

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit, Variance & Site Plan Review  
BZZ – 4587

**Date:** November 9, 2009

**Applicant:** Mark Freund

**Address of Property:** 1013 University Avenue Southeast

**Project Name:** The Freund Haus

**Contact Person and Phone:** Dennis Kroll, (612) 925-3830

**Planning Staff and Phone:** Janelle Widmeier, (612) 673-3156

**Date Application Deemed Complete:** October 16, 2009

**End of 60-Day Decision Period:** December 15, 2009

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

**Existing Zoning:** R5 Multiple-Family District and UA University Area Overlay District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 15

**Legal Description:** Not applicable for this application

**Proposed Use:** Multiple-family dwelling with 8 units.

**Concurrent Review:**

**Conditional use permit** to allow 8 dwelling units.

**Variance** to allow refuse containers and trash chute as obstructions in a required interior side yard.

**Site plan review.**

**Applicable zoning code provisions:** Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, Section 525.520 (1) “To vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.”; Chapter 530, Site Plan Review.

**Background:** The applicant proposes to construct a new multiple-family dwelling with 8 units located at the property of 1013 University Avenue Southeast. The single-family dwelling on the site has been demolished. The proposed structure would have enclosed, below-grade parking accessed from an

existing easement over the adjacent property. The easement is proposed to be expanded to allow trash pick-up and for an emergency egress route to a public street required by the building code. The adjacent property is also owned by the applicant.

A multiple-family dwelling with 5 or more units is a conditional use in the R5 district. Upon approval of a conditional use permit, the action must be recorded with Hennepin County as required by state law.

Interior side yards are required along the east and west lot lines. The minimum interior side yard requirement is equal to  $5+2x$ , where  $x$  is equal to the number of stories above the first floor. A 2.5-story building is proposed, therefore the minimum requirement is 7 feet. The applicant is proposing to locate the refuse containers and a trash chute as obstructions in the east required interior side yard. These are not permitted obstructions in an interior side yard and a variance is required.

Correspondence from the neighborhood group, Marcy Holmes Neighborhood Association, is attached to this report. Staff will forward additional comments, if any are received, at the City Planning Commission meeting.

**CONDITIONAL USE PERMIT:** to allow 8 dwelling units.

**Findings as required by the Minneapolis Zoning Code:**

The Community Planning and Economic Development Planning Division 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.**

The establishment of 8 dwelling units on the site would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

**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.**

Primarily multiple-family residential uses exist in the immediate area. The subject site would have vehicle access through an existing easement over the adjacent property to the east. The adjacent property is owned by the applicant. The applicant is proposing to expand the easement to also accommodate trash pick-up and emergency egress to a public street from the adjacent property. The access and trash pick-up would be in the parking area to the rear of the adjacent residential structure. Staff is not aware of any problems with the access occurring in the past for the previous residential use. Although the proposed use is of higher density than the previous use, the increase should not negatively affect the adjacent property because adequate parking will be provided. The development of this site with a residential use should have little effect on other surrounding properties.

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

The site is served by existing infrastructure. An easement over the adjacent property to the east provided vehicle access to the site for the previous use. The applicant is proposing to continue using the access easement for the new use and expand it to also accommodate trash pick-up and emergency egress required by the building code. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way.

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

The minimum automobile parking requirement for the proposed development is 12 spaces. Twelve spaces are proposed. The minimum bicycle parking requirement is 26 spaces. Although the plans do not currently show bicycle parking that complies with the standards for required bicycle parking (further described in detail in the site plan review section of this report), the applicant has discussed a solution with staff which would accommodate all requirements in the enclosed parking garage. The development should have little effect on congestion in the streets.

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

University Avenue is designated as a community corridor by the comprehensive plan, *The Minneapolis Plan for Sustainable Growth*. The area around the University of Minnesota is designated as a growth center. According to the land use and housing principles and polices outlined in the plan, the following apply to this proposal:

Policy 1.8: 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.

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.

Policy 1.9: 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.

Applicable Implementation Step

1.9.6 Promote more intensive residential development along Community Corridors near intersections with Neighborhood Commercial Nodes and other locations where it is compatible with existing character.

Policy 1.15: Support development of Growth Centers as locations for concentration of jobs and housing, and supporting services.

Applicable Implementation Step

1.15.3 Encourage the development of high- to very high-density housing within Growth Centers.

Policy 3.1: Grow by increasing the supply of housing.

Applicable Implementation Step

3.1.1 Support the development of new medium- and high-density housing in appropriate locations throughout the city.

Policy 3.2: Support housing density in locations that are well connected by transit, and are close to commercial, cultural and natural amenities.

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.

Specific to the University growth center, the plan states “The area around the University includes significant residential densities, in part due to the large student population. However, surrounding neighborhoods, some of the oldest in the city, are concerned about spillover impacts of the University on their residential character. Consideration needs to be given to limiting negative impacts on these areas.”

*The Master Plan for the Marcy Holmes Neighborhood*, adopted by the City Council in 2003, calls for multi-family residential on this site. The plan also states:

As the area grows, more people and more cars will worsen the traffic congestion and parking shortages that are already impacting residential neighborhoods near the university. The development of more housing will reduce traffic congestion by allowing people to live within walking, biking, or busing distance to work. These new residents will need services such as transit, public infrastructure improvements, retail establishments, schools, and professional offices to support their “low-impact” lifestyle. Around the university, a variety of high-density, affordable housing is essential.

According to the objectives and polices outlined in the plan, the following apply to this proposal:

Objective: Housing construction to replace deteriorated units and provide for a balance of housing types.

Applicable Policy:

1. The Marcy-Holmes neighborhood supports new multi-family housing construction on the fringe of the neighborhood in the following locations:
  - Between University Avenue and 4th Street SE, which are major traffic carriers and transit routes.

*Staff comment:* The proposed multiple-family dwelling is appropriately located on a community corridor in a growth center. Adequate automobile and bicycle parking would be provided on-site. The site also has access to frequent transit. The use would be consistent with the comprehensive plan and the *The Master Plan for the Marcy Holmes 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 use of the site for a multiple-family dwelling with 8 units will conform to the applicable regulations of the districts in which it is located upon the approval of the conditional use permit, variance, and site plan review.

**VARIANCE:** To allow refuse containers and trash chute as obstructions in a required interior side yard.

**Findings as required by the Minneapolis Zoning Code:**

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

The interior side yard setback requirement is 7 feet. The proposed refuse container storage and trash chute would be located in the east interior side yard. These obstructions are not permitted in an interior side yard. The site does not have alley access. The proposed access to the site is through an existing easement from the adjacent residential property. The trash pick-up is also proposed to be accessed from the easement. The obstructions are located next to a surface parking area, but not next to any dwelling units. The applicant indicated that locating the refuse storage elsewhere, such as in the building or behind the building, would not be practical and would cause hardship because of limited headroom clearance and conflicts with egress requirements. The refuse storage would be screened as required by section 535.80 of the zoning code. The request is reasonable.

- 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 site does not have alley access. The Public Works Department preferred the site design using the easement access over a site design with a new curb cut access on University Avenue because there would likely be less conflicts with traffic. The proposed access to the site is through an existing easement from the adjacent residential property thus limiting options for trash pick-up. These circumstances have not been created by the applicant.

- 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.**

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The obstructions are located next to a surface parking area, but not next to any dwelling units. The adjacent parking lot would be used for automobile access for the proposed development. The refuse storage and trash chute should have little effect on the adjacent property.

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.**

The refuse storage and trash chute would face a surface parking lot. The CPED Department does not expect that granting the variances would affect congestion or public safety.

### **SITE PLAN REVIEW**

**Findings as required by the Minneapolis Zoning Code for the 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 the 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.
- 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 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.

***Conformance with above requirements:***

The building would reinforce the established setback on this block adjacent to University Avenue. Windows would be provided on all sides of the building to provide natural surveillance and visibility. The main entrance would face and be connected by a walkway to University Avenue.

The R5 district requires a front yard setback greater than 8 feet. The minimum front yard requirement adjacent to University Avenue is the setback established by the adjacent residential structures. The proposed structure would comply with the established setback.

The area between the building and the street would be landscaped.

The main entrance would face University Avenue.

All parking would be located within the building below-grade.

The building would include windows on all sides and dormers on the top level to divide the building into smaller identifiable sections.

There would not be any blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length.

The primary exterior materials would include stucco and hardiboard. Please note, exterior material changes at a later date would require review by the Planning Commission and an amendment to the site plan review.

All sides of the building would be compatible to each other and similar in appearance. The stucco on the front of the building would wrap the corners extending 10 feet on the side elevations.

Plain face concrete block would not be used as a primary exterior building material.

The main entrance would be sheltered, recessed and flanked by windows to emphasize its importance.

The south building wall is subject to the minimum window requirements because it faces University Avenue. At least 20 percent of the first floor walls must be windows and at least 10 percent of each wall above the first floor must be windows. The amount of windows on the first floor measured between 2 and 10 feet above the adjacent grade would be approximately 94 square feet or 27 percent. The amount of windows on the second floor measured between the upper surface of the floor and the upper surface of the floor above would be approximately 57 square feet or 13 percent.

All required windows would be vertical in proportion and distributed in a more or less even manner.

A pitched roof is proposed. Most of the residential structures within the immediate area also have pitched roofs.

The enclosed parking would be located below grade.

#### **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.

#### ***Conformance with above requirements:***

A 5 foot wide walkway would lead from the public sidewalk to the main entrance. The plans indicate that light will be provided above the entrance.

A transit shelter is not proposed or adjacent to the site.

Vehicle access to the site would be from the adjacent property through an existing access easement because the site is not adjacent to an alley. Using the easement for access will prevent a new curb cut on University Avenue, which has high vehicle and pedestrian traffic. The proposed access should have minimal impact on pedestrians and surrounding residential properties.

Most of the area not covered by the building would be landscaped. The amount of impervious surface proposed is not excessive.

**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.

***Conformance with above requirements:***

The zoning code requires that a least 20 percent of the site not occupied by building be landscaped. The lot area of the site is approximately 9,534 square feet. The building would be approximately 5,820 square feet. The lot area minus the building footprint therefore consists of approximately 3,714 square feet. At least 20 percent of the net site area (742.8 square feet) must be landscaped. Approximately 3,187 square feet of the site would be landscaped. That is equal to 85.8 percent of the net lot area.

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 2 and 8 respectively. The applicant would provide 2 canopy trees (one existing and one proposed), two coniferous trees and 6 shrubs. The plan indicates that the remainder of the landscaped area would be covered with plants such as turf grass, native grasses, or other perennial flowering plants. Although the proposal does not comply with the minimum on-site shrub requirement, providing two

coniferous trees in lieu of two shrubs meets the intent of the ordinance. Therefore staff recommends that the planning commission grant alternative compliance.

No surface parking is proposed.

**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.

***Conformance with above requirements:***

No surface parking is proposed.

The building should not impede any views of important elements of the city.

The building should not significantly shadow the adjacent streets or properties.

Wind currents should not be major concern.

Windows would be provided on all sides of the building to allow natural surveillance and visibility. Although the proposed shrubs will likely grow to six feet at maturity, the bottom of the first floor windows are six feet above the adjacent grade. Views to the street should not be impeded. Lighting would be provided on all sides of the building. Lighting levels and installation that complies with section 535.590 of the zoning code should not negatively affect adjacent residential properties. The walkway leading to the main entrance clearly defines the public area for natural access control.

The structure on the site that was demolished was not historic.

**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 site is zoned R5. A multiple-family dwelling with 5 or more units is a conditional use in the R5 district.

**Parking and Loading:**

*Minimum automobile parking requirement:* The minimum parking requirement for a multiple-family dwelling in the R5 district is one space per dwelling unit. In the UA overlay district, the minimum off-street parking requirement for residential uses is 0.5 parking spaces per bedroom, but not less than one space per dwelling unit. Eight dwelling units with a total of 26 bedrooms are proposed, therefore the minimum parking requirement is 13 spaces. The site qualifies for a transit incentive for multiple-family dwellings that reduces the minimum parking requirement by 10 percent when the proposed use is located within 300 feet of a transit stop with midday service headways of 30 minutes or less in each direction. The incentive reduces the parking requirement by one space to 12 spaces. Twelve spaces including one accessible space are proposed.

*Maximum automobile parking requirement:* There is not a maximum parking requirement for dwellings except for parking that is not enclosed. All parking spaces would be enclosed.

*Bicycle parking requirement:* The minimum bicycle parking requirement is equal to one space per two dwelling units in the R5 district. Not less than 90 percent of the required bicycle parking must meet the standards for long term parking. All required bicycle parking spaces must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be installed to the manufacturer's specifications, including the minimum recommended distance from other structures. In addition, required long-term bicycle parking spaces must 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. In the UA overlay district, the minimum requirement is one bicycle or motorized scooter parking space per one bedroom, which also shall not be located in any required yard or between the principal dwelling and the street. Therefore the minimum requirement is 26 spaces, of which at least 24 must meet the long-term parking requirements. The plans submitted by the applicant show placement of bicycle racks that would project into the required drive aisle, which is not permitted without a variance. The applicant has indicated that all the required bicycle parking will be accommodated by placing the racks in front and above the automobile parking spaces as specified by the manufacturer.

*Loading:* No loading spaces are required for multiple-family dwellings with fewer than 100 units.

**Maximum Floor Area:** The lot area is 9,534 square feet. The maximum FAR allowed in the R5 District is 2.4 when all of the required parking is provided within the building. Gross floor area includes attic space having headroom of 7.5 feet or more, but does not include space devoted to accessory off-street parking. The building would have a total of 15,377 square feet, which is an FAR of 1.61.

**Minimum Lot Area:** The minimum lot area requirement in the R5 district is 700 square feet per dwelling unit. The development qualifies for a bonus to increase the number of dwelling units by providing enclosed parking. This reduces the required lot area per dwelling unit to 635.6 square feet. The proposed lot size is 9,534 square feet, therefore the applicant is proposing 1,191.7 sq. ft. of lot area per dwelling unit.

**Dwelling Units per Acre:** The proposed density would be approximately 36.5 dwelling units per acre.

**Building Height:** In the R5 district, the maximum height is limited to 4 stories or 56 feet, whichever is less. The height of the building would be 2.5 stories and up to 36.5 feet. The top level is considered a half story because it is a story under a gable roof that contains habitable floor area (includes bedrooms, bathrooms, hallways, and other areas suitable for living) not exceeding 50 percent of the floor area below. If the habitable floor area is increased to exceed 2,888 sq. ft., it would become an additional story.

**Yard Requirements:** The front lot line is adjacent to University Avenue. The minimum front yard requirement in the R5 district is 15 feet unless an adjacent residential structure is setback more. Both of the adjacent residential structures are set back more than 15 feet, therefore the required front yard is the setback established by the adjacent structures. The proposed setback is behind the established setback. The 5 foot wide walkway proposed in the front yard is a permitted obstruction.

Interior side yards are required along the east and west lot lines. The minimum interior side yard requirement is equal to  $5+2x$ , where  $x$  is equal to the number of stories above the first floor. A 2.5-story building is proposed. A half-story is not a full floor subject to the yard requirement, therefore the minimum requirement is 7 feet. The building would be set back 7 feet or more from the east and west lot lines. The proposed driveway, retaining walls, stairs and walkways are permitted obstructions in the interior side yard. The refuse storage area and trash chute proposed in the east side yard are not permitted obstructions. The applicant is requesting a variance to allow the refuse storage area and trash chute. The screening fence proposed for the refuse containers exceeds the maximum height allowed for a fence in the interior side yard. The maximum height allowed is 6 feet. The applicant has indicated they will install the screening in compliance with the fence height requirements.

A rear yard is required along the north property line. The minimum requirement is equal to  $5+2x$ , where  $x$  is equal to the number of stories above the first floor. A 2.5-story building is proposed, therefore the minimum requirement is 7 feet. The building would be set back 7 feet. The proposed landing, stairs and walkway in the rear yard are permitted obstructions.

**Building Lot Coverage:** The maximum lot coverage allowed in the R5 district is 70 percent, or 6,673.8 sq. ft. The proposed foot print is approximately 5,820 square feet, which covers 61 percent of the site.

**Impervious Surface:** The maximum impervious surface coverage allowed in the R5 district is 85 percent, or 8,103.9 sq. ft. The proposed amount of impervious surface is approximately 6,379 square feet, which covers approximately 67 percent of the site.

**Specific Development Standards:** Not applicable.

**Hours of Operation:** Not applicable.

**Refuse screening:** Refuse storage containers are required to be screened on all four sides by screening compatible with the principal structure not less than 2 feet higher than the refuse storage containers. The applicant is proposing a fiber resin screen around the containers.

**Screening of mechanical equipment:** Mechanical equipment would be contained within the building.

**Lighting:** Lighting must comply with Chapter 535 and Chapter 541 of the zoning code including:

**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.
- (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.

**Signs:** The applicant has indicated that no signage is proposed. Any proposed signage must comply with the requirements of Chapter 543 of the zoning code and will require Zoning Office review, approval, and permits.

**MINNEAPOLIS PLAN:** In addition to the principles and policies discussed in the conditional use permit section of this staff report, the following apply:

Policy 10.4: Support the development of residential dwellings that are of high quality design and compatible with surrounding development.

*Applicable Implementation Steps*

10.4.1 Maintain and strengthen the architectural character of the city's various residential neighborhoods.

10.4.2 Promote the development of new housing that is compatible with existing development in the area and the best of the city's existing housing stock.

Policy 10.5: Support the development of multi-family residential dwellings of appropriate form and scale.

*Applicable Implementation Steps*

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10.5.1 Smaller-scale, multi-family residential development is more appropriate along Community Corridors and Neighborhood Commercial Nodes.

10.5.2 Medium-scale, multi-family residential development is more appropriate along Commercial Corridors, Activity Centers, Transit Station Areas and Growth Centers outside of Downtown Minneapolis.

Policy 10.6: New multi-family development or renovation should be designed in terms of traditional urban building form with pedestrian scale design features at the street level.

Applicable Implementation Steps

10.6.3 Provide appropriate physical transition and separation using green space, setbacks or orientation, stepped down height, or ornamental fencing to improve the compatibility between higher density and lower density residential uses.

10.6.4 Orient buildings and building entrances to the street with pedestrian amenities like wider sidewalks and green spaces.

10.6.5 Street-level building walls should include an adequate distribution of windows and architectural features in order to create visual interest at the pedestrian level.

According to the objectives and policies outlined in the *The Master Plan for the Marcy Holmes Neighborhood*, the following apply to this proposal:

Objective: A better visual appearance of the neighborhood.

Applicable policy: The neighborhood supports general design guidelines designed to communicate a desired level of quality for apartment buildings.

For multiple-family dwellings, the following design guidelines apply:

**BUILDING MATERIALS**

- Use high quality primary materials: brick, stucco, stone, decorative masonry
- Include complementary accent materials: stone, metal, glass, brick

**ROOFLINES**

- Use varied rooflines, especially on long buildings
- Step back or accent rooflines to create visual interest

*Staff comment:* The scale, character, materials, and setback of the proposed building would be compatible with the other residences on the same block as viewed from University Avenue.

**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**

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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 standard:

- **Minimum shrub requirement**

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 2 and 8 respectfully. The applicant would provide 2 canopy trees (one existing and one proposed), two coniferous trees and 6 shrubs. The plan indicates that the remainder of the landscaped area would be covered with plants such as turf grass, native grasses, or other perennial flowering plants. Although the proposal does not comply with the minimum on-site shrub requirement, providing two coniferous trees in lieu of two shrubs meets the intent or the ordinance. Therefore staff recommends that the planning commission grant alternative compliance.

## **RECOMMENDATIONS**

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

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 allow 8 dwelling units for the property located at 1013 University Avenue Southeast, subject to the following condition:

- 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.

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:**

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 variance to allow refuse containers and trash chute as obstructions in a required interior side yard for the property located at 1013 University Avenue Southeast.

### **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 to allow a multiple-family dwelling with 8 units for the property located at 1013 University Avenue Southeast, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, floor, site, lighting and landscape plans.
2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by November 9, 2010, or the permit may be revoked for non-compliance.
3. Bicycle parking shall be provided that complies with section 541.180 of the zoning code.
4. The refuse screening will comply with the fence height requirements as required by section 535.420 of the zoning code.
5. Lighting shall comply with the standards of 535.590 of the zoning code.

### **Attachments:**

1. PDR comments

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2. Statement of use
3. Applicant findings
4. Correspondence
5. Plans
6. Photos