#
CPC
6/13/05

Department of Community Planning and Economic Development—Planning Division
Rezoning Petition
BZZ-2375

Hearing Date: 6/13/05

Date Application Deemed Complete: 4/28/05

End of 60-Day Decision Period: 6/27/05

End of Second 60-Day Decision Period: Decision period extended by letter (dated 5/4/05) to 8/26/05

Applicant: Gary Carlson, 1660 S. Highway 100. Suite 126, St. Louis Park, MN 55416

Address of Property: 2401 Chicago Ave. S.

Contact Person and Phone: Don Carlson, 1660 S. Highway 100. Suite 126, St. Louis Park, MN 55416; 952-738-9393

Staff Contact Person and Phone: J. Michael Orange, Principal Planner. Phone: 612-673-2347; facsimile: 673-2728; TDD: 673-2157; e-mail: michael.orange@ci.minneapolis.mn.us

Ward: 8 **Neighborhood Organization:** Midtown Phillips Neighborhood Group

Existing Zoning: OR2, High Density Office Residential District

Proposed Zoning: C2, Neighborhood Corridor Commercial District with Pedestrian Oriented Overlay District

Zoning Plate number: 20

Legal Description: Brackett & Boveys Addition to Minneapolis, Block 004 Lots 1, 9 and 10 and the North 18 feet of Lot 2 including adjacent vacant alley; 2409 Chicago - Brackett & Boveys Addition to Minneapolis, Lot 008, Block 004, North ½ (description not completed on Hennepin County Tax Record); 2413 Chicago - Brackett & Boveys Addition to Minneapolis, Block 004, North 18 ½ feet of Lot 7 and South ½ of Lot 8; 2417 Chicago - Brackett & Boveys Addition to Minneapolis, Block 004, North 10 feet of Lot 6 and South 38 ½ feet of Lot 7; 2408 Elliot - Brackett & Boveys Addition to Minneapolis, Block 004, Lot 3 and the South 25 feet of Lot 2 excluding part taken for alley; 2414 Elliot - Brackett & Boveys Addition to Minneapolis, Lot 004, Block 004, North 18 ½ feet if Lot 7 and South ½ of Lot 8 (this is the extent of the legal description as displayed on Hennepin County Tax Records).

If you need more information or have special needs, please call the Minneapolis Planning Department at 612-673-2597.

Proposed Use: Application by Gary Carlson to rezone the site of the Chicago Commons project (under construction) located at 2401 Chicago Ave. S. from OR2 to C2 with a Pedestrian Oriented Overlay District.

Prior approvals:

- Planning Commission actions on 6/21/04 (BZZ-1753):
  - Rezoning of a 59,807 sf of contiguous property from the R2B, Two Family District, to OR2, High Density Office Residential District
  - Conditional use permit for the residences
  - Conditional use permit for two Neighborhood Serving Retail Sales and Services Uses (coffee/sandwich shop of 2,812 sf and convenience store of 1,300 sf).
  - Site plan review
  - Yard and site variances
  - Preliminary plat
  - Alley vacation

Concurrent Review: Petition to rezone from OR2 to C2 with Pedestrian Oriented Overlay District

Applicable zoning code provisions: Per Chapter 525

BACKGROUND

Project: Gary Carlson, Chicago Commons Corporation, has filed application to rezone the site of the Chicago Commons project (under construction) located at 2401 Chicago Ave. S. from OR2 to C2 with a Pedestrian Oriented Overlay District. On 6/21/04, the Planning Commission approved the rezoning of this 59,807 sq. ft. site originally from R2B (two-family) district to OR2 (high density office residential) district as well as all of the necessary permits to construct the project. The City approved the following: Demolish existing structures and construct two new, mixed-use buildings, 4 stories (50 feet height) with underground parking for residential units and interior parking courtyard for commercial spaces (total of 130 stalls), ground level office and retail uses, and 81 dwelling units on floors 2 through 4.

As approved, there will be 13 office spaces in the building, the largest is 2,940 sf, and the following two commercial spaces:

- Coffee shop (2,812 sf, possibly Starbucks or Caribou)
- Grocery store (1,300 sf, possibly a Tom Thumb)

Need for rezoning and possible districts: The applicant states that the company needs commercial zoning for the following reasons:

- The project needs the following 4 additional commercial spaces to replace 4 spaces approved for offices. The applicant did not specify the size of the proposed uses:
  - Dry cleaner (use allowed in OR2, C1 and C2).
  - Pharmacy (use allowed in OR2, C1 and C2).
  - Deli/restaurant (use allowed in OR2, C1 and C2 but use limited to 30 seats in OR2).

- Bank (use not allowed in OR2 [547.30 (f)(1)], first allowed as permitted use in C1).
- OR2 only allows 2 neighborhood-serving retail spaces and limits each to 2,000 sq. ft. [547.30 (f) (3)] (they obtained a variance (#3) to allow the coffee shop to exceed 30 seats). There is no possible variance to allow any of the new uses.

Lot area requirements in the C1 District (1,500 sf per DU) would not allow the 81 units already approved and under construction even with the two allowable density bonuses[1] and assuming the maximum variance at 30% increase. These three approvals to increase density will add up to 68 dwelling units (refer to Attachment 7). As such, a rezoning to C1 would make the residential portion of the project a legal nonconforming use. The applicants explored the option of expanding the site by 11,664 sq. ft. (for a total of 71,470) to allow the needed 81 units, but to no avail.

Parking: The residential parking requirement in the OR2 District is 0.9 stalls per unit. Since the commercial districts require 1 stall per unit, a rezoning to C1 or C2 would make the residential portion of the project a legal nonconforming use as to parking due to the 8-stall deficit (unless the applicants secured legal off-site parking).

The approved application includes sufficient parking for the project. If the City rezones the property to allow the proposed conversions from office to commercial uses, the applicant will either have to seek a parking variance or provide legal off-site parking. This is because the commercial uses have higher parking requirements than the office uses they will replace. Staff estimate of the likely parking gap equals 25 stalls, 16% of the total parking requirement (refer to Attachment 7).

History of Planning Department's position: The Zoning Administrator, the Community Planner for the area, and the Development Services planner assigned to the original project worked closely with the applicants to find the proper zoning for the site to accommodate the project the applicants wanted to build. All concerned explored alternative zoning to C1, C2, and C3A and concluded that office residential (OR2) zoning was appropriate for this site. The consistent CPED message was that, with the project's location on a Community Corridor (refer to the Findings below that discus the Community Corridor), retail uses should cluster at designated neighborhood commercial nodes (the closest is 7 blocks to the east at Bloomington and 25th St.) and at major intersections with Commercial Corridor streets (e.g. Franklin and Lake) and not at this site. The OR2 District allowed the project the applicants submitted for the high-density residential plus the office uses, and it limited the proposed retail and service uses appropriate to the site and its location on a Community Corridor. The closest C2 District is 4 blocks to the north at Franklin and Chicago.

Had the applicants brought in the current zoning application in the first place a year ago to go from the then current R2B District to C2 with the Pedestrian Oriented Overlay District (POOD), CPED staff would have opposed the rezoning.

Response from the neighborhood and others: Attachment 11 includes letters from concerned citizens. Staff have received no official neighborhood response to date.

[1] 20% for enclosed parking and 20% for mixed commercial-residential use per 548.130.

REZONING

Findings as Required By the Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

a. The following is a review of the project relative to the applicable plans and policies of the *Minneapolis Plan* (adopted by the City Council in 2000 (emphasis added):

Community Corridors: The *Minneapolis Plan* designates Chicago Ave. as a Community Corridor (emphasis added): "Community Corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented towards the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass-through traffic. Commercial services do not overwhelm the character of these streets, but there are normally clustered storefronts or services found along their lengths. Commercial uses, whether retail or services, are low intensity in these areas. They do not create noise, significant traffic or disruption to neighbors by being open to the public for extended hours. These streets are also a source of pride and identity for neighbors: they both connect people and act as a definitive boundary for residents, workers and investors.

"Community Corridors are characterized by the following features:

- Streets connect more than 2 neighborhoods.
- Corridors have a land use pattern that is primarily residential with intermittent commercial uses clustered at intersections in a pattern of nodes.
- Streets are generally minor arterials by the City's street classification system, with some exceptions
- Streets carry a range of traffic volumes, a minimum of 4,000 average annual daily traffic (AADT) up to 15,000 AADT and greater.
- Streets carry a heavy volume of traffic but are not necessarily the principal travel routes for a specific part of the city
- Corridors do not support automobile oriented shopping centers.
- Corridor land use and building form exhibit traditional commercial and residential form and massing.
- Commercial uses on community corridors are generally small scale retail sales and services serving the immediate neighborhood (emphasis added)."

Policy 4.2/9.27: Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets 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.

Implementation Steps (selected and emphasis added):

- Strengthen the residential character of Community Corridors by developing appropriate housing types that represent variety and a range of affordability levels.
- Promote more intensive residential development along these corridors where appropriate.
- Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.
- Support the continued presence of small-scale retail sales and commercial services along Community Corridors.
- Ensure that commercial uses do not negatively impact nearby residential areas.

Policy 4.4: Minneapolis will continue to provide a wide range of goods 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.

Implementation Steps (selected)

- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.
- Maintain and strengthen the character and marketability of small-scale commercial areas throughout the city through technical and financial assistance to qualified neighborhood businesses, neighborhood based business associations and local development corporations.

Policy 4.5: Minneapolis will identify Neighborhood Commercial Nodes that provide a shopping environment of small-scale retail sales and commercial services and are compatible with adjacent residential areas.

Implementation Steps (selected and emphasis added):

- Support the continued presence of small-scale retail sales and commercial services in Neighborhood Commercial Nodes.
- Direct other uses that act as neighborhood focal points (institutional, cultural or social) to locate at Neighborhood Commercial Nodes.

Policy 3.4: Minneapolis will create a Growth Center plan for the South Phillips area, similar to the Downtown 2010 plan which would guide decisions and investment in the area, recognizing the contributions from existing plans and planning processes.

Implementation Steps

- Encourage the expansion and establishment of new employment-generating activities at the Sears site and along the 29th Street corridor.
- Allow for a limited amount of mixed retail uses and commercial services.

d. Petition's Consistency with City Plans and Policies: The following describes how the petition relates to the above plans and policies:

- The Plan defines and guides Community Corridors towards residential development primarily, with only limited commercial uses which are generally small scale retail sales and services serving the immediate neighborhood. The Plan encourages these commercial uses to cluster at designated Neighborhood Commercial Nodes (Policies 4.4 and 4.5). The concern is to protect the residential areas from potential impacts of more intense commercial uses (e.g. traffic, congestion, fumes, bright lights, and noise especially at night).
- The C2 District also allows larger commercial uses than the C1. The limit increases from 8,000 to 30,000 sq. ft. per use.
- The closest Neighborhood Commercial Node is 7 blocks to the east at Bloomington and 25th St., not at Chicago and 24th (Attachments 1 and 9).
- There are also major commercial sites to the north and south on Chicago at Franklin Ave. and Lake St. respectively, but not at Chicago and 24th St.
- Policy 3.4 describes the Growth Center designated for the Wells Fargo campus and Abbott-Allina and Children's hospital complexes located several blocks to the west of the site (including the former Sears site; AKA Midtown Exchange). Although the Plan does not define the limits of the Growth Center, the site is too far from it for the Growth Center policies to apply to the project site.
- Based on the above, the rezoning is inconsistent with the *Minneapolis Plan*.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

Rezoning to allow the replacement of some (or possibly all) of the approved office uses with additional commercial uses is in the interest of the owner and not consistent with City plans.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

Low-to-high density residential is to the north, south, and east of the site (R2B, R4, and R6 zoning). Uses include the Phillips Towers, Joe Selvaggio Housing project, medium and low density rental, and owner occupied units). At 59 dwelling units per acre, the site is high density residential. Also in the area is neighborhood, high density, and institutional office-residential (OR1, 2, 3), and light industrial (I1) within an industrial living overlay (ILOD).

There are numerous large and small institutional uses (Phillips Eye Institute, Lutheran Social Services, Abbott-Allina, Children's Hospital), faith-based (Our Savior's Lutheran Church), educational uses (Four Winds School, Boys and Girls Club, St. Mary's University), miscellaneous commercial services and nonprofit and health related program offices, and the Village Market. The Village Market, located immediately to the northeast, includes 70,000 sq. ft. of neighborhood-oriented commercial uses (general retail services, food manufacturing, offices, and storage). The block to the east of the site includes three small commercial uses.

The proposed rezoning to C2 with the POOD would permit uses that are possibly incompatible with the residential character of the area. Attachment 8 provides a selected listing of uses that are allowed in the C2 District, all of which are not currently allowed in the OR2 District. While the POOD prohibits 5 specific automobile oriented uses, it would have no effect on numerous uses that are more appropriately sited in Neighborhood Commercial Nodes or on Commercial Corridors. Some examples that are feasible tenants in the project include currency exchanges, rental stores for household goods and equipment, tattoo and body piercing parlors, tobacco shops, dry cleaners and commercial laundries, and restaurants with general entertainment and the sale of alcoholic beverages.[2]

The purpose of the POOD is as follows (emphasis added): "To establish and preserve the <u>pedestrian character of commercial areas</u> and to <u>promote street life and activity</u> by regulating building orientation and design and accessory parking facilities, and by <u>prohibiting certain high impact and automobile-oriented uses</u>."

As regards the goal to encourage the pedestrian character of commercial area and promote street life and activity, the prior approval will allow the site to have two Neighborhood Serving Retail Sales and Services Uses (coffee/sandwich shop of 2,812 sf and convenience store of 1,300 sf). If the rezoning is approved, the applicant would add four more Neighborhood Serving Retail Sales and Services Uses. There are other commercial uses in the vicinity (including 70,000 sf at Village Market which is kitty-corner from the site) and a wide range of residential and institutional uses.

As regards the goal to prohibit certain high impact and automobile-oriented uses, the POOD prohibits drive-through facilities, automobile service uses, and transportation uses. It also limits fast food restaurants to buildings that existed before the 1999 adoption of the Code. However, as stated above, the C2 District will allow uses that could generate congestion, bright lights, and noise especially at night. The OR2 District restricts the public hours of

[2] The City Charter limits liquor licenses as follows: "If such liquor is to be consumed on the premises, then only if said area or district, together with such other areas or districts contiguous thereto wherein such consumption would be permitted by ordinance and by law, contains seven (7) or more acres, and then only if a substantial portion of the income to be derived from business conducted at such location is derived from the sale of food to be consumed on the premises and adequate facilities are provided therefore." Since the subject site is not within and area containing 7 or more acres of commercial zoning that would allow the consumption of liquor, no liquor license could be sold.

operation of businesses to 7 a.m. while the C2 District allows a 6 a.m. opening. The evening hour restrictions are the same.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

There are reasonable uses of the property under the existing zoning classification. The project can operate as it was originally proposed and approved by the City. The district also allows for a range of high-density office and residential reuses for the site.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

The 1963 Zoning Code designated the site and residential area surrounding it as R2B, just as it was in the 1999 Code prior to the site being rezoned to OR2 in 2004. There has been a significant amount of change in the area.

The adjacent Village Market changed from an industrial use, a large bakery, to essentially a medium-sized shopping center for small retail businesses and services. The Wells Fargo campus and the nearby hospital complexes (including parking ramps and associated hotels) continue to grow and expand, as well as other nearby institutional uses. Commercial redevelopment along Lake Street, and to some extent, along Franklin Ave. has occurred with a special note regarding the extensive Midtown Exchange project which is expected to open soon. The opening of the Midtown Greenway adds a recreational and commuter biking component to the area. This complements the transit service that operates with regular service on Chicago (Route 25) and on 24th St. (Route 22). Nonetheless, most of this change has happened several blocks from the site. The exception to this comment is the project itself and the Village Market project. The most stable land use has been the residences that surround the site to the north, south, and east. There is not a particular trend in the area that would make the existing OR2 District inappropriate.

RECOMMENDATION:

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the rezoning:

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **deny** the petition to rezone the property located at 2401 Chicago Ave. S., the Chicago Commons project, from OR2 to C2 with the Pedestrian Oriented Overlay District.

Attachments:

1. Zoning, lot lines, uses, *Minneapolis Plan* designations in the area
2. Primary zoning
3. Overlay zoning
4. Aerials
5. Approved site plan
6. Photos of uses in the area
7. Density and parking analysis: approved and proposed
8. Selected uses in the C2 District and the POOD
9. Land Use Policy Map from the *Minneapolis Plan*
10. City Attorney letter dated 4/28/05
11. Comment letters