



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

Date: July 28, 2011

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal of the decision of the City Planning Commission associated with the denial of all land use applications related to the development known as 401 Oak Grove to allow a 124-unit residential building on the properties located at 401, 409, 403, 343 Oak Grove Street and 416 Clifton Avenue.

Recommendation: The following actions were taken by the Planning Commission on June 27, 2011 (BZZ-5182):

A. Conditional Use Permit: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a conditional use permit to allow 124 dwelling units for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application to allow 124 dwelling units to be located on the properties at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following findings:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.

B. Conditional Use Permit: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a conditional use permit to increase the maximum permitted height in the SH (Shoreland) overlay district from 2.5 stories or 35 feet to 7 stories or 84 feet at the tallest point for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application to increase the maximum permitted height in the Shoreland Overlay district from 2.5 stories or 35 feet to 7 stories or 84 feet at the tallest point on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following findings:

1. The proposed height will be injurious to the use and enjoyment of other property in the vicinity.
2. The proposed height violates the Shoreland Overlay District requirements.
3. The proposed height is not consistent with the applicable policies of the comprehensive plan.
4. The project is not in scale and character with surrounding uses.

C. Variance: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a variance of the front yard setback requirement adjacent to the north property line along Oak Grove St for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the front yard setback from the required 18 feet, 8 inches to 15 feet for the proposed building wall and to allow bay window and stair encroachments and a glass entrance canopy on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following finding:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.
2. The applicant has not demonstrated practical difficulties in order to acquire this variance.

D. Variance: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a variance of the corner side yard setback adjacent to the west property line along Clifton Ave for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the corner side yard setback from the required 18 feet, 8 inches to 15 feet for the building wall and to allow a decorative wood arcade and glass entrance canopy, and a variance to reduce the corner side yard setback from 8 feet to 0 feet to allow a pocket park on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following finding:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.
2. The applicant has not demonstrated practical difficulties in order to acquire this variance.

E. Site Plan Review: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a site plan review for a new 7-story, 124-unit multi-family residential structure in the SH overlay and OR3 districts for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review application for a new 7-story, 124-unit multi-family residential structure on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following finding:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.

Ward: 7

Prepared by: Becca Farrar, Senior Planner, 612-673-3594 Approved by: Jason Wittenberg, Planning Manager Presenters in Committee: Becca Farrar, Senior Planner

Community Impact:

Neighborhood Notification: Notice of the Planning Commission hearing was mailed on June 13, 2011, and notice of the appeal was mailed on July 18, 2011.

- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 120-day decision period: September 19, 2011
- Other: Not applicable

Background/Supporting Information:

Brad Hoyt, on behalf of 430 Oak Grove, LLC, and Continental Property Group, has filed an appeal of the decision of the City Planning Commission. The appeal is regarding the decision of the City Planning Commission on June 27, 2011, to deny all land use applications associated with the project known as 401 Oak Grove to allow for a new 124-unit multi-family residential structure. The minutes from the June 27, 2011, City Planning Commission meeting are attached. The Planning Commission voted 4-3 for item B, 7-0 for item A and 6-1 for items C, D and E to deny all land use applications.

The appellant's statement outlines reasons why the appeal should be granted and the project approved. The appellant's complete statement of the action being appealed and reasons for the appeal are attached.