

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ – 4588

Date: November 9, 2009

Applicant: Doran University LLC

Address of Property: 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast

Project Name: Sydney Apartments / Dinky Dome Redevelopment

Contact Person and Phone: Jim LaValle, (952) 288-2006

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

Date Application Deemed Complete: October 2, 2009

End of 60-Day Decision Period: December 1, 2009

Ward: 2 Neighborhood Organization: University (adjacent to Marcy Holmes)

Existing Zoning: C3A Community Activity Center District, PO Pedestrian Oriented Overlay District, and UA University Area Overlay District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 15

Legal Description: Not applicable for this application

Proposed Use: Mixed use building with residential and retail uses.

Concurrent Review: Variance to increase the maximum size of a retail use in the C3A district from 8,000 square feet to 12,000 square feet.

Applicable zoning code and land subdivision provisions: Chapter 525, Article IX Variances, Section 525.520 (3) “To vary the...floor area ratio...requirements of a...use.”

Background: The applicant is constructing a mixed use, 6-story addition with 125 dwelling units and ground floor retail to the Dinky Dome building at the properties of 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast. In July of this year, the planning commission granted approval of two conditional use permits, three variances, a site plan review and a minor subdivision for the project. The variances granted included allowing an increase of gross floor area for a retail tenant space. These approvals were appealed to the city council. The requests for the variances were withdrawn by the applicant before the appeal was brought to public hearing. The appeal for the remaining applications

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was denied. The final actions are attached for reference. The applicant has indicated they are marketing retail space in the addition to a retailer selling convenience goods with a pharmacy. Approximately, 13,800 square feet of retail space would be built in the addition. The pharmacy tenant would occupy up to 12,000 square feet. The maximum floor area of retail sales and services uses in the C3A district is 8,000 square feet if no parking is located between the principal structure and the street and the structure is at least two-stories. Because the previous variance was withdrawn, a new variance request is required.

The area that the site is located in is not represented by a neighborhood group. Correspondence from the adjacent neighborhood group, Marcy Holmes Neighborhood Association, was received and is attached to this report. Staff will forward comments, if any are received, at the City Planning Commission meeting.

VARIANCE: to increase the maximum floor area of a retail sales and services use from 8,000 square feet 12,000 square feet.

Findings as required by the Minneapolis Zoning Code:

- 1. The property can not be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

In the C3A zoning district, the maximum floor area of retail sales and services uses cannot exceed 4,000 square feet. If there is no parking between the building and the street and the building is at least two stories in height, a floor area bonus is allowed and the maximum floor area of the retail sales and services uses may be increased to 8,000 square feet. The applicant has indicated there are some retail sales and services uses that do not exist in Dinkytown because those uses typically need more than 8,000 square feet to operate. The applicant is proposing to have a convenience goods store with a pharmacy occupy 12,000 square feet.

The proposed retail tenant space would occupy most of the first floor wall facing 4th Street and more than half of the first floor wall facing 15th Avenue. Allowing an increase from the permitted 8,000 square feet to 12,000 square feet for one of the retail tenant spaces would not be unreasonable provided the development complies with all PO overlay district window requirements and the windows in the largest tenant space maintains views into and out of the building at eye level. The first floor façade of a building that faces a public street or a sidewalk is required to have at least 40 percent clear or lightly tinted glass that allow views into and out of the building at eye level and are distributed in a more or less even manner measured between two and ten feet above the first floor level. These walls and the proposed window openings are critical to the proposed buildings' interaction with the public sidewalk and street as one tenant would occupy most of the new ground level commercial space. Too much signage or other items placed in windows can detract from a small neighborhood scale and character such as exists in Dinkytown. Windows facing the loading area are also required by the Site Plan Review chapter of the zoning code and the applicant is also proposing windows facing the driveway. Blocking up these windows can have similar impacts. Because there is a change in grade adjacent to the site, staff recommends that window openings are transparent and devoid of any shelving,

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signage, merchandise, newspaper racks, mechanical equipment or other mechanisms that block views into and out of the building at eye level from the sidewalk level.

- 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 circumstances could be considered unique to the parcel of land as the proposed tenant space would be located within a geographical area where a larger retail space is necessary in order to provide desired goods and services. The applicant has indicated that successful retail in the building supports the renovation and preservation of the Dinky Dome 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.**

The purpose of the maximum floor area requirements is to provide for the development of neighborhood scale retail sales and services. The purpose of the C3A and PO overlay districts is to promote major urban activity and street life and activity. A tenant space that enhances the pedestrian character of the neighborhood would meet the intent of the ordinance. The subject tenant space would have an entrance adjacent to the 15th Avenue and 4th Street intersection. Providing windows that maintain views into and out of the building at eye level from the sidewalk level would further enhance the pedestrian realm, specifically if the windows are transparent and devoid of any shelving, signage, merchandise, newspaper racks or other mechanisms.

- 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.**

In the Dinkytown PO overlay district, automobile parking is not required for nonresidential uses. Some parking would be available for the commercial uses in the below-grade parking level with 134 spaces. The required bicycle parking for the nonresidential uses are conveniently located along 15th and University Avenues. Three surface loading spaces would also be provided. The primary patrons of the business will likely reside in the area or attend or work for the University of Minnesota. Because of the close proximity of these uses, congestion of area streets should not be a concern. The granting of the variance would likely have little impact on fire safety, nor would the proposed variance be detrimental to welfare or public safety.

RECOMMENDATION

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 above findings and **approve** the application for a variance to increase the maximum floor area of a retail use in the C3A district from 8,000 square feet to 12,000 square feet for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast, subject to the following conditions:

1. Nonresidential windows shall be transparent. In the largest tenant space, no shelving, signage, merchandise, newspaper racks, mechanical equipment or other mechanisms shall be placed in front of the windows that block views into and out of the building at eye level (eye level shall refer to the area 4 to 7 feet above the sidewalk level).
2. Window signs shall not exceed 30 percent of the window area as required by section 543.480 of the zoning code.

Attachments:

1. Final actions for BZZ-4429
2. Applicant statement of use and findings
3. Correspondence
4. Zoning map
5. Plans