

**Department of Community Planning and Economic Development - Planning Division**  
Rezoning, Conditional Use Permits, Variances, Site Plan Review, and Minor Subdivision  
BZZ-1956 & MS-121

**Date:** November 8, 2004

**Applicant:** Bluff Street Development, LLC

**Address Of Property:** 520 2<sup>nd</sup> Street SE

**Contact Person And Phone:** Steve Minn 952-888-2001

**Planning Staff And Phone:** Jim Voll 612-673-3887

**Date Application Deemed Complete:** August 18, 2004

**End of 60 Day Decision Period:** October 17, 2004

**Date Extension Letter Sent:** September 28, 2004

**End of 120 Day Decision Period:** December 16, 2004 (applicant has extended the review period until December 31, 2004).

**Ward:** 2      **Neighborhood Organization:** Marcy-Holmes

**Existing Zoning:** I1 Light Industrial and I2 Medium Industrial Districts

**Existing Overlay Districts:** IL Industrial Living Overlay District (ILOD) and MR Mississippi River Critical Area Overlay District.

**Proposed Zoning:** C3A Community Activity Center District

**Plate Number:** 15

**Legal Description:** 520 and 520½ Second Street SE: All of Lot 2, Block 51, and that part of Lot 3, Block 51, lying southeasterly of a line drawn southwesterly parallel with the northwesterly line of Block 51, from a point on the northeasterly line of said Lot 3 distant 156.20 feet southeasterly from the most northerly corner of Block 51; all in St. Anthony Falls, according to the recorded plat thereof, Hennepin County, Minnesota.

518 Second Street SE: The northeasterly 68 feet of the southeasterly 25 feet of the following described property: Lots 4 and 5, Block 51; That part of Lot 3, Block 51, lying northwesterly of a line drawn southwesterly parallel with the northwesterly line of Block 51, from a point on the northeasterly line of said Lot 3 distant 156.20 feet southeasterly from the most northerly corner of Block 51; That part of vacated Spring Street (now Fifth Avenue Southeast) lying southeasterly of the center line of said street and between the extension to said center line of the northeasterly and southwesterly lines of Lot 5, Block 51; all in St. Anthony Falls, according to the recorded plat thereof, Hennepin County, Minnesota.

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**Proposed Use:** A 45 unit residential building with underground parking.

**Concurrent Review:**

**Rezoning:** From I1 & I2 to C3A and to remove the ILOD.

**Conditional Use Permit:** To allow 45 dwelling units.

**Conditional Use Permit:** To increase the height in the C3A District from 4 stories to 6 stories.

**Variance:** Variance of the Floor Area Ratio in the C3A District (with bonus) from 3.24 to 3.25

**Variance:** Variance of the minimum lot area per dwelling unit (no longer necessary).

**Variance:** Variance of the side yard setbacks from 15 feet to zero for parts of the building and to allow balconies and patios into the side yards.

**Variance:** Variance of the rear yard setback to allow balconies and a patio into the rear yard.

**Variance:** Variance of the required drive aisle widths from 22 feet to 20 feet.

**Site Plan Review.**

**Minor Subdivision.**

**Applicable Zoning Code Provisions:** Chapter 525, Article VI Zoning Amendments; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances; Chapter 530 Site Plan Review; and Chapter 598 Subdivisions.

**Background:** This item was continued from the September 27, 2004, October 13, 2004, and October 25, 2004 meetings of the City Planning Commission to allow for an appeal of the Heritage Preservation Commission (HPC) to be decided by the City Council. The applicant has provided a letter extending the 120 day review period from December 16, 2004 to December 31, 2004.

Bluff Street Development originally proposed to build a 65-unit, 8-story building at 520 Second Street SE. This site is in the St. Anthony Falls Historic District and required HPC approval. This development was heard before the HPC on August 10, 2004. At this meeting the HPC limited the height of the building to 4 stories. This was appealed to the Zoning and Planning (Z&P) Committee of the City Council and was before the full City Council on September 24, 2004. The City Council referred this item back to the September 30, 2004 Z&P and the October 8, 2004 full City Council. The City Council, at its meeting of October 8, 2004, granted the applicant's appeal, with modifications, for a building up to 63 feet (five stories plus a penthouse or a 6 story building as defined by the zoning code) and limiting the south side of the building to 15 feet from the south property line. Please see attached action and findings from the City Council Meeting.

The applicant now proposes a 6 story building with 45 units. This has amended the application. The applicant still requests a rezoning from I1 and I2 to C3A. The conditional use permit for 65 units has been amended to 45 units and the conditional use permit to allow 8 stories has been amended to 6 stories. While 65 units were not allowed, without a variance, under the C3A zoning, 45 units are permitted; therefore the variance of the minimum lot area is no longer necessary. The allowable floor area ratio (FAR) with a 20 percent bonus is 3.25 and the project FAR is 3.25, so a FAR variance is necessary. The side and rear yard setbacks are required to meet 5 feet plus 2 feet for every floor above the first floor. This is a six story building, so the required setbacks are 15 feet, rather than the 19 feet originally required for the 8 story building. The applicant has moved the building out of the rear 15 feet, so a variance is not necessary for the building, but it is still necessary for the balconies and the patio at the rear of the building to encroach into the setback.

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The City of Minneapolis completed an Environmental Assessment Worksheet (EAW) for the 520 Second Street SE site (and a future development at 521 Second Street SE). On July 23, 2004 the City Council decided not to order the development of an Environmental Impact Statement.(please see attached action).

Please see the attached letters from the DNR and the Marcy Holmes neighborhood for their commentary on the project.

**REZONING (from I1 & I2 Industrial to C3A Commercial and to remove the ILOD)**

**Findings As Required By The Minneapolis Zoning Code:**

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

The C3A Community Activity Center District was established to provide for the development of major urban activity and entertainment centers with neighborhood scale retail sales and services. In addition to entertainment and commercial uses, residential uses, institutional and public uses, parking facilities, limited production and processing and public services and utilities are allowed. The C3A districts are mapped in areas designated as Activity Centers in the comprehensive plan. The East Hennepin Activity Center is to the west of this site within a triangle created by Central and East Hennepin Avenues and extends along Main Street through the former “festival markets” of River Place and St. Anthony Main.

*The Minneapolis Plan* defines Activity Centers as follows:

- Activity Centers generally have a diversity of uses that draw traffic from citywide and regional destinations, but do not generally support automobile uses.
- Activity Centers are complimented by medium and high density residential uses, and also accommodate retail and commercial services, entertainment uses, educational campuses, or other large-scale cultural or public facilities.
- Activity Centers have a traditional urban form (building siting and massing).
- Activity Centers have a significant pedestrian and transit orientation, as service and features of these areas are already good.
- Activity Centers have uses that are active all day long and into the evening.
- A mix of uses occurs within structures and within the larger boundaries of Activity Centers.
- Activity Centers have a unique urban character that distinguishes them from other commercial areas because of the mix and complementary type of uses as well as the traffic the area generates.

To summarize the concept, Activity Centers are destinations that attract large numbers of visitors, workers, and residents. They include a concentration of activities throughout the day and into the evening—including high pedestrian, automobile, and transit traffic, and a mix of uses located that result in a well-defined sense of place.

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It is the opinion of Planning staff that the site should not be considered part of the East Hennepin Activity Center designated in the *Minneapolis Plan*. Extension of the Plan's Activity Center designation eastward to this part of 2<sup>nd</sup> Street is inconsistent with the purpose and character of the Activity Center as identified in Chapters 4 and 9 of the Plan primarily because the extension may draw business away from the core of the existing Activity Center and thus dilute its commercial viability. The rezoning to C3A is not in conformance with the comprehensive plan.

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

The rezoning is in the interest of the applicant. While the redevelopment of the site will be an improvement to the area and will provide housing, this can be accomplished under the existing zoning.

**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 surrounding area is a mix of residential and industrial uses including single-family homes, apartment buildings, and large industrial buildings. The ILOD is an appropriate zoning for this area as it is intended to encourage the rehabilitation and reuse of existing industrial structures and to provide limited residential and retail uses in the I1 and I2 Industrial District where such uses are compatible with other uses in the area. The C3A District is not as appropriate as the ILOD for this transitional area.

**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.**

The existing I1 and I2 Industrial Districts, with the ILOD, allow a wide range of industrial, commercial, and residential uses.

**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.**

This area has been undergoing a transformation from industrial uses to a mix of residential, commercial, and park uses. While residential development is appropriate in this area, and can be accomplished under the existing ILOD, the density and intensity of uses allowed by the C3A district is not appropriate for this site.

**CONDITIONAL USE PERMIT (for 45 residential units)**

**Findings as required by the Minneapolis Zoning Code:**

The Minneapolis City Planning Department 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 proposed development will replace a small industrial building with a 45 unit residential building. While multifamily residential is appropriate for this area this density can not be achieved on this parcel under the existing ILOD. The applicant has requested C3A zoning, but staff has indicated that this is not appropriate for the site. If the C3A zoning is approved staff would recommend approval of the 45 unit building that with proper conditions of approval should not be detrimental to the surrounding area.

**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 surrounding area is developed, but there are plans to redevelop various parcels near the site in the future. The design of the building has received HPC and City Council review and approval and has been limited to 6 stories to be more compatible with the surrounding buildings. This building should not be detrimental to surrounding properties.

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

Utilities and access are existing and adequate. Public Works and the Fire Department have reviewed the plans for access and circulation and they find the plans acceptable. Forty-five parking spaces are required and 60 are provided. The final drainage plan is required to be approved by Public Works before and permits may be issued.

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

Access to the parking is from 2<sup>nd</sup> Street SE. The development is required to have 45 spaces on-site and 60 are provided. The proposed development should have little impact on congestion in the public streets.

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

There are several policies in *The Minneapolis Plan* that support infill development and housing choice. Policy 4.11 states that “Minneapolis will improve the range of housing types for those with few or constrained choices.” This policy has implementation steps that promote infill housing, a variety of housing types, and mixed income housing. Policy 4.13 states that “Minneapolis will expand the type and range of housing types for residents with substantial choice.” Policy 4.15 states that “Minneapolis will carefully identify project sites where housing redevelopment or housing revitalization are the appropriate responses to neighborhood conditions and market demand.” While the rezoning of the site to the C3A District is not in conformance with the comprehensive plan the redevelopment of the site for multi-family housing is in conformance with many of the housing policies.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of the rezoning, conditional use permit for height, variances, site plan review, and minor subdivision.**

**CONDITIONAL USE PERMIT (from 4 stories to 6 stories)**

The height of structures or buildings are measured as the vertical distance from the natural grade either at the curb level or at a point ten (10) feet away from the front center of the structure or building, whichever is closer, to the top of the highest point of the structure, or to the top of the highest point of the roof on a flat or shed roof, the deck line on a mansard roof, or the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

The Industrial Districts limit the height of multiple-family dwellings to 4 stories, not to exceed 56 feet. A story is measured as that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or fourteen (14) feet, whichever is less, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under floor space is more than six (6) feet above grade, for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade at any point, such basement, cellar, or unused under floor space shall be considered a story. This is a six story building.

Bluff Street Development originally proposed to build a 65-unit, 8-story building at 520 Second Street SE. This site is in the St. Anthony Falls Historic District and required HPC approval. This development was heard before the HPC on August 10, 2004. At this meeting the HPC limited the height of the building to 4 stories. This was appealed to the Zoning and Planning (Z&P) Committee of the City Council and was before the full City Council on September 24, 2004. The City Council referred this item back to the September 30, 2004 Z&P and the October 8, 2004 full City Council. The City Council, at its meeting of October 8, 2004, granted the applicant’s appeal, with modifications, for a building up to 63 feet (five stories plus a penthouse or a 6 story building as defined by the zoning code) and limiting the south side of the building to 15 feet from the south property line. Please see attached action and findings from the City Council Meeting.

**Findings as required by the Minneapolis Zoning Code:**

The Minneapolis City Planning Department 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 proposed development will replace a small industrial building with a 6-story 45-unit residential building. While multifamily residential is appropriate for this area this density can not be achieved on this parcel under the existing ILOD. The applicant has requested C3A zoning, but staff has indicated that this is not appropriate for the site. If the C3A zoning is approved staff would recommend approval of the 45 unit building that with proper conditions of approval should not be detrimental to the surrounding area. The height of the building has been reviewed by the HPC, and City Council on appeal, and the revised height of 6 stories has been found to be compatible with the surrounding area.

**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 surrounding area is developed, but there are plans to redevelop various parcels near the site in the future. The design of the building has received HPC and City Council review and approval and has been limited to 6 stories to be more compatible with the surrounding buildings. This building should not be detrimental to surrounding properties.

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

Utilities and access are existing and adequate. Public Works and the Fire Department have reviewed the plans for access and circulation and they find the plans acceptable. Forty-five parking spaces are required and 60 are provided. The final drainage plan is required to be approved by Public Works before and permits may be issued.

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

Access to the parking is from 2<sup>nd</sup> Street SE. The development is required to have 45 spaces on-site and 60 are provided. The proposed development should have little impact on congestion in the public streets.

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

While the comprehensive plan does not indicate appropriate heights for specific sites, there are several policies in Chapter 9, City Form, that refer to traditional urban form and building form and context especially regarding how buildings relate to their surroundings. The City Council, on appeal of the HPC decision, made the finding that a six story building that protects the view corridor along the south side of the site is compatible with the surrounding area and therefore it is in conformance with the goals of the comprehensive plan regarding building form and height.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of the rezoning, conditional use permit for height, variances, site plan review, and minor subdivision.**

**In addition to the conditional use standards contained in Chapter 525 and this article, the city planning commission shall consider, but not be limited to, the following factors when determining maximum height:**

**(1) Access to light and air of surrounding properties.**

The increase in height will not prevent access to light and air for surrounding properties. The building is recessed on the east and west sides, which will allow access to light and air and does not exceed the required setback along the street frontage.

**(2) Shadowing of residential properties or significant public spaces.**

There are no residential properties to the east or west or directly across 2<sup>nd</sup> Street. The rail corridor is to the south of the building so it should not be significantly shadowed in the winter.

**(3) The scale and character of surrounding uses.**

The City Council, as a part of the HPC appeal has determined that 6 stories is an appropriate scale for the site.

**(4) Preservation of views of landmark buildings, significant open spaces or water bodies.**

The building has been setback on the south side to preserve views easterly and westerly along the historic rail corridor. The City Council, as a part of the HPC appeal has determined that 6 stories is appropriate for the site and should not harm views of landmark buildings or significant bodies of water.

**VARIANCE (of the FAR from 3.24 to 3.25)**

**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.**

The floor area ratio (FAR) is the gross floor area of the building divided by the area of the zoning lot. Gross floor area does not include space devoted to accessory off-street parking or loading facilities, including aisles, ramps and maneuvering space. The total square footage of the building including the parking is 89,187 square feet. The gross floor area of the building that does not include the parking area is approximately 64,239 square feet. The size of the zoning lot is 19,750 square feet. Therefore, the FAR is approximately 3.25. The C3A District allows a base FAR of 2.7. A 20 percent density bonus for enclosed parking is allowed under Section 548.130. This increases the allowable FAR to 3.24 or a maximum of 63,990 square feet. If the variance were denied the building would have to be reduced in size by 249 square feet to meet the 3.24 FAR. Approval of the small variance would allow the building to be built to a height deemed appropriate and in character with the surrounding area by the City Council as a part of a HPC appeal. This is a reasonable use of the property.

- 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.**

This site is square, so in this sense it is not unique, but there is a grade change on the site. The height of the building has been deemed by the City Council to be of an appropriate scale to the surrounding uses and the building does not exceed the density allowed by the C3A District. These conditions are unique to this area.

- 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 set the parameters for the size of buildings, while allowing the developer some flexibility in the design of the building, and to ensure that the new structure is compatible with surrounding structures. Granting the variance should not violate the intent of the ordinance or alter the essential character of the area. The City Council has determined that the size of the building is appropriate for the area and is in character with the surrounding uses.

- 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 building is required to provide 45 parking spaces and will provide 60 spaces in a below grade garage. There is adequate parking for the development. It should not be detrimental to the general welfare or endanger the public safety. The Fire Department has reviewed the building design and has raised no objections.

**VARIANCE (of the minimum lot area per dwelling unit)**

The size of the development has been reduced from 65 units to 45 units, so this variance is no longer necessary if the C3A zoning is approved. Staff recommends that the application be returned to the applicant.

**VARIANCE (to reduce the side yard setbacks for parts of the building, the patios, and balconies)**

**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, setbacks are not required in the industrial districts where the property is not adjacent to residential properties or zoning. However, residential uses are required to provide a setback of 5 feet plus 2 additional feet for every floor above the first floor for side and rear facades with windows. The building is six stories, so the required setback is 15 feet.

A portion of the building at the rear of the site up to and including the first floor will be up to the property line but will have no windows making a setback unnecessary at this spot. At the front of the building (northwest and northeast corners) the building will be up to the property line for five stories. The City Council approval required recessed windows if allowed by the building code. It is unlikely that the buildings on the east or west side of the development will be demolished and replaced with taller structures making the need for the setback less necessary.

Some parts of the building bump out to 12 feet from the property line and balconies and patios do extend into this 15 foot setback that are too large to qualify as permitted obstructions, however, as noted above, it is unlikely that taller buildings will be built adjacent to this structure. Requiring that the building meet the setbacks could result in a loss of units or smaller floor plans. Allowing portions of the building to encroach into the setback is a reasonable use of the property.

- 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 site is square, so in that sense it is not unique. However, there is a grade change and it is located in an historic district. It is unlikely the buildings on either side will be demolished and redeveloped. The parts of the buildings that do not meet the setback do not have windows or have recessed windows or are balconies, so the majority of the building with residential windows meets the setbacks. This situation is not generally found in the ILOD 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 setbacks is to provide access to light and air for residential windows. Since the majority of the building with windows will meet the setbacks the proposed variance does 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 proposed variance should have no effect on congestion in the public streets. Adequate parking is provided. The variance should not endanger public health or safety or increase the danger of fire.

**VARIANCE (to reduce the rear yard setback to allow balconies and a patio)**

**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, setbacks are not required in the industrial districts where the property is not adjacent to residential properties or zoning. However, residential uses are required to provide a setback of 5 feet plus 2 additional feet for every floor above the first floor for side and rear facades with windows. The building is six stories, so the required setback is 15 feet. Balconies and a patio do extend into the 15 foot rear yard setback that are too large to qualify as permitted obstructions. There is a rail corridor along the south side of the site that the City Council has indicated should be preserved. There will be a buffer between the site and any future development to the south that would make the need to keep the balconies and patio out of the setback unnecessary. Requiring that the building meet the setbacks could result in a loss of units or smaller floor plans. Allowing portions of the building to encroach into the setback is a reasonable use of the property.

- 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 site is square, so in that sense it is not unique. However, there is a grade change and it is located in an historic district. The City Council has indicated that the rail corridor and view corridor to the south of the building should be preserved, so there will be a buffer between this site and any development to the south. This situation is not generally found in the ILOD 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 setbacks is to provide access to light and air for residential windows. Since the building with windows will meet the setbacks, and only the balconies and patio need the variance the proposed variance does 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 proposed variance should have no effect on congestion in the public streets. Adequate parking is provided. The variance should not endanger public health or safety or increase the danger of fire.

**VARIANCE (of the drive aisle width from 22 feet to 20 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.**

If the variance were denied a significant amount of parking would be lost. Due to the grade change and the below grade parking, and size of the site it would be difficult to make the drive aisles wider. While not ideal, 20 foot drive aisle can be sufficient in some cases. The variance would allow for a reasonable use of the property.

- 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 site is square, so in that sense it is not unique. However, there is a grade change with buildings on either side that makes excavation more difficult and determines the size of the below grade parking area. This circumstance is not necessarily found on all properties in the ILO 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 sufficient maneuvering area for vehicles in parking area. While the proposed 20 foot two-way drive aisles are not ideal they may be workable in this circumstance and the proposed variance should 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 proposed variance should reduce congestion in the public streets as it will allow more on site parking. The variance should not endanger public health or safety or increase the danger of fire.

## **SITE PLAN REVIEW**

### **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:**

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- 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 located up to the property line lines on the public street. The principal entrances face the street. The facades of the building provide architectural detail. The design of the building and facades has been approved by the HPC and the City Council through the appeal process and this revised design meets the standards of the site plan chapter.

#### **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.

The main entrance to the building opens onto the public sidewalk. Public Works and the Fire Department have reviewed the site for access and circulation and find them acceptable. Forty-five parking spaces are required and 60 are provided.

#### **LANDSCAPING AND SCREENING:**

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- **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.**

Over 20 percent of the site minus the buildings is landscaped. The landscaping is at the rear of the site and on the patios on the east and west sides of the building. The City's landscaping consultant has reviewed the landscaping plan and finds it acceptable. The plan has the required number of trees and bushes.

**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 lighting will comply with Chapters 535 and 541 including the following standards:

**535.590. Lighting.** (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance. (b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.
- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.
- (5) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

The design of the buildings has been planned to minimize the blocking of important views of the city (see the CUP for height section of this report), to minimize the shadowing of public spaces and adjacent properties, and to minimize the generation of wind currents at ground level.

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

**ZONING CODE:**

**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. If dumpsters are utilized they are required to be screened to code.

**Signage:** All new signage is required to meet the requirements of the Zoning Code and permits are required from the Zoning Office. The sign plan shows one sign on the front of the building facing 2<sup>nd</sup> Street SE. This sign meets the standards of the C3A District.

**MINNEAPOLIS PLAN:**

Please see the comprehensive plan discussions under finding number one of the rezoning section and finding number five of the conditional use permit section of this report.

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

*The Master Plan for the Marcy-Holmes Neighborhood* was approved by the City Planning Commission on November 17, 2003 and by the City Council on December 29, 2003. The plan has the following relevant policies and information:

The plan supports mixed use developments including multi-family housing for the industrial properties on the river side of University Avenue (see pages 1-2 and 1-3). The plan indicates that height limits in this area should be per the zoning code and may be relaxed in certain cases (see pages 4-2, 4-3 and 8-6).

**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 not necessary for this site.

## **MINOR SUBDIVISION**

### **Required Findings:**

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

The minor subdivision meets the design requirements of the zoning code and the land subdivision regulations. The subdivision is in conformance with the goals of the comprehensive plan.

- 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 subdivision will transfer a small parcel from the lot to the west to allow for an access to the below grade parking for the proposed development. This should have few negative impacts on the surrounding area.

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

The site will be graded to Public Works standards to avoid such hazards. Drainage and erosion control plans are required at the final site plan stage.

- 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.**

Access will be from 2<sup>nd</sup> Street SE for the parking. The building will have frontage on the public street. There will be site grading that will comply with the erosion control ordinances.

- 5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control in accordance with rules, regulations and standards of the city**

**engineer and the requirements of the 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.**

The applicant will need to provide a drainage plan at the final site plan stage before building permits may be issued.

## **RECOMMENDATIONS**

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the rezoning from I1 and I2 to C3A and to remove the ILOD:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **deny** the rezoning application from the I1 and I2 Districts to C3A Districts and to remove the ILOD for property located at 520 2<sup>nd</sup> Street SE.

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the conditional use permit for 45 dwelling units:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the conditional use permit application for 45 dwelling units for property located at 520 2<sup>nd</sup> Street SE subject to the approval of the rezoning to C3A.

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the conditional use permit to increase the height of the building from 4 stories to 6 stories:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the conditional use permit application to increase the height from 4 stories to 6 stories for property located at 520 2<sup>nd</sup> Street SE.

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance to increase the floor area ratio:**

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The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the variance application to increase the floor area ratio from 3.24 to 3.25 for property located at 520 2<sup>nd</sup> Street SE.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance to reduce the minimum required lot area per dwelling unit:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **return** the variance application to reduce the minimum required lot area per dwelling unit for property located at 520 2<sup>nd</sup> Street SE.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance to reduce the side yard setbacks:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the variance application to reduce the side yard setbacks for the building, patios, and balconies for property located at 520 2<sup>nd</sup> Street SE.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance to reduce the rear yard setback:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the variance application to reduce the rear yard setback to allow balconies and a patio to encroach into the rear yard for property located at 520 2<sup>nd</sup> Street SE.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance to reduce the minimum required width of drive aisles:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the variance application to reduce the minimum required width of drive aisles from 22 feet to 20 for property located at 520 2<sup>nd</sup> Street SE.

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

The Community Planning and Economic Development Department – Planning Division recommends

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that the City Planning Commission **approve** the site plan review application for property located at 520 2<sup>nd</sup> Street SE subject to the following conditions:

- 1) Staff review and approve the final site plan and elevations before building permits may be issued. All site improvements shall be completed by November 30, 2005 (unless extended by the zoning administrator) or permits may be revoked for noncompliance.
- 2) If estimated site improvement costs for the landscaping and fencing exceed \$2,000 the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs.
- 3) The site plan and elevations are subject to HPC review and approval.
- 4) Compliance with the standards of the MR Mississippi Critical Area Overlay District.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the minor subdivision:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the minor subdivision application for property located at 520 2<sup>nd</sup> Street SE.

**Attachments:**

- 1) Council Actions.
- 2) Letter and findings from applicant.
- 3) Letter from the DNR.
- 4) Letters from the neighborhood group.
- 5) Site and zoning maps.
- 6) Subdivision survey.
- 7) Site plan, floor plans, and elevations.
- 8) Photos.