



**Request for City Council Committee Action from the Department of Community Planning
& Economic Development – Planning Division**

Date: June 30, 2010
To: Council Member Gary Schiff, Chair of Zoning and Planning Committee
Referral to: Zoning and Planning Committee
Subject: Referral from the June 28, 2010 City Planning Commission Meeting
Recommendation: See report from the City Planning Commission

Prepared by: Lisa Baldwin, Planning Commission Committee Clerk (612-673-3710)

Approved by: Jason Wittenberg, Supervisor, CPED Planning-Development Services

Presenter in Committee:

6. 4th Street Flats, 1209 4th St SE, 1206 & 1212 5th St SE, Becca Farrar, Sr Planner, x3594

Community Impact (use any categories that apply)

Other: See staff report(s) from the City Planning Commission

Background/Supporting Information Attached

The attached report summarizes the actions taken at the City Planning Commission meeting held on June 28, 2010. The findings and recommendations are respectfully submitted for the consideration of your Committee.

**REPORT
of the
CITY PLANNING COMMISSION
of the City of Minneapolis**

The Minneapolis City Planning Commission, at its meeting on June 28, 2010 took action to **submit the attached comment** on the following items:

6. 4th Street Flats (BZZ-4785 and PL-244, Ward: 3)1209 4th St SE, 1206 & 1212 5th St SE. ([Becca Farrar](#)).

A. Rezoning: Application by Doran Development, LLC for a petition to rezone the properties located at 1209 4th St SE, 1206 & 1212 5th St SE from the R5 (Multiple-family) district to the OR3 (Institutional Office Residence) district.

Action: The City Planning Commission adopted the findings and **approved** the rezoning petition to change the zoning classification of the properties located at 1209 4th St SE, 1206 & 1212 5th St SE from the R5 district to the OR3 district.

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Rezoning, Conditional Use Permit, Variances, Site Plan Review and Preliminary and Final Plat
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Date: June 28, 2010

Applicant: Doran Development, LLC, Attn: Jim LaValle, 7803 Glenroy Road, Suite #200, Bloomington, MN 55439, (952) 288-2006

Address of Property: 1209 4th Street SE, 1206 & 1212 5th Street SE

Project Name: 4th Street Flats

Contact Person and Phone: Doran Development, LLC, Attn: Jim LaValle, 7803 Glenroy Road, Suite #200, Bloomington, MN 55439, (952) 288-2006

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

Date Application Deemed Complete: May 26, 2010

End of 60-Day Decision Period: July 24, 2010

End of 120-Day Decision Period: On June 14, 2010, Staff sent a letter to the applicant extending the decision period to no later than September 21, 2010

Ward: 3 **Neighborhood Organization:** Marcy Holmes Neighborhood Association

Existing Zoning: R5 (Multiple-family) District and UA (University Area Overlay) District

Proposed Zoning: OR3 (Institutional Office Residence) District

Zoning Plate Number: 15

Lot area: 49,015 square feet or approximately 1.13 acres

Legal Description: The northwesterly ½ of Lot 3 and all of Lots 4, 5, 6 and 7, Block Q, Tuttle Addition to St. Anthony, Hennepin County, Minnesota.

Proposed Use: A two-phase, Planned Unit Development (PUD).

Concurrent Review:

- Petition to rezone the subject properties from the R5 (Multiple-family) district to the OR3 (Institutional Office Residence) district.
- Conditional Use Permit for a phased Planned Unit Development (PUD). The first phase includes the construction of a new 5-story, 102 unit residential building. The second phase includes the restoration and renovation of the existing Frey Mansion into a community/cultural center.

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- Variance of the interior side yard setback requirement along the east property line from 13 feet to 8.5 feet (at the closest point) for the new building proposed in phase one of the PUD.
- Variance of the University Area (UA) Overlay District standards as it pertains to the minimum number of off-street parking spaces.
- Site Plan Review for a phased PUD.
- Preliminary and Final plat.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments, Article VII, Conditional Use Permits, Article IX, Variances, specifically Section 525.520(1) “to vary the yard requirements” and Section 525.520(20) “to vary the standards of any overlay district...”, Chapter 527, Planned Unit Development, Chapter 530 Site Plan Review, and Chapter 598, Land Subdivision Regulations.

Background: The applicant is proposing a two-phase, Planned Unit Development (PUD) on the subject site. The site is composed of three separate parcels and accordingly three separate buildings, all of which are currently vacant. The first phase includes the demolition of the Heart of the Earth School and construction of a new 5-story, 102 unit residential building. The applicant has received approval from the Heritage Preservation Commission (HPC) for the demolition. This phase is expected to commence construction later this summer with occupancy in September of 2011. The second phase includes the restoration and renovation of the existing Frey Mansion into a community/cultural center as well as the demolition of an existing triplex for a surface parking lot serving that use. The applicant is aware that HPC review and approval is required in order to demolish the structure. This phase is anticipated to commence construction in 2012 with occupancy in 2014.

In order to develop the site as proposed, the applicant is applying to rezone the subject properties from the R5 district to the OR3 district. The subject site is also located in the University Area Overlay District which was established to ensure high quality residential development through site design and off-street parking regulations that acknowledge the unique demands placed on land uses near a major center of educational employment and enrollment. The applicant is also applying for a conditional use permit for a PUD in order to develop the site in two phases. Due to the fact that the project is being reviewed as a PUD, the yard variances that would typically be necessary along the periphery (front yard setback adjacent to 4th Street SE and the corner side yard setback adjacent to 12th Avenue SE) and within the interior of the PUD are no longer required. The City Planning Commission can approve alternatives to the zoning regulations applicable to the zoning district in which the PUD is located where the PUD includes site amenities. A separate variance is required, however, from 13 feet to 8.5 feet at the closest point along the east property line for the phase one development as periphery yards in PUDs can only be reduced through the alternatives process when the yards do not abut a side or rear lot line of a residential district or property lines abutting a side or rear lot line of a structure used for permitted or conditional residential purposes. An additional variance is necessary as the proposal is not meeting the UA Overlay District standards as it pertains to the minimum number of off-street parking spaces for the phase one portion of the development. The UA standards require .5 spaces per bedroom but not less than 1 space per dwelling unit. As proposed the development would include a total of 191 bedrooms (in 102 units) resulting in a parking requirement of 102 off-street spaces. The applicant is proposing a total of 79 spaces or .41 spaces per bedroom. Site plan review is required as is a preliminary and final plat.

As previously mentioned, the new 5-story construction proposed as part of phase one would include a total of 102 dwelling units and 191 bedrooms. There would be a total of 12 studio apartments, 11 one-bedroom units, 69 two-bedroom units, 10 three-bedroom units. The applicant also proposes to have on-site management, security staff, a community room and fitness room.

The phase two development would result in the rehabilitation and renovation of the Frey Mansion into a community/cultural center in order to celebrate and preserve the history of the Native American culture. The preliminary programming of the building is expected to include offices, lounges, meeting rooms, classrooms, research and archive rooms as well as potentially a caretaker's apartment. The renovation and rehabilitation is planned to a complete interior/exterior overhaul of the structure and would include the following: new elevator addition to service all floors, exterior masonry repair and tuck-pointing, new exterior windows and doors, new mechanical and electrical systems throughout, new fire suppressions system, restoration of the interior wainscoting, trim, casing, etc., new interior finishes and other modification required to meet the applicable building and fire codes.

The City Attorney's office has reviewed the final plat and has indicated that it appears that the required monuments have been placed and that the required affirmations are stated on the face of the plat. It is the opinion of the City Attorney's Office that the plat is satisfactory and meets statutory requirements. Public Works has also reviewed the plat and has a minor comment that the applicant will need to address with Hennepin County. Please see the attachments.

Staff has received official correspondence from the Marcy Holmes Neighborhood Association. The correspondence has been attached. All additional correspondence received prior to the Planning Commission meeting will be forwarded on for consideration.

REZONING

Findings as Required by the Minneapolis Zoning Code:

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

According to *The Minneapolis Plan for Sustainable Growth*, the subject parcel is located within an urban neighborhood, along 4th Street SE which is a designated Community Corridor, within a block of University Avenue SE which is a designated Community Corridor and located just outside of the Dinkytown Activity Center. The subject parcel is also located a block from the University of Minnesota campus which is a designated Growth Center. The properties to the north, south and west of the subject sites are zoned R5. The properties located to the east are zoned R5, OR3, C1 and C2. The uses within the area are varied and include residential, commercial and institutional uses. The proposal to rezone the properties and pursue a two-phase PUD on the sites is consistent with the relevant provisions of *The Minneapolis Plan for Sustainable Growth*, as follows:

Land Use Policy 1.1 of *The Minneapolis Plan for Sustainable Growth* states, "Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan." This policy includes the following applicable implementation step: (1.1.5) "Ensure that land use regulations continue to promote development that is compatible with nearby

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properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.”

Land Use Policy 1.2 of *The Minneapolis Plan for Sustainable Growth* states, “Ensure appropriate transitions between uses with different size, scale, and intensity.” This policy includes the following applicable implementation step: (1.2.1) “Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.”

Land Use Policy 1.3 of *The Minneapolis Plan for Sustainable Growth* states, “Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit.” This policy includes the following applicable implementation step: (1.3.2) “Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.”

Land Use Policy 1.8 of *The Minneapolis Plan for Sustainable Growth* states, “Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.” This policy includes the following applicable implementation step: (1.8.1) “Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.”

Land Use Policy 1.9 of *The Minneapolis Plan for Sustainable Growth* states, “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.”

Housing Policy 3.1 of *The Minneapolis Plan for Sustainable Growth* states, “Grow by increasing the supply of housing.” This policy includes the following applicable implementation step: (3.1.1) “Support the development of new medium- and high-density housing in appropriate locations throughout the city.”

Housing Policy 3.2 of *The Minneapolis Plan for Sustainable Growth* states, “Support housing density in locations that are well connected by transit, and are close to commercial, cultural and natural amenities.” This policy includes the following applicable implementation step: (3.2.1) “Encourage and support housing development along commercial and community corridors, and in and near growth centers, activity centers, retail centers, transit station areas, and neighborhood commercial nodes.”

Housing Policy 3.6 of *The Minneapolis Plan for Sustainable Growth* states, “Foster complete communities by preserving and increasing high quality housing opportunities suitable for all ages and household types.”

Historic Preservation Policy 8.1 of *The Minneapolis Plan for Sustainable Growth* states, “Preserve, maintain, and designate districts, landmarks, and historic resources which serve as reminders of the city's architecture, history, and culture.”

There is an additional plan that must be considered when evaluating the proposal which is the *Marcy-Holmes Neighborhood Master Plan* which was adopted by the City Council on December 29, 2003. An

addendum to the master plan called the *Marcy-Holmes Master Plan Supplement* was adopted by the City Council on January 26, 2007. The future land use plan identifies the site as multi-family residential. The plan also states that the neighborhood supports preservation designation studies for the Frey Mansion which is proposed to be renovated and restored as part of phase two of the PUD. While the plan does not specifically state support for the proposed rezoning, the redevelopment of the site not only provides multi-family housing but also results in the renovation and restoration of the Frey Mansion which is consistent with the adopted plan.

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

A rezoning to the OR3 district would be considered in the interest of the property owner, as it would allow for a higher intensity office residential zoning classification. The amendment could also be considered beneficial to the public interest insofar as it would allow for a level of density and uses that are desirable in this location. Typically, office residential zoning designations serve as transitional zoning districts. A portion of the parcel directly abuts OR3 zoning. Further, the designation of the subject parcels in this location would extend the existing OR3 buffer on the block between the commercial zoning designations/uses to the east and the medium to high density residential zoning classifications to the north, south and west of the premises.

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 site is currently zoned R5. The site is located within an urban neighborhood, along 4th Street SE which is a designated Community Corridor, within a block of University Avenue SE which is a designated Community Corridor and located just outside of the Dinkytown Activity Center. The subject parcel is also located a block from the University of Minnesota campus which is a designated Growth Center. The properties to the north, south and west of the subject sites are zoned R5. The properties located to the east are zoned R5, OR3, C1 and C2. The uses within the area are varied and include residential, commercial and institutional uses. Given the surrounding zoning classifications and the uses in the area, Staff believes that the OR3 zoning district would be appropriate and compatible in this location.

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.

There are reasonable uses of the property permitted under the R5 zoning district; however, the request to rezone the property to the OR3 district is consistent with adopted policy and extends the existing OR3 buffer between the commercial zoning designations/uses to the east and the medium to high density residential zoning classifications to the north, south and west of the premises. Planning Staff has included an attachment to the staff report which further details the differences between the existing and proposed zoning classification for the site.

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.

Under the 1963 Zoning Code, the subject property and the surrounding properties to the north, south and west were zoned similarly to what they are zoned today. The properties to the east of the site were zoned

B3-4 (Community Retail District), B3S-2 (Community Service District) and B1-2 (Office Residence District). There has been an ongoing change in the character and trend of development within the general area primarily due to the proximity of the site to the University of Minnesota, as well as the Dinkytown Activity Center. The area is likely to continue to change with the completion of the Central Corridor LRT line. Staff believes that the rezoning request is reasonable and appropriate and is consistent with adopted policy.

CONDITIONAL USE PERMIT - for a two-phase, Planned Unit Development

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:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The Planning Division believes that the development of a phased PUD which includes the construction of a 102-unit residential structure as well as the restoration/renovation of the Frey Mansion into a community/cultural center should not have any negative impacts on the area. The proposed development complements other uses in the area and the additional residential units would strengthen the existing commercial base within the neighborhood. Further, due to the proximity of the site to the University of Minnesota campus, and the Dinkytown Activity Center as well as within a residential area of varying densities, the proposed development is appropriate given the context. Staff does not believe that the project would prove detrimental to public safety, comfort or general welfare.

2. The conditional use 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.

There are currently three vacant structures located on the premises. The Planning Division does not believe that redeveloping the site to allow for a new 102-unit multi-family residential development and renovating/restoring the existing Frey Mansion would be injurious to the use and enjoyment of other property in the vicinity or impede the normal or orderly development and improvement of surrounding property. The proposed density of the project would prove compatible with the surrounding uses and the build-out of the proposal will enhance the surrounding neighborhood. Further, utilizing the site for 102 units of student housing would provide additional opportunities for housing within the neighborhood as well as support the existing commercial uses within the general vicinity. Additionally, the congregation

of student housing would allow for the continued preservation of existing single and two-family dwellings within the larger residential neighborhood/context.

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

The phase one portion of the proposal would be accessed off of 12th Avenue SE via one curb cut to the partial 2-story underground parking garage. The phase two portion of the proposal is proposed to utilize 5th Street SE via a one-way curb cut. As previously mentioned in the background portion of the staff report, a triplex currently occupies this portion of the site. Planning Staff has determined that the structure has some historical significance; therefore, any proposal to demolish the structure would require Heritage Preservation Commission (HPC) review. Should the HPC allow for the demolition, the surface parking proposed would be accessed via the one-way curb cut off of 5th Street SE and exit via an existing cross-access easement onto 4th Street SE.

The Public Works Department has reviewed the preliminary plan and will review the final plan for compliance with standards related to access and circulation, drainage, and sewer/water connections. The applicant would be required to continue to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development should the applications be approved. This would be required to ensure that all procedures are followed and that the development complies with all city and other applicable requirements. The applicant is aware that all applicable plans are expected to incorporate any applicable comments or modifications as required by the Public Works Department.

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

Chapter 541 would typically require one off-street parking space per dwelling unit or a total of 102 parking spaces for the proposed residential component of the project. However, the subject site is located within the UA Overlay District which requires one-half (1/2) parking space per bedroom but not less than one (1) space per dwelling unit. According to the applicant, a total of 191 bedrooms (resulting in a requirement of 96 spaces) or 102 dwelling units are proposed on the subject site. Therefore, a total of 102 off-street parking spaces would be required for the phase one portion of the development. The applicant is proposing to provide 79 off-street parking spaces located within the underground parking garage. This results in a proposal to provide .77 parking spaces per dwelling unit, or a .41 parking space per bedroom. A variance of the UA Overlay District standards is required and further explored below. The applicant is proposing to install a total of 205 secured bicycle parking spaces within the underground parking garage which meets the UA Overlay Districts Standards of a minimum of one bicycle parking space per bedroom.

Based on the preliminary plans submitted for the second phase of the project, Chapter 541 would require a total of 11 off-street parking spaces. The preliminary plans show compliance with the minimum requirement as a total of 15 are outlined in a surface parking lot on the east side of the site which is accessed off of 5th Street SE via a one-way curb cut, and exits via a cross access easement onto 4th Street SE. Additionally, Chapter 541 requires a total of 3 bicycle parking spaces; 6 are proposed which meets the requirement.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

See the above listed response to finding #1 in the rezoning application. The policies and implementation steps outlined apply to the proposed PUD application as well.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

City Planning Commission can approve alternatives to the zoning regulations applicable to the zoning district in which the planned unit development is located where the planned unit development includes site amenities. Site amenities are subject to the following standards:

- All planned unit developments shall provide at least one amenity or a combination of amenities that total at least ten points, beyond those required for any alternative(s), and even if no alternative(s) is requested.
- For each alternative requested, an amenity or a combination of amenities totaling at least five points, in addition to the amenity(ies) required in section 527.120(1), shall be provided. For multiple requests of the same alternative only one amenity shall be required for those alternatives.
- Unless otherwise determined by the city planning commission, each phase of the planned unit development shall include the amenities provided for any alternatives in that phase, as a part of the construction of that phase.
- In no case shall any item be counted as an amenity for an alternative if it is utilized to qualify for a density bonus in any zoning district, a floor area ratio premium in the Downtown Districts, or any other amenity in Table 527-1, Amenities.
- Where an amenity is provided that meets the standards required in Table 527-1, Amenities, the full point value assigned to said amenity shall be obtained. Where the amenity does not meet all of the standards required in Table 527-1, Amenities, no points shall be awarded. Partial points for alternatives shall not be awarded, except as otherwise allowed in Table 527-1, Amenities.

Minimum required amenity(ies) of 10 points.

1. Conservation of the built environment involves the significant renovation, rehabilitation and adaptive reuse of an existing building(s), rather than demolition. The applicant is proposing to conserve the built environment as the Frey Mansion would be significantly renovated, rehabilitated and adaptively reused as part of phase two of the PUD. The renovation/rehabilitation plans will need to be reviewed and approved by the City's Preservation and Design Staff. The conservation of the built environment is worth five points.

2. Decorative pavers, pervious pavers, stamped concrete, colored concrete, pervious concrete, brick or other decorative or durable materials need to be provided for a minimum of 75 percent of surface parking and/or loading areas, drives aisles, driveways and walkways that comply with the Americans with Disabilities Act accessibility requirements. The applicant is proposing to provide pervious pavers within the outdoor courtyard area, colored concrete within the driveway leading to the underground parking garage, and colored patterned concrete for the sidewalks within the first phase of the PUD. The

second phase of the PUD incorporates colored concrete within the entire surface parking lot. This provision is worth 3 points.

3. Decorative fencing requires the installation of high-quality decorative metal fencing where visible from the public street, public sidewalk or public pathway. The applicant is proposing to provide decorative fencing on the premises along both sides of the driveway leading to the underground parking proposed as part of phase one of the PUD. Decorative fencing is also proposed as part of phase two along the east property line adjacent to the surface parking lot. This provision is worth 1 point.

4. The applicant is proposing to provide enhanced landscaping on the site. Enhanced landscaping must incorporate a landscaping plan of exceptional design that has a variety of native tree, shrub and plant types that provides seasonal interest and that exceeds the requirements of Chapter 530, Site Plan Review. The landscaped areas shall have a resource efficient irrigation system and be prepared by a licensed landscape architect. Mature deciduous trees in excess of the standards are proposed within the public right-of-way as is new landscaping and sod. Raised planters and outdoor seating are proposed within the courtyard. The plan has a variety of native tree, shrub and plant types that provide seasonal interest and that exceed the requirements of the Chapter 530. The landscape areas also have a resource efficient irrigation system. This provision is worth 1 point.

Placement and number of principal residential structures. No alternative requested.

Bulk regulations - floor area: No alternative requested.

Bulk regulations - height: No alternative requested.

Lot area requirements: No alternative requested

Yards: The applicant is proposing alternatives for both periphery yards and required yards within the PUD. The required front yard setback along 4th Street University Avenue Southeast would typically be 15 feet, however, the property is subject to a front yard increase due to the setback of the adjacent residential structure which is located at 19 feet. The applicant is proposing to locate the structure up to the front lot line. The required corner side yard setback along 12th Avenue SE is 16 feet. The applicant is proposing to locate the structure up to the corner side yard lot line.

The interior side yard within the PUD along the north side of the proposed property lines for Lot 1 is required to be 13 feet. The applicant is proposing to locate the structure up to the property line at the closest point. Planning Staff is concerned that the window openings proposed on this portion of the elevation located at a zero foot setback will be unable to meet the Building Code standards. This could negatively impact the aesthetics of the elevation in this location should the windows be prohibited by the building code.

The applicant must provide an amenity or a combination of amenities totaling at least ten points to reduce the yard requirements along the front and corner side property lines as well as the within the interior of the PUD. See “amenities provided” section below.

On-premise signs: No alternative requested. No signage is proposed at this time.

Off-street parking and loading: No alternative requested, however, a variance of the University Area Overlay District standards is being processed separately. See the variance section listed below for further details. Please note that Chapter 527, Planned Unit Development, does not allow an alternative to the automobile or bicycle parking or loading requirements of Chapter 551, Overlay Districts.

Amenities provided: In addition to the 10-point minimum required for all planned unit developments, the applicant must provide amenities or a combination of amenities totaling at least ten points. The applicant proposes the following amenities from Table 527-1: a reflective roof, enhanced exterior lighting, and a recycling storage area. The applicant is also proposing the following amenities that are not listed in table 527-1: burying overhead utilities, a green roof, street lighting and underground parking.

The applicant is proposing to include reflective roofing materials for 75% or more of the total roof surface having a Solar Reflective Index (SRI) equal to or greater than the values as required by the US Green Building Council (USGBC) for low-sloped and steep-sloped roofs. This provision is worth 3 points.

Enhanced exterior lighting must include a lighting plan that highlights significant areas of the site or architectural features of the building(s), subject to the standards of Chapter 535, Regulations of General Applicability. The site and landscaping design includes sidewalk bollard style lighting, building wall wash and accent lighting to illuminate the building façade. The additional exterior lighting will provide an added security element and decorative detail to the proposed development. This provision is worth 1 point.

Recycling storage area is provided which allows an easily accessible area that serves the entire building and is dedicated to the collection and storage of non-hazardous materials for recycling, including but not limited to paper, corrugated cardboard, glass, plastics and metals. The recycling storage area shall be located entirely below grade or entirely enclosed within the building. The design of the structure proposed as part of Phase I of the PUD includes facilities for recycling and waste that will be located in the underground parking garage. This provision is worth 1 point.

As listed above, the applicant is also proposing the following amenities that are not listed in Table 527-1: burying overhead utilities, green roof, street lighting and underground parking. The only amenities that Planning Staff will consider eligible for additional points are burying overhead utilities and the green roof component. The applicant is requesting and Planning Staff supports the provision of 5 points for burying the overhead utilities that are currently located on the premises. The existing conditions include overhead power, cable and phone lines. The applicant is committed to locating these facilities underground and is working with Xcel Energy, Comcast and Qwest. Planning Staff would recommend that the Planning Commission support the allocation of 5 points for this amenity.

The applicant is proposing to include a small green roof within the courtyard of the phase one portion of the PUD which is located above the underground parking garage. The green roof does not meet the standards as outlined in Table 527-1; however, Planning Staff would recommend that the Planning Commission support the allocation of 1 point for this amenity.

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Based on the analysis listed above, totaling both the standard amenities outlined in Table 527-1 and those being requested that are not located in the table, a total of 11 points are being provided which meet the minimum of 10 points required based on the alternatives requested for the PUD.

Phasing plan: The applicant is proposing a two-phase, Planned Unit Development (PUD). The first phase includes the demolition of the Heart of the Earth School and construction of a new 5-story, 102 unit residential building. The applicant has received approval from the Heritage Preservation Commission (HPC) for the demolition. This phase is expected to commence construction later this summer with occupancy in September of 2011.

The second phase includes the restoration and renovation of the existing Frey Mansion into a community/cultural center as well as the demolition of an existing triplex for a surface parking lot serving that use. The applicant is aware that HPC review and approval is required in order to demolish the structure. This phase is anticipated to commence construction in 2012 with occupancy in 2014.

In addition to the conditional use permit standards contained in Chapter 525, Administration and Enforcement, before approval of a planned unit development the city planning commission also shall find:

1. That the planned unit development complies with all of the requirements and the intent and purpose of this chapter. In making such determination, the following shall be given primary consideration:

a. The character of the uses in the proposed planned unit development, including in the case of residential uses, the variety of housing types and their relationship to other site elements and to surrounding development.

The first phase of the development would provide a mix of rental housing including studio, one, two and three bedroom units within a new apartment building. The second phase of the development involves the restoration/rehabilitation of the Frey Mansion into a community/cultural center that will celebrate and preserve the history of the Native American culture. Both phases of the proposed development would fit in well with the neighborhood context as the surrounding area includes a mixture of residential, commercial and institutional uses that are of varying heights, style, and designs.

b. The traffic generation characteristics of the proposed planned unit development in relation to street capacity, provision of vehicle access, parking and loading areas, pedestrian access, bicycle facilities and availability of transit alternatives.

The development would not be expected to have a negative impact on traffic movement in the vicinity. However, based on the amount of parking proposed for phase one which requires a variance, it is difficult to predict whether the development could result in a parking issue within the neighborhood. The UA standards require .5 spaces per bedroom but not less than 1 space per dwelling unit. As proposed the development would include a total of 191 bedrooms (at .5 spaces per bedroom = 96 spaces) in 102 units resulting in a parking requirement of 102 off-street spaces. The applicant is proposing a total of 79 spaces, a reduction of 23 spaces, or a ratio of

approximately .41 spaces per bedroom. The original plan complied with the applicable parking regulations; however, the plans were altered prior to the writing of the staff report. Phase two is proposed to include a 15 space surface parking lot on the east side of the site which is accessed off of 5th Street SE via a one-way curb cut, and exits via a cross access easement onto 4th Street SE. It appears that a cross access easement will be necessary for a portion of that driveway. The Travel Demand Management Plan (TDMP) is attached for reference. The TDMP attempts to justify that the proposed parking supply for the phase one portion of the PUD is ample. Data is provided on the number and size of units as well as the off-street parking available at 12 student housing sites within 3 block of the University of Minnesota Campus. Based on the analysis within the TDMP, the proposed parking stall to bedroom ratio of the proposed project equals the average of the surveyed sites. Despite this analysis, Planning Staff is not recommending approval of the variance request (see the variance findings below). The site is located within close proximity to several transit routes and the University of Minnesota. There will also be a total of 205 bicycle parking spaces provided on the site.

c. The site amenities of the proposed planned unit development, including the location and functions of open space, the preservation or restoration of the natural environment or historic features, sustainability and urban design.

The site amenities include the conservation of the built environment as the Frey Mansion is proposed to be restored as part of phase two of the PUD, the inclusion of decorative pavers, decorative fencing, enhanced landscaping and lighting, a small green roof, reflective roofing, buried utilities, etc.

d. The appearance and compatibility of individual buildings and parking areas in the proposed planned unit development to other site elements and to surrounding development, including but not limited to building scale and massing, microclimate effects of the development, and protection of views and corridors.

The building proposed as part of phase one would be 5 stories in height and contain two levels of below ground parking. The building has been designed to resemble traditional U-shaped/plaza style apartment buildings which are found throughout Minneapolis. The second phase involves the restoration of a 2½- story structure. The surrounding context is varied as a high-rise residential building and a 3-story residential building are located directly east of the site. There are other 2 and 3-story residential structures as wells as churches, offices, the University of Minnesota and the Dinkytown Activity Center in close proximity to the subject site.

e. An appropriate transition area shall be provided between the planned unit development and adjacent residential uses or residential zoning that considers landscaping, screening, access to light and air, building massing, and applicable policies of the comprehensive plan and adopted small area plans.

An appropriate transition area is proposed between the PUD and the adjacent residential uses as landscaping and screening are being provided.

f. The relation of the proposed planned unit development to existing and proposed public facilities, including but not limited to provision for stormwater runoff and storage, and temporary and permanent erosion control.

The applicant would need to continue to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements. The City of Minneapolis will review and approve the applicant's stormwater management plan and erosion control plan.

g. The consideration, where possible, of sustainable building practices during the construction phases and the use of deconstruction services and recycling of materials for the demolition phase.

As proposed, the development would utilize a construction waste recycling program. The developer is also proposing to harvest the existing limestone facade for reuse and installation on the façade of the new building.

2. That the planned unit development complies with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.

The platting of the site is in compliance with Chapter 598, Land Subdivision Regulations.

VARIANCE – (1) Variance of the interior side yard setback requirement along the east property line from 13 feet to 8.5 feet at the closest point for the new building proposed in phase one of the PUD; (2) Variance of the University Area (UA) Overlay District standards as it pertains to the minimum number of off-street parking spaces.

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

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

Variance of the east interior side yard setback from 13 feet to 8.5 feet: Staff would argue that the property could be put to a reasonable use under the conditions allowed; however, strict adherence to the regulations of the zoning ordinance would cause undue hardship. The applicant is seeking a variance to reduce the east interior side yard setback from the required 13 feet to 8.5 feet at the closest point for the new residential structure proposed in phase one. While the building is located approximately 8.5 feet from the property line at the northern corner of the building, the majority of the structure is actually setback approximately 11 feet. Staff believes that varying the interior side yard setback is a reasonable use of the subject site given the context, and the fact that the majority of the building is setback at 11 feet. Further the adjacent structure is located approximately 6 feet from the property line, allowing for a separation of nearly 17 feet between the proposed and existing structure.

Variance of the UA standards pertaining to minimum number of parking spaces: Staff would argue that the property could be put to a reasonable use under the conditions allowed and strict adherence to

the regulations of the zoning ordinance would not cause undue hardship. The applicant is seeking a variance of the UA Overlay District standards as it pertains to the minimum number of off-street parking spaces for the phase one portion of the development. The UA standards require .5 spaces per bedroom but not less than 1 space per dwelling unit. As proposed the development would include a total of 191 bedrooms (at .5 spaces per bedroom = 96 spaces) in 102 units resulting in a parking requirement of 102 off-street spaces. The applicant is proposing a total of 79 spaces, a reduction of 23 spaces, which results in a ratio of approximately .41 spaces per bedroom or .77 spaces per unit. The original plan complied with the applicable parking regulations; however, the plans were altered prior to the writing of the staff report. The Travel Demand Management Plan (TDMP) is attached for reference. The TDMP attempts to justify that the proposed parking supply for the phase one portion of the PUD is ample. Data is provided on the number and size of units as well as the off-street parking available at 12 student housing sites within 3 block of the University of Minnesota Campus. Based on the analysis within the TDMP, the proposed parking stall to bedroom ratio of the proposed project equals the average of the surveyed sites. However, within the TDMP, the information indicates that the average number of parking spaces per unit for selected developments in the area exceeds one space per unit.

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.

Variance of the east interior side yard setback from 13 feet to 8.5 feet: The site is unique in that the applicant is proposing to incorporate a new structure within a larger PUD that includes an existing structure that will be preserved. The separation between the new building and the property line to the east is 8.5 feet at the northern corner of the building. The majority of the structure is located at approximately 11 feet from the property line. The adjacent existing structure is only located on that portion of the lot where the setback would be 11 feet.

Variance of the UA standards pertaining to minimum number of parking spaces: The very characteristic that makes the property unique, its proximity to the University of Minnesota, is also the same reason that the property is subject to the UA Overlay District parking standards. While one could argue that the location of the site could potentially increase the number of tenants who will not own an automobile, standards were recently applied to this area that require parking on a per bedroom basis, but not less than one per dwelling unit within the boundaries of the UA Overlay District.

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.

Variance of the east interior side yard setback from 13 feet to 8.5 feet: The intent of having yard controls is to provide for the orderly development and use of land and to minimize conflicts between adjacent land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The Planning Division believes that the granting of this variance would not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The elements requiring the variance will not interrupt the orderly development

of surrounding land and will not create conflicts between adjacent land uses. Staff believes that varying the interior side yard setback is a reasonable use of the subject site given the context.

Variance of the UA standards pertaining to minimum number of parking spaces: The Planning Division believes that the granting of this variance could potentially alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity as off-street parking has been a challenging issue throughout the residential neighborhoods surrounding the University of Minnesota. This specific site was included within the geographical area that recently was rezoned to accommodate the UA Overlay District Standards. It is noteworthy to mention that the site's proximity to the University and availability of transit makes the site appealing for those who choose to walk or use transit for daily commuting. It is difficult to affirmatively state that residents, who choose to use alternative forms of transportation for daily travel, won't have a vehicle that they utilize for trips outside of the immediate neighborhood, however.

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.

Variance of the east interior side yard setback from 13 feet to 8.5 feet: The Planning Division believes that the granting of the variance would have no impact on congestion of area streets or fire safety, nor would the proposed setback variance be detrimental to welfare or public safety.

Variance of the UA standards pertaining to minimum number of parking spaces: The Planning Division believes that the granting of the variance could have an impact on the congestion of area streets as adequate parking is not being provided in accordance with City standards. The variance would likely have no impact on fire safety, or be detrimental to welfare or public safety.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- 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 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.

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- 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.
 - 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.
Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

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- **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.

The development is subject to required yards along all sides of the property, including three street frontages. The applicant is proposing to locate the only new building proposed as part of the phased PUD up to the property line along 4th Street SE and for a portion of the frontage along 12th Avenue SE. However, because the development is proposed as a PUD, the yard variances that would typically be necessary along the periphery (front yard setback adjacent to 4th Street SE of 19 feet due to a front yard increase and the corner side yard setback adjacent to 12th Avenue SE of 16 feet) may be reduced through the PUD process. The City Planning Commission can approve alternatives to the zoning regulations applicable to the zoning district in which the PUD is located where the PUD includes site amenities. The phase two portion of the PUD involves the restoration/renovation of an existing building; the location of that structure is fixed and is oriented towards 5th Street SE. Both the proposed building and the existing building that the PUD is comprised of are oriented towards the public streets. However, despite the fact that the proposed building is located up to the property lines along both street frontages, a significant portion of the building (nearly 60 feet) located along the corner side yard is recessed nearly 45 feet from the public street to allow for the proposed courtyard area. Alternative compliance would be necessary for building placement. Planning Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the proposed courtyard area is providing useable outdoor space, a small green roof and mimics a traditional apartment design scheme found throughout Minneapolis.

The proposed structure is oriented towards the designated corner side yard along 12th Avenue SE and not towards the designated front yard along 4th Street SE. While Planning Staff supports the general design of the U-shaped structure as noted above, the principal entry to the structure is located off of the corner side yard frontage, and is recessed nearly 45 feet from the property line within the internal courtyard area. Two secondary ingress/egress points from stairwells are also located along this street frontage. Alternative compliance is necessary as the design of the structure does not incorporate a principal entry along the 4th Street SE, the designated front yard. Planning Staff will recommend that the Planning Commission require the proposal to comply with this provision as it is practical to require compliance. Entries must be incorporated into the individual units on the south elevation that are located along 4th Street SE.

The design of the structures maximizes natural surveillance and visibility, and facilitates pedestrian access. The area between the buildings and the public streets would have new shrub and tree plantings along all three street frontages.

The façade of the building along both street frontages incorporates windows that exceed the 20%

window requirement. The south elevation of the building along 4th Street SE incorporates 51% windows (including principal entries to the building along this elevation will still allow this elevation to comply with the window requirement), and the west elevation of the building along 12th Avenue SE incorporates 41% windows. Windows between 2 and 10 feet are required in order to provide natural surveillance and visibility by having active uses located along public streets. The proposal is meeting the intent of this requirement by integrating active uses at the ground level on all elevations. The proposed development meets the 10% window requirement on each floor above the first floor that faces the public street and public sidewalk.

The existing building that is proposed to be renovated as part of phase two of the PUD does include windows that face all sides of the property, however, it is unlikely that the building meets the 20% window requirement facing both 5th Street SE and the proposed surface parking lot. Alternative compliance is not necessary, however, as this is an existing condition and it would not be practical to require compliance with this provision on a potential historic resource.

The building complies with the active functions provision as outlined above.

The exterior materials and appearance of the rear and side walls of the proposed building would be similar to and compatible with the front of the building. The materials on the proposed structure would include brick, stone, various painted fiber cement panels, metal panels and metal elements. The proposed building incorporates architectural elements including recesses and projections, windows and entries. There are no blank uninterrupted walls that exceed 25 feet in width on any of the elevations. The existing building, although not required, appears to be compliant with both material compatibility and the blank wall provisions as well.

The parking proposed as part of phase one is located within a two-story 79-space underground parking garage. Phase two is proposed to include a 15 space surface parking lot on the east side of the site which is accessed off of 5th Street SE via a one-way curb cut, and exits via a cross access easement onto 4th Street SE. It appears that a cross access easement will be necessary for a portion of that driveway. A cross-access easement must be recorded prior to final sign-off on any plans.

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.**

The entrances to the buildings are connected to the public sidewalk via walkways that are greater than 4 feet in width.

The proposed development has been designed to minimize conflicts with pedestrian traffic and surrounding residential uses. Curb cuts to the site have been minimized.

There are no transit shelters within the development, however, the site is located in close proximity to several bus lines.

The proposed development has been designed to minimize conflicts with pedestrian traffic and surrounding residential uses. Curb cuts to the site have been minimized.

There is no public alley adjacent to the site.

The site has been designed to minimize the use of impervious surfaces through the use of landscaping throughout the site as the proposal meets the 20% requirement; however, approximately 72% of the total site is composed of impervious surfaces.

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.

The proposal meets the 20% landscape requirement. The total site area is 49,015 square feet or 1.13 acres and the proposed building footprints on the site would be 23,897 square feet (phase one: 21,317 + phase two: 2,580) A total of 5,024 square feet of landscaping would be necessary to meet the 20% requirement. The applicant is providing 13,527 square feet or approximately 54% of the site not occupied by buildings. The zoning code requires that there be at least 11 trees and 51 shrubs. The

applicant is proposing to provide 11 canopy trees (12 canopy trees in the right-of-way which do not count towards the on-site landscaping requirement), 11 ornamental trees, 6 coniferous trees, 174 shrubs, and 324 perennials. The proposal is exceeding the landscape quantity requirements.

The on-site surface parking lot proposed as part of phase two of the PUD requires a 7-foot landscaped yard along 5th Street SE (a 15 foot yard is being provided so that parking is not located in the required front yard). Landscaping and screening is required adjacent to the east property line and south property line. Alternative compliance would be necessary as this provision is not being met adjacent to the south property line for the second phase. Planning Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the surface parking proposed on this portion of the subject site is part of a larger PUD development. Because the surface parking is one-way only with egress to 4th Street SE, it would not be practical to require compliance in this specific circumstance. No parking space is located more than 50 feet from the center of on-site deciduous tree. The surface parking lot does not meet the 25 foot linear tree requirement along 5th Street SE; alternative compliance would be necessary. Planning Staff will recommend that the Planning Commission require compliance with this provision.

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.

There is a 15 space surface parking lot located on the subject site proposed as part of phase two of the PUD that is accessed via 5th Street SE. There is also a 79-space underground parking garage that is accessed via 12th Avenue SE as part of phase one of the PUD. The site has been designed to accommodate on-site retention and filtration.

Staff would not expect the proposal to result in the blocking of significant views. The proposed structure would be expected to have minimal shadowing impacts on adjacent properties, however, not on public spaces. The proposed structure would also be expected to have some minimal impacts on light, wind and air in relation to the surrounding area as well.

Planning Staff would expect to review a detailed lighting plan upon submission of final plans. The site has been developed in such a manner that it appears to adhere to the crime prevention standards outlined in the Zoning Code. The site appears to have adequate site lighting and the majority of the window openings that are provided allow for adequate natural surveillance and visibility.

While there are no officially designated historic structures on the subject site, the redevelopment includes the renovation and restoration of the Frey Mansion which has historic significance.

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 proposed use of the site as a phased PUD is conditional in the OR3 District.

If all land use/zoning applications are approved, including the rezoning, conditional use permit for a planned unit development and implementation of associated amenities, variances, site plan review, as well as the preliminary and final plat, the proposal would comply with all provisions of the OR3 District.

Parking and Loading:

Minimum automobile parking requirement: Chapter 541 would typically require one off-street parking space per dwelling unit or a total of 102 parking spaces for the proposed residential component of the project. However, the subject site is located within the UA Overlay District which requires one-half (1/2) parking space per bedroom but not less than one (1) space per dwelling unit. According to the applicant, a total of 191 bedrooms (resulting in a requirement of 96 spaces) or 102 dwelling units are proposed on the subject site. Therefore, a total of 102 off-street parking spaces would be required for the phase one portion of the development. The applicant is proposing to provide 79 off-street parking spaces located within the underground parking garage. This results in a proposal to provide .77 parking spaces per dwelling unit, or a .41 parking space per bedroom. A variance of the UA Overlay District standards is required and further explored above.

Based on the preliminary plans submitted for the second phase of the project, based on an assumed 9,040 square foot office use (community/cultural center), Chapter 541 would require a total of 11 off-street parking spaces or one space per 500 square feet of gross floor area in excess of 4,000 square feet. The preliminary plans show compliance with the minimum requirement as a total of 15 are outlined.

Maximum automobile parking requirement: The maximum automobile parking provision is not applicable for phase one, or the residential component of the development.

For the phase two component of the development which is principally an assumed office use (community/cultural center), the maximum parking requirement is one space per 200 square feet of gross floor area which would be 45 spaces. A total of 15 are being provided which is well below the maximum parking allowed.

Bicycle parking requirement: Typically, Chapter 541 would require a total of one space per two units for the phase one residential development, however, due to the location of the property within the UA

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Overlay District, at least one bicycle parking space per bedroom must be provided. Based on the proposal to include a total of 191 bedrooms, 191 bicycle parking spaces would be required. The applicant is proposing to install a total of 205 secured bicycle parking spaces within the underground parking garage which meets the UA Overlay District requirement.

Based on the Chapter 541 standards for phase two, a total of 3 bicycle parking spaces are required; 6 are proposed which meets the requirement. Not less than 50% of the required bicycle parking shall meet the standards for long-term bicycle parking which are as follows:

- *Required long-term bicycle parking spaces shall be located in enclosed and secured or supervised areas providing protection from theft, vandalism and weather and shall be accessible to intended users. Required long-term bicycle parking for residential uses shall not be located within dwelling units or within deck or patio areas accessory to dwelling units. With permission of the zoning administrator, long-term bicycle parking spaces for non-residential uses may be located off-site within three hundred (300) feet of the site.*

Loading: The minimum loading requirement for phase of the PUD is one small space for the residential component. The loading space is being provided within the underground parking garage.

The second phase of the development has no loading requirement as the use is less than 10,000 square feet.

Dumpster screening: Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The development complies with this provision as there is a trash and recycling room located within the underground parking garage as part of phase one. A dumpster is located on the phase two portion of the site and is enclosed to meet the applicable requirements.

Signs: No signs have been proposed. All signs will be expected to comply with Chapter 543 of the Zoning Code. Any new signage requires a separate permit from the Zoning Office.

Lighting: The applicant is proposing to install decorative pedestrian and wall mounted light fixtures throughout the site. A photometric plan was not submitted as part of the application and will be required with the final submittal. All lighting will need to be downcast and shielded to avoid undue glare. All lighting shall comply with Chapters 535 and 541 and Planning Staff shall review the details of the fixtures in the final review prior to permit issuance.

Maximum Floor Area: The maximum F.A.R. for the proposed uses within the OR3 district is the gross floor area of the buildings which would be approximately 119,731 square feet divided by the area of the lot which is 49,015 square feet. The outcome is 2.44 which is less than the maximum of 3.5 that is permitted in the OR3 District. The proposal is in compliance with this requirement.

Minimum Lot Area: Both components of the PUD would meet the minimum lot area requirements. For phase one, 300 square feet per dwelling unit is required. A total of 102 units are proposed which would result in a minimum lot area requirement of 30,600 square feet. The total site area is 49,015

square feet. The project would also meet the minimum lot area requirements for a community/cultural center in the OR3 district as the development is situated on a lot greater than 20,000 square feet in size.

Dwelling Units per Acre: With 102 dwelling units on a site having 49,015 square feet of lot area, the proposal would include approximately 115 dwelling units per acre.

Height: Maximum building height for principal structures located in the OR3 district is 6 stories or 84 feet, whichever is less. Both the existing and proposed structures comply with this requirement. The proposed new construction would be five stories or 52 feet.

Yard Requirements: The required yards are as follows:

- *Front yards–*
 - *4th Street SE:* 19 feet (subject to a front yard increase per Section 547.160(b))
 - *5th Street SE:* 15 feet
- *Corner side yard - 4th Avenue North (8 +2x):* 16 feet
- *Interior side yard/rear yard (5+2x):* 13 feet

The applicant proposes to several of the yard requirements. Please see the PUD alternatives section and variance findings listed above.

Building coverage: The maximum building coverage in the OR2 district is 70 percent. Buildings would cover approximately 48 percent of the site.

Impervious surface area: The maximum impervious surface coverage in the OR3 district is 85 percent. Impervious surfaces would cover approximately 72 percent of the site.

MINNEAPOLIS PLAN:

See the above listed response to finding #1 in the rezoning application. The policies and implementation steps outlined apply to the proposed site plan review application as well.

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:* Both the proposed building and the existing building that the PUD is comprised of are oriented towards the public streets. However, despite the fact that the proposed building is located up to the property lines along both street frontages, a significant portion of the building (nearly 60 feet) located along the corner side yard is recessed nearly 45 feet from the public street to allow for the proposed courtyard area. Alternative compliance would be necessary for building placement. Planning Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the proposed courtyard area is providing useable outdoor space, a small green roof and mimics a traditional apartment design scheme found throughout Minneapolis.

□ *Principal entrance facing the front lot line:* The proposed structure is oriented towards the designated corner side yard along 12th Avenue SE and not towards the designated front yard along 4th Street SE. While Planning Staff supports the general design of the U-shaped structure as noted above, the principal entry to the structure is located off of the corner side yard frontage, and is recessed nearly 45 feet from the property line within the internal courtyard area. Two secondary ingress/egress points from stairwells are also located along this street frontage. Alternative compliance is necessary as the design of the structure does not incorporate a principal entry along the 4th Street SE, the designated front yard. Planning Staff will recommend that the Planning Commission require the proposal to comply with this provision as it is practical to require compliance. Entries must be incorporated into the individual units on the south elevation that are located along 4th Street SE.

□ *Perimeter landscaping and screening:* The on-site surface parking lot proposed as part of phase two of the PUD requires a 7-foot landscaped yard along 5th Street SE (a 15 foot yard is being provided so that parking is not located in the required front yard). Landscaping and screening is required adjacent to the east property line and south property line. Alternative compliance would be necessary as this provision is not being met adjacent to the south property line for the second phase. Planning Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the surface parking proposed on this portion of the subject site is part of a larger PUD development. Because the surface parking is one-way only with egress to 4th Street SE, it would not be practical to require compliance in this specific circumstance.

□ *Linear tree requirement:* The surface parking lot does not meet the 25 foot linear tree requirement along 5th Street SE; alternative compliance would be necessary. Planning Staff will recommend that the Planning Commission require compliance with this provision.

PRELIMINARY AND FINAL PLAT - PL-244

Required Findings:

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

The applicant is proposing to replat the site from three lots into two new lots. Lot 1 is being created for the first phase of the proposed development and Lot 2 is being created for the second phase of the proposed development. Individual lots within PUD's are exempt from the public street frontage requirement of section 598.230 and the design requirements of sections 598.240 and 598.250.

The subdivision is in conformance with the design requirements of the land subdivision regulations except for Section 598.230 (5), which requires utility easements to be five feet wide on side lot lines and ten feet wide on rear lot lines, where no alley is provided. In order to be in conformance with the land subdivision regulations, a variance of Section 598.230 (5) is required to eliminate the drainage and utility easements from both lots. While variances from the zoning code require a separate application, variances from the subdivision standards are done as a part of the subdivision application subject to the standards listed below.

598.310. Variances. Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

- (1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.
- (2) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.

Given the layout of the site, the required development the required drainage and utility easement locations are not possible. Planning Staff supports the variance in this specific circumstance.

2. The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.

The applicant is proposing to replat three lots into two new lots. Staff does not believe that the proposed plat would be injurious to the use and enjoyment of surrounding property nor be detrimental to present and potential surrounding land uses. As previously mentioned, Planning Staff does not support the off-street parking variance proposed by the applicant. Should the Planning Commission concur and require the applicant to provide additional parking, the subdivision would not result in further congestion in the public streets as adequate parking would be provided.

3. All land intended for building sites can be used safely without endangering the residents or users of the subdivision or the surrounding area because of flooding, erosion, high water table, soil conditions, improper drainage, steep slopes, rock formations, utility easements or other hazard.

The site is flat and does not present the above hazards.

4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to

buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.

The parcels created by this application present no foreseeable difficulties for this development. No significant alterations to the land appear necessary.

5. The subdivision makes adequate provision for stormwater runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development will not exceed the amount occurring prior to development.

Public Works will review and approve drainage and sanitary system plans before issuance of building permits.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the rezoning:

The Department of Community Planning and Economic Development - Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning petition to change the zoning classification of the properties located at 1209 4th Street SE, 1206 & 1212 5th Street SE from the R5 district to the OR3 district.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a two-phase Planned Unit Development including the construction of a new 102 unit residential structure as well as renovation/restoration of the Frey Mansion located on the properties at 1209 4th Street SE, 1206 & 1212 5th Street SE 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. As required by section 527.120 of the zoning code, the development includes the following amenities from Table 527-1, Amenities: conservation of the built environment, decorative surfacing (pavers, etc.), decorative fencing, reflective roofing materials, enhanced landscaping, enhanced exterior lighting, and a recycling storage area.
3. As required by section 527.120 of the zoning code, the development shall also include the following amenities: burying overhead utilities and the green roof component in the courtyard.

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 above findings and **approve** the variance application to reduce the east interior side yard setback from the required 13 feet to 8.5 feet at the closest point for the new building proposed in phase one of the planned unit development on the properties located at 1209 4th Street SE, 1206 & 1212 5th Street SE.

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 above findings and **deny** the variance of the University Area Oriented Overlay District standards to reduce the off-street parking requirement from 102 spaces to 79 spaces for the phase one portion of the PUD for properties located at 1209 4th Street SE, 1206 & 1212 5th Street SE.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review for a phased planned unit development for the properties located at 1209 4th Street SE, 1206 & 1212 5th Street SE subject to the following conditions:

1. Planning Staff review and approval of the final site, elevation, lighting and landscaping plans.
2. All site improvements for phase one of the PUD shall be completed by August 6, 2012, and all improvements for phase two of the PUD shall be completed by August 6, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. Incorporation of entrances to the individual units located on the south (front) elevation of the proposed structure along 4th Street SE.
4. Compliance with the 25 foot linear tree requirement adjacent to the surface parking lot located along 5th Street SE.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the preliminary and final plat:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the preliminary and final plat application for the properties located at 1209 4th Street SE, 1206 & 1212 5th Street SE.

Department of Community Planning and Economic Development – Planning Division
BZZ-4785 and PL-244

Attachments:

1. Rezoning Matrix
2. Preliminary Development Review report
3. Statement of use and description
4. Findings - conditional use permit, variance, rezoning, subdivision findings
5. Correspondence
6. Previous HPC actions
7. Zoning Map
8. Phase I and Phase II plans - Civil plans, site plan, landscaping plans, floor plans, elevations and renderings
9. TDMP

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
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(612) 673-2157 TDD

MEMORANDUM

DATE: July 1, 2010

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of June 28, 2010

The following actions were taken by the Planning Commission on June 28, 2010. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners present: President Motzenbecker, Bates, Bourn, Carter, Cohen, Gorecki, Huynh, Luepke-Pier, Schiff and Tucker – 10

Committee Clerk: Lisa Baldwin (612) 673-3710

6. 4th Street Flats (BZZ-4785 and PL-244, Ward: 3)1209 4th St SE, 1206 & 1212 5th St SE. ([Becca Farrar](#)).

A. Rezoning: Application by Doran Development, LLC for a petition to rezone the properties located at 1209 4th St SE, 1206 & 1212 5th St SE from the R5 (Multiple-family) district to the OR3 (Institutional Office Residence) district.

Action: The City Planning Commission adopted the findings and **approved** the rezoning petition to change the zoning classification of the properties located at 1209 4th St SE, 1206 & 1212 5th St SE from the R5 district to the OR3 district.

B. Conditional Use Permit: Application by Doran Development, LLC for a conditional use permit for a phased Planned Unit Development (PUD) for the properties located at 1209 4th St SE, 1206 & 1212 5th St SE. The first phase includes the construction of a new 5-story, 102 unit residential building. The second phase includes the restoration and renovation of the existing Frey Mansion into a community/cultural center.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application for a two-phase Planned Unit Development including the construction of a new 102 unit residential structure as well as renovation/restoration of the Frey Mansion located on the properties at 1209 4th St SE, 1206 & 1212 5th St SE 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. As required by section 527.120 of the zoning code, the development includes the following amenities from Table 527-1, Amenities: conservation of the built environment, decorative surfacing (pavers, etc.), decorative fencing, reflective roofing materials, enhanced landscaping, enhanced exterior lighting, and a recycling storage area.
3. As required by section 527.120 of the zoning code, the development shall also include the following amenities: burying overhead utilities and the green roof component in the courtyard.

C. Variance: Application by Doran Development, LLC for a variance of the interior side yard setback requirement along the east property line from 13 feet to 11 feet for the new building proposed in phase one of the PUD located at 1209 4th St SE, 1206 & 1212 5th St SE.

Action: The City Planning Commission adopted the findings and **approved** the variance application to reduce the east interior side yard setback from the required 13 feet to 8.5 feet at the closest point for the new building proposed in phase one of the planned unit development on the properties located at 1209 4th St SE, 1206 & 1212 5th St SE.

D. Variance: Application by Doran Development, LLC for a variance of the University Area (UA) Overlay District standards as it pertains to the minimum number of off-street parking spaces for property located at 1209 4th St SE, 1206 & 1212 5th St SE.

Action: The variance of the University Area Oriented Overlay District standards to reduce the off-street parking requirement from 102 spaces to 79 spaces for the phase one portion of the PUD for properties located at 1209 4th St SE, 1206 & 1212 5th St SE was **withdrawn**.

E. Site Plan Review: Application by Doran Development, LLC for a phased PUD for property located at 1209 4th St SE, 1206 & 1212 5th St SE.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for a phased planned unit development for the properties located at 1209 4th St SE, 1206 & 1212 5th St SE subject to the following conditions:

1. Planning Staff review and approval of the final site, elevation, lighting and landscaping plans.
2. All site improvements for phase one of the PUD shall be completed by August 6, 2012, and all improvements for phase two of the PUD shall be completed by August 6, 2014, unless extended by the Zoning Administrator.

3. Compliance with the 25 foot linear tree requirement adjacent to the surface parking lot located along 5th St SE.

F. Plat: Application by Doran Development, LLC for a preliminary and final plat for property located at 1209 4th St SE, 1206 & 1212 5th St SE.

Action: The City Planning Commission adopted the findings and **approved** the preliminary and final plat application for the properties located at 1209 4th St SE, 1206 & 1212 5th St SE.

Staff Farrar presented the staff report.

President Motzenbecker opened the public hearing.

Kelly Doran (2800 Glenroy Rd): We thank staff for their quality job. I'd like to talk about two issues, both of which pertain to the site plan review and are contained on page 28 of your staff report. The first issue as Becca explained (tape ended)...many decades ago and these lots, at one time, we oriented towards 4th St and 5th St on the north. This picture shows the existing improvement, which was originally built as an Episcopalian church back in the 1920s. The orientation of that building has always been to 12th Ave. The main entrance to the building is in the picture. The access point that that property has to 4th St is a secondary access point for an emergency stairwell. We believe in following the trend of that, that's an important design feature and we wanted to have that access off of 12th into the courtyard. The other issue that Becca mentioned, which is really the foremost issue, is security. We cannot have four extra access points into this building, there has to be a corridor behind these units for these units to maintain their ADA accessibility, for the occupants to gain access to the parking garage, to gain access to the trash and recycling areas, to gain access to the community features within the building...so we have to maintain the corridor into that building and so any time someone enters these units, they now have free access to the rest of the building which violates the security protocol for the whole building which is particularly important in student housing. That condition alone probably kills this project if that's indeed the direction you need to go. The other issue we'd like to speak to is on condition number two, it has to do with the language at the end of the sentence where it says "or the permit may be revoked for noncompliance." In today's very difficult financing markets, a condition worded that way will make it difficult to get financing. I think the intent of that is the permit would be revoked for the portion that is noncompliant and not for the whole development because you could have one or another part of this development completed within the prescribed dates but not the other part, potentially. This PUD is actually the joining of two individual property owners. We will own the apartment project and the Heart of the Earth folks will own the Frye Mansion. Obviously one of us can't lose the occupancy of our building based upon the nonperformance of the other and that would also making financing very difficult so I ask that that language be slightly modified to make it clear that the intent of the commission was that it was invoking that portion that is noncompliant.

Jo Radzwill (507 2nd Ave SE): I am a member of the neighborhood association and chair of the land use committee. We sent a letter approving the rezoning to OR3. Our main concern is preserving the Frye mansion. I do not exactly understand how placing this in a planned unit development is going to help preserve the Frye mansion. I don't understand how the phases work. I do understand the way the parcels are to be split. I have trouble with the mechanics of getting that done, but I do want to reiterate that we have only deviated from our master plan in order to save the Frye mansion. If anyone can explain more to me how this works that'd be great. Thank you.

Commissioner Gorecki: Did the neighborhood discuss the 4th St entrance and did they have a feeling in regards to...you guys have done excellent work in removing the couches from the porches and front lawns and things of that nature...I brought this up in the Committee of the Whole when we first discussed this. My concern was that it could easily spill out onto the street whether it be Saturday for a football game or tournament of any kind and that could easily become party central. That was my concern of engaging 4th St as a front door. Did the neighborhood group take any position on that?

Jo Radzwil: We did not formally take any position, it was discussed in the land use meeting and the applicant indicated their concern about the security of the building and I guess the general consensus of the members was since there was increased glass there was also increased eyes on the street so that's where we stood.

President Motzenbecker closed the public hearing.

Commissioner Gorecki: I will move staff recommendation for item A (Luepke-Pier seconded).

President Motzenbecker: Moved and seconded, any further discussion? All those in favor? Opposed?

The motion carried 8-0 (Tucker recused).

Commissioner Gorecki: I will move staff recommendation for item B (Luepke-Pier seconded).

President Motzenbecker: Moved and seconded, any further discussion? All those in favor? Opposed?

The motion carried 8-0 (Tucker recused).

Commissioner Gorecki: I will move staff recommendation for item C (Luepke-Pier seconded).

President Motzenbecker: Moved and seconded, any further discussion? All those in favor? Opposed?

The motion carried 8-0 (Tucker recused).

Commissioner Gorecki: I will move item E, staff recommendation, with the removal of number three, the incorporation of the entrances to the individual units (Luepke-Pier seconded). If this was a condominium building I think we would be remiss if we didn't have some sort of engagement on the street but because it is student housing I think we have to keep in mind how that could disrupt the neighborhood and traffic and really not be the type of positive in influence that we want from a building engagement perspective.

President Motzenbecker: I understand the concept and why we are pushing that in this case. It was pretty clear to me in our Committee of the Whole discussion that this made sense and I understand even though 4th is the designated front yard it's not the physical front yard of this building, 12th is kind of the physical front yard and it makes more sense to focus the entry there. Any other comments?

Commissioner Huynh: I am going to speak in opposition to number three for the reasons I agree with staff recommendation to keep the entrances on 4th and just because it is a student housing development doesn't necessarily mean that the end result would be having people out on couches. Making our decision based on fear of what could happen is not necessarily justification for connection to the street, which I think would be an amenity for keeping item three.

Commissioner Luepke-Pier: I'll be supporting the motion because I worked in the dorms and it's very difficult to control people going in and out, especially if it's someone on the first floor. It's too difficult to

monitor people going through the common access to the common hallway. I think from a safety standpoint, given the populous there and given how buildings there are designed for student populous, I can't even imagine wanting to live in that building if anybody can just wander in there. I think it's a necessity for this particular building to not have doors there but rather windows.

Commissioner Bates: I would like to speak in favor of Commissioner Huynh's concern regarding the assumptions behind Commissioner Gorecki's amendment. Although I think that there's a safety issue here, if you consider the University of Minnesota and the incredible development that's gone on around there in building these condominium units, any more loss of real street front sort of activity is a real concern to me as someone who walks and lives in that area all the time. It's been a significant change in the landscape and some of the fortresses do a much better job engaging the street. Look at the dorms, Sanford dorm on University had a similar sort of orientation. I understand having walked past Heart of the Beast for years that it's not looking toward 4th St but I think there's something...I can't believe that, with all these creative minds, that there isn't something in between having four openings to this building and having something that orients more to the street. Otherwise we are just dooming 4th St to being an empty looking corridor and I think that would be really unfortunate.

President Motzenbecker: I don't think four doors is going to doom the whole street, I would disagree there. To me this is almost like a lipstick application. I understand why the application is there, I just think in this application, it's not going to add much to this piece.

Commissioner Bates: I understand that, I just want to say that I talked about those four doors in the context of lots of other development and this is just an exclamation point. I don't think those four doors alone doom the street but I think it's part of a larger picture that we continue to not worry about that corridor.

President Motzenbecker: Let's vote on the removal of this condition only. All those in favor of removing condition three as proposed by Commissioner Gorecki? Opposed?

The motion carried 5-3 (Tucker recused).

Commissioner Schiff: I'd like to strike the last clause in condition number two that states "the permit may be revoked for noncompliance." I think leaving this with the Zoning Administrator is the best way to handle the situation (Gorecki seconded).

President Motzenbecker: All those in favor of striking that last piece of the sentence and ending with "Zoning Administrator"? Opposed?

The motion carried 8-0 (Tucker recused).

President Motzenbecker: Commissioner Gorecki, the site plan review has been moved and seconded, the condition three has been stricken and the last piece of condition two has been stricken to end with "Zoning Administrator", any other comments? All those in favor? Opposed?

The motion carried 8-0 (Tucker recused).

President Motzenbecker: I will move the withdrawal of the variance for the parking requirement, item D (Huynh seconded). Any discussion? All those in favor? Opposed?

The motion carried 8-0 (Tucker recused).