Department of Community Planning and Economic Development – Planning Division
Rezoning and Conditional Use Permit
BZZ-2506

Date: August 15, 2005

Applicant: Open Eye Figure Theatre

Address of Property: 506 East 24th Street

Project Name: Open Eye Figure Theatre

Contact Person and Phone: Susan Haas, (612) 823-5162

Planning Staff and Phone: Hilary Watson, (612) 673-2639

Date Application Deemed Complete: July 27, 2005

End of 60-Day Decision Period: September 25, 2005

End of 120-Day Decision Period: Not applicable

Ward: 6 **Neighborhood Organization:** Phillips West Neighborhood Organization

Existing Zoning: R4, Multiple-family District and NP North Phillips Overlay District

Proposed Zoning: C2, Neighborhood Corridor Commercial District

Zoning Plate Number: 20

Legal Description: The South 16 feet of Lot 9, Block 1, Heaton and Combe's Addition to Minneapolis also the West 36 feet of the East 80 feet of Lot 7 and 8 said Block 1 EX Street.

Proposed Use: live, indoor theater

Concurrent Review:
Rezoning: from R4 to C2 to permit an indoor theater
Conditional use permit: for an indoor theater

Applicable zoning code provisions: Chapter 525, Article VI, Zoning Amendments and Chapter 525, Article VII, Conditional Use Permits.

Background: The building located at 506 East 24th Street was originally constructed in the late 1890's. At the time the property was zoned commercial. When the building was originally constructed the first floor of the building was utilized for commercial purposes and the upper two floors were used for residential purposes. The 1934 housing survey, which was conducted by the City of Minneapolis,

indicates that the building was used for both commercial and residential purposes. From approximately 1991 until 2000 the first floor of the building was utilized by Patrick's Cabaret; a live, indoor theater. In 1996 the owner of Patrick's Cabaret unsuccessfully petitioned to rezone the property from R4 to B3S-4. Instead, the City Council approved a rezoning from R4 to B1-3. In the 1963 zoning code, indoor theaters were first allowed in the B3S zoning district. It is unclear why the City Council approved the rezoning to B1-3 when an indoor theater was not an allowed use in this district. After Patrick's Cabaret moved out the owner of the building started to renovate the first floor but the renovation was never finished. Currently the first floor of the building is vacant and on the second and third floors of the building there are two dwelling units.

The parking requirement for an indoor theater is equal to thirty percent of the capacity of person in the auditorium and any rooms which can be added to the auditorium by opening doors or windows to obtain audio or visual unity. The size of the auditorium is 707 square feet and the size of the lobby area, which could be used to seat people in, is 630 square feet. Based on these numbers the parking requirement for this use is 27 spaces.

The site is currently zoned residential (R4). In order to change the zoning classification of the property to commercial (C2) the applicant had to obtain signatures from 2/3's of the property owners within 100 feet of the property. On July 21, 2005, the City Attorney's Office sent a letter indicating that all requirements had been met.

REZONING - of 506 East 24th Street from R4 to C2

Findings as Required by the Minneapolis Zoning Code:

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

The property is designated as multi-family in the comprehensive plan. The property is located two blocks south of Franklin Avenue East which is a designated Commercial Corridor and near the designated Wells Fargo/Hospitals Area Growth Center. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Protect residential areas from the negative impact of non-residential uses by providing appropriate transitions between different land uses (Policy 9.15).
- 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 (Policy 9.23).
- Support continued growth in designated commercial areas, while allowing for market conditions to significantly influence the viability of a commercial presence in undesignated areas of the city (Policy 9.24).
- Identify Neighborhood Commercial Nodes that provide a shopping environment of small-scale retail sales and commercial services and are compatible with adjacent residential areas (Policy 9.29).

While the rezoning would promote the re-use of a space that was constructed for non-residential purposes the Planning Division does not believe that the rezoning is supported by the policies of the comprehensive plan. The site is not located in or adjacent to a designated land use feature (e.g., Community Corridor, Commercial Corridor, Neighborhood Commercial Node) that would support rezoning to a commercial district. With the exception of a few vacant properties and the building immediately to the east of the subject property the block is primarily residential. Please note that the property to the east is not zoned for commercial purposes but the first floor is being used as such. The subject property was originally constructed as a commercial building. In the 1980's the upper two floors of the building were converted to dwelling units. From approximately 1991 until 2000 the first floor of the building was utilized by Patrick's Cabaret; a live, indoor theater. Since then the first floor of the building has remained vacant.

Changing the zoning classification of this property from residential to commercial would allow for a much wider range of uses on the property than currently could be located there which could have a negative impact on the surrounding residential uses.

The Phillips/Central/Powderhorn Park Small Area Plan was adopted by the City Council in 1997. The subject site is located in Zone 4 of the small area plan. No specific recommendations for this site are identified.

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

Theaters are not an allowed use in the R4 zoning district. In order to open and operate a theater on this property it needs to be rezoned to C2. This application is in the interest of the property owner.

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.

The Planning Division does not believe that it would be appropriate to rezone this property to C2 as it is not compatible with the surrounding area. The site is bordered by R4 zoning on the west, north and east and by R6 zoning to the south. Surrounding uses include a mixture of residential buildings of various densities, a mixed-use building including commercial and residential, vacant properties and I-35W. Please note that the mixed-use building is not zoned for commercial purposes but the first floor is being used as such. Given this, the subject property would not be an appropriate location for commercial zoning. Some examples of uses that would be allowed in the C2 zoning district that may not be desirable in this location include: a restaurant, a reception or meeting hall, a vocational or business school, a dry cleaning establishment, a secondhand goods store or a small engine repair.

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 permitted under the R4 zoning district. The R4 zoning district is a multiple-family district. Permitted uses in the R4 district include, but are not limited to, the following:

- Single-family dwelling
- Two-family dwelling
- Two-family dwelling
- Multiple-family dwelling, three (3) and four (4) units
- Community residential facility serving six (6) or fewer persons
- Community garden
- Park, public
- Place of assembly

Note, however, that the space in question was originally constructed for non-residential purposes.

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.

There has been a change in the character of development in the area. In the past five years the former Honeywell campus was purchased by Wells Fargo. The financial institution renovated several of the existing buildings and also added a new parking structure and an office building to the campus. In addition, Phase I of a multi-phase development has been constructed at the intersection of Franklin Avenue and Portland Avenue. The Children's Hospital and the Phillips Eye Institute have both had additions added to their buildings. And there is a mixed-use development under construction at the intersection of Chicago Avenue and 24th Street. Although there has been a lot of change in the area the development trends in the area do not suggest that the current zoning of the property is inappropriate or obsolete.

CONDITIONAL USE PERMIT - for an indoor theater

Findings as Required by the Minneapolis Zoning Code:

The Department of 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:

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

The Planning Division does not believe that an indoor theater will 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 Planning Division does not believe that an indoor theater will be injurious to the use and enjoyment of surrounding property nor will it impede the normal development of the surrounding area. However, an indoor theater requires C2 zoning and the Planning Division does not believe that this site would be an appropriate location for a more intensive commercial zoning district such as C2 as the C2 zoning district allows a range of uses that would not be compatible with the immediate surroundings.

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

All utilities and access roads are existing and adequate. Changing the use of the building will not affect drainage.

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

The parking requirement for an indoor theater is equal to thirty percent of the capacity of person in the auditorium and any rooms which can be added to the auditorium by opening doors or windows to obtain audio or visual unity. The size of the auditorium is 707 square feet and the size of the lobby area, which could be used to seat people in, is 630 square feet. Based on these numbers the parking requirement for this use is 27 spaces. Off-site parking for an indoor theater may be located within 500 feet of the site. The applicant is in the process of obtaining a parking lease for the required amount of parking within 500 feet of the site.

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

See rezoning finding number one above.

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.

With the approval of the rezoning and the conditional use permit this development will be in conformance with the applicable regulations of the zoning code.

RECOMMENDATIONS

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and the City Council adopt the above findings and **deny** the rezoning petition of 506 East 24th Street from R4 to C2.

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 **deny** the conditional use permit application for an indoor theater located at 506 East 24th Street.

Attachments:

1. Project description
2. 1934 City of Minneapolis housing survey
3. 1996 rezoning petition by Patrick Scully and the council action
4. Conditional use permit findings
5. Various letters and e-mails between the applicant and the Zoning Office, Council Member's offices and the neighborhood organization
6. Zoning Map
7. Site plan and floor plans
8. Photographs of the site and surrounding area