planted on site and all areas not occupied by buildings and truck parking and maneuvering and rail operations (except for the areas between the elevators) have native planting or grasses in lieu of shrubs.

The site is landlocked and does not front on any street, so the standards regarding screening and parking fronting a public street, sidewalk, or pathway are not applicable.

Not all parking spaces are with 50 feet of a deciduous tree. The east side parking meets this requirement with the addition or movement of a couple of trees. Staff recommends alternative compliance as placing trees near the office parking area will conflict with operations of the facility. Staff is recommending that trees be added to the site as mentioned above in this section of the report.

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.**

Curbing is not provided around the parking areas as there is no paved parking.

The existing and proposed buildings will not block of important views of the city, shadow public spaces and adjacent properties, and will not significantly generate wind currents at ground level.

The plan meets the CPTED guidelines. The site is in the middle of a rail yard where it is very difficult for the public to access. The recommended landscaping should not interfere with views in to and out of the site. Landscaping should follow the 3-foot 7-foot rule.

There are no historic structures on the site.

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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 existing grain elevators are legally nonconforming uses in the I2 Medium Industrial District.

Off-Street Parking and Loading:

Minimum automobile parking requirement: The zoning code requires that the minimum and maximum parking requirement is as determined by the conditional use permit approval process, but because the applicant is applying for an expansion of a nonconforming use rather than a rezoning to I3 with a conditional use permit for a grain elevator (the only C.U.P. applied for is for the height increase), the zoning administrator has assigned a parking value for the use of one per employee. At nine employees this would require nine spaces. There are four paved spaces at the office including one van accessible space and room at other parts of the site for the additional vehicle parking.

Maximum automobile parking requirement: The zoning administrator has determined that it is not practical to apply a parking maximum to this site as it is a large unpaved area.

Bicycle parking requirement: There is no minimum bicycle parking requirement for grain elevators.

Loading: This facility is required to have five large (12'x 50') loading spaces. The applicant has designed the site to provide adequate parking for the proposed use based on their operations and demand. There is adequate maneuvering, queuing, and parking area for trucks. There is an area for eight trucks to be staged and two actual spaces where grain is unloaded into the elevators.

Maximum Floor Area: The maximum FAR in the I2 District is 2.7. The lot in question is 318,279 square feet in area. The site contains approximately 481,163 square feet of gross floor area on the lot, an FAR of 1.5.

Building Height: Building height in the I2 District is limited to 4 stories or 56 feet, whichever is less. The new bins will be 110 feet or eight stories tall (125 feet to the peaks) and the associated bridge, tower, and conveyors connecting the bins to each other and the existing facility will rise to 146 feet at their highest point. The applicant has applied for a conditional use permit to increase the height and staff is recommending approval of the conditional use permit.

Minimum Lot Area: There is no minimum lot area for grain elevators in the industrial districts.

Dwelling Units per Acre: There are no residential units proposed.

Yard Requirements: No setbacks are required for this use in the I2 District.

Specific Development Standards: No specific development standards are applicable for this use.

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Hours of Open to the Public: In the industrial districts, uses may be open to the public during the following hours: Sunday through Thursday from 6:00 a.m. to 10:00 p.m. and Friday and Saturday from 6:00 a.m. to 11:00 p.m. The facility is not open to the public and typically operates from 6:00 a.m. until 8:30 p.m.

Signs: Signs are subject to 531 and 543 of the Zoning Code. All new signs are required to meet the requirements of Chapter 543 of the zoning code and permits are required from the Zoning Office. No new signs are proposed at this time and the applicant is aware that signs require zoning office approval and permits if proposed in the future.

Refuse storage: Section 535.80. Refuse storage containers shall 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. The refuse containers are stored indoors.

Lighting: The lighting will comply with Chapters 535 and 541 including the following standards:

535.590. Lighting. (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance. (b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively arranged so as not to directly or indirectly cause illumination or glare in excess of one-half ($\frac{1}{2}$) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light source.
- (2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility to a person of normal sensitivities when viewed from any permitted or conditional residential use.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

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MINNEAPOLIS PLAN and SMALL AREA PLANS ADOPTED BY COUNCIL:

See finding number 5 under the conditional use permit sections of this report.

Alternative Compliance. The Planning Commission 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.**

- Blank walls.

The new elevators and the accessory building are made of corrugated metal and have no architectural detail. Staff recommends alternative compliance as this site is located in an industrial area surrounded by rail and trucking uses and does not front onto a public street.

- On-site trees and shrubs.

The development is required to provide 97 trees and 484 shrubs. The site plan shows no trees or shrubs. Staff recommends partial alternative compliance for the trees and shrubs as planting the required number would interfere with the truck maneuvering and rail operations. Staff recommends that at least six trees be planted on site and all areas not occupied by buildings and truck parking and maneuvering and rail operations (except for the areas between the elevators) have native planting or grasses in lieu of shrubs.

- Parking within 50 feet of a deciduous tree.

Not all parking spaces are with 50 feet of a deciduous tree. The east side parking meets this requirement with the addition or movement of a couple of trees. Staff recommends alternative compliance as placing trees near the office parking area will conflict with operations of the facility.

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RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department - Planning Division for the conditional use permit to increase the height of the structures:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the conditional use permit to increase the height from 4 stories to 8 stories or 110 feet (125 feet to the peaks) of the grain bins and 146 feet to the highest point of the associated bridge, towers, and conveyors connecting the bins to each other and the existing facility for property located at 2901 5th Street NE subject to the following condition:

- 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.

Recommendation of the Community Planning and Economic Development Department - Planning Division for the expansion of a legal nonconforming use:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the expansion of a legal nonconforming use to expand the existing grain elevator facility located at 2901 5th Street NE.

Recommendation of the Community Planning and Economic Development Department - Planning Division for the variance:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance of the surfacing requirements for property located at 2901 5th Street NE.

Recommendation of the Community Planning and Economic Development Department - Planning Division for the site plan review:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the site plan review for property located 2901 5th Street NE subject to the following conditions:

- 1) CPED Planning staff review and approve the site plan, lighting plan, landscaping plan, and elevations before permits may be issued.

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- 2) All site improvements shall be completed by April 6, 2010, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 3) Addition of at least six trees to the site plan.
- 4) All areas not used for truck parking, storage, queuing, or maneuvering (except for areas between and adjacent to the grain elevators) shall be covered with native grasses or plantings.

Attachments:

1. PDR report.
2. Statement from the applicant.
3. Neighborhood group letter.
4. Zoning maps.
5. Site plans, floor plans, and elevations.
6. Photos.