

**Department of Community Planning and Economic Development - Planning Division**  
Rezoning and Variance  
BZZ-4595

**Date:** January 25, 2010

**Applicant:** IB Property Holdings, LLC

**Address of Property:** 2908 16<sup>th</sup> Avenue South

**Project Name:** 2908 16<sup>th</sup> Avenue South

**Contact Person and Phone:** Kelly Hadac, Attorney 651-251-8384

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

**Date Application Deemed Complete:** December 22, 2009

**End of 60 Day Decision Period:** February 20, 2010

**Date Extension Letter Sent:** December 30, 2009

**End of 120 Day Decision Period:** April 21, 2010

**Ward: 9 Neighborhood Organization:** East Phillips

**Existing Zoning:** R2B Two-family District

**Proposed Zoning:** R3 Multiple-family District

**Zoning Plate Number:** 26

**Legal Description:** Lot 3 and the south 14 feet of Lot 2, Block 4, ALLAN and ANDERSONS Addition to Minneapolis.

**Existing/Proposed Use:** Four-unit building.

**Concurrent Review:**

**Rezoning:** Rezoning from the R2B Two-family District to the R3 Multiple-family District.

**Variance:** To allow parking within six feet of a residential structure.

**Applicable zoning code provisions:** Chapter 525, Article VI, Zoning Amendments; Chapter 525, Article IX, Variances, specifically Section 525.520(8) "To permit parking that cannot comply with the location requirements for on-site parking...."

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**Background:** The site is in the R2B Two-Family District. Building records indicate that the principal structure on the subject property was built as a seven unit multiple-family dwelling in 1963. From 1924, the first year the City of Minneapolis had a codified zoning ordinance, to 1963, the property was zoned Light Industrial District. A seven unit multiple family dwelling was a permitted use in the Light Industrial District. From 1963 to 1982 the property was zoned M1-2 Light Manufacturing District, which prohibited dwelling units below the second floor, rendering the first floor dwelling units nonconforming. In 1982, the property was downzoned to the R2B Two-Family District, at which time the structure became a legal nonconforming use, because a multiple family dwelling with seven dwelling units is not permitted in the R2B Two-Family District.

The subject property had been considered a legally established seven unit multiple-family dwelling since 1982 when it was downzoned to the R2B Multiple-Family District. The property was identified as a problem property by the City of Minneapolis' Problem Properties Unit in May 2006. Following multiple police incidents and housing violations between January 2006 and May 2006, the rental license revocation process was initiated by the Department of Regulatory Services-Minneapolis Housing Inspections Services Division. Following a hearing held by the Rental Dwelling License Board of Appeals on July 11, 2006, the Minneapolis City Council revoked the rental license held by Phillip R. Owens for the subject property. The owner was order to vacate and board the property. The tenants were given notice to vacate the premises by October 10, 2006.

On October 10, 2007, following one year of discontinued use, the property was deemed to have lost its nonconforming rights to a seven unit multiple family dwelling. The building was subsequently foreclosed upon in April 2008. On October 16, 2008, following the foreclosure redemption period, IB Property Holdings took ownership of the property, at which time the lender began marketing the property.

On June 11, 2009, the Board of Adjustment granted a certificate of nonconforming use for seven units. On appeal the City Council reversed this decision and determined that the building had lost its nonconforming rights (BZZ-4370).

The applicant now proposes to rezone the property to the R3 Multiple-family District and physically convert the building to four units. The lot area is 6,667 square feet and the gross floor area of the structure is 4,896 square feet. The R2B District will only allow two units. The R3 District requires 1,500 square feet of lot area per dwelling unit, and would allow four units on this site. The applicant proposes four units, a density of 26 dwelling units per acre, or medium density. If the rezoning is approved it does not constitute an approval of the structure for building code or housing regulations.

The Midtown Greenway rezoning study had proposed that this property be rezoned to R3, but the City Planning Commission, at its meeting of December 14, 2009, recommended that the R2B properties in this area remain in the R2B District. As of the writing of the staff report the City Council has not yet acted on the rezoning study.

As of the writing of this report, staff has not received any correspondence from the neighborhood group, but will forward comments, if any, at the Planning Commission meeting.

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**REZONING (from the R2B Two-family District to the R3 Multiple-family District)**

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

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

*The Minneapolis Plan for Sustainable Growth* (adopted October 2, 2009) designates this area as Urban Neighborhood. The plan states (page 1-8) that the Urban Neighborhood land use category is “predominantly residential area with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors. It may include undesignated nodes and some other small-scale uses, including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, community centers, religious institutions, public safety facilities, etc.) scattered throughout. More intensive non-residential uses may be located in neighborhoods closer to Downtown and around Growth Centers. It is not generally intended to accommodate significant new growth, other than replacement of existing buildings with those of similar density.” The plan further states (page 1-10) that low density residential, single and two-family residential at eight to 20 dwelling units per acre are the most appropriate density in the Urban Neighborhood land use category, but “actual densities within these features may vary depending on a variety of conditions, including size and orientation, surrounding neighborhood character, unit mix, and other factors.”

The site is just south of the Midtown Greenway and across the alley from the Bloomington Avenue Community Corridor. The plan states the following about Community Corridors: “Community Corridors support new residential development from low- to high-density in specified areas, as well as increased housing diversity in neighborhoods. Community Corridors support limited commercial uses that are frequently concentrated in Neighborhood Commercial Nodes. Proposed commercial uses are evaluated according to their impacts on residential character. Design and development along Community Corridors is oriented towards the pedestrian experience and residential quality of life. These streets carry moderate volumes of traffic. These streets are important travel routes for both neighborhood residents and through traffic. In many cases, they are part of the Primary Transit Network that provides frequent, high quality transit service citywide.”

**Policy 1.9: Through attention to the mix and intensity of land uses and transit service, the City will support development along Community Corridors that enhances residential livability and pedestrian access.**

1.9.3 Discourage uses that diminish the transit and pedestrian oriented character of Community Corridors, such as automobile services and drive-through facilities.

1.9.5 Encourage the development of low- to medium-density housing on Community Corridors to serve as a transition to surrounding low-density residential areas.

1.9.6 Promote more intensive residential development along Community Corridors near intersections with Neighborhood Commercial Nodes and other locations where it is compatible with existing character.

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The site is in the area covered by the *Midtown Greenway Land Use Development Plan* adopted in 2007. The plan shows this site as part of the East Sub-area. The land use map (figure 4) for this sub-area indicates that medium density housing (10-50 dwelling units per acre) is appropriate. The development district map (figure 10) for this sub-area designates the site as neighborhood oriented, which has building types that include single-family, rowhouses, townhouses, small apartments, greenway units, and accessory units as appropriate uses. The plan defines a small apartment as a building that contains four to 16 dwelling units with surface parking.

The proposed R3 Multiple-family District is a medium density district and the proposed redevelopment is a small four-unit apartment building. It would not be possible to have more than four units on the site without a variance. The proposed rezoning, density, and redevelopment is in conformance with the policies and goals of the comprehensive plan and the adopted small area plan.

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

The rezoning is primarily in the interest of the property owner; however, a rezoning in conformance with the comprehensive plan and the adopted small area plan that allows a vacant property to be redeveloped can be in the interest of the public.

### **3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.**

The immediate area is zoned R2B with single-and two-family uses on 16<sup>th</sup> Avenue South. To the north is the Midtown Greenway; to the south is East Lake Street with commercial zoning and uses; and to the west is Bloomington Avenue South with residential, office-residential, and commercial zoning and with commercial and multi-family residential uses. The R3 Multiple-family district would generally be compatible with this mix of uses and zoning districts in the immediate area.

### **4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.**

The R2B District allows single-family homes on lots of this size, and two-family homes on lots of 10,000 square feet, which would require a lot size variance. The allowable uses of the property would be a reasonable use of the site.

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**5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.**

This block has remained generally a single and two-family area with some multi-family properties since it was placed in the R2B Two-family District as a part of the general remapping of the City with the adoption of a revised zoning code in 1963. However, there has been redevelopment along Bloomington directly to the west. In addition, there has been a redevelopment of the Midtown Greenway. The city is also in the process of a rezoning study of the Midtown Greenway area that is scheduled for consideration by the City Council on January 29, 2010.

**VARIANCE (to allow parking within 6 feet of a residential structure.)**

**Findings Required by the Minneapolis Zoning Code:**

**1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The site is required to provide four parking spaces (one per dwelling unit). If the variance were denied the site would only be able to provide two spaces in the existing garage. Historically this area within six feet of the structure and some of the north side yard has been paved and used for parking; however, the site has lost its nonconforming rights and must now conform to the current code standards. This could be considered a hardship. The applicant does not propose parking on the north side of the structure and staff recommends that this asphalt be removed as a condition of approval of the variance. This will allow adequate parking and reduce the impervious surface on the site. It will also eliminate parking between the structure and the building to the north. This is a reasonable use of the property.

**2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The requirement to bring an existing parking area into conformance with current code standards when the site is small and does not have adequate room to comply with all parking standards, while not uncommon, is not generally applicable to residential properties.

**3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The intent of the ordinance is to provide an adequate separation between parking and residential structures to reduce the impact from vehicles, such as noise and fumes, on residents of the building. In this case, the parking has historically been paved up to the building, there is no other location to place

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required parking without a significant reduction in required parking, and the first floor of the building facing the parking does not have windows lessening the impact on the residents. Therefore, the granting of this variance should not circumvent the intent of the ordinance.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The variance will prevent a reduction in parking spaces, so it should not be detrimental to the surrounding area or the public welfare. It should not increase the danger of fire.

### **RECOMMENDATIONS:**

#### **Recommendation of the Community Planning and Economic Development Department - Planning Division for the rezoning :**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and City Council adopt the findings above and **approve** the rezoning from the R2B Two-family District to the R3 Multiple-family District for property located at 2908 - 16<sup>th</sup> Avenue South.

#### **Recommendation of the Community Planning and Economic Development Department - Planning Division for the parking location variance:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to allow parking with six feet of a residential structure for property located at 2908 – 16<sup>th</sup> Avenue South, subject to the following condition:

- 1) Removal of the asphalt and installation of turf or landscaping on the north side of the building east of the rear wall of the building.

### **Attachments:**

1. Statements from applicant.
2. Zoning map.
3. Site plans and floor plans.
4. Aerial and photos.