

**Department of Community Planning and Economic Development – Planning
Division**

Variance and Site Plan Review
BZZ-2105

Date: February 7, 2004

Applicant: Mr. Todd Wojciak, N.E. Palace, 3619 2nd Street NE, Minneapolis, MN
55418, (612) 408-3033

Address of Property: 2500 4th Street NE & 2501 4th Street NE

Project Name: N.E. Palace

Contact Person and Phone: Mr. Todd Wojciak, N.E. Palace, 3619 2nd Street NE,
Minneapolis, MN 55418, (612) 408-3033

Planning Staff and Phone: Becca Farrar, (612)673-3594

Date Application Deemed Complete: November 18, 2004

End of 60-Day Decision Period: January 16, 2005

End of 120-Day Decision Period: On December 22, 2004, Staff sent the applicant a
letter extending the decision period to no later than March 17, 2005. The applicant
further extended the decision period on December 29, 2004, to May 1, 2005.

Ward: 3 **Neighborhood Organization:** Holland Neighborhood Improvement Assn.

Existing Zoning: C1 (Neighborhood Commercial) district

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 9

Lot area: 10,672 square feet or .24 acres

Legal Description: Not applicable for this application

Proposed Use: Utilize the existing building as a bar.

Concurrent Review:

- Variance to allow parking in the front yard
- Major Site Plan review for an existing bar located in a C1 district.

Applicable zoning code provisions: Chapter 525 Article IX, Variances, & Chapter 530 Site Plan Review.

Background: The applicant, Todd Wojciak, proposes to continue to utilize the existing bar located on the northwest corner of Lowry Avenue NE and 4th Street NE, at 2500 4th Street NE. There is an off-street parking lot located across 4th Street NE, at 2501 4th Street NE, which is utilized by the business. The building was most recently occupied by Tubby's bar and restaurant. There is a second floor which has been utilized in the past as an apartment. The applicant has stated that the apartment is not being used at this time. The properties are both zoned C1, which permits bar/restaurants with limited entertainment. Staff did contact the City's Licensing Department which indicated that the bar has grandfathered rights to a no food requirement (meaning that the bar has an exemption from the provision that not less than sixty (60) percent of total gross sales revenue shall be from the sale of food and beverages, not containing alcohol). Additionally, the Licensing Department stated that the establishment has a Class E liquor license which permits entertainment within an internal speaker system only. No live entertainment is permitted. Major site plan review and approval is required, as well as a variance for parking in the front yard (along 4th Street NE) within the associated off-street parking lot. The parking lot is adjacent to R2B zoned property and a residential structure to the north and to the east. In circumstances where commercial districts are located adjacent to residential districts or residential structures, a front yard equal to the lesser of the front yard required by such residence district or the established yard of such residential structure shall be provided in the commercial district for the first forty (40) feet from such residence district boundary or residential property.

The applications were previously continued from the January 10, 2005, Planning Commission meeting so that the applicant could prepare materials and attend a Preliminary Plan Review (PPR) meeting as well as prepare materials for required sign variances. Staff has strongly encouraged the applicant since October of 2004 to attend the voluntary meeting. The applicant has been unable to compile and prepare satisfactory materials and has not yet attended the PPR meeting. Staff did meet with Public Works to discuss the proposed layout of the parking lot and did receive feedback; however, Staff would expect additional comments from other departments that review projects at PPR. The applicant has been notified that plans will be circulated through Public Works should the project receive Planning Commission approvals and likely will require significant modifications. The applicant will be required to submit new applications for the required sign variances.

Staff had not received a formal response from the Holland Neighborhood Improvement Association regarding the proposal upon the printing of this report. Staff has received several phone calls regarding the applications and the business.

Findings Required by the Minneapolis Zoning Code for the Proposed Variance:

- 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.**

Strict adherence to the regulations would cause an undue hardship as the applicant would be unable to utilize much of the existing parking lot for parking. It is reasonable in this circumstance to allow parking in the front yard. The property has been in its current configuration for a long period of time and is the only available off-street parking associated with the existing business.

- 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 somewhat unique as the parking lot is the only available off-street parking for the business. The existing configuration of the parking lot was not created by any person presently having an interest in the property. The parking lot has been in same configuration for a long period of time.

- 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.**

Granting a variance to allow parking in the front yard will likely not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The property will continue to be used in the same manner in which it has operated in the past. Staff is recommending that the Planning Commission require a five-foot landscaped yard, which would partially mitigate the impacts of parking within the required front yard.

- 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 proposal to allow a variance to park in the front yard of an existing parking lot will not be expected to 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. Should the variance not be approved it is likely to conclude that congestion of the public streets would be increased as there would be less available off-street parking for the proposed business.

Required Findings for Major Site Plan Review

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

The building is existing and is located on the northwest corner of Lowry Avenue NE and 4th Street NE. The main entrance is directly off of the sidewalk adjacent to Lowry Avenue NE near the intersection. The exterior material is compatible on all sides of the building as it is predominantly composed of brick. The 30% window requirement is not applicable as the building is existing, however, the building would not meet the requirement along Lowry Avenue or 4th Street. The parking lot which is located across 4th Street NE to the east of the bar/restaurant has access off of Lowry Avenue NE and 4th Street NE. Public Works will require that the curb cut on Lowry Avenue NE be closed and the curb cut onto 4th Street NE will need to be modified per Public Works requirements. The curb cut on 4th Street NE will likely need to be shifted to the north and widened to allow an adequate two-way drive aisle for traffic in and out of the parking lot.

The applicant is proposing landscaping, however, it is inadequate. Staff believes that there are additional opportunities to landscape the parking lot site. Staff will require the 5 foot perimeter landscaping along the frontage of Lowry Avenue NE and along 4th Street NE as well as along the north and east property line adjacent to the residential district.

ACCESS AND CIRCULATION:

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).**
- **Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.**
- **Site plans shall minimize the use of impervious surfaces.**

Existing sidewalks and walkways connect the bar/restaurant in conformance with the requirements of the zoning ordinance. The off street parking lot is accessed off of Lowry Avenue and 4th Street. Patrons must cross the street to access the business. In its current configuration the parking lot provides parking for 14 spaces. Staff will require that with the mandatory closure of the curb cut off Lowry Avenue NE, that the parking be reconfigured to face Lowry Avenue. This configuration would have less of an impact on the adjacent residential uses. A total of 13 spaces inclusive of one handicapped parking space will be possible on the site. The parking lot must be curbed, striped and the handicapped parking space must be designated.

The applicant has indicated that snow will be removed from the site.

LANDSCAPING AND SCREENING:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
 - **Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**
 - **A decorative fence.**
 - **A masonry wall.**
 - **A hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).**
- **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**
- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.**

The applicant is proposing landscaping on site, however the proposal is not adequate. Currently, the site has no landscaping. Staff would require that the applicant provide the required 5 foot perimeter landscaping along the entire perimeter of Lowry Avenue NE and 4th Street NE as well as between all parking areas and the residential properties to the north and east. A detailed landscaping plan will be required prior to permit issuance. Wood mulch will be required for landscaping beds as applicable. Screening would also be required per the requirements of Chapter 530.160, between the parking areas and the residential property to the north and east.

According to Staff's calculation, including the perimeter landscaping requirements, the site would meet the minimum 20 percent requirement as 1,654 square feet would be required. The applicant is not providing adequate quantities of shrubs and trees, however is able to meet the overall landscaping requirements. Chapter 530 of the zoning code would require a minimum of 4 trees and 14 shrubs which would be required on the final landscape plan.

ADDITIONAL STANDARDS:

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **Buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260.**
- **Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

The parking lot is entirely unscreened along 4th Street NE and along Lowry Avenue NE. There is some screening to the north as there is a fence and mature vegetation on the adjacent residential property. There is also a fence located along the rear or east property line adjacent to another residential property. It is unlikely that any vehicles entering or leaving the site would have much of an impact on the property adjacent to the north, however, the residential property located toward the east has a shorter fence and less vegetation to buffer the property.

There is existing lighting on site. All lighting will need to be downcast and shielded to avoid undue glare. All lighting must comply with Chapters 535 and 541. The City's CPTED officer has recommended that any additional plantings follow the 3' – 7' rule to allow visibility on site. The CPTED officer was not able to comment on the proposal as the applicant was unable to get appropriate materials together for the PPR meeting.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE:

Hours of Operation: Hours that the facilities can be open to the public under the C1 zoning are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. The bar/restaurant has been operating under the allowable hours granted with the liquor license.

Dumpster screening: Section 535.80. 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. The applicant will need to improve the existing enclosure by installing new solid doors on the dumpster enclosure.

Window obstructions: 543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330.

Signage: New signage was installed without proper permits and the applicant has been informed that two variances are required. The applicant will need to submit new land use applications for the sign variances as all new signage is required to meet the requirements of the code.

MINNEAPOLIS PLAN:

The Minneapolis Plan designates this site as being located along a Community Corridor. Policy 4.2 on page 1.4.3 states that “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.”

Further, Policy 4.4 on page 1.4.4 states that “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.”

The proposed use is in conformance with these policies of the Comprehensive Plan.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

Staff is unaware of any conflict between the proposal and any development plan or objective adopted by the City Council.

Alternative Compliance. The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Alternative compliance is unnecessary for this site as the applicant appears able to meet the 20 percent landscaping requirement with Staff’s suggestions.

RECOMMENDATIONS:

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 findings above and **approve** the variance to allow parking in the front yard for the property located at 2500 & 2501 4th Street NE.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the site plan review:

The Department of Community Planning and Economic Development– Planning Division recommends that the City Planning Commission **approve** the site plan review application for property located at 2500 & 2501 4th Street NE subject to the following conditions:

1. Planning Staff review and approval of the final site and landscaping plans.
2. If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit.
3. All site improvements shall be completed by February 7, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. Public Works will require that the curb cut on Lowry Avenue NE be closed and the curb cut onto 4th Street NE be modified per Public Works requirements.
5. Staff shall require that the applicant repave the 2501 4th Street NE property (parking lot) with asphalt, curb, stripe, and designate the handicapped parking space as required by Chapter 541 of the zoning code.
6. Staff would require that the applicant provide the required 5 foot perimeter landscaping along the entire perimeter of Lowry Avenue NE and 4th Street NE as well as between all parking areas and the residential properties to the north and east as required by Chapter 530 of the zoning code. A detailed landscaping plan will be required prior to permit issuance.
7. All signs shall comply with Chapter 543 of the zoning code unless a variance is applied for and granted from the sign standards.
8. The applicant will need to improve the existing enclosure by installing new solid doors on the dumpster enclosure to comply with section 535.80 of the zoning code.

Attachments:

1. Statement of use
2. Findings
3. Correspondence
4. Zoning map
5. Plans
6. Photos

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