

**Department of Community Planning and Economic Development – Planning Division**  
Zoning Amendment (Rezoning), Conditional Use Permits, Site Plan Review  
BZZ – 2257

**Date:** August 15, 2005

**Applicant:** Dan Bartus, DAN-BAR Homes, LTD

**Address of Property:** 4136, 4140 & 4152 Dight Ave.

**Project Name:** 42<sup>nd</sup> Street Studios, Phase II

**Contact Person and Phone:** Tony Videen, 612-216-6363

**Planning Staff and Phone:** Jason Wittenberg, 612-673-2297

**Date Application Deemed Complete:** June 28, 2005

**End of 60-Day Decision Period:** August 27, 2005

**End of 120-Day Decision Period:** On August 9, 2005, staff sent a letter to the applicant extending the decision period to no later than October 26, 2005

**Ward:** 12     **Neighborhood Organization:** Longfellow Community Council

**Existing Zoning:** I1

**Proposed Zoning:** Add the Industrial Living (IL) Overlay District to the property located at 4136 Dight Ave. The Industrial Living Overlay already exists on other lots within the development.

**Zoning Plate Number:** 33

**Legal Description of the Property to be Rezoned:** All that part of the Southeast Quarter of the Northwest Quarter of Section 7, Township 28, Range 23, described as follows: Beginning at the Southeasterly corner of Block 3, South Morgan Addition to Minneapolis, thence Southeasterly along the Westerly line of Railroad Avenue extended a distance of 44.6 feet; thence West parallel with South line of Block 3, said South Morgan Addition, 167.5 feet to a point in a line drawn parallel with and 60 feet Northwesterly measured at right angles to the Easterly line of the said right of way of Chicago, Milwaukee & St. Paul Railway Company; thence Northwesterly parallel with the said right of way line 44.15 feet to the South line of said Block 3, South Morgan Addition; thence East along said South line to the point of beginning, according to the map or plat thereof on file and of record in the office of the County Recorder in and for Hennepin County, Minnesota.

**Proposed Use:** Twelve (12) unit cluster development in two proposed four-story buildings

**Concurrent Review:**

**Zoning Amendment (rezoning):** To add the IL Overlay District to allow residential dwellings.

**Conditional use permit:** Required for dwelling units in the Industrial Living Overlay District

**Conditional use permit:** Required to increase the maximum permitted height of a cluster development from 2½ to 4 stories.

**Site plan review:** Required for any development of five or more dwelling units

**Applicable zoning code provisions:**

Chapter 525, Zoning Amendments

Chapter 551, Overlay Districts.

Chapter 530, Site Plan Review.

**Background:** On October 20, 2003, the City Planning Commission approved phase II of the 42<sup>nd</sup> Street Studios, a three-story, eight-unit residential cluster development. The Phase II project was presented to the Commission several months after the phase I project. Because phase II includes more than one residential building on a zoning lot, the applicant was required to apply for a cluster development. Cluster developments are limited to 2½ stories in height. The previous applications included a rezoning to add the Industrial Living Overlay District, a conditional use permit for the residential cluster development, a conditional use permit to increase the maximum permitted height, and site plan review.

The City Planning Commission's actions included the following:

**4140 & 4152 Dight Avenue** (Jason Wittenberg)

**Zoning Amendment (Rezoning)**

Application by Dan Bartus to rezone the properties at 4140 Dight Avenue and 4152 Dight Avenue to add the IL Overlay District to the existing I1 District.

**Motion:** The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to rezone the properties at 4140 Dight Avenue and 4152 Dight Avenue to add the IL Overlay District to the existing I1 District.

**Conditional Use Permit**

Application by Dan Bartus for a conditional use permit to allow construction of an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue.

**Motion:** The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow construction of an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue, subject to the following conditions:

1. An easement shall be submitted guaranteeing perpetual vehicular access to the site across the property to the south of the cluster development. Evidence of such easement shall be submitted to the Planning Department prior to the issuance of a building permit.
2. The area along the north lot line shall be landscaped and screened to the standards of section 530.150 of the zoning code.

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3. Prior to issuance of a certificate of occupancy, all land proposed for the cluster development shall be platted or replatted into one or more lots suitable for cluster development, and as such shall comply with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.

### **Conditional Use Permit**

Application by Dan Bartus for a conditional use permit to increase the maximum permitted height of a cluster development from two and a half (2.5) stories to three (3) stories for an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue.

**Motion:** The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to increase the maximum permitted height of a cluster development from two and a half (2.5) stories to three (3) stories for an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue.

### **Major Site Plan Review**

Application by Dan Bartus for a site plan review for 4140 & 4152 Dight Avenue.

**Motion:** The City Planning Commission adopted the above findings and **approved** the site plan review application for eight (8) dwelling units located at 4140 & 4152 Dight Avenue, subject to the following conditions:

1. The walkway parallel to the north property line shall provide a continuous walking surface not less than four (4) feet in width from the public right of way to the common open space at the west end of the property.
2. As indicated on the proposed plan, a walkway shall connect all of the dwelling units to the public sidewalk along East 42<sup>nd</sup> Street.
3. The applicant shall preserve not less than one (1) tree on the site.
4. An easement shall be submitted guaranteeing perpetual vehicular access to the site across the property to the south of the cluster development. Evidence of such easement shall be submitted to the Planning Department prior to the issuance of a building permit.
5. Exterior lighting shall be reviewed and approved by the Planning Department prior to obtaining a building permit.
6. The applicant shall obtain an encroachment permit for all improvements in the public right of way.
7. The Planning Department shall review and approve the final site, landscape plan, and building elevations prior to issuance of a permit.
8. If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit.
9. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by November 7, 2004, or the permit may be revoked for non-compliance.

The applicant did not submit final plans and did not obtain a permit within one year of the above actions. The permits, with the exception of the rezoning, have expired.

The applicant has made substantial revisions to the project that incorporates additional property (triggering the need to rezone to add the Industrial Living Overlay District to the property at 4136 Dight Ave.), as well as additional dwelling units, and a partial fourth story. The application

has been continued from previous meetings in order to resolve issues related to the fire code.

## **ZONING AMENDMENT (REZONING)**

### **Findings As Required By The Minneapolis Zoning Code for the Rezoning Application:**

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

The Minneapolis Plan indicates that the City should increase the number of households living in Minneapolis, and that “(t)he number of households from all walks of life who choose to make Minneapolis their home must continue to grow if the city’s neighborhoods are to remain economically, socially and physically vital.”

The property in question is located within one block east of Hiawatha Avenue and approximately mid-way between the LRT stations at 38<sup>th</sup> Street and 46<sup>th</sup> Street.

Planning staff has identified the following policies from the Minneapolis Plan as being relevant to the request to rezone to add the Industrial Living Overlay District to the existing I1 (Light Industrial) District:

*Relevant Policy:* **4.11** Minneapolis will improve the availability of housing options for its residents.

*Relevant Implementation Steps:*

- Increase the variety of housing styles and affordability levels available to prospective buyers and renters.

*Staff comment:* The rezoning would allow for construction of new dwelling units, increasing housing options in the neighborhood.

*Relevant Policy:* **9.22** Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.

*Relevant Implementation Steps:* Use both infill development and new development opportunities to increase housing in the city.

*Staff comment:* The rezoning would allow infill housing development of a site that is located in an area containing a mix of residential and industrial uses.

*Relevant Policy:* **9.26** Minneapolis will prioritize growth in light industrial land uses to increase the tax base and create jobs for city residents.

*Relevant Implementation Step:*

- Identify appropriate areas for the retention and expansion of existing industry and the development of new industry in specific industrial and business park opportunity areas.
- Promote light industrial uses as the preferred use of industrial land, but discourage warehouse or distribution uses in areas where truck traffic will negatively impact residential neighborhoods.

*Staff comment:* The rezoning would allow other uses other than light industrial uses, which would not “promote” the property for light industrial use. The IL Overlay District would preserve the right to develop the site with a light industrial use, however.

Transit Station Areas (TSAs) are those areas within approximately one-half mile LRT stations. The property in question is approximately midway between two transit stations and is almost exactly one-half mile from the LRT platform at 46<sup>th</sup> Street (via a straight line). However, the site is more than one-half mile from a platform in walking distance, is not within an adopted station area plan, and is not within the station area Pedestrian Oriented Overlay District. Thus, for all practical purposes, the site should not be considered to be located in a TSA but is within the transit corridor. The 46<sup>th</sup> Street station is accessible via a direct connection on a bus line on 42<sup>nd</sup> Street.

The rezoning is consistent with the applicable policies of the comprehensive plan.

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

Although the rezoning would largely benefit a particular property owner, the zoning change could be considered to be in the public interest in that the IL Overlay District would allow residential development that would capitalize on the public investment in LRT in the corridor.

**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 City has allowed the applicant to rezone contiguous parcels to the Industrial Living Overlay District. The applicant’s property is located near the northwest corner of the intersection of 42<sup>nd</sup> Street and Dight Avenue. All other properties at the intersection contain residential uses. Small-scale office/industrial uses are located immediately to the west of the site. R5 (Multiple Family) zoning exists one and a half blocks to the east of the site.

The Planning Division believes that the proposed zoning is compatible with the existing use and zoning classifications in the surrounding area.

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

There are reasonable uses for the property under the existing zoning classification. The property in question currently could accommodate, for example, a variety of commercial and industrial uses. However, unless the IL Overlay District is added to the site, a new residential use could not be constructed.

**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.**

Adopted plans call for mixed use, transit oriented development in the Hiawatha Corridor. A number of new residential and mixed use buildings have been constructed or are proposed in the corridor. The proposed project would be consistent with this trend.

**CONDITIONAL USE PERMITS**

**Findings As Required By The Minneapolis Zoning Code For A Conditional Use Permit for a Cluster Development:**

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

Construction of twelve additional dwelling units in the Hiawatha Corridor would not prove detrimental to public health, safety, comfort or welfare. The site has historically been used for residential use. The applicant has included a walkway along the south side of the rear building that the Fire Department has indicated is necessary in order for the project to comply with the fire code. Vehicular access to Dight Avenue is apparently not needed in order to comply with the fire code.

**2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The site has historically been used for residential use. The entire block face along Dight Avenue is developed with residential uses. Along East 42<sup>nd</sup> Street, there are office/industrial uses immediately to the west and residential uses to the south and east. As with any residential development in an industrial district, conflicts could arise

between residential and industrial uses. The Planning Division does not believe that continued residential use of the property, albeit at a higher density, would impede normal and orderly development or improvement of area property. Construction practices related to the applicant's current project immediately to the south of the project have created conflicts with nearby residents and have halted construction on the project at various stages. The applicant must comply with all relevant best practices related to erosion control and construction site management.

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

The site would be accessed from 42<sup>nd</sup> Street, which would require access across the property to the south. The applicant must furnish an easement agreement across the property to provide perpetual access to the site in question. The Public Works Department has reviewed the preliminary plan and will review the final plan for issues such as drainage and public facilities. The applicant, as shown, should provide a walkway in the public right of way that would connect to the existing public sidewalk along 42<sup>nd</sup> Street.

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

The applicant proposes to meet the number of required off-street parking spaces and the project would be served by a single curb cut, minimizing the disruption to on-street parking. Metro Transit route 24 offers a direct and convenient transit link between this site and the 46<sup>th</sup> Street LRT station. Traffic congestion would be minimized.

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

In addition to the findings in the rezoning application (above), the conditional use permit to allow 12 dwelling units is consistent with the relevant provisions of the Minneapolis Plan, as follows:

*Relevant Policy:* **4.11** Minneapolis will improve the availability of housing options for its residents.

*Relevant Implementation Steps:*

- Increase the variety of housing types (affordability, style, location) throughout the city, its communities and the metro area, giving prospective buyers and renters greater choice in where they live.
- Encourage infill housing.

*Staff comment:* The proposed development would be an example of creative infill housing.

*Relevant Policy:* **9.22** Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.

*Relevant Implementation Steps:* Use both infill development and new development opportunities to increase housing in the city.

*Staff comment:* The conditional use permit would allow for construction of new dwelling units, increasing housing options in the neighborhood.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, the rezoning request, and site plan review.**

If the requested land use/zoning applications are approved, the proposal will comply with all provisions of the Industrial Living Overlay District.

**Additional Criteria for Cluster Development**

- (A) Any application for cluster development approval shall include a development plan which shall consist of a statement of the proposed use of all portions of the land to be included in the cluster development and a site plan showing all existing and proposed development, including but not limited to the location of structures, parking areas, vehicular and pedestrian access, open space, drainage, sewerage, fire protection, building elevations, landscaping, screening and bufferyards, and similar matters, as well as the location of existing public facilities and services.**

The applicant has submitted a survey of the property and all required plans. Final civil drawings must be reviewed and approved by the Public Works Department.

- (B) All land proposed for cluster development shall be platted or replatted into one or more lots suitable for cluster development, and as such shall comply with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.**

The applicant has been informed that a plat application will be required. Common open space should be platted in an outlot.

- (C) The cluster development shall meet the minimum lot area and lot width requirements of the zoning district. There shall be no minimum lot area or lot width requirements for individual lots within the cluster development.**

The Industrial Living Overlay District, which the applicant proposes for the site, requires a lot area of not less than 900 square feet per dwelling unit. The applicant proposes twelve units in the cluster development, requiring at least 7,200 square feet of lot area. According to the applicant, the parcels in question have 20,076 square feet of lot area.

- (D) Yards of at least such minimum width as required by the zoning district shall be maintained along the periphery of the cluster development. Yards for individual lots within the cluster development shall not be required. The distance between principal buildings within the cluster development shall be not less than ten (10) feet.**

In the Industrial districts, residential uses must provide yards of five feet plus two feet for every story above the first only where windows face interior side and rear lot lines. As applied to the applicant's proposal, yards of not less than 11-feet must be provided along the north and west lot lines. The applicant's proposal would comply with these yards. The applicant proposes a setback of approximately 13 feet from the north lot line and 33 feet from the rear lot line. The project would be located less than 10 feet from a proposed building in phase I of the project and would be approximately seven feet from an existing office/industrial building to the south. Those buildings are not part of the cluster development. The two buildings within the cluster development would be located approximately 24 feet from one another.

- (E) Not less than forty (40) percent of the land in a cluster development shall be designated as common space for the benefit of all of the residents of the development. Such common space shall be a contiguous area under common ownership or control and shall be located so that it is directly accessible to the largest practical number of dwellings within the development. Safe and convenient pedestrian access shall be provided to such common space for dwellings not adjoining such space. Common space shall include but is not limited to landscaped yards, recreation areas, wetlands, waterbodies and common parking facilities. However, not more than one-half of required common space shall consist of such parking facilities, driveways and private roadways. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.**

Common open area in the cluster development, including the driveway and walkways, would total approximately 45 percent of the lot area. Approximately 43 percent of the common open space would be a contiguous landscaped area at the west end of the property. Another eight percent would be located in a landscaped strip along the north side yard. Approximately 33 percent would be asphalt driveway. The remainder, approximately 12 percent, would be walkways and other surfaces. As required, less than one-half of the open space would consist of vehicle parking or maneuvering areas.

- (F) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood. Not less than eighty (80) percent of the habitable floor area of single or two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall have a minimum width of twenty-two (22) feet. Cluster developments not otherwise governed by Chapter 530, Site Plan Review, shall comply with the principal entrance and windows requirements of Chapter 535, Regulations of General**

**Applicability. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.**

The applicant proposes two buildings having four stories each, both with an overall height of approximately 46 feet. The buildings would be brick on all sides except for the metal-clad fourth story. The surrounding area includes a mix of uses, including one-and-a-half story dwellings, three-story multi-family buildings, and industrial buildings varying in scale. The scale of the building is consistent with what one could expect in an industrial zoning district. The buildings would meet minimum width requirements for a cluster development. Please see the Site Plan Review analysis related to window and entrance requirements.

- (G) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.**

The project would comply with the required yards on the north and west sides. The applicant must thoroughly landscape along the north lot line and include fencing as a transition between the project and the single-family dwellings to the north. Fencing should also be provided on the south side of the development to offer a clear delineation between the residential and commercial uses. The applicant proposes to construct the western building (shown as Building 3) approximately three feet from the south lot line.

- (H) Any cluster development which includes a manufactured home park shall be first allowed in the R2 District.**

The project would not include manufactured housing.

**Findings As Required By The Minneapolis Zoning Code For A Conditional Use to Increase the Maximum Permitted Height:**

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

Increasing the maximum permitted height of the two buildings within the cluster development from 2-1/2 to 4 stories would not be detrimental to public health, safety, comfort, or welfare. The increase height would not affect visibility of public spaces from adjacent properties.

- 2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

The residential building to the north is situated approximately 11 feet from the north lot line of the proposed cluster development and cluster development would be 13 feet from the north lot line, creating a separation of 24 feet between the buildings. Further, the location of the proposed driveway for the cluster development would allow a good deal of light and air to the property north of the cluster development. Note that phase I of the project was approved as a four-story building. Since that building was not part of the cluster development, the 2-1/2 story limitation did not apply.

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

The increase in the maximum permitted height would not call for an increase in services to the site. The applicant must indicate where water will be directed from the rooftops of the buildings.

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

Staff does not anticipate that increasing the maximum permitted height of the two structures in question would have any appreciable impact on traffic congestion. The buildings would feature tuck-under garages.

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

*Relevant Policy: 9.8.* Minneapolis will maintain and strengthen the character of the city's various residential areas.

*Relevant Implementation Steps:*

- Infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of surrounding one and two family dwellings.

*Staff comment:* The surrounding area includes a wide range of buildings in terms of height and scale.

- 6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit, rezoning, and site plan review.**

With approval of this conditional use permit, the structures would meet the standards of the Industrial Living Overlay District.

***Additional Criteria to Increase the Maximum Permitted Height***

**(1) Access to light and air of surrounding properties.**

As noted above, the development proposal would allow a separation of approximately 24 feet between the buildings in the cluster development and the existing single-family dwelling to the north. Further, the location of the proposed driveway for the cluster development would allow a good deal of light and air to the property north of the cluster development.

**(2) Shadowing of residential properties or significant public spaces.**

The significant distance between the proposed buildings and the dwelling to the north (24 feet) and the location of the “gap” between the two buildings within the cluster development would combine to minimize shadowing of the *dwelling* to the north. The *property* to the north would experience some increased shadowing as a result of the height increase.

**(3) The scale and character of surrounding uses.**

The height would exceed that of other residential buildings on the block. However, the surrounding area includes buildings varying in height and scale. The Planning Commission approved a four-story building in first phase of the project, immediately to the south of the proposed cluster development.

**(4) Preservation of views of landmark buildings, significant open spaces or water bodies.**

Residential dwellings in the area currently do not have views of landmark buildings. Further, no significant open spaces or water bodies exist in the immediate area.

**SITE PLAN REVIEW**

**Required Findings for Site Plan Review**

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
  
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

**Section A: Conformance with Chapter 530 of Zoning Code**

**BUILDING PLACEMENT AND FAÇADE:**

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- 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 and windows:
  - 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

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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.**

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

- **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. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

The street-fronting building would be constructed approximately 1.5 feet from the front lot line (while the building to the south is constructed up to the lot line), would reinforce the street wall created by the first phase of the development, and would facilitate pedestrian access with individual walkways to front entrances and a walkway to the westernmost building from the public sidewalk.

The cluster development, as noted above, would be located within eight feet of the front lot line.

The area between the building and the public sidewalk will include landscaping.

Individual entrances on the street-fronting building will face the public street and open directly to the public right of way.

All of the enclosed parking will be located at the interior of the site in tuck-under garages.

The proposed buildings have relatively featureless exterior walls but include a good deal of window area on the east and west sides. Regular entrances and windows break-up the mass and provide symmetry along the public street. Canopies would emphasize front entrances and add to visual interest along Dight Avenue.

The proposed south elevations of the two buildings would feature blank walls in excess of 25 feet in length. Staff recommends that the Commission allow this by granting alternative compliance. Strict adherence to the requirement is impractical or unnecessary in this case because, 1) The front building is separated from the adjacent building to the south by a walkway that would separate the building from another blank wall approximately six feet away (the north side of the phase I building) and will not be visible from adjacent properties or the public right of way, and 2) the rear building fronts on an office/industrial development and high quality materials will be used. However, the Commission should require compliance with the blank wall limitations on all other walls of the buildings. The north elevations of both buildings have blank walls exceeding 25 feet in width on the first and second floors. These walls face a residence and should comply with the regulations of Chapter 530 (as the east and west elevations comply).

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The exterior of the buildings would be brick on all sides. The fourth floor would be clad in corrugated metal.

Plain face concrete block would not be used.

As previously noted, the entrances would be emphasized with canopies. Windows are required on the east elevation facing Dight Avenue. Approximately 37 percent of the first floor facing the street would be windows (where 20 percent is required) and 35 percent of the second and third floor would be windows (where 10 percent is required). On the fourth floor area located above the parapet and facing the street, 16 percent of the wall area would be windows (where 10 percent is required). The windows would be proportionate to the wall area.

The roof would be flat with a shed roof on the fourth floor. Both are compatible with the varied roof lines of the surrounding uses.

**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 front entrances would open to short individual walkways connecting to a newly constructed public sidewalk along Dight Avenue. The western building would also be connected to the public sidewalk by a walkway along the north side of the property.

There are no transit shelters on or adjacent to the site.

The project would share vehicular access with the building to the south, which is accessed from 42<sup>nd</sup> Street. This would clearly minimize conflicts with pedestrians.

There are no public alleys adjacent to the site.

Impervious surfaces would be minimized to the extent practical after considering minimum drive aisles and walkways.

## **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 site in question has approximately 20,076 square feet of area. The building footprints would total approximately 10,960 square feet, leaving 9,116 square feet of net site area. At least 20 percent of the net site area, or 1,823 square feet, should be landscaped. Approximately 3,880 square feet would be landscaped, which is approximately 43 percent of the net site area. Based on the amount of required green space, four trees and 19 shrubs would be required. Seven trees are shown on the site and approximately 68 shrubs. However, the landscaped yard along the north side must feature more trees and shrubs in the transition area between the cluster development and the single-family dwelling to the north. The applicant proposes to remove no fewer than 14 trees from the site. Staff recommends that the applicant preserve not less than one existing tree on the site, consistent with the intent of a cluster development, which provides some flexibility related to zoning regulation to “cluster” the buildings and preserve natural features and open space on significant portions of the lot. Landscaping should include a weed barrier and hardwood mulch. The applicant proposes to landscape in the public right of way and plant trees in the right of way. Landscaping in the right of way requires an encroachment permit and any removal or planting of trees in the right of way requires approval from the Park Board. A landscaped yard is required along the north lot line. More landscaping and screening must be provided in the area between the driveway and the dwelling to the north.

The landscaping must be properly installed and maintained.

Turf must cover all areas that are not paved or landscaped.

**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.
- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- 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.

Concrete curbing would be installed around the maneuvering area, but the applicant is encourage to explore the potential for on-site retention of stormwater. The curbing at the north end of the parking lot should allow a continuous flat walking surface at the north end of the site while also accommodating the required drive aisle.

Lighting must comply with chapters 535 and 541. Lighting should not be the same as in the phase I development as the building to the south does not have fixtures that are appropriately hooded and shielded.

535.590. Lighting. (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

(1) Lighting fixtures shall be effectively arranged so as not to directly or indirectly cause illumination or glare in excess of one-half ( 1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light source.

(2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of any permitted or conditional residential use.

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- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility to a person of normal sensitivities when viewed from any permitted or conditional residential use.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

As previously noted, additional screening must be provided at the north end of the driveway to avoid headlight glare shining onto the property to the north.

No significant views would be blocked by the development.

Some shadowing would take place on the dwelling to the north. However, the applicant complies with the required north side yard and the proposed driveway placement would allow solar access on the property to the north for a significant amount of the day.

The development would not contribute significantly to ground level winds, particularly with the use of the proposed canopies.

From a crime prevention standpoint, the applicant must ensure that walkways and the driveway are adequately lighted. Fencing should be used along the south to delineate the commercial property from the applicant's on-site walkway and to control access and provide a transition between the uses.

The site is not in an historic district and includes no historically designated buildings.

**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 is a conditional use in the Industrial Living Overlay District.

**Off-Street Parking and Loading:** The zoning code requires 12 spaces. The applicant proposes 16 spaces.

**Maximum Floor Area:** The maximum FAR in the I1 District is 2.7. The lot in question is 20,076 square feet in area. The applicant proposes 34,812 square feet of gross floor area, an FAR of 1.7.

**Building Height:** Building height in the I1 District is limited to four stories or 56 feet, whichever is less. However, cluster developments are limited to 2.5 stories. The applicant requests a conditional use permit to allow four stories.

**Minimum Lot Area:** The IL Overlay District requires not less than 900 square feet of lot area per dwelling unit. With 12 proposed dwelling units on a lot of 20,076 square feet, the applicant proposes 1,673 square feet of lot area per dwelling unit.

**Yard Requirements:** Yards of not less 11 feet are required along the north and west sides. The project would comply with these yard requirements.

**Specific Development Standards:** Cluster developments are subject to the following Specific Development Standards from Chapter 536 of the zoning code. With fencing and landscaping provided as transitions on all sides that share common lot lines with other properties and with the future platting of the development, this project would comply with these requirements.

*Cluster development.*

(1) Any application for cluster development approval shall include a development plan which shall consist of a statement of the proposed use of all portions of the land to be included in the cluster development and a site plan showing all existing and proposed development, including but not limited to the location of structures, parking areas, vehicular and pedestrian access, open space, drainage, sewerage, fire protection, building elevations, landscaping, screening and bufferyards, and similar matters, as well as the location of existing public facilities and services.

(2) All land proposed for cluster development shall be platted or replatted into one or more lots suitable for cluster development, and as such shall comply with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.

(3) The cluster development shall meet the minimum lot area and lot width requirements of the zoning district. There shall be no minimum lot area or lot width requirements for individual lots within the cluster development.

(4) Yards of at least such minimum width as required by the zoning district shall be maintained along the periphery of the cluster development. Yards for individual lots within the cluster development shall not be required. The distance between principal buildings within the cluster development shall be not less than ten (10) feet.

(5) Not less than forty (40) percent of the land in a cluster development shall be designated as common space for the benefit of all of the residents of the development. Such common space shall be a contiguous area under common ownership or control and shall be located so that it is directly accessible to the largest practical number of dwellings within the development. Safe and convenient pedestrian access shall be provided to such common space for dwellings not adjoining such space. Common space shall include but is not limited to landscaped yards, recreation areas, wetlands, waterbodies and common parking facilities. However, not more than one-half of required common space shall consist of such parking facilities, driveways and private roadways. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.

(6) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood. Not less than eighty (80) percent of the habitable floor area of single or two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall have a minimum width of twenty-two (22) feet. Cluster developments not otherwise governed by Chapter 530, Site Plan Review, shall comply with the principal entrance and windows requirements of Chapter 535, Regulations of General Applicability. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.

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(7) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.

(8) Any cluster development which includes a manufactured home park shall be first allowed in the R2 District.

**Hours of Operation:** Residential uses are not subject to hours limitations.

**Signs:** No signs are proposed in the cluster development.

**Refuse storage:** The applicant must indicate the location of household refuse storage.

**MINNEAPOLIS PLAN:** See the rezoning and conditional use permit analysis above.

**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.**

Staff is recommending that the Commission grant alternative compliance as follows:

- The proposed south elevations of the two buildings would feature blank walls in excess of 25 feet in length. Staff recommends that the Commission allow this by granting alternative compliance. Strict adherence to the requirement is impractical or unnecessary in this case because, 1) The front building is separated from the adjacent building to the south by a walkway that would separate the building from another blank wall (the north side of the phase I building) and will not be visible from adjacent properties or the public right of way, and 2) the rear building fronts on an office/industrial development and high quality materials will be used. However, the Commission should require compliance with the blank wall limitations on all other walls of the buildings. The north elevations of both buildings have blank walls exceeding 25 feet in width on the first and second floors. These walls face a residence and should comply with the regulations (as the east and west elevations comply).

## **RECOMMENDATIONS**

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the Zoning Amendment (Rezoning):**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the application to rezone the property located at 4136 Dight Avenue to add the IL (Industrial Living) Overlay District.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit for a 12-unit cluster development located at 4136, 4140 & 4152 Dight Avenue, subject to the following conditions:

1. An easement shall be submitted guaranteeing perpetual vehicular access to the site across the property to the south of the cluster development. Evidence of such easement shall be submitted to the Planning Department prior to the issuance of a building permit.
2. The area along the north lot line shall be landscaped and screened to the standards of section 530.160 of the zoning code.
3. Prior to issuance of a certificate of occupancy, all land proposed for the cluster development shall be platted or replatted into one or more lots suitable for cluster development, and as such shall comply with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.
4. The applicant must comply with all relevant ordinances and best management practices related to erosion control and construction site management.

### **Recommendation of the Community Planning and Economic Development Department – Planning Division to Increase the Maximum Permitted Height in a Cluster Development:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to increase the maximum permitted height of a cluster development from two-and-a-half (2.5) stories to four (4) stories at 4136, 4140 & 4152 Dight Avenue.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan review for a 12-unit cluster development at 4136, 4140 & 4152 Dight Avenue, subject to the following conditions:

1. 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 as required by Section 530.120 of the zoning code except on the south elevations.
2. The walkway parallel to the north property line shall provide a continuous, accessible walking surface not less the four (4) feet in width from the public right of way to the common open space at the west end of the property.
3. The applicant shall preserve not less than one (1) existing tree on the site.
4. Exterior lighting shall be reviewed and approved by CPED Planning staff prior to obtaining a building permit.
5. CPED Planning staff review and approval of the final site and landscaping plans, and fence and building elevations.
6. All site improvements shall be completed by September 23, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

**Attachments:**

1. Preliminary Development Review (PDR) comments from July 13, 2005
2. Statements submitted by the applicant
3. Letters from the applicant to the council office and neighborhood group
4. Correspondence from neighborhood group
5. Zoning map
6. Site plan/shadow analysis
7. Utility and lighting plan
8. Grading, drainage, and erosion control plan
9. Landscaping plan
10. Floor plans
11. Building sections
12. Lighting information
13. Aerial photo
14. Photos