

Department of Community Planning and Economic Development - Planning Division
Conditional Use Permit
BZZ-5460

Date: March 26, 2012

Applicant: Temple Israel of Minneapolis

Address of Property: 4153 3rd Avenue South

Project Name: Expansion of Temple Israel Memorial Park

Contact Person and Phone: Larry Berg, Fredrikson and Byron (612) 492-7052

Planning Staff and Phone: Kimberly Holien (612) 673-2402

Date Application Deemed Complete: February 17, 2012

End of 60 Day Decision Period: April 17, 2012

Ward: 8 **Neighborhood Organization:** Bryant

Existing Zoning: R1A, Single Family Residential

Zoning Plate Number: 31

Legal Description: Not applicable for this application

Proposed Use: Cemetery

Concurrent Review:

Amended Conditional Use Permit: To allow the expansion of burial sites within an existing cemetery in the R1A district.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits; Chapter 546, Residence Districts.

Background: Temple Israel of Minneapolis is proposing to expand the area used for burial plots within the existing Temple Israel Memorial Park cemetery. Cemeteries are conditional uses in the R1A district, thus any expansion requires an amended conditional use permit. Specifically, the request at this time is to allow burials on the lots identified as Lots 6 and 7 of Block 6 and Lot 7 of Block 5 in Portland Park Addition to Minneapolis (see attached map). These lots are within the fenced boundaries of the existing cemetery but have not been previously approved for burial plots.

A similar conditional use permit to allow the cemetery to expand was approved in 2003 under BZZ-958. That conditional use permit allowed burials on Lots 8, 9, 16, and 17 of Block 6, Portland Park Addition

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to Minneapolis and Lot 21 of Block 5, Portland Park Addition to Minneapolis. One of the conditions of that conditional use permit required the stub alleys that dead-end into the north part of the cemetery to be vacated. Those alley portions were vacated accordingly in 2004 per VAC-1442.

As of the writing of this staff report, staff has not received any correspondence from the Bryant neighborhood. Any correspondence, if received, will be forward to the Commission.

CONDITIONAL USE PERMIT - to allow the expansion of burial sites in an existing cemetery

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings below 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 cemetery has existed at this location for over 100 years. The subject land at the north end was added to the cemetery at later dates. Expanding burials into this area should have little impact on surrounding residential properties. An existing decorative fence and landscaped yard buffer the cemetery from the properties to the north. The minimum setback requirements in the R1A district are five feet for the side and rear yard and 20 feet for the front yard. Burials are not a permitted encroachment in a required yard. Respecting the setback requirements will provide an additional buffer between any future burials and the single family homes to the north.

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 fully developed. The cemetery will not expand beyond its existing boundaries, which are currently fenced and landscaped. The request at this time is to expand the area of the existing cemetery that can be utilized for burial plots. Activities related to the use, including digging of graves and funerals, will be conducted during daytime hours to minimize the impact on adjacent uses. Burial plots are required to comply with the setback requirements of the R1A district, which will further limit any impact on surrounding properties.

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

Roads and utilities are existing and adequate. Access into the site is from 3rd Avenue South. As stated above, no changes are proposed to the existing cemetery boundaries and as such, no changes to access are proposed. Further, the addition of burial plots should not affect drainage.

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

The modification to allow additional burial plots within the existing cemetery boundary should not increase traffic in the area. Cemeteries do not have a minimum parking requirement. Currently there are approximately two parking stalls adjacent to the existing building in the southwest corner of the site. Other parking for the use generally occurs along the internal private drives.

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

The site is designated as parks/open space on the future land use map in *The Minneapolis Plan for Sustainable Growth*. This designation applies to land or water areas generally free from development. It is primarily used for park and recreation purposes, natural resource conservation, or historic or scenic purposes. The following policies of the comprehensive plan apply:

Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.

1.2.1 Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.

Policy 7.5: Protect landscapes that are significant to the historic legacy of Minneapolis, the region and state, and preserve and expand artistic features in publicly accessed open spaces.

7.5.1 Encourage the preservation of historic buildings, memorials and monuments found in open spaces throughout the city.

Policy 7.7: Support the expansion and maintenance of open spaces and parks in order to increase economic development and to promote tourism

Allowing the cemetery to expand within its existing boundaries is consistent with the above policies of the Comprehensive Plan. The existing landscaping and fencing, in addition to respecting the required setbacks, will provide an appropriate transition between the use and the adjacent residential parcels.

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

The use is non-conforming as to lot area. The minimum lot area requirement for cemeteries is 80 acres and the site is 5.42 acres. However, the cemetery pre-dates the zoning code and has legal non-conforming rights for the lot size. This application does not impact the lot area as the request is only to allow additional burial plots within the existing cemetery boundaries. Adding additional land to the use would only decrease its non-conformity, as it would bring it closer into compliance with the 80 acre minimum. In all other aspects the use conforms to the applicable regulations of the R1A district.

RECOMMENDATIONS:

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

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 allow the expansion of burial sites within an existing cemetery located at 4153 3rd Avenue South, subject to the following conditions:

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.
2. Burial plots shall not be permitted within the required yards set forth in Section 546.280 of the zoning code.

Attachments:

1. Statement and findings from applicant.
2. Zoning map.
3. Letters to Council Office and Neighborhood
4. Site plans.
5. Photos.