

Department of Community Planning and Economic Development – Planning Division
Variance and Preliminary and Final Subdivision Application
BZZ-2750 & PL-186

Date: December 20, 2005

Applicant: Crablex, Inc.

Address of Property: 504-514 Cedar Avenue South

Project Name: Heller Addition

Contact Person and Phone: Victoria Heller 651-490-0904

Planning Staff and Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: November 16, 2005

End of 60-Day Decision Period: January 15, 2006

Ward: 3 **Neighborhood Organization:** Camden-Webber

Existing Zoning: C3A Community Activity Center District and R6 Multiple-family District

Existing Overlay District: PO Pedestrian Oriented Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 21

Legal Description: See survey.

Proposed/Existing Use: Replatting one irregular parcel made up of parts of many lots and vacated right-of-way into 3 lots and 1 outlot. The lots contain open space, a commercial building, and a mixed use commercial and residential building.

Concurrent Review:

Variance: To reduce the required setback for a residential use with windows facing an interior or rear yard from nine feet to zero feet.

Preliminary and Final Plat Subdivision: To replat one irregular parcel made up of parts of many lots and vacated right-of-way into 3 lots and 1 outlot.

CPED - Planning Division Report
PL-186 & BZZ-2750

Applicable Code Provisions: Chapter 525, Article IX, Variances, Specifically Section 525.520(1) “to vary the yard requirements....” Chapter 598 Subdivisions.

Development Plan: Please see attached survey. The applicant proposes no changes to the existing conditions at this time. The purpose of the subdivision is to create individual lots for the existing development.

Background: The proposed subdivision would replat an irregular parcel made up of parts of many lots and vacated right-of-way into three lots and one outlot to allow for separate ownership of the existing development and vacant land. Normally staff would not recommend approval of such an irregularly shaped subdivision, however, the irregular shaped parcel with split zoning already exists and this subdivision will divide it into four lots.

Lot 1 includes vacant land surrounding the Cedar Cultural Center and a cooling tower for Riverside Plaza. Lot 2 contains a two-story brick building, addressed as 504 Cedar Avenue South, and that contains the Riverside Islamic Center and the Bedlam Theater. Lot 3 contains a three-story brick building with a first floor grocery and 10 sleeping rooms on the upper floors. It is addressed as 510, 510½, 512, and 514 Cedar Avenue South.

In the C3A District setbacks are not required unless the property is adjacent to residential or office residential districts. However, residential uses in the C3A District that have windows are required to provide setbacks along rear and interior yards where windows face those yards. The building on Lot 3 with the sleeping rooms has windows facing the west rear yard and the north interior side yard, so it is subject to this setback requirement. The required setback is five feet plus two feet for every floor above the first floor, not to exceed 15 feet. This building is three stories tall, so it has a setback of nine feet. The applicant proposes to split the properties along party walls and between the buildings on lots 2 and 3, so the request is to reduce the setback from nine feet to zero feet. The windows open directly out onto the adjacent lot, so while staff recommends approval of this variance it should be subject to the recording of an access and maintenance easement on Lot 2 for the building on Lot 3.

The City Attorney is reviewing the final plat title documents. If they are approved by the date of the Planning Commission meeting, then the final plat may be approved.

VARIANCE (to reduce the required setbacks from nine feet to zero feet)

Findings Required by the Minneapolis Zoning Code:

- 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.**

In general no setbacks are required in commercial districts, if there are no adjacent residential uses. However, residential uses in the commercial districts are required to meet the rear and side yard setbacks if windows are provided on the façade facing the setbacks. If the windows were eliminated, then no setback would be required. The small gap between the buildings with windows is not ideal, but the variance would allow it to remain as it has for approximately 100 years. This is a reasonable use of the property and requiring the windows to be blocked up could be a hardship as it would eliminate necessary light and air from the residential units.

- 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 applicant proposes to create lots that reflect the ownership of the different buildings. They are irregularly shaped buildings on irregularly shaped parcels. This is a unique situation that is not generally applicable to other properties in the C3A Districts.

- 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 intent of the ordinance is to provide a setback for facades with windows along interior and rear yard setbacks where a building could be built along the property line on an adjacent parcel. This is to meet building code requirements for fire protection and to prevent a situation where a building would be built blocking the windows. The buildings in this case exist and the only thing that is changing is the addition of a lot line between the buildings. Granting the variance will not circumvent the intent of the ordinance.

- 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 variance should have no effect on congestion, as it will not increase traffic at the site. The variance should not be detrimental to the public welfare or safety and will not increase the danger of fire provided no violations of the building code are created. However, placing the property line on the west and north sides of the wall of the building on Lot 3 will make access to the existing windows difficult, so staff recommends that an access and maintenance easement be recorded on Lot 2 for the building on Lot 3.

PRELIMINARY AND FINAL PLAT SUBDIVISION

Required Findings:

1. The subdivision is in conformance with the land subdivision regulations and the applicable regulations of the zoning ordinance and policies of the comprehensive plan.

Both parcels will be in conformance with the requirements of the subdivision ordinance and comprehensive plan. Both will be in conformance with the requirements of the zoning code with the exception of setbacks for Lot 3. The applicant has applied for a variance to reduce the setbacks to zero and if it is approved the subdivision will be in conformance with the zoning code. Staff is recommending approval of the variance.

2. The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.

The proposed subdivision will create four lots out of one irregular parcel with existing buildings and vacant land. No new development is proposed. This will not be out of character with the area and will not add significant congestion to the public streets.

3. All land intended for building sites can be used safely without endangering the residents or users of the subdivision and the surrounding area because of flooding, erosion, high water table, severe soil conditions, improper drainage, steep slopes, rock formations, utility easements, or other hazard.

The structures are existing and the site does not present the above noted hazards.

4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.

No change to the grading is proposed and access is existing.

5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable,

the amount of stormwater runoff from the site after development does not exceed the amount occurring prior to development.

Existing utility and drainage provisions are adequate for the existing structures.

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the minimum required interior and rear yard setbacks from 9 feet to 0 feet for property located at 510-514 Cedar Avenue South subject to the following condition:

- 1) The applicant shall record an access and maintenance easement for the west and north sides of the building on Lot 3 on Lot 2 before the final plat is recorded.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the preliminary and final plat subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the preliminary and final plat subdivision application for properties located at 504-514 Cedar Avenue South.

Attachments:

- 1) Statement from applicant.
- 2) Zoning map.
- 3) Hennepin County map.
- 4) Preliminary and final plat.
- 5) Photos.