

**Department of Community Planning and Economic Development – Planning Division**  
Variance  
BZZ 5071

**Date:** February 3, 2011

**Applicant:** HGA, Inc.

**Address of Property:** 2414 7<sup>th</sup> Street South

**Contact Person and Phone:** Leigh Harrison, (612) 758-4403

**Planning Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** January 14, 2011

**End of 60 Day Decision Period:** March 15, 2011

**Ward: 2      Neighborhood Organization:** West Bank Community Coalition

**Existing Zoning:** OR3 Institutional Office Residence District, UA University Area Overlay District, MR Mississippi River Critical Area Overlay District and SH Shoreland Overlay District.

**Proposed Use:** New emergency generator and fuel tank addition accessory to an existing hospital

**Proposed Variance:** A variance to allow for development on or within 40 feet of the top of a steep slope or bluff in the Shoreland Overlay District to allow for a new emergency generator and fuel tank

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, Specifically Section 525.520(17) “to permit development in the SH Shoreland Overlay District...within forty (40) feet of the top of a steep slope or bluff.”

**Background:** The subject property consists of an area approximately 7.6 acres and is the location of the University of Minnesota Children’s Hospital, Fairview Health Services. The northern edge of the property runs in part along the top of a bluff overlooking the Mississippi River.

The applicants are proposing to locate an emergency generator and fuel tank on an existing paved surface on the north side of the existing power plant building. The proposed project area is located within 40 feet of the top of the bluff and requires a variance to allow for the development.

In December of 2007 the City Planning Commission approved a number of land use applications to allow for an expansion of the University of Minnesota Children’s Hospital, Fairview campus. The addition was 250,000 square feet in size and is nine stories in height (seven floors) along Riverside Avenue between 24<sup>th</sup> and 25<sup>th</sup> Avenues.

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To apply for a variance to allow for development on or within 40 feet of a steep slope or bluff the following four items must be met:

1. *Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.*

The proposed location of the emergency generator and fuel tank are located on an existing impervious surface within 40 feet of the top of the bluff and require a variance to allow for the development.

2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*

The location of the new generator and fuel tank will not impact the existing soils or erosion control, as they will be placed on existing asphalt paving. The project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type.

3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*

The location of the new generator and fuel tank will not impact the existing soils or erosion control, as they will be placed on existing asphalt paving. The project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type.

4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.*

The project area is located within 40 feet of the top of a bluff that is approximately 250 feet from the edge of the Mississippi River. The proposed project will not be any more visible from either the Mississippi River or West River Parkway than the existing condition. There is a densely wooded bluff between the subject site and the river that also screens the site. During leaf-off season the subject area will be more visible, as well as the rest of the existing structures located within 40 feet of the top of the bluff on the west side of the Mississippi River.

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

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

The applicant is seeking a variance to allow construction on or within 40 feet of the top of a bluff in the Shoreland Overlay District. The project area is located approximately 250 feet from the edge of the Mississippi River. The proposed project will not be any more visible from either the Mississippi River or West River Parkway than the existing condition. There is a densely wooded bluff between the subject site and the river that also screens the site. During leaf-off season the subject area will be more visible, as well as the rest of the existing structures located within 40 feet of the top of the bluff on the west side of the Mississippi River. Strict adherence to the code would prohibit any addition to the project area without a variance. Staff believes that no reasonable alternative to the variance or location exists to allow for the emergency generator and fuel tank and would thus create an undue hardship.

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

The circumstances are unique to the parcel of land and have not been created by any persons presently having an interest in the property. The existing project area is already located within 40 feet of the top of the bluff and any construction, repair, replacement or improvements to this area would require this variance.

- 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.**

Staff believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance and would not negatively alter the essential character of the area. The project area is located within 40 feet of the top of a bluff that is approximately 250 feet from the edge of the Mississippi River. The proposed project will not be any more visible from either the river or West River Parkway than the existing condition. There is a densely wooded bluff between the subject site and the river that also screens the site. During leaf-off season the subject area will be more visible, as well as the rest of the existing structures located within 40 feet of the top of the bluff on the west side of the Mississippi River. Staff is recommending that the applicant paint the visible structures to match the existing buildings. The intent of the ordinance is to protect both the water body and other properties located below a steep slope from erosion and runoff. The applicant has demonstrated that the necessary precautions will be taken to control erosion during the constructions of the site and that the subject site will not be significantly altered to adversely affect the water quality of the Mississippi River.

- 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.**

Granting the variance to allow development within 40 feet of the top of a steep slope would likely not result in a substantial increase in the congestion of the public streets, danger of fire or be detrimental to the public welfare or endanger the public safety.

**Findings required by the Minneapolis Zoning Code for development in the Shoreland Overlay District:**

- 1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

Staff believes the proposed project will not have an effect on soil erosion or other possible pollution during and after construction. Any potential pollution hazards are reduced by the 190 feet of wooded slope between the subject site and West River Parkway. In addition, staff has received correspondence from the Mississippi Watershed Management Organization indicating they do not have issues with the proposed construction.

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2. **Limiting the visibility of structures and other development from protected waters.**  
Staff believes the proposed development will permit limited site lines from the Mississippi River. The structures are located over 100 feet higher in elevation than the existing river. As stated earlier, visibility from the Mississippi River may be increased slightly during the non leaf-off season when foliage on the slope below the subject site is light. Staff is recommending that the applicant paint the visible structures to match the existing buildings. At other times, the views from the river will be obstructed by vegetation.
  
3. **The suitability of the protected water to safely accommodate types, uses and numbers of watercraft that the development may generate.**  
The subject site does not have direct access to the Mississippi River and will not require the accommodation of any additional watercraft of any type on the river.

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

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** a variance to allow for development on or within 40 feet of the top of a steep slope or bluff in the Shoreland Overlay District to allow for a new emergency generator and fuel tank for the existing University of Minnesota/Fairview Hospital Power Plant located at 2414 7<sup>th</sup> Street South in the OR3 Institutional Office Residence District and MR Mississippi Critical Area Overlay District, subject to the following conditions of approval:

1. CPED-Planning and all other applicable City departments review and approve the final plans.
2. The applicant shall paint the visible proposed structures to match the existing buildings.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to neighborhood organizations and CM Gordon
- 3) Correspondence from the Mississippi Watershed Management Organization
- 4) Zoning map
- 5) Site plan
- 6) Generator plans
- 7) Photographs