

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variances and Site Plan Review
BZZ – 5370

Date: December 12, 2011

Applicant: Hersch Properties LLC

Address of Property: 1412 5th Street Southeast

Project Name: Dinkytown Wine & Spirits Expansion

Contact Person and Phone: Philip Broussard, (612) 331-0567 x201

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: November 14, 2011

End of 60-Day Decision Period: January 13, 2012

Ward: 2 Neighborhood Organization: Marcy Holmes Neighborhood Association

Existing Zoning: C2 Neighborhood Corridor Commercial District, PO Pedestrian Oriented Overlay District and UA University Area Overlay District

Proposed Zoning: Not applicable

Zoning Plate Number: 15

Legal Description: Not applicable

Proposed Use: Off-sale liquor store

Concurrent Review:

- Conditional use permit to expand an off-sale liquor store.
- Variance of the PO Pedestrian Oriented Overlay District standards to allow the placement of the first floor of the building to be located more than eight feet from the lot line adjacent to 5th Street Southeast and to allow parking between the building and the street.
- Variance of the PO Pedestrian Oriented Overlay District standard to allow the principal entrance to face the interior of the site instead of facing the street.
- Variance of the PO Pedestrian Oriented Overlay District standard to allow less than 40 percent of the first floor façade facing 5th Street to be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level.

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- Variance of the enclosed building requirement to allow an automated teller machine to be located on the exterior of the building.
- Variances to allow a sign to be located on a non-primary building wall and to increase the maximum allowed sign area on that wall from 0 square feet to 82 square feet.
- Site plan review.

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, specifically section 525.520 (20) To vary the standards of any overlay district, other than the SH Shoreland Overlay District or the FP Floodplain Overlay District, (21) To vary the number, type, height, area or location of allowed signs on property located in an OR2 or OR3 District or a commercial, downtown or industrial district, pursuant to Chapter 543, On-Premise Signs, and (26) To vary the enclosed building requirements of this zoning ordinance; and Chapter 530, Site Plan Review.

Background: The applicant is proposing to expand the existing liquor store located at 1412 5th Street Southeast. The liquor store had shared the existing building with a Subway restaurant. The Subway occupied the tenant space adjacent to 5th Street and the liquor store occupies the rest of the building. The Subway relocated to the adjacent property to the west earlier this year. The applicant is proposing to expand into the former Subway tenant space and construct a 3,335 square foot addition to the building including a mezzanine level.

An off-sale liquor store is a conditional use in the C2 district. Upon approval of the conditional use permit, the action must be recorded with Hennepin County as required by state law.

In the PO Pedestrian Oriented Overlay District, the first floor of the building must be located within eight feet of a lot line adjacent to a street unless a greater yard is required. Amenities are required between the building and lot line adjacent to a street. No front yard is required. Most of the addition would not be within 8 feet of the lot line adjacent to 5th Street. Where the building would not be built up to the front lot line, parking would be located between the building and the street. Variances of these standards are required to allow the proposed setback.

In the PO Pedestrian Oriented Overlay District, at least one principal entrance must face the street. A principal entrance currently faces 5th Street. The street facing principal entrance would be removed with the proposed expansion. The proposed principal entrance would face the parking area. A variance is required to allow the proposed principal entrance location.

In the PO Pedestrian Oriented Overlay District, at least 40 percent of the first floor façade of any nonresidential use that faces a public street or sidewalk must be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level. Windows must be distributed in a more or less even manner. Required windows are measured between two and 10 feet above the finished level of the floor. Including the existing building, 24.6 percent of the walls facing 5th Street would be windows. Because none of these windows are located on the wall with the loading door, the required windows are not evenly distributed. A variance of these standards is required to reduce the amount of windows required and to allow them to be unevenly distributed.

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The applicant is proposing to install an automatic teller machine (ATM) on the exterior building wall facing 5th Street. The location of the ATM is subject to sections 537.110 and 548.180 of the zoning code, which require the ATM to be within the principal structure served. A variance of the enclosed building requirement is required to allow it to be located on the exterior of the building.

A wall sign is proposed to be located on the west wall, which is not a primary building wall. As per section 543.200 of the zoning code, signs are required to be placed on a primary building wall. To allow signage to be placed on the west building wall, variances to allow the location and sign area are required because it is not a primary building wall and no sign area is allocated to a non-primary building wall.

A site plan review is required for any addition that increases the gross floor area by 1,000 square feet or more.

In June of 2010, the CPED Zoning Office received a complaint about no landscaping on the subject site. Because there is an active land use application, no enforcement action has been taken at this time.

Correspondence from the Marcy Holmes Neighborhood Association was received and is attached to this report. Staff will forward additional comments, if any are received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT: to expand an off-sale liquor store.

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – 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.

Expanding the liquor store is not expected to be detrimental to the public health, safety or general welfare, provided the use complies with all licensing requirements, life safety ordinances and Public Works Department standards. To increase eyes on the street and improve public safety, staff is recommending that the planning commission approve the conditional use permit subject to compliance with the window sign provision found in section 543.480 of the zoning code.

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.

All abutting properties are occupied by nonresidential uses. Residential uses are located across 5th Street from the site. Converting existing retail space to another retail use and building an addition for a liquor store is not expected to result in detrimental impacts and should not impede the normal and orderly development of surrounding properties.

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

The utilities, access roads, and drainage are existing and adequate.

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

Within the PO overlay district in the Dinkytown area, nonresidential uses are not required to provide accessory off-street parking facilities. Twenty parking spaces are proposed. The applicant indicates that twenty spaces are needed for peak demand. Because the site is located in a pedestrian oriented area, staff is recommending that the planning commission require the applicant to provide additional landscaping on-site that would reduce the number of parking spaces to 18. The minimum bicycle parking requirement for a liquor store is 3 spaces. Public bicycle parking spaces may contribute to compliance with required bicycle parking when located adjacent to the property in question. Four short-term spaces exist in the 5th Street right-of-way adjacent to the site. The expansion of the proposed liquor store should have little effect on congestion in the streets.

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

The use would be consistent with the applicable policies of the comprehensive plan, *The Minneapolis Plan for Sustainable Growth*. The subject site is located within the boundaries of the Dinkytown activity center. The future land use of the site is designated as commercial. According to the principles and policies outlined in the plan, the following apply to this proposal:

Land Use Policy 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users.

1.4.1 Support a variety of commercial districts and corridors of varying size, intensity of development, mix of uses, and market served.

Land Use Policy 1.5: Promote growth and encourage overall city vitality by directing new commercial and mixed use development to designated corridors and districts.

1.5.1 Support an appropriate mix of uses within a district or corridor with attention to surrounding uses, community needs and preferences, and availability of public facilities.

Land Use Policy 1.12: Support Activity Centers by preserving the mix and intensity of land uses and by enhancing the design features that give each center its unique urban character.

1.12.1 Encourage a variety of commercial and residential uses that generate activity all day long and into the evening.

The site is also located within the boundaries of the *Master Plan for the Marcy Holmes Neighborhood*. The plan was adopted by the City Council in 2003 and is part of the comprehensive plan. Policies in the plan support convenience retail activity on this site as well as the redevelopment and intensification of the Dinkytown commercial area.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

The use will conform to the applicable regulations of the districts in which it is located, including the specific development standards for an off-sale liquor store, upon the approval of the conditional use permits, variances and site plan review.

The specific development standards for a liquor store, off-sale, are as follows:

- (1) The use shall comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter.
- (2) The premises, all adjacent streets, sidewalks, alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

Title 14 applies spacing requirements from liquor stores to other off-sale establishments (2,000 feet from door to door) and schools and churches (300 feet). The principal door of the use would move closer to 5th Street. License and Consumer Services staff of the Regulatory Services Department has indicated that the use would comply with all spacing requirements.

VARIANCE: of the PO Pedestrian Oriented Overlay District standards to allow the placement of the first floor of the building to be located more than eight feet from the lot line adjacent to 5th Street Southeast and to allow parking between the building and the street.

1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.

The site does not have access to a public alley and has frontage on only one street. Deliveries to the site are made by large vehicles. As proposed, loading would occur at the rear of the site where the building addition would be set back more than 8 feet from the street. Although surface parking lots are discouraged in activity centers, the surface parking area provides a place for off-street loading in an area with limited on-street parking. These circumstances are unique to the property, have not been created by the applicant, and are not based on economic considerations alone.

2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

The PO Pedestrian Oriented Overlay District is established to preserve and encourage the pedestrian character of commercial areas and to promote street life and activity by regulating building orientation and design and accessory parking facilities, and by prohibiting certain high impact and automobile-oriented uses. The purpose of requiring the building to be located within 8 feet of the street and not allow parking between the building and the street is to reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation. These standards are also supported by policies of the comprehensive plan. The existing building abuts the lot line adjacent to the street. Part of the building addition would be set back one foot from the

street. The remainder of the addition, which would be used for storage and loading, would be set back 90 feet from the street. Parking would be located between that part of the addition and the street. Active uses in the building would be oriented toward the street, where the principal entrance would be located and where windows would extend from one side of the building to the other where the wall abuts the street. The applicant is also proposing to install landscaping between the parking area and the public sidewalk. The request is reasonable and consistent with the intent of the ordinance and comprehensive plan.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Because active functions with windows would be oriented to the street, storage and loading would be located at the rear of the site, and landscaping would provide a buffer between the parking area and the sidewalk, granting of the variance should have little effect on the surrounding area. It also should not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

VARIANCE: of the PO Pedestrian Oriented Overlay District standard to allow the principal entrance to face the interior of the site instead of facing the street.

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

Practical difficulties do not exist in complying with the ordinance due to circumstances unique to the property. The principal use of the property is an off-sale liquor store. The proposal to expand the store includes expansion into an existing tenant space adjacent to 5th Street with a separate entrance facing 5th Street. As proposed, the existing entrance facing the street will be removed and a new entrance will be provided near the street, but will face the interior of the site. The new entrance provides access to a vestibule. There are alternatives for the entrance that would comply with the ordinance and would not affect the security of the store. Another entrance could be added on the north side of the vestibule or the entrance could be angled to 45 degrees at the corner of the vestibule.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The PO Pedestrian Oriented Overlay District is established to preserve and encourage the pedestrian character of commercial areas and to promote street life and activity by regulating building orientation and design and accessory parking facilities, and by prohibiting certain high impact and automobile-oriented uses. The purpose of requiring a principal entrance to face the street is to reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation. These standards are also supported by policies of the comprehensive plan. Two

policies of the *Master Plan for the Marcy Holmes Neighborhood* state “Dinkytown will be primarily, though not exclusively, a pedestrian-oriented place for walk-in business from University students, faculty, employees, visitors to the University, and nearby residents” and “All businesses should have active, glass storefronts, with individual business entrances on the sidewalk.” Removing the only street facing entrance for the building and providing an interior facing entrance is not in keeping with the intent of the ordinance and the comprehensive plan. The request is not reasonable because there are alternatives for the entrance that would comply with the ordinance and would not affect the security of the store.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

The *Master Plan for the Marcy Holmes Neighborhood* envisions Dinkytown as a pedestrian-oriented place for walk-in business with active, glass storefronts and individual entrances on the sidewalk for all businesses. Granting this variance would not likely be detrimental to the health, safety, or welfare of the general public because the proposed entrance location is near to the street. However, the use appears auto-oriented when the only entrance faces the interior of the site where the parking lot is located. In this way, granting the variance would negatively affect the essential character of the area.

VARIANCE: of the PO Pedestrian Oriented Overlay District standard to allow less than 40 percent of the first floor façade facing 5th Street to be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level.

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

In the PO district, at least 40 percent of all facades facing a street are required to be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level. Where the building abuts 5th Street, 60 percent of the façade would be windows. The proposed addition would have no windows where it would be set back 90 feet from the street. The combined amount of the street facing walls that would be windows is 32 percent.

The part of the addition at the back of the site would be used for storage and loading operations. Deliveries to the site are made by large vehicles. With no public alley access and frontage on only one street, the surface parking area between the addition and the street provides a place for off-street loading in an area with limited on-street parking. The proposed storage area provides little opportunity for natural surveillance and visibility. These circumstances are unique to the property, have not been created by the applicant, and are not based on economic considerations alone.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The PO Pedestrian Oriented Overlay District is established to preserve and encourage the pedestrian character of commercial areas and to promote street life and activity by regulating building orientation and design and accessory parking facilities, and by prohibiting certain high impact and automobile-oriented uses. The purpose of these window area requirements is to also maximize natural surveillance and visibility at the street level. These standards are also supported by policies of the comprehensive plan. Where the building fronts 5th Street, 60 percent of the façade would be windows. The proposed addition would have no windows where it would be set back 90 feet from the street. The part of the addition at the back of the site would be used for storage and loading operations. It would provide little opportunity for natural surveillance and visibility of the street. Because an abundant amount of windows will be provided where the building abuts the street, the request is reasonable and in keeping with the spirit and intent of the ordinance and comprehensive plan.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

An abundant amount of windows would be provided where the building abuts the street, which would allow natural surveillance and visibility. Because the wall, adjacent to a storage area, where no windows would be provided would be set back 90 feet from the street, there would be little opportunity for natural surveillance and visibility of the street. As a condition of approval for the site plan review, staff is recommending that the planning commission require the applicant to provide additional windows on the east elevation facing the on-site parking lot. The east facing windows will allow views to the parking lot where the building is set back 90 feet. The granting of the proposed variance should have little effect on the surrounding area and should not be detrimental to the health, safety, or welfare of the general public.

VARIANCE: of the enclosed building requirement to allow an automated teller machine to be located on the exterior of the building.

Findings Required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

Practical difficulties do not exist in complying with the ordinance due to circumstances unique to the property. The principal use of the property is an off-sale liquor store. Lack of access to the ATM when the liquor store is not open to the public is not a circumstance unique to the property. An ATM was located in the tenant space formerly occupied by Subway. There are alternative locations for the ATM, within the enclosed building, that would comply with the ordinance.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The intent of prohibiting ATMs outside of an enclosed building is to prevent the potential for theft or robbery for users of the ATM. This is also a crime prevention through environmental design (CPTED) measure supported by policies of the comprehensive plan. An additional level of security is added when it is located in a building during hours open to the public of the business within the building. The subject property is in Dinkytown and near the University of Minnesota, which is an active area late into the evening. While staff recognizes that the property is in a pedestrian oriented area, there are still safety concerns about its location. Further, locating the ATM within the building would allow for reasonable use of the property.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Locating the ATM on the exterior of the building will not likely alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. However, if granted, the proposed variance may be detrimental to the public safety due to the potential for theft or robbery. There are three other ATMs located on the exterior of buildings in Dinkytown. Two are located on 4th Street Southeast between 13th Avenue and 14th Avenue Southeast. The other is located on 14th Avenue Southeast between 5th Street and 4th Street Southeast. Both 4th Street and 14th Avenue have higher levels of pedestrian traffic than 5th Street. The Police Department has not identified problems with these other existing ATMs. However, outdoor ATMs are problematic in other areas of the City. The Police prefer that the proposed ATM be enclosed in the building with card access only outside of the regular business hours because this street is less frequented by pedestrians than the adjacent cross streets. If this variance is granted, the Police Department emphasized that the area around the ATM will need to be well-lit and a high-quality security camera will need to be installed to allow the police to obtain copies of images in the event of a theft, robbery or other criminal activity.

VARIANCE: to allow a sign to be located on a non-primary building wall and to increase the maximum allowed sign area on that wall from 0 square feet to 82 square feet.

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

Practical difficulties do not exist in complying with the ordinance due to circumstances unique to the property. The zoning code defines a primary building wall as an exterior building wall that faces a street or an exterior building wall that faces an accessory parking area and contains a public entrance. The west wall faces an off-site parking lot and is therefore not a primary building wall. The sign proposed on the west wall would be 82 square feet in area (2.75 feet tall by 30 feet wide as measured by drawing an imaginary rectangle around all of the sign elements). The building would

have two primary building walls: the north wall fronting 5th Street and the east wall facing the parking area. The allowed sign area (with no freestanding sign on the zoning lot) is 91.5 square feet and 133.5 square feet respectively. The east wall is also visible from 15th Avenue because a parking lot is located between the subject site and 15th Avenue. A projecting sign, up to 20 square feet in area, is an allowed sign. The applicant is proposing a 20 square foot projecting sign on the north wall, which provides additional visibility from the east and west.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

Regulations governing on-premise signs are established to allow effective signage appropriate to the planned character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse effects on nearby property, and to protect the public health, safety and welfare. The PO Pedestrian Oriented Overlay District is established in part to preserve and encourage the pedestrian character of commercial areas. The C2 district is established to provide an environment of retail sales and commercial services and allows signage that reflects the needs of a commercial district. Comprehensive plan policies are also aligned with the purpose of these regulations. The permitted locations and size of signage allows reasonable use of the property. Granting the variance would not be in keeping with the spirit and intent of the ordinance and comprehensive plan.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Commercial uses are located to the east, west and south of the subject site. Residential uses are located to the north. The site is also near the University of Minnesota, which is an active area during the day and late into the evening. Dinkytown is a very pedestrian oriented area. Granting this variance would not likely be detrimental to the health, safety, or welfare of the general public. However, allowing additional signage would contribute to sign clutter in the area and detract from the pedestrian character of the area.

Additional Findings Required by the Minneapolis Zoning Code for a Sign Variance:

- 1. The sign adjustment will not significantly increase or lead to sign clutter in the area or result in a sign that is inconsistent with the purpose of the zoning district in which the property is located.**

The PO Pedestrian Oriented Overlay District is established in part to preserve and encourage the pedestrian character of commercial areas. The C2 district is established to provide an environment of retail sales and commercial services and allows signage that reflects the needs of a commercial district. The building would have two primary building walls: the north wall fronting 5th Street and the east wall facing the parking area. The allowed sign area (with no freestanding sign on the zoning lot) is 91.5 square feet and 133.5 square feet respectively. The east wall is also visible from 15th

Avenue because a parking lot is located between the subject site and 15th Avenue. The applicant is proposing a wall sign, 82 square feet in area, on the east wall. A projecting sign, up to 20 square feet in area, is an allowed sign. The applicant is proposing a 20 square foot projecting sign on the north wall, which provides additional visibility from the east and west. The proposed sign requiring the variances would face an off-site parking lot. Allowing additional signage would contribute to sign clutter in the area and detract from the pedestrian character of the area.

2. **The sign adjustment will allow a sign that relates in size, shape, materials, color, illumination and character to the function and architectural character of the building or property on which the sign will be located.**

The sign proposed on the west wall would be 82 square feet in area and externally illuminated. The sign would be either painted on the wall or individual letters would be raised on the surface of the wall. The principal use of the property is an off-sale liquor store. The total area of the wall that the sign would be placed on is 1,620 square feet and 13.5 feet tall. The existing building has a brick façade on 5th Street and painted concrete block on all other sides of the building. As part of the expansion proposal, the applicant is proposing to keep the brick façade and install reinforced cement board panels with a masonry coating finish on all other walls of the building and the addition. This sign would provide additional signage for the business, but would not have any other significant relationship to the function and architectural character of the building or subject site.

SITE PLAN REVIEW

Findings as required by the Minneapolis Zoning Code for the 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 and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

Section A: Conformance with Chapter 530 of the Zoning Code

BUILDING PLACEMENT AND DESIGN:

- 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. In the case of a corner lot, the principal entrance shall face the front lot line.
- 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 walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.

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- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- 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 fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances, windows, and active functions:
 - Residential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - Nonresidential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
 - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
 - e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
 - f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.
 - g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.

Minimum window area shall be measured as indicated in section 530.120 of the zoning code.
- Ground floor active functions:

Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.
- The form and pitch of roof lines shall be similar to surrounding buildings.
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.

Conformance with above requirements:

- Part of the building addition would be set back one foot from the street. The remainder of the addition, which would be used for storage and loading, would be set back 90 feet from the street.
- Parking would be located between the building and the street.
- The principal entrance would face the interior of the site.
- There would be blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements exceeding 25 feet in length on the north, south, east and west walls of the addition.
- The primary exterior materials of the addition would be reinforced cement board panels with a masonry coating finish (stucco-like in appearance) and glass. On the existing building, brick is the primary exterior material on the wall facing 5th Street and the applicant is proposing to install reinforced cement board panels with a masonry coating finish on all other walls of the building over the existing painted concrete block. The applicant has indicated that a graphic pattern would also be applied to the west building elevation. Please note, exterior material changes at a later date would require review by the Planning Commission and an amendment to the site plan review.
- Although compatible, the exterior materials and appearance of all sides of the addition would not be similar to the front of the building. Brick and an abundant amount of glass are the primary materials on the front of the building. Reinforced cement board panels with a masonry coating finish and a small amount of glass would be the primary materials on the other sides of the building.
- Plain face concrete block is not a material proposed for the addition.
- The principal entrance would be clearly defined and emphasized with a canopy and windows to express the importance of the entrance.
- The north and east walls facing the street and the parking area are subject to the minimum window requirements. All first floor walls facing the parking area are deficient in providing the required amount of windows.
- On the mezzanine level, at least 10 percent of the north and east walls must be windows because they face a street and an on-site parking area. Ten percent of each wall is 9.6 square feet and 50.8 square feet respectively. Fifteen percent of the east wall would be windows and 49 percent of the north wall would be windows.
- The roof of the addition would be flat. The existing roof is flat. Most of the nonresidential buildings and many of the residential buildings in the immediate area also have flat roofs.
- Approximately 84 percent of the addition wall facing 5th Street would be occupied by storage.

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 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

Conformance with above requirements:

- A walkway would connect the building entrance to the public sidewalk and on-site parking facilities. The proposed width of the walkway is 3.5 feet wide. Including the 6-inch by 6-inch concrete curb

for the parking area, the walkway width would be 4 feet wide. However, this does not meet the intent to provide a clear walkway to connect pedestrians to the building entrance.

- A transit shelter is not proposed on or adjacent to the site.
- The existing parking lot has access from 5th Street. The applicant is proposing to shift the curb cut location further east and reduce the width from 25 feet to 20 feet. No changes are proposed to the circulation. The proposed access and circulation should lessen any conflicts with pedestrians. There are no adjacent residential uses.
- The site is not adjacent to an alley.
- The proposed site plan will reduce the amount of impervious surface. The parking lot would occupy most of the site not occupied by the building. The applicant is requesting alternative compliance for the landscaping requirements. Although there is not a minimum parking requirement for nonresidential uses in the Dinkytown PO Overlay District, there is a need for an off-street parking area for this business. As alternatives to some of the landscaping requirements, the applicant is proposing to provide landscaping in the 5th Street boulevard adjacent to the site and install a 1,500 square foot green roof. To provide additional on-site landscaping and on-site retention and filtration of stormwater runoff, staff is recommending that the planning commission require the applicant to provide a 7 foot landscaped yard on-site between the parking area and the street in addition to the alternatives proposed.

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, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**
- **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.**
- **Except as otherwise provided, 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 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**
- **The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.**
- **In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.**
- **All other areas not governed by sections 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 530.210.**
- **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 530.80, as provided in section 530.220.**

Conformance with above requirements:

- The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is 14,418 square feet. The existing building and the addition would occupy 9,335 square feet of the site. The lot area minus the building footprints therefore consists of 5,083 square feet. At least 20 percent of the net site area is 1,016.6 square feet. The proposed amount of on-site landscaping is 133 square feet or 2.6 percent of the net lot area. However, part of the landscaped area would extend into the space needed to provide the required drive aisle for parking space #20. Complying with the drive aisle requirement would reduce the amount of landscaping to 105 square feet or 2.1 percent of the net lot area.
- The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 2 and 11 respectively. No landscaping exists on the site. No canopy trees are proposed. Nine shrubs are proposed; however, two of them would be located in the landscaped area that overlaps the required drive aisle space needed for parking space #20.
- A 7-foot wide landscaped yard with screening that is 3 feet tall and 60 percent opaque is required between the parking area and the street. Two canopy trees are also required in these yards. No on-site landscaping or screening is proposed between the parking and street.
- No parking spaces would be located within 50 feet of an on-site deciduous tree.

ADDITIONAL STANDARDS:

- All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.
- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, 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 related to:
 - Natural surveillance and visibility
 - Lighting levels
 - Territorial reinforcement and space delineation
 - Natural access control
- To the extent practical, 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.

Conformance with above requirements:

- Discontinuous curbing would be installed to allow retention and filtration of stormwater in the landscaped areas along 5th Street.
- The addition would not impede any views of important elements of the city, significantly shadow the adjacent streets or properties or increase the generation of wind currents at ground level.
- Additional crime prevention design elements are recommended for the site. Staff is recommending that additional windows be provided on the east elevation facing the on-site parking lot to increase natural surveillance and visibility. A lighting plan has not been submitted. The applicant has indicated that elevated lighting levels would be used in the parking lot after dark. Lighting will need to comply with the standards of section 535.590 of the zoning code to ensure that the lighting

provides an acceptable level of security while not creating glare or excessive lighting of the site. Staff is recommending that the planning commission deny the variance to allow the ATM on the exterior of the building because of safety concerns. If it is granted, the Police Department emphasized that the area around the ATM will need to be well-lit and a high-quality security camera will need to be installed to allow the police to obtain copies of images in the event of a theft, robbery or other criminal activity. The applicant is encouraged to provide a pattern with graphics, mural and/or paraffin wax on the blank, uninterrupted south and west sides of the building to prevent graffiti. The proposed entrance would be located near the public sidewalk and would be connected to it with a walkway to guide pedestrians. Staff is also recommending that an entrance face the street. Landscaping adjacent to the street would allow views to and from the parking area between 3 and 7 feet above grade.

- The existing structure on the site is not historic.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE: The property of 1412 5th Street Southeast is zoned C2 with the PO and UA overlay districts. A liquor store is a conditional use in the C2 district.

Off-Street Parking and Loading:

Minimum automobile parking requirement: In general, a liquor store is required to provide a minimum of one space per 500 square feet of gross floor area or 4 spaces, whichever is greater. Within the PO overlay district in the Dinkytown area, nonresidential uses are not required to provide accessory off-street parking facilities. Twenty spaces would be provided on-site. Eight would be standard in size, one would be accessible (one is required) and 11 would be compact. Compact spaces must be marked as such. Standard spaces must be at least 18 feet deep and compact spaces must be at least 15 feet deep exclusive of curbing. A 22-foot wide drive aisle must be provided for two-way circulation. As proposed, there would be one row of standard parking and one row of compact spaces with the drive aisle in between. The total width required for this configuration is 55 feet exclusive of curbing. The total width proposed is 54.5 feet. The size of the addition will likely need to be reduced in size to accommodate the parking.

Maximum automobile parking requirement: The maximum parking requirement for a liquor store is one space per 200 square feet of gross floor area. With the proposed size of the liquor store at 9,335 square feet, the maximum parking requirement is 47 spaces. In PO overlay districts, the maximum parking allowance for nonresidential uses is 75 percent of the maximum allowed as specified in Chapter 541, Off-Street Parking and Loading. Therefore, the maximum requirement is reduced to 35 spaces. Twenty spaces are proposed.

Bicycle parking requirement: The minimum bicycle parking requirement for a liquor store is 3 spaces. At least 2 of the required spaces must meet the standards for short-term parking and the remainder can be short-term or long-term spaces. Each required bicycle parking space must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be installed to the manufacturer's specifications, including the minimum recommended distance from other structures. Required short-term bicycle parking spaces shall be located in a convenient and visible area within fifty (50) feet of a principal entrance and shall permit the

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locking of the bicycle frame and one (1) wheel to the rack and shall support a bicycle in a stable position without damage to the wheels, frame or components. With the permission of the city engineer, required bicycle parking may be located in the public right-of-way. Public bicycle parking spaces may contribute to compliance with required bicycle parking when located adjacent to the property in question. Four short-term spaces exist in the 5th Street right-of-way adjacent to the site.

Loading: The minimum loading requirement for a liquor store less than 10,000 square feet in area is an adequate shipping and receiving facility, accessible by motor vehicle off any adjacent alley, service drive or open space on the same zoning lot. Parking in excess of the minimum parking requirement would accommodate loading on-site.

Maximum Floor Area: The lot area is 14,418 square feet. The maximum FAR allowed in the C2 District is 1.7. The maximum floor area of commercial uses in the C2 district is 30,000 square feet. The building would have a total of 9,335 square feet, which is an FAR of 0.65.

Minimum Lot Area: Not applicable.

Building Height: In the C2 district, the maximum height is limited to 4 stories or 56 feet, whichever is less. The proposed height of the addition is one story and 19.5 feet.

Yard Requirements: Not applicable for the addition.

Specific Development Standards: Liquor stores are required to regularly inspect the premises, all adjacent streets, sidewalks and alleys for the purposes of removing any litter found thereon. Liquor stores must also comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter. Title 14 applies spacing requirements from liquor stores to other off-sale establishments (2,000 feet) and schools and churches (300 feet). The main entrance will be relocated closer to 5th Street. License and Consumer Services staff has indicated that the nearest off-sale liquor establishment is located at 901 Washington Avenue Southeast, which is approximately 3,400 feet from the property of 1412 5th Street Southeast.

PO Pedestrian Oriented Overlay District Standards: The following standards apply to this development:

- Drive-through facilities, automobile convenience facilities, transportation uses, self-service storage, commercial parking lots (including the expansion of any existing commercial parking lot), and the conversion of any accessory parking lot to a commercial parking lot are prohibited. These uses are not proposed.
- The first floor of the building must be located within eight feet of a lot line adjacent to a street unless a greater yard is required. Amenities are required between the building and lot line adjacent to a street. No front yard is required. Most of the addition would not be within 8 feet of the lot line adjacent to 5th Street. Where the building would not be built up to the front lot line, parking would be located between the building and the street. Variances of these standards are required to allow the proposed setback.

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- At least one principal entrance must face the street. A principal entrance currently faces 5th Street. The street facing principal entrance would be removed with the proposed expansion. The proposed principal entrance would face the parking area. A variance is required to allow the proposed principal entrance location.
- At least 40 percent of the first floor façade of any nonresidential use that faces a public street or sidewalk must be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level. Windows must be distributed in a more or less even manner. Required windows are measured between two and 10 feet above the finished level of the floor. Including the existing building, 32 percent of the walls facing 5th Street would be windows. Because none of these windows are located on the wall with the loading door, the required windows are not evenly distributed. A variance of these standards is required to reduce the amount of windows required and to allow them to be unevenly distributed.
- Awnings and canopies are encouraged, but backlit awnings and canopies are prohibited. Awnings are proposed. They will not be backlit.
- Pole signs, backlit awning and canopy signs, and backlit insertable panel projecting signs are prohibited. These types of signs are not proposed.
- Accessory parking is required to be located at the rear or interior of the site, within the building, or entirely below grade. The surface parking would be located at the interior of the site.
- Parking lots are limited to 60 feet of street frontage. The parking lot frontage would be less than 60 feet.
- The driveway width for all parking facilities cannot exceed 20 feet of street frontage. The existing driveway width is 25 feet. The driveway location would be shifted further west and would be reduced in width to 20 feet.

UA University Area Overlay District Standards: Because residential development is not proposed as part of the project, the UA overlay district standards do not apply.

Refuse screening: Refuse and recycling storage containers are required to be screened on all four sides with screening compatible with the principal structure not less than two feet higher than the containers or otherwise effectively screened from the street and adjacent residential uses. The refuse storage containers would be stored in the building.

Lighting: Lighting must comply with Chapter 535 and Chapter 541 of the zoning code including:

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:

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- (1) Lighting fixtures shall be effectively arranged so as not to 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 source.
- (2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of 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 to a person of normal sensitivities when viewed from any permitted or conditional residential use.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

Signs: A total of three signs are proposed. One would be a projecting sign and two would be wall signs. The allowed size allocation of signage in the C2 district is 1.5 square feet of signage per one foot of primary building wall. The north wall abutting 5th Street and the east wall facing the parking area are primary building walls. In the C2 district, a projecting sign up to 20 square feet in area placed up to 28 feet high on a wall with internal or external illumination is allowed. The proposed projecting sign would be located on the north wall adjacent to 5th Street where up to 91.55 square feet of sign area is allowed. The sign would be 20 square feet in area, placed 13.5 feet high on the wall and internally illuminated. In the C2 district, wall signs up to 180 square feet in area are allowed if the size allocation for the primary building wall in question allows it and can be placed up to 28 feet high on a wall. The two proposed wall signs would each be 82 square feet in area and internally illuminated. The sign proposed on the east elevation where up to 133.5 square feet of sign area is allowed, would be placed 12.5 feet above grade. The second wall sign is proposed to be located on the west wall, which is not a primary building wall. As per section 543.200 of the zoning code, signs are required to be placed on a primary building wall. To allow signage to be placed on the west building wall, variances to allow the location and sign area are required because it is not a primary building wall and no sign area is allocated to a non-primary building wall. New signage also requires Zoning Office review, approval, and permits.

Window signs are allowed by section 543.480 of the zoning code, provided that such signage does not exceed 30 percent of the window area, whether attached to the window or not, and does not block views into and out of the building in the area between four and seven feet above the adjacent grade. Window signs are included in the calculation of the total permitted building sign area, except as provided for temporary signs in Section 543.450.

The applicant has indicated that the proposed graphic pattern on the west wall will be lively and colorful. Graphic patterns are not subject to sign regulations as long as they meet the definition of a mural. The zoning code defines mural as “A work of graphic art painted on a building wall, which contains no commercial advertising or logos, and which does not serve to advertise or promote any business, product, activity, service, interest or entertainment.”

Enclosed building requirement: The applicant is proposing to install an automatic teller machine (ATM) on the exterior building wall facing 5th Street. The location of the ATM is subject to sections 537.110 and 548.180 of the zoning code. A variance of the enclosed building requirement is required to allow it to be located on the exterior of the building.

537.110. Allowed accessory uses and structures. The following accessory uses and structures shall be allowed, subject to the following development standards:

Automatic teller machine. Automatic teller machines shall be allowed accessory to nonresidential uses located in districts other than the residence and OR1 Districts. Such automatic teller machines shall be located within the principal structure served, except when part of a drive-through facility accessory to a bank.

548.180. Enclosed building requirement. (a) *In general.* All production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) and (c) below or elsewhere in this ordinance.

(b) *Outdoor dining.* Outdoor dining shall be allowed, provided the following conditions are met:

- (1) The outdoor dining area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review.
- (2) Sidewalk cafes shall comply with the requirements contained in Chapter 265 of the Minneapolis Code of Ordinances, Special Permits for Specific Businesses and Uses.

(c) *Outdoor sales and display.* The following may include outdoor sales and display provided such outdoor sales and display area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review:

- (1) Automobile sales.
- (2) Direct refueling of motor vehicles.
- (3) Lawn and garden sales, provided the outdoor sales and display area shall be included in the maximum gross floor area of such use, as regulated in each district.
- (4) Permitted drive-through facilities.
- (5) Building material sales located in the C4 District only.
- (6) Truck, trailer, boat or recreational vehicle sales, service or rental, subject to the regulations of the C4 District governing the outdoor parking of trucks and other commercial vehicles.

MINNEAPOLIS PLAN: In addition to the principles and polices in the conditional use permit section of this staff report, the following apply to this proposal:

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Land Use Policy 1.12: Support Activity Centers by preserving the mix and intensity of land uses and by enhancing the design features that give each center its unique urban character.

- 1.12.3 Encourage active uses on the ground floor of buildings in Activity Centers.
- 1.12.4 Discourage uses that diminish the transit and pedestrian character of Activity Centers, such as automobile services, surface parking lots, and drive-through facilities.
- 1.12.5 Encourage a height of at least two stories for new buildings in Activity Centers, in keeping with neighborhood character.

Urban Design Policy 10.10: Support urban design standards that emphasize a traditional urban form in commercial areas.

- 10.10.1 Enhance the city's commercial districts by encouraging appropriate building forms and designs, historic preservation objectives, site plans that enhance the pedestrian environment, and by maintaining high quality four season public spaces and infrastructure.
- 10.10.6 Require storefront window transparency to assure both natural surveillance and an inviting pedestrian experience.

Urban Design Policy 10.18: Reduce the visual impact of automobile parking facilities.

- 10.18.1 Require that parking lots meet or exceed the landscaping and screening requirements of the zoning code, especially along transit corridors, adjacent to residential areas, and areas of transition between land uses.
- 10.18.2 Parking lots should maintain the existing street face in developed areas and establish them in undeveloped areas through the use of fencing, walls, landscaping or a combination thereof along property lines.
- 10.18.3 Locate parking lots to the rear or interior of the site.
- 10.18.4 Provide walkways within parking lots in order to guide pedestrians through the site.

Urban Design Policy 10.19: Landscaping is encouraged in order to complement the scale of the site and its surroundings, enhance the built environment, create and define public and private spaces, buffer and screen, incorporate crime prevention principles, and provide shade, aesthetic appeal, and environmental benefits.

- 10.19.6 Green roofs, living walls, and porous pavement are encouraged but are not meant to be a substitute for ground-level landscaping of sites as landscaping provides both a natural amenity and aesthetic beauty to the urban landscape.
- 10.19.7 Boulevard landscaping and improvements, in accordance with applicable city polices, are encouraged.

Urban Design Policy 10.20: Promote an attractive environment by minimizing visual clutter and confusion caused by a proliferation of signage.

- 10.20.1 Location, size, height and spacing of off-premise advertising signs and billboards shall be regulated to minimize their visual blighting effects.

Urban Design Policy 10.21: Unique areas and neighborhoods within the city should have a special set of sign standards to allow for effective signage appropriate to the planned character of each area/neighborhood.

10.21.2 To promote street life and activity, signs should be located and sized to be viewed by people on foot (not vehicles) in order to preserve and encourage the pedestrian character of commercial areas that have traditional urban form.

The following policies found in Chapter 4. Economic Development of the *Master Plan for the Marcy Holmes Neighborhood* also apply:

- Dinkytown will be primarily, though not exclusively, a pedestrian-oriented place for walk-in business from University students, faculty, employees, visitors to the University, and nearby residents.
- All businesses should have active, glass storefronts, with individual business entrances on the sidewalk.

Staff comment: To make the proposed site plan consistent with all of the above policies, staff is recommending that the planning commission require the applicant to provide an entrance facing 5th Street, additional windows on the east building wall facing the parking lot, install more brick on the building, install more enhanced, on-site landscaping, and maintain window transparency, and deny the sign variances.

ALTERNATIVE COMPLIANCE:

The Planning Commission or zoning administrator may approve alternatives to any 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, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, 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 requested by the applicant to meet the following standards:

Building placement within 8 feet of a lot line adjacent to a street and accessory parking lot location

Part of the building addition would be set back one foot from the street. The remainder of the addition, which would be used for storage and loading, would be set back 90 feet from the street. The site does not have access to a public alley and has frontage on only one street. Deliveries to the site are made by large vehicles. Although surface parking lots are discouraged in activity centers, the surface parking area provides a place for off-street loading in an area with limited on-street parking. Setting the building back more than 8 feet from a lot line adjacent to a street also requires a variance in the PO district. Staff is recommending approval of the variance. For these reasons, staff is recommending that the planning commission grant alternative compliance to allow part of the addition to be located 90 feet from 5th Street and to allow parking between the building and the street.

Principal entrance facing the street

As proposed, the existing entrance facing the street will be removed and a new entrance will be provided near the street, but will face the interior of the site. The new entrance provides access to a vestibule. There are alternatives for the entrance that would comply with the ordinance and would not affect the security of the store. Another entrance could be added on the north side of the vestibule or the entrance could be angled to 45 degrees at the corner of the vestibule. The PO district also requires that at least one principal entrance face the street. Staff is recommending denial of the variance of the PO standard to allow the principal entrance to face the interior of the site. For these reasons, staff is recommending that the planning commission not grant alternative compliance and require the applicant to provide an entrance facing the street.

Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements not exceeding 25 feet in length

There would be blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements exceeding 25 feet in length on the north, south, east and west walls of the addition. To break up some of the blank walls, the applicant is proposing to incorporate a metal joint system and contrasting colors in the finish of the exterior material on the north wall facing the parking lot, the east and west walls abutting the lot lines, and the south wall. The metal joint system would be approximately 3/8 inches wide, flush with the rest of the wall, and similar in color to the finish color on the cement board. The metal joint system does not meet the intent of the standard to minimize blank wall area because it would not be very discernable from the surrounding wall.

- *North and east walls facing the on-site parking lot:* The north wall would be blank and uninterrupted for 28 feet to the west of the loading door. The applicant has proposed to use the metal joint system in this area and would install windows high on the wall to break-up that area. The east wall would be blank and uninterrupted for 26 feet on the ground floor and for 32 feet on the mezzanine level. Two continuous metal awnings would extend along the east wall from end to end to break-up some of the blank wall. These blank walls would be adjacent to areas used for storage.

The alternatives do not fully meet the intent of the ordinance and are not consistent with applicable plans adopted by the city council, and strict adherence is not impractical. The applicant is also requesting alternative compliance for the window and material requirements for these walls. Providing windows at the ground level on these walls would be impractical adjacent to a space used for storage. However, the primary brick exterior material on the existing front façade has not been incorporated anywhere else on the building to ensure the front of the building is similar to all other sides of the building. As a way to provide additional architectural elements and make more sides of the building similar to the front of the building, staff is recommending that the planning commission require the applicant to install brick, similar to the brick on the front of the building, on at least 30 percent of the wall area, not occupied by windows, facing the on-site parking lot with the additional condition that brick panels shall not be used.

- *West wall of the addition:* The west wall, extending above the existing building, would be without architectural elements for 109 feet. A metal awning would wrap around from the 5th Street elevation extending 11 feet on the west wall. This wall would have limited visibility from the street level because it extends only 5.5 feet above the parapet wall of the existing building. Therefore, providing additional architectural elements would contribute little aesthetic value. Staff is recommending that

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the planning commission grant alternative compliance to allow no architectural elements on 109 feet of the west wall of the addition.

- *South wall and east and west walls abutting the lot line:* The south wall of the addition would be blank for 70 feet and the east wall would be blank for 30 feet. The south and west walls of the existing building are currently without any architectural elements to break them up. The applicant is proposing to install reinforced cement panels with a masonry coating finish on the existing building walls to tie the existing building in with the addition. Windows cannot be installed on these walls because the close proximity to the adjacent lot lines is not allowed by the building code. The refuse storage area on the adjacent McDonald's property to the south would cover some of the south wall. There is also the possibility that redevelopment could occur in the future on adjacent property that would extend up to these walls and block their visibility from surrounding areas. However, the east wall would be very visible from 15th Avenue Southeast until redevelopment occurs (staff is not aware of this happening in the near future). For these reasons, staff is recommending that the planning commission grant alternative compliance to allow the south wall to be blank and uninterrupted. The applicant is encouraged to provide a pattern with graphics, mural and/or paraffin wax on the south and west sides of the building to prevent graffiti. To make the east side of the building similar to the front of the building abutting 5th Street, staff is recommending that the planning commission require the applicant to install brick, similar to the brick on the front of the building, on at least 30 percent of the wall area, not occupied by windows, facing the on-site parking lot with the additional condition that brick panels shall not be used.

Exterior materials and appearance of the rear and sides of the building being similar to and compatible with the front of the building

Although compatible, the exterior materials and appearance of all sides of the addition would not be similar to the front of the building. Brick and an abundant amount of glass are the primary materials on the front of the building adjacent to 5th Street. Reinforced cement board panels with a masonry coating finish and a small amount of glass would be the primary materials on the other sides of the building. The applicant is requesting alternative compliance to allow blank, uninterrupted walls exceeding 25 feet in width on all sides of the addition except where it abuts 5th Street. It is feasible to incorporate brick on more sides of the building. Not having similar materials and appearance on the north and east sides of the building is of most concern because these walls are the most visible from 5th Street and 15th Avenue. As a way to provide additional architectural elements and make more sides of the building similar to the front of the building, staff is recommending that the planning commission require the applicant to install brick, similar to the brick on the front of the building, on at least 30 percent of the north and east walls of the addition, not occupied by windows, facing the on-site parking lot with the additional condition that brick panels shall not be used.

30 percent window requirements

The north and east walls facing the street and the parking area are subject to the minimum 30 percent window requirements.

- *North wall facing 5th Street and the parking lot:* The proposed addition would have no windows where it would be set back 90 feet from the street. Thirty percent of this wall, measured between 2 and 10 feet above the adjacent grade, is 140 square feet. Where the building abuts 5th Street, 60 percent of the façade would be windows. The combined amount of the north facing walls that would

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be windows is 32 percent. The part of the addition at the back of the site would be used for storage and loading operations. Deliveries to the site are made by large vehicles. With no public alley access and frontage on only one street, the surface parking area between the addition and the street provides a place for off-street loading in an area with limited on-street parking. The proposed storage area provides little opportunity for natural surveillance and visibility. Staff is recommending approval of the variance of the PO Overlay District standards to allow less than 40 percent windows on these walls. For these reasons, staff is recommending that the planning commission grant alternative compliance to allow no windows on the north wall facing the parking lot.

- *East wall facing the on-site parking lot:* Thirty percent of this wall, measured between 2 and 10 feet above the adjacent grade except under the floor of the mezzanine level, is 175.5 square feet. The proposed amount of window area where the bottom of the window is within 4 feet of grade is 28 square feet or 4.8 percent of the ground floor wall. The 28 square feet includes the stationary part of the sliding door entrance. In addition to these windows, approximately 32 square feet of other windows is proposed on the ground level. Because the bottom of these windows is located 4.5 feet above the adjacent grade, they do not count towards meeting the minimum requirement. The proposed windows would be distributed in a more or less even manner. The applicant has not indicated that the proposed windows would have lightly tinted glass with a visible light transmittance ratio of 0.6 or greater. All ground level windows will need to comply with this requirement.

The applicant is proposing other windows and elevated lighting levels as alternatives to complying with the window requirements. To address security in the parking lot, the applicant intends to have elevated lighting levels after dark. Smaller windows placed 4.5 feet high on the wall would provide some additional fenestration. On the mezzanine level, 15 square feet in excess of the 51 square feet required would be provided to allow additional natural surveillance of the parking lot. The applicant has indicated that fewer windows are proposed because graffiti on the windows has been a problem.

Staff believes the alternatives proposed are not sufficient to meet the intent of the ordinance. The additional ground level windows would not provide a significant amount of views into and out of the building because ice machines, shelving and a staircase would be located in front of them. The height of these fixtures has not been indicated on the plans. Additional windows looking into the store, especially near the check-out area, would provide more natural surveillance and visibility opportunities during business hours than elevated lighting levels. The Police Department has also stated they need to have good visibility of the cashier stations from the street and parking lot. Lighting levels must comply with section 535.590 of the zoning code to minimize any adverse effects on people and surrounding areas. Elevated lighting also would not address the other part of the intent of the ordinance to create visual interest in the design of the building. It is feasible to provide larger windows facing the parking area, especially with the store doubling in size with the proposed expansion. The floor plan can be rearranged somewhat to allow more windows looking into active spaces in the store. Mezzanine level windows would provide some additional opportunities for natural surveillance. Because there is a problem with graffiti, more windows could be added on the mezzanine level. Therefore, staff is recommending that the planning commission not grant alternative compliance to 4.8 percent as requested and require the applicant to provide windows on at least 20 percent of the east elevation facing the on-site parking lot that allow views

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into and out of the building at eye level and 20 percent of windows on the east elevation of the mezzanine level.

No more than 30 percent of the ground level of a building wall facing a public street is occupied by parking, loading, storage or mechanical equipment rooms

Approximately 84 percent of the addition wall facing 5th Street would be occupied by storage. The wall is set back 90 feet from the street to allow on-site loading of deliveries. Active uses would be located in the spaces in the front of the building where it abuts the street. For these reasons, staff is recommending that the planning commission grant alternative compliance to allow the storage area to face the street where the addition would be set back 90 feet from the street.

Clear and well-lighted walkways of at least four feet in width connecting the building entrance to the adjacent public sidewalk and to on-site parking facilities

A walkway would connect the building entrance to the public sidewalk and on-site parking facilities. The proposed width of the walkway is 3.5 feet wide. Including the 6-inch by 6-inch concrete curb for the parking area, the walkway width would be 4 feet wide. However, including the curbing does not meet the intent to provide a clear walkway to connect pedestrians to the building entrance. Some vehicle bumper overhang is expected with curbing. For these reasons, staff is recommending that the planning commission not grant alternative compliance and require the applicant to provide a four foot wide walkway that is exclusive of curbing. The use has no parking requirement, but the parking space and drive aisle dimensions need to comply with the size requirements found in Table 541-6 of the zoning code. The proposed parking dimensions are slightly deficient. The size of the addition will likely need to be reduced in size to accommodate the required parking dimensions and a wider walkway.

Landscaping 20 percent of the site not occupied by buildings, minimum number of trees and shrubs, 7 foot landscaped yard between the street and the parking area, and parking space distance to trees

- The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is 14,418 square feet. The existing building and the addition would occupy 9,335 square feet of the site. The lot area minus the building footprints therefore consists of 5,083 square feet. At least 20 percent of the net site area is 1,016.6 square feet. The proposed amount of on-site landscaping is 133 square feet or 2.6 percent of the net lot area. However, part of the landscaped area would extend into the space needed to provide the required drive aisle for parking space #20. Complying with the drive aisle requirement would reduce the amount of landscaping to 105 square feet or 2.1 percent of the net lot area.
- The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 2 and 11 respectively. No landscaping exists on the site. No canopy trees are proposed. Nine shrubs are proposed; however, two of them would be located in the landscaped area that overlaps the required drive aisle space needed for parking space #20.
- A 7-foot wide landscaped yard with screening that is 3 feet tall and 60 percent opaque is required between the parking area and the street. Two canopy trees are also required in these yards. No on-site landscaping or screening is proposed between the parking and street.
- No parking spaces would be located within 50 feet of an on-site deciduous tree.

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A 20-space parking lot would occupy most of the site not occupied by the building. The applicant has indicated the 20 spaces are needed to accommodate peak parking demand. Staff recognizes that the business has a need for an off-street parking facility to accommodate deliveries from large trucks and for customers to load their vehicles. However, providing parking that accommodates peak demand allows little area on-site to provide landscaping to screen the parking area from the street and minimize its visibility in a pedestrian oriented area and for on-site filtration of stormwater runoff.

The applicant is proposing two alternatives to the on-site landscaping requirements. Where concrete paving currently exists, approximately 630 square feet of the 5th Street boulevard adjacent to the site would be landscaped with 40 shrubs and one ornamental deciduous tree. The landscaping adjacent to the parking area would be 7.5 feet wide and the shrubs would provide a 3 foot high screen. The boulevard landscaping would be similar to the landscaping adjacent to the parking lot located at the property to the west, 1400 4th Street Southeast (some landscaping between the parking lot and the street is also provided on-site). Although not shown on the plans, the applicant is also proposing to install a green roof on almost 50 percent of the building addition (approximately 1,500 square feet). The green roof would consist of a 3-inch planting bed and drought resistant plantings. Additional information regarding the green roof system had not been provided at the time this staff report was written. The green roof will need to comply with the plant material standards and installation and maintenance requirements of sections 530.200 and 530.210 of the zoning code.

Staff is recommending that the planning commission grant some alternative compliance to the landscaping requirements for the alternatives that are proposed, but is also recommending that additional on-site landscaping be provided and that landscaped areas include a variety of plant types with seasonal interest. There is no minimum parking requirement in the Dinkytown PO Overlay District for nonresidential uses. Therefore providing additional on-site landscaping would not remove required parking spaces. Providing 20 percent landscaping on-site would eliminate a significant amount of parking; therefore, providing some of the landscaping in the street boulevard and a green roof are alternatives that should be considered to provide a screening area and reduce stormwater runoff from the site. Because this is a pedestrian oriented area, staff is recommending that the planning commission require the applicant to provide seven feet of landscaping on-site between the parking area and the street in addition to the alternatives proposed. Seven feet of landscaping on the site would increase the amount of on-site landscaping to approximately 6.5 percent of the net lot area, further minimize the visibility of the parking area from 5th Street, and only reduce the number of proposed on-site parking spaces from 20 to 18. It would also create an area where a deciduous canopy tree can be planted and additional area for stormwater runoff to be filtered and retained. To further enhance the public realm, staff is recommending that the planning commission require the applicant to plant at least one canopy tree and include more variety of plant types with seasonal interest in the landscaped areas along 5th Street.

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to expand an off-sale liquor store for the property located at 1412 5th Street Southeast, subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. Windows signs shall comply with the standards of section 543.480 of the zoning code, including that such signage shall not exceed 30 percent of the window area and shall not block views into and out of the building in the area between four and seven feet above the adjacent grade.

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 of the PO Pedestrian Oriented Overlay District standards to allow the placement of the first floor of the building to be located more than eight feet from the lot line adjacent to 5th Street Southeast and to allow parking between the building and the street for the property located at 1412 5th Street Southeast.

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 **deny** the variance of the PO Pedestrian Oriented Overlay District standard to allow the principal entrance to face the interior of the site instead of facing the street for the property located at 1412 5th Street Southeast.

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 of the PO Pedestrian Oriented Overlay District standard to allow less than 40 percent of the first floor façade facing 5th Street to be windows or doors of clear or lightly tinted glass that allow views into and out of the building at eye level for the property located at 1412 5th Street Southeast.

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 **deny** the variance of the enclosed building requirement to allow an automated teller machine to be located on the exterior of the building for the property located at 1412 5th Street Southeast.

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 **deny** the variances to allow a sign to be located on a non-primary building wall and to increase the maximum allowed sign area on that wall from 0 square feet to 82 square feet for the property located at 1412 5th Street Southeast.

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 that the City Planning Commission adopt the above findings and **approve** the application for site plan review to allow a building addition for the property located at 1412 5th Street Southeast, subject to the following conditions:

1. A principal entrance shall face 5th Street Southeast as required by sections 530.110 and 551.110 of the zoning code.
2. Brick, similar to the brick on the front of the existing building, shall be installed on at least 30 percent of the north and east walls of the addition, not occupied by windows, in order to provide additional architectural elements and make more sides of the building similar to the front of the building as required by section 530.120 of the zoning code. Brick panels shall not be an acceptable material used to comply with this condition.
3. At least 20 percent of the ground floor east wall facing the on-site parking lot shall be windows as required by section 530.120 of the zoning code. As an alternative to providing 30 percent windows on the ground floor, at least 20 percent of the east facing wall of the mezzanine level shall also be windows.
4. Ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four and seven feet above the adjacent grade as required by section 530.120 of the zoning code.
5. All ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or greater as required by section 530.120 of the zoning code.

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6. A four foot wide, clear walkway, exclusive of curbing, that connects the building entrance to the adjacent public sidewalk and to the on-site parking lot shall be provided as required by section 530.230 of the zoning code.
7. A 7-foot wide landscaped yard shall be provided on-site with at least one deciduous canopy tree between the parking area and 5th Street Southeast as required by section 530.170 of the zoning code.
8. In addition to the 5th Street Southeast boulevard landscaping and green roof alternatives to the landscaping requirements, the applicant shall plant more variety of plant types with seasonal interest in the landscaped areas along 5th Street Southeast.
9. The applicant is encouraged to provide a pattern with graphics, mural and/or paraffin wax on the south and west sides of the building as a crime prevention through environmental design element to prevent graffiti.
10. The minimum parking space and drive aisle dimensions shall comply with the size requirements found in Table 541-6 of the zoning code.
11. Community Planning and Economic Development Department – Planning Division staff review and approval of the final building elevations, floor, landscaping, lighting and site plans.
12. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by December 12, 2012, or the permit may be revoked for non-compliance.

Attachments:

1. PDR comments
2. Applicant statement of use and findings
3. Correspondence
4. Zoning map
5. Plans
6. Photos