## ZONING COMMITTEE STAFF REPORT

1. FILE NAME: Told Development (1212 Prosperity)

FILE \#: 20-018-602
2. APPLICANT: Told Development Company

HEARING DATE: April 9, 2020
3. TYPE OF APPLICATION: Conditional Use Permit \& Variance
4. LOCATION: 1212 Prosperity Ave E, northeast corner of Prosperity and Maryland Avenues
5. PIN \& LEGAL DESCRIPTION: 22-29-22-34-0082, Lots 10 - 17, Nilssons Subdivision of Lots 9 and 10, Block 4 of Rogers and Hendricks Acre Lots No. 2 (subject to vacated alleys). See survey sheet V1.0 dated 1/15/20 for additional detail.
6. PLANNING DISTRICT: 2

PRESENT ZONING: T2
7. ZONING CODE REFERENCE: § 61.501; § 65.513; § 61.601; § 61.202(b); § 66.331
8. STAFF REPORT DATE: April 3, 2020

BY: Mike Richardson
9. DATE RECEIVED: March 6, 2020

60-DAY DEADLINE FOR ACTION: May 4, 2020
A. PURPOSE: Conditional use permit for two drive-through lanes, and variance of minimum floor area ratio ( 0.3 required, 0.126 proposed) for a new bank building.
B. PARCEL SIZE: $30,563 \mathrm{sq}$. ft.
C. EXISTING LAND USE: Adult daycare and home healthcare
D. SURROUNDING LAND USE:

North: Single Family Residential
East: Single Family Residential
South: Institutional - Bureau of Criminal Apprehension
West: Commercial - General Retail (Walgreens)
E. ZONING CODE CITATION: §61.501 lists general requirements for all conditional uses; $\S 65.513$ establishes standards and conditions for drive-through sales and services;
§61.202(b) authorizes the planning commission to grant variances when related to permits; §61.601 establishes required findings upon which the Planning Commission must base variance decisions; $\S 66.331$ sets forth density and dimensional standards that are specific to traditional neighborhood districts.
F. PARKING: Zoning Code § 63.207 requires 1 space per 400 square feet GFA for a bank. Based on the proposed GFA of 3,855 square feet, a minimum of 10 spaces is required and a maximum of 17 without a conditional use permit. The applicant has proposed 17 spaces.
G. HISTORY/DISCUSSION: The site is subject to numerous plans and was proposed to be zoned B1 in the 1995 Phalen Village Small Area Plan, when the building operated as a bank. The 2005 Northeast Corridor Development Plan recommended zoning to its current T2 designation.
H. DISTRICT COUNCIL RECOMMENDATION: The Greater East Side Community Council (District 2) sent a letter supporting the application.
I. FINDINGS:

1. The applicant is proposing to demolish an existing 1-story building currently used for adult daycare and home healthcare and build a bank of approximately the same size on the northeast corner of Maryland and Prosperity Avenues. Banks are an allowed use in the current T2 zoning district and up to three drive-through lanes are permitted with a conditional use permit. The applicant is proposing two drive-through lanes with a bypass lane on the outside. T2 has a minimum FAR of 0.3 , and the proposed FAR is 0.126 , necessitating a variance.
2. § 61.501 lists five standards that all conditional uses must satisfy:
(a) The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the City Council. This condition is met. The extent, location, and intensity of the accessory drive-through use does not conflict with the Comprehensive Plan nor applicable subarea plans. While Land Use Policy 1.52 from the 2030 Comprehensive Plan "[d]iscourage[s] new and expanded auto-oriented uses," it does not prohibit them. The Zoning Code allows drive-throughs in T2 districts as long as they meet conditions established here, which mitigate potential negative impacts to nearby properties and users of the site.
(b) The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. This condition can be met. The applicant is proposing to reduce the total number of curb cuts from four to three, one on Maryland and two on Prosperity. Saint Paul Public Works and Ramsey County have reviewed initial plans and asked that the applicant try to reduce curb cuts on Prosperity Avenue from two to one. Satisfaction of this standard is contingent upon site plan approval.
(c) The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare. This condition is met. The existing character of the area will remain generally the same, with a one-story office building at the corner replaced with a one-story bank of approximately the same size and FAR, also located at the corner. At least two drivethroughs exist within a quarter mile of the site. The use will not endanger the public health, safety and general welfare.
(d) The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. This condition is met. The proposed drive-through would not impede development of the surrounding properties.
(e) The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. This condition is met.
3. § 65.513 establishes standards and conditions for drive-through sales and services:
(a) Drive-through lanes and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street, and shall be at least sixty (60) feet from the closest point of any residentially zoned property or property occupied with a one-, two-, or multiple-family dwelling. This condition is met. The drive-through lanes and service windows are located on the side of the building and not between the principal structure and public street. The drive-through lanes are at least sixty feet from the closest point of the residentially zoned properties to the north and east.
(b) Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two (2) streets and at least sixty (60) feet from abutting residentially zoned property. This condition is met. The drive-through curb cut is approximately 70 ' from the residential property to the north and at least 80 ' from the Maryland intersection. There is another site access point to the north that serves as primary site access for parking.
(c) Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property. This condition can be met. The project will not use traditional teller windows for either of the drive-through lanes, instead using Automatic Teller Machines (ATMs) in each, reducing the amount of noise normally associated with bank speaker boxes.
(d) A six-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property. This condition can be met. There is 7.9 feet of buffer area and a 6-foot-tall privacy fence planned along the north side of the property. The buffer requirement is met on the east side with 56.4 feet between the face of curb and the T2 property to the east, but there is no fence shown on the plan. The condition can be met with the inclusion of a fence on the east side and screen plantings on the north and east.
(e) Stacking spaces shall be provided for each drive-through lane. Banks, credit unions, and fast-food restaurants shall provide a minimum of four (4) stacking spaces per drive-through lane. Stacking spaces for all other uses shall be determined by the zoning administrator. This condition is met based on an exhibit provided by the applicant that shows four stacking spaces per lane that would not disrupt internal site circulation.
Additional conditions in the T2 traditional neighborhood district:
(f) There shall be no more than one (1) drive-through lane and no more than two (2) drive-through service windows, with the exception of banks, which may have no more than three (3) drive-through lanes. This condition is met. The proposal includes two drive-through lanes and one bypass lane.
(g) The number of curb cuts shall be minimized. In light rail station areas, there shall generally be no more than one (1) curb cut on a block face per drive-through. Drivethrough sales and services are prohibited along the entire length of block faces adjacent to light rail transit station platforms. This condition can be met. As described in Finding 2(b), the applicant has been asked to try to reduce the number of curb cuts on Prosperity from two to one and is currently going through the site plan review process to determine the best solution with City and County approval. Satisfaction of this condition is contingent upon site plan approval. The site is not near a light rail station.
4. § 61.601 states that the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:
(a) The variance is in harmony with the general purposes and intent of the zoning code. This finding is not met. The variance is in harmony with the general purposes and intent described in § 60.103 of the zoning code except for implementing the policies of the Comprehensive Plan. See finding 4(b) for rationale. The variance is in harmony with the intent of the zoning district with an exception. The T2 traditional neighborhood district is "designed for use in existing or potential pedestrian and transit nodes. Its intent is to foster and support compact, pedestrian-oriented commercial and residential development that, in turn, can support and increase transit usage. It encourages, but does not require, a variety of uses and housing types, with careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods." The site is served by the 64 and 54 bus lines and part of the Phalen-Rose Neighborhood Node as defined in the 2040 Comprehensive Plan and the Phalen Village Neighborhood Center as defined in the 2030 Comprehensive Plan. A bank in this location is consistent with having a variety of uses available near transit and could provide an anchor for the intersection and a transition to less intense residential uses to the north and east. The bank use itself is consistent with the 2030 and 2040 comprehensive plans, as well as the applicable small area plans. The location of the building oriented to the corner is consistent with district design standards and improves access for pedestrians. The location of parking (if properly buffered) is located away from the corner helps with the transition to nearby residential uses. However, compact development is guided in large part by the FAR requirements in the traditional neighborhood districts, and therefore the variance for FAR is not in harmony with that element of the intent.
Regarding the FAR calculation, § 66.331(a) reads in part "where the new building and its associated parking and landscaping will cover only part of the site and leave the rest of the site open for an additional building, minimum FAR may be calculated based on the area of the site covered by the new building and its associated parking and landscaping." Though the applicant has not indicated whether it would be split or built upon, the eastern 50 feet of the parcel fits this description. The area of this open portion of the site is approximately 6,000 square feet. With this area removed, the new FAR calculation would be $3,855 /(30,563-6,000)$, or 0.157 , which is still less than the minimum but varies less from the minimum FAR requirement. This eastern portion could support up to a three-story building in the future under current zoning. An additional 5,314 square feet of additional GFA would meet the minimum FAR requirement.
(b) The variance is consistent with the comprehensive plan. This finding is not met. FAR is a tool used to ensure appropriate intensity and compactness of development to meet City goals. A project with less than half of the minimum FAR conflicts with the following plans and policies:

## 2030 Comprehensive Plan

The future land use designation of the site is Mixed Use Corridor and it is also part of the Phalen Village Neighborhood Center. Mixed Use Corridors encourage a variety of uses, including commercial. The following policies apply:
Land Use 1.15 Promote Neighborhood Centers as compact, mixed-use communities that provide services and employment close to residences.

Land Use 1.52 Prioritize the development of compact commercial areas accessible by pedestrians and transit users over commercial areas more readily accessed by automobile. Discourage new and expanded auto-oriented uses.

## 2040 Comprehensive Plan (Approved by City Council in 2019, but not yet adopted by the Metropolitan Council)

Policy LU-1. Encourage transit-supportive density and direct the majority of growth to areas with the highest existing or planned transit capacity.
Policy LU-29. Focus growth at Neighborhood Nodes using the following principles:
4. Improve access to jobs by prioritizing development with high job density.

## Greater East Side District Plan (2009)

D1b. Promote higher density transit-oriented development along the White Bear and Maryland corridors, consistent with the White Bear Avenue and Phalen Village plans.
(c) The applicant has established that there are practical difficulties in complying with the provision; that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties. This finding is not met. The applicant states that the difficulty in achieving the minimum FAR is due to the site layout issues that emerge when a drive-through with its associated requirements is included. While proximity to the residential property to the north, the need to position the building at the corner, and the drive-through lane separation requirement on an oddly-shaped lot limit how far north the northern wall can be built, those factors do not prevent construction of a building that would meet the minimum FAR. A bank with a drive-through is a reasonable use of the property.
(d) The plight of the landowner is due to circumstances unique to the property not created by the landowner. This finding is not met. The applicant cites zoning requirements as the reason for the difficulty, yet those requirements are not unique to the property.
(e) The variance will not permit any use that is not allowed in the zoning district where the affected land is located. This finding is met. A bank with accessory drive-through service use is permitted in the T2 zoning district.
(f) The variance will not alter the essential character of the surrounding area. This finding is met. The existing character of the area will remain generally the same, with a one-story office building at the corner replaced with a one-story bank of approximately the same size and FAR, also located at the corner.
J. STAFF RECOMMENDATION: Based on the above findings, staff recommends denial of the variance of minimum floor area ratio ( 0.3 required, 0.126 proposed) for a new bank building and recommends approval of the Conditional use permit for 2 drive-thru lanes. The conditional use permit is subject to the following additional conditions:

1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
2. The number and location of curb cuts is approved by Saint Paul Public Works and Ramsey County as part of the site plan approval process.
3. A privacy fence of at least 6 feet in height is built along the eastern property line and screen plantings are planted on the north and east sides.
4. The speaker box volume must be set so as to not unreasonably disturb the peace and quiet of abutting residential property.

CONDITIONAL USE PERMIT APPLICATION
Department of Planning and Economic Development Zoning Section
1400 City Hall Annex, 25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6583
Fee Paid \$ $\qquad$
Received By / Date
Tentative Hearing Date



TYPE OF PERMIT: Application is hereby made for a Conditional Use Permit under provisions of Zoning Code

$$
\text { Section (s) } \quad 66.321 ; 65.513
$$ for the following use or purpose: to allow the banking facility ATM drive through lanes in T2 zoning.

SUPPORTING INFORMATION: Explain how the use will meet all of the applicable standards and conditions for the use. If you are requesting modification of any standards or conditions for a conditional use, explain why the modification is needed and how it meets the requirements for modification of special conditions in Zoning Code § 61.502.
Attach additional sheets if necessary.
Bank of America is proposing (2) ATM drive through lanes with a third bypass or fire lane for convenience and emergency services. Core reason for proposing the bypass or fire lane is so that customers can exit the line if need be or emergency services can go around vehicles stopped to use the ATM lanes.

As noted in Section 65.513 of the Zoning Code in a T2 district banking facilities are allowed up to (3) drive through lanes total. Bank of America is looking to meet all applicable Zoning Codes and not requesting a modification.

At 1212 Prosperity there is a residential property to our north and per the Zoning Code a drive through lane must measure 60'-0" from a residential property and in this case to the north property line. Ashley Skarda with the Department of Safety and Inspections shared that the Zoning Code does not mention a measurement for pass-thru/bypass lanes. As such, the pass thru/bypass lane without an ATM teller or other services would not need to be part of that 60' distance. We would look at this like a normal lane. That being said per the attached Site Plan our northernmost drive through lane utilized for ATM services is 60.1 ' from the northern property line.
x Required site plan is attached
$\square$ If you are a religious institution you may have certain (rights under RLUIPA. Please check this box if you identify as a religious institution.

Applicant's Signature

Date

## 3/6/20



To Board of Zoning Appeals
Dept. of Safety \& Inspections Zoning Section
375 Jackson St., Suite 220
Saint Paul, MN 55101-1806 (651) 266-9008

To Planning Commission
Dept. of Planning \& Econ. Devt. Zoning Section
1400 City Hall Annex, 25 W $4^{\text {th }}$ St. Saint Paul, MN 55102-1634
(651) 266-6583

Zoning Office Use Only
File \#
Fee Paid \$ $\qquad$
Received By / Date
Tentative Hearing Date

Name $\frac{\text { Trent Mayberry }}{\text { (must have ownership or leasehold interest in the property, contingent included) }}$

## APPLICANT

Address 200 Southdale Center
City Edina
State MN
Zip 55435
Email tmayberry@toldmn.com Phone 952.278.0112
Name of Owner (if different) $\qquad$ Contact Person (if different) $\qquad$ Emait Address $\qquad$ City Email
 Sifterf - $6202 z \mathrm{p}$

PROPERTY INFO


VARIANCE REQUEST: Application is hereby made to the Board of Zoning Appeals (or to the Planning Commission with another zoning application) for variance from the following section(s) of the Zoning Code 66.331 . State the requirement and variance requested. Requirement for property density or FAR (floor area ratio) states that a non-residential use that has surface parking shall have a FAR of 0.3-2.0. We are requesting a variance with our current proposal at FAR 0.127.

## SUPPORTING INFORMATION: Explain or demonstrate the following. Attach additional sheets if necessary.

1. Practical difficulties in complying with the provision of the code from which a variance is requested, and that the property would be used in a reasonable manner not permitted by the provision.
The proposed Bank of America desires drive through lanes as a part of there customer services. Due to this it makes it difficult to achieve an FAR minimum of 0.3 along with other required site amenities.
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Due to zoning requirements of corner located structure and $60^{\prime}-0^{\prime \prime}$ minimum distance of drive through lanes from neighboring property line a larger structure would likely sacrifice another zoning requirement.
3. The variance will not permit any use that is not allowed in the zoning district in which the property is located. Banking facilities in a T2 zoning is a permitted use per Zoning code and with a conditional use application the desired drive through lanes are as well so this variance wouldn't disturb the current Zoning district.
4. The variance will not alter the essential character of the surrounding area.

The current structure on the property is $3,889 \mathrm{sf}$ and we are proposing a like size structure at $3,855 \mathrm{sf}$ both in which have the building structure anchored at the corner so we feel it would maintain the character.
® Required site plan is attached
$\square$ If you are a religious institution you may have certain rigfts under RLUIPA. Please check this box if you identify as a religious institution.


> Date



(3.6) WEST ELEVVATION




## EXTERIOR FINISH SCHEDULE:


 EXTERIOR GLAZZING





ELEVATION GENERAL NOTES:
-
B.

ELEVATION KEYNOTES:


LINEAL GLAZING
WEST ELEVATION (PROSPERITY AVE.)



SOUTH ELEVATION (MARYLAND AVE. E) SOUTH ELEVATION (MARYLAND AVE. E)


Calculation: 557" (46-5")/ $\left.99777^{\prime \prime}(78-1)^{\prime \prime}\right)=588$

NORTH ELEVATION

CaLCUATITO: $\left.302^{\prime \prime}(55-2)^{2}\right) / 9477^{\prime \prime}\left(78-11^{\prime \prime}\right)=31.90$

AREA ELEVATIONS WEST ELEVATION (PROSPERITY AVE.)
 ToTAL AREA Rontage



## NORTH ELEVATIO


CALCUIATION: $142.4 / 1490=9.50^{\circ}$


# Greater East Side Community Council 

Mike Richardson
Dept of Planning \& Econ. Dev.
Zoning Section
1400 City Hall Annex 25 W 4 ${ }^{\text {th }}$ St
St Paul, MN 55102

Re: 1212 Prosperity
On March 18, via electronic vote, the Greater East Side/District 2 Community Council voted to support the conditional use permit application for 2 drive-thru lanes and the variance of minimum floor area ration for a new bank building at the property as 1212 Prosperity. The board felt that because the site had previously been used as a bank branch and because of the increase in development in the vicinity that it would be a good use of the property.

Please feel free to reach out to me with any questions or concerns.
Thank you,
Lisa Theis
Program Director
CC: Trent Mayberry, Told Development

| From: | Eric Saathoff [ericsaathoff@gmail.com](mailto:ericsaathoff@gmail.com) |
| :--- | :--- |
| Sent: | Tuesday, March 10, 2020 7:59 PM |
| To: | Dubruiel, Paul (Cl-StPaul) |
| Subject: | 1212 Prosperity zoning application |

Think Before You Click: This email originated outside our organization.

Hello,
Firstly l'd like to point out that the D2 contact information in this email appears to be incorrect. The new contact email on their website is: info@greatereastsidesp.org
The phone number appears to be the same.
This is the message I intended to send to them and to the Ward 6 office. I am also copying you the message below:
Hello,
I wanted to write in to oppose the drive through lanes for this development, as well as the low FAR of 127 instead of the minimum of .3 or up to the maximum of 2.0 .

The reason I oppose the drive through lanes is that it continues to perpetuate our car-centric transportation system at the expense of pedestrian and bicycle safety.

They state in the application that they are maintaining the same square footage of the existing building so it will "maintain the character." I think it should be pointed out that zoning at T 2 is an effort to shape a new and better character for the neighborhood and the commercial area.

By rebuilding with a FAR below the minimum they may be maintaining the current character, but they are not fulfilling the potential character that our neighborhood wants and deserves. We need to be striving for a more walkable environment and compromising on these priorities with this zoning variance does just the opposite.

I hope Bank of American can be encouraged to create a project that is more reflective of a city environment rather than a suburban one.

Thank you,
Eric Saathoff
691 Wolls st.
St. Paul, Mr


## FILE ${ }^{\text {H20 }} 2018602$ IONING MAP

| 0 | 40 | 80 | 160 | 240 | 320 |
| :---: | :---: | :---: | :---: | :---: | :---: |
|  |  | 1 |  |  |  |

## Application of Told Development

Application Type: CUP w/variance
Application Date: March 6,2020
Planning District: 2

## Subject Parcel(s) Outlined in Blue

ParcelPoly onRL. One-Family Large Lot
R1 One-Family
R2 One-Family
R3 One-Family
R4 One-Family
RT1 Two-FamilyRT2 Townhouse
RM1 Multiple-Family
RM2 Multiple-Family


RM3 Multiple-Family
T1 Traditional Neighborhood
T2 Traditional Neighborhood
T3 Traditional Neighborhood
T3M T3 with Master Plan
T4 Traditional Neighborhood
T4M T4 with Master Plan
OS Office-Service
B1 Local Business
BC Community Business (converted)


B2 Community Busines
B3 General Business B4 Central Business B5 Central Business Service IT Transitional Industrial // ITM IT with Master Plan I1 Light Industrial 12 General Industrial
13 Restricted Industrial F1 River Residential
 This document was prepared by the Saint Paul Planning and
Economic Development Department and is intended to be used for Economic Development Deparment and is intended io be used for reference and illustrative purposes only. This drawing is not a agalily is not intended to be used as such. Data sources: City of Saint Paul,


FILE 20-018602 | EXISTING LAND USE
Application of Told Development
Application Type: CUP w/variance
Application Date: March 6, 2020
Planning District: 2

## Subject Parcel(s) Outlined in Blue

| ParcelPoly on | Multifamily | Industrial and Utility | $\square$ Railway |
| :---: | :---: | :---: | :---: |
| Farmstead | Office | Extractive | Airport |
| Seasonal/Vacation | Retail and Other Commercial | Institutional | Agricultural |
| Single Family Detached | Mixed Use Residential | Park, Recreational or Preserve | Undeveloped |
| Manufactured Housing Park | Mixed Use Industrial | Golf Course | Water |
| Single Family Attached | Mixed Use Commercial and Other | Major Highway |  |



Application Type: CUP w/variance Application Date: Varch 6, 2020
Planning District: 2
Subject Parcel(s) Outlined in BlueParceIPoly on

