Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit and Variance
BZZ-2393

Date: June 27, 2005

Applicant: 2615 Park Avenue Associates

Address of Property: 2615 Park Avenue

Project Name: 2615 Park Avenue Associates

Contact Person and Phone: Chris Hayhoe, (612) 373-8505

Planning Staff and Phone: Lonnie Nichols, (612) 673-5468

Date Application Deemed Complete: May 11, 2005

End of 60-Day Decision Period: July 10, 2005

End of 120-Day Decision Period: Not applicable at this time

Ward: 8 **Neighborhood Organization:** Phillips West

Existing Zoning: OR2 (High Density Office Residence District)

Proposed Zoning: No zoning change proposed, not applicable for this application

Zoning Plate Number: 25

Legal Description: No zoning change proposed, not applicable for this application.

Proposed Use: Add one dwelling unit and a home occupation business to an existing cooperative condominium building located at 2615 Park Avenue.

Concurrent Review: a conditional use permit for a home occupation-internet travel agency in a multi-family dwelling, a conditional use permit and lot area variance to increase the number of dwelling units from 110 to 111, and a parking variance to not provide off-street parking for the additional dwelling unit.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits; Chapter 525, Article IX Variances, Specifically Sections 525.520(2) "to vary the lot area or lot width requirements up to thirty (30) percent…." and 525.520 (12) "to reduce the requirement for additional off-street parking up to one hundred (100) percent for the conversion of nonresidential space to a residential use in an existing building used for permitted or conditional residential purposes; Chapter 531 Nonconforming Uses and Structures; Chapter 535 Regulations of General Applicability, and Specifically Section 535.450 Home Occupations; Chapter 547 Office Residence District.

Background: 2615 Park Avenue Associates has filed application for a conditional use permit for a home occupation-internet travel agency in a multi-family dwelling, a conditional use permit and lot area variance to increase the number of dwelling units from 110 to 111, and a parking variance to not provide off-street parking for the additional dwelling unit in an existing cooperative condominium building located at 2615 Park Avenue in the OR2 (Office Residence) district. The Hennepin County website indicates the construction year of the building was 1930. There was one application number listed for the property on the half section maps in the zoning office.

File number O-179 was a nonconforming use certificate granted by the zoning administrator on November 27, 1979, for a 120 unit nonprofit cooperative association, multiple dwelling structure owned and operated by shareholders and tenants located in the B1-1 (Office Residence) district. The property was rezoned to the OR2 (medium density office residence) district in 1999 with adoption of the current zoning code. The zoning administrator has indicated the building has grandfather rights to height, given the nonconforming use certificate for a 120 dwelling units was approved in 1979. However, for increases in the number of dwelling units, the zoning administrator has indicated the applicants are subject to lot area variances due to the loss of nonconforming rights via the reduction of dwelling units below 120 in the building that currently exists. The structure is 7 stories and 79 feet tall where 4 stories and 56 feet are allowed. The OR2 district requires 700 sf per dwelling unit and the proposal would provide 647 sf per dwelling units (calculation: 71,855 sf parcel/111 dwelling units = 647.342). The maximum allowed Floor Area Ratio in the OR2 is 2.5, and the subject property provides 2.24 FAR (calculation: 160,726 gfa / 71,855 sf parcel = 2.236). The maximum lot coverage of buildings allowed in the OR2 is 70%, and the subject property has 41% (calculation: 29,366 bldg footprint / 71,855 sf parcel = .4086). The impervious surface coverage can not exceed 15% of the lot, and the property provides 51% landscaping area (calculation: 36,301 sf landscaping / 71,855 sf parcel = .5052).

The interior area proposed for conversion to the additional dwelling unit and home occupation space is located on the ground floor and is a former restaurant space (Loretta's) that has been out of operation for approximately a decade. As per section 535.450 (5) of the zoning code, beginning in the R4 zoning district, in multiple-family dwellings of five (5) or more units a home occupation may be allowed within a specific area of the principal building designated for such home occupation by conditional use permit. The standards for said home occupation are listed in finding #6 of the first CUP report contained in this report. The ground floor and lower level plans submitted show that 67 legal parking stalls and bicycle parking are provided, plus an additional 22 parking stalls utilized on-site by the 24-hour valet service provided for the residents of the building. The new unit has an off-street parking requirement of one stall. The proposed home occupation space and dwelling unit will be owned and operated by a mother-daughter partnership. The Phillips West neighborhood group has not objected to the proposal.

<u>Conditional Use Permit</u>:

Findings as required by the Minneapolis Zoning Code:

The 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 for a home occupation-internet travel agency in a multi-family dwelling:

1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The addition of a home occupation-internet travel agency to the ground floor of an existing building with over 100 dwelling units will not be detrimental to or endanger the public health, safety, comfort or general welfare.

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 addition of a home occupation-internet travel agency to the ground floor of an existing building with over 100 dwelling units 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 home occupation space would be located adjacent to the resident's dwelling unit and to an existing beauty shop in the building, is designed with a separate interior entry, and is within close proximity of an exterior door of the building. It is not anticipated that the home occupation-internet travel agency will adversely impact other dwelling units in the building or surrounding properties. Approximately 860 sf of floor space is proposed for the home occupation.

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

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

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

The internet travel agency is not expected to generate a significant amount of traffic. As per the requirements for home occupations, more than five (5) customers or clients per day may be determined to be an excessive and detrimental level of traffic. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

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

MINNEAPOLIS PLAN: *The Minneapolis Plan* designates this area in which the subject is located as the Mid City Growth Center. Existing Growth Centers are identified by the following criteria: variety in land use types, including mixed-use within structures as well as district-wide mixed uses, and; range of intensity of uses, including density thresholds for jobs and total area and housing development to receive designation. The plan has the following policies and relevant implementation steps to this application.

4.10 Minneapolis will increase its housing that is affordable to low and moderate income households.

Relevant Implementation Step

Support mechanisms such as community land trusts and housing cooperatives to create long term affordable housing.

4.11 Minneapolis will improve the availability of housing options for its residents.

Relevant Implementation Steps

Provide and maintain moderate and high-density residential areas.

Encourage the rehabilitation and sensitive reuse of older or historic buildings for housing including affordable housing units

4.14 Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city.

Relevant Implementation Steps

Encourage adaptive re-use, retrofit and renovation projects that make the city's housing stock competitive on the regional market.

Provide the flexibility in the city's ordinances to improve and maintain existing structures.

Attain the greatest possible degree of enhancements to neighborhood livability when making infrastructure improvements or modifications.

9.8 Minneapolis will maintain and strengthen the character of the city's various residential areas.

Relevant Implementation Step

Encourage the rehabilitation of older and historic housing stock over demolition.

9.34 Minneapolis will designate and develop selected Growth Centers which will be well served by transit and alternative transportation, have superior amenities, accommodate a range of housing needs and offer attractive employment opportunities.

Relevant Implementation Step

Designate downtown Minneapolis, the University of Minnesota area and the Wells Fargo/Hospitals area as "Existing Growth Centers" with the adoption of this Plan.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

The following regulations from Chapter 535 of the zoning code apply to the property and proposed home occupation. The refuse storage containers serving the entire building need to be adequately

screened and the home occupation-internet travel agency will need to comply with home occupation standards.

535.80. Screening of refuse storage containers. 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. Single and two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall not be governed by this provision.

535.440. Purpose. Home occupation regulations are established to ensure that home occupations do not adversely affect the character and livability of the surrounding neighborhood and that a home occupation remains accessory and subordinate to the principal residential use of the dwelling. The regulations recognize that many types of home occupations can be conducted with little or no adverse effect on the surrounding neighborhood.

535.450. Home occupation standards. Home occupations shall be subject to the following standards, except that licensed family day care and licensed group family day care shall be exempt from the provisions of sections (2), (6), (11), (12), (13) and (15):
(1) The home occupation shall be an activity which is customarily associated with the use of a dwelling.
(2) Only the residents of the dwelling unit, and not more than one (1) nonresident employee, shall be employed by or engaged in the conduct of the home occupation on the premises. For the purpose of this section, "nonresident employee" shall include an employee, business partner, independent contractor or other person affiliated with the home occupation who is not a resident of the dwelling unit, but who visits the site as part of the home occupation. Not more than one (1) nonresident employee shall be permitted per dwelling unit or two-family dwelling, regardless of the number of home occupations.
(3) Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory buildings or the zoning lot shall be prohibited.
(4) Interior alterations or modifications that eliminate the kitchen, living room, all of the bathrooms, or all of the bedrooms of the dwelling shall be prohibited.
(5) The home occupation shall be conducted only within an enclosed area of the dwelling. However, beginning in the R4 zoning district, in multiple-family dwellings of five (5) or more units the home occupation may be allowed within a specific area of the principal building designated for such home occupation by conditional use permit, as provided in Chapter 525, Administration and Enforcement. In addition to the conditional use standards, the planning commission shall consider, but not be limited to, the following factors:
a. Nature of the home occupation and its impacts of noise, light, odor, vibration and traffic.
b. Conformance with applicable zoning requirements, including but not limited to, yards, gross floor area, and specific development standards.
c. History of complaints related to the property.
(6) Outdoor storage or display of materials, goods, supplies, or equipment related to the conduct of a home occupation shall be prohibited.
(7) The required off-street parking area provided for the principal use shall not be reduced or made unusable by the home occupation.

(8) Signage shall be restricted to one (1) non-illuminated, flat wall, identification sign not to exceed one (1) square foot in area. On a corner zoning lot, two (2) such signs, one (1) facing each street, shall be allowed.
(9) No equipment, machinery or materials other than of a type normally found in or compatible with a dwelling shall be allowed.
(10) No retail sale and delivery of products or merchandise to the customer or client shall occur on the premises except where accessory to any services provided (such as hair care products sold accessory to hair cutting or computer disks accessory to accounting services).
(11) No home occupation shall be visible from any public right of way, except for allowed signage.
(12) The hours open to the public shall be limited to between 8:00 a.m. and 8:00 p.m.
(13) The home occupation shall not generate excessive customer or client traffic that is detrimental to the residential character of surrounding properties or the neighborhood. For purposes of this provision, more than five (5) customers or clients per day may be determined to be an excessive and detrimental level of traffic. This number shall apply per dwelling unit, regardless of the number of home occupations, except that in the case of two (2) family dwellings, the number shall apply to the two (2) family dwelling. The factors to be used for such a determination shall include but not be limited to:
a. The characteristics of the neighborhood, including land uses, lot sizes and lot widths.
b. Street type, width and traffic volumes.
c. The availability and location of off-street parking and the extent to which the home occupation contributes to on-street parking congestion.
(14) Shipment and delivery of products, merchandise or supplies shall be limited to between 9:00 a.m. and 6:00 p.m. and shall regularly occur only in single rear axle straight trucks or smaller vehicles normally used to serve residential neighborhoods.
(15) No sound or noise created by the operation of the home occupation shall be audible beyond the boundaries of the zoning lot.
(16) Hazardous materials in excess of consumer commodities which are packaged for consumption by individuals for personal care or household use shall be prohibited.

535.460. Prohibited home occupations. Recognizing that there are some uses which have serious objectionable operational characteristics and thereby adversely affect the surrounding neighborhood, the following shall be prohibited as home occupations:
(1) Motor vehicle repair, service or painting, or any repair or servicing of vehicles or equipment with internal combustion engines (such as snowmobiles, lawnmowers, chain saws and other small engines).
(2) A barber shop or beauty salon that is designed to serve more than one (1) client at a time.
(3) The sale, lease, trade or other transfer of firearms or ammunition by a firearms dealer. Firearms dealers existing on or before October 7, 1995, and in all other respects in conformance with the provisions of this ordinance, shall be permitted to continue as nonconforming uses in accordance with the provisions of Chapter 531, Nonconforming Uses and Structures.
(4) Sexually oriented uses, as defined in Chapter 549, Downtown Districts.
(5) Headquarters/dispatch centers where persons come to the site and are dispatched to other locations.
(6) Uses first allowed in the C4 General Commercial District or any industrial district.

<u>Conditional Use Permit</u>:

Findings as required by the Minneapolis Zoning Code:

The 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 to increase the number of dwelling units from 110 to 111:

1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Increasing the number of dwelling units from 110 to 111 in an existing cooperative condominium building will not be detrimental to or endanger the public health, safety, comfort or general welfare.

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.

Increasing the number of dwelling units from 110 to 111 in an existing cooperative condominium building 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.

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

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

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

The ground floor and lower level plans submitted show that 67 legal parking stalls and bicycle parking are provided, plus an additional 22 parking stalls utilized on-site by the 24-hour valet service provided for the residents of the building. The new unit has an off-street parking requirement of one stall that will need to be fulfilled through a parking variance.

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

MINNEAPOLIS PLAN: *The Minneapolis Plan* designates the area in which the subject property is located as the Mid City Growth Center. Existing Growth Centers are identified by the following criteria: variety in land use types, including mixed-use within structures as well as district-wide mixed uses, and; range of intensity of uses, including density thresholds for jobs and total area and housing development to receive designation. See finding #5 in the previous conditional use permit section of this report for the policies and relevant implementation steps to this application.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

The increase in the number of dwelling units will require a lot area variance of eight percent (8%) which is also addressed in this report. The following regulations from Chapter 535 of the zoning code apply to the addition of a dwelling unit to the property. The refuse storage containers serving the entire building need to be adequately screened.

535.80. Screening of refuse storage containers. 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. Single and two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall not be governed by this provision.

Variance:

Findings Required by the Minneapolis Zoning Code for a lot area variance of eight percent (8%) to increase the number of dwelling units from 110 to 111**:**

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.

As per section 525.520 (2) of the zoning code, there is an authorized variance to vary the lot area or lot width requirements up to thirty (30) percent for the proposed increase in the number of dwelling units from 110 to 111 for this subject property. Calculations: 111 dwelling units x 700 sf = 77,700 (lot area needed for 111 units); 77,700 – 71,855 sf lot area = 5845 sf variance or 8% (5845/71,855 = .0813). As per current code requirements, there can be 102 dwelling units (71,885/700 = 102.65). The new dwelling unit would be an interior remodel and no additional floor space would be constructed through a building addition. 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.

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 are unique to the parcel of land in the sense that the property is nonconforming as to height and stories, and the building was approved for a nonconforming use certificate for up to 120 units 25 years ago. The circumstances for this adaptive reuse proposal were created by a restaurant closing that resulted in vacant floor space in building that the applicants have proposed to fill with a new tenant and home occupation. The dwelling unit and home occupation office would be less intensive than the previous use of this part of the building as a restaurant.

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 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 proposal is for the adaptive reuse and remodeling of interior floor space in a multi-tenant building located in the mid city growth center.

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 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 additional dwelling unit and home occupation have an off street parking requirement of one stall.

Variance:

Findings Required by the Minneapolis Zoning Code for a variance to not provide the required off-street parking of one (1) stall for the additional dwelling unit located at 2615 Park Avenue**:**

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.

The new dwelling unit would have an off-street parking requirement of one stall. The ground floor and lower level plans submitted show that 67 legal parking stalls and bicycle parking are provided, plus an additional 22 parking stalls utilized on-site by the 24-hour valet service provided for the residents of the building. The additional dwelling unit and adjacent home occupation replace a former restaurant use and are not expected to generate a significant amount of traffic. 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.

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 are unique to the parcel of land in the sense that the property is nonconforming as to height and stories, and the building was approved for a nonconforming use certificate for up to 120 units 25 years ago. The building, constructed in 1930, also provides 67 legal parking stalls and bicycle

parking, plus an additional 22 parking stalls utilized on-site by the 24-hour valet service. The circumstances for this adaptive reuse proposal were created by a restaurant closing that resulted in vacant floor space in building that the applicants have proposed to fill with a new tenant and home occupation. The dwelling unit and home occupation office would be less intensive than the previous use of this part of the building as a restaurant.

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 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 proposal is for the adaptive reuse and remodeling of interior floor space in a multi-tenant building located in the mid city growth center.

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 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 additional dwelling unit and home occupation have an off street parking requirement of one stall.

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 **approve** the conditional use permit for a home occupation-internet travel agency in a multi-family building located at 2615 Park Avenue, subject to the following conditions:

1. Compliance with the applicable home occupation standards listed in Chapter 535 of the zoning code.
2. Compliance with the screening requirements for refuse storage containers for the entire building listed in Chapter 535 of the zoning code.

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 **approve** the conditional use permit to increase the number of dwelling units from 110 to 111 at 2615 Park Avenue, subject to the following conditions:

1. The provision of required parking or an approved parking variance for the additional dwelling unit.
2. An approved lot area variance of eight percent (8%) to allow the additional dwelling unit.

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 **approve** the lot area variance of eight percent (8%) to increase the number of dwelling units from 110 to 111 at 2615 Park Avenue.

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 **approve** the variance to not provide the required off-street parking of one (1) stall for the additional dwelling unit located at 2615 Park Avenue.

Attachments:

1. Statement of use
2. CUP and Variance Findings
3. Correspondence
4. Nonconforming Use Certificate (O-179)
5. Zoning map
6. Site and Floor Plans
7. Photos