

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit for a Cluster Development and Variance  
BZZ-3155

**Date:** September 18, 2006

**Applicant:** J. Robinson

**Address of Property:** 401 University Avenue SE

**Project Name:** 401 University Cluster Development

**Contact Person And Phone:** Jeb Robinson 612-220-7321

**Planning Staff And Phone:** Jim Voll 612-673-3887

**Date Application Deemed Complete:** July 24, 2006

**End of 60 Day Decision Period:** September 22, 2006

**Date Extension Letter Sent:** August 18, 2006

**End of 120 Day Decision Period:** November 21, 2006

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

**Existing Zoning:** R5 Multiple-family District

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

**Zoning Plate Number:** 15

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

**Proposed Use:** Seven-unit Cluster Development with two structures.

**Concurrent Review:**

**Conditional Use Permit:** For a Seven-unit Cluster Development

**Variance:** To reduce the corner yard setback on 4<sup>th</sup> Avenue SE from 10 feet to zero feet.

**Variance:** To reduce the rear yard setback on the easterly property line from 7 feet to 6 feet.

**Appropriate Zoning Code Provisions:** Chapter 525, Article VII Conditional Use Permits; Article IX Variances, Specifically Section 525.520(1) “To vary the yard requirements.”

**Background:** This item was continued from the August 28, 2006, meeting of the City Planning Commission to allow the applicant time to meet with the neighborhood group. The applicant proposes to demolish an existing duplex to the north of (but on the same lot as) 401 University Avenue SE and to move another duplex from 408 4<sup>th</sup> Street SE to the site to replace the demolished duplex. The relocated duplex will be on the north part of the site and a parking lot for both structures will be created between the buildings to consolidate parking areas and to reduce impervious surface and curb cuts.

The site is one platted lot. Section 535.190 of the zoning code limits not more than one (1) principal residential structure per zoning lot, except in cluster or planned unit developments. While the lot is large enough to be divided into two parcels, the R5 District does not allow duplexes as a permitted use, unless part of a cluster or planned unit development, or if proposed for an existing nonconforming lot of record. The only way the existing duplex can be removed and replaced with another duplex is through a conditional use permit for a cluster development.

The relocated duplex will only fit on the site if it located with the front entryway up to the property line on 4<sup>th</sup> Avenue SE and the rear entryway encroaching into the east side interior yard seven foot setback. The applicant has applied for setback variances to encroach into these setbacks.

As of the writing of this staff report no comments have been received from the neighborhood group. Staff will forward comments received, if any, at the Planning Commission meeting.

### **CONDITIONAL USE PERMIT (for a cluster development)**

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

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.**

The applicant proposes to demolish an existing duplex to the north of the five-unit building at (but on the same lot as) 401 University Avenue SE and to move another duplex from 408 4<sup>th</sup> Street SE to the site to replace the demolished duplex. The relocated duplex will be on the north part of the site and a parking lot for both structures will be created between the buildings to consolidate parking areas and to reduce impervious surface and curb cuts. Additional landscaping will be added. The proposed changes should be an improvement to the site and should not have negative impacts on the surrounding area.

- 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 surrounding area is fully developed with residential uses. The removal and replacement of a duplex, with the associated site improvements, should not be injurious to property in the vicinity nor impede orderly development.

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

The utilities, access roads, and drainage are existing and adequate.

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

The development has adequate parking to meet code requirements. There are seven units and one space per dwelling unit is required. One space per dwelling unit is provided. There will not be an increase in units at the site.

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

*The Minneapolis Plan* designates this part of University Avenue SE as a community corridor. The plan states that, “community corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented towards the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass-through traffic.”

The plan also has the following relevant policies and implementation steps from the housing section:

#### **4.9 Minneapolis will grow by increasing its supply of housing.**

##### **Implementation Steps**

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

Support the development of infill housing on vacant lots. Use partnerships and incentives to reduce city subsidy level and duration of vacancy.

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

**Implementation Steps**

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

Provide and maintain moderate and high-density residential areas.

Encourage the rehabilitation and sensitive reuse of older or historic buildings for housing including affordable housing units.

The proposed redevelopment of this site, with the proposed improvements, is in conformance with the above noted policies of the comprehensive plan.

**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 site will conform to the applicable regulations of the district upon the approval of the conditional use permit and variances and the following standards for cluster developments:

- (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.**

A development plan is attached that shows the existing and proposed development including the location of structures, parking areas, vehicular and pedestrian access, open space and other items required for city approvals. Staff is recommending that the parking area be reduced to the minimum required by code to reduce impervious surface, to remove parking from the east side five-foot interior yard setback, and to meet the common area requirements for cluster developments. The site plan does not show, but the applicant shall provide a walkway from the front entrance of the duplex to the public sidewalk and from the parking areas to the two structures.

- (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 site is currently platted as one lot.

- (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 minimum lot size requirement for a cluster development in the R5 district is 5,000 square feet or 900 square feet per dwelling unit, whichever is greater. The site is 11,038 square feet and there are seven dwelling units in two structures; approximately 1,576 square feet per dwelling unit. The minimum lot width requirement is 40 feet. The development has approximately 66.49 feet of frontage on University Avenue SE and 166 feet on 4<sup>th</sup> Avenue SE.

**(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.**

The relocated duplex can not meet the required setbacks along the west and east sides of the site. Part of the structure is up to the property line, but the majority is back six to 22 feet. Part of the rear of the duplex is 6.6 feet from the interior yard (a seven-foot setback is required) but the majority is from 15 to 29 feet from the property line. The parking encroaches into the 10 foot corner yard setback too. The applicant has requested variances for these items and staff is recommending approval of the variances (please see the variance section of this report). The distance between the two buildings is 55 feet. The parking lot can not encroach into the east five-foot interior setback, so the asphalt shall be removed in this area and it shall be landscaped and screened per the zoning code. In addition, screening is required along the west side of the parking lot between the parking and the public sidewalk and street. This may require an encroachment permit if the landscaping is provided in the public right-of-way.

**(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, water bodies 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.**

The site is 11,038 square feet and the proposal provides 4,430 square feet of common area or 40 percent. The parking area as proposed is over half of the common area. However, staff is recommending that the parking area be narrowed from 45 feet to 40 feet, to provide the minimum 18 foot deep parking stall and 22 foot wide drive aisle and to remove asphalt at the east side of the lot within the required five-foot setback. If these changes are made, the parking will be exactly one-half of the common area.

**(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 five-unit building exists and the duplex proposed for relocation is compatible with surrounding structures (it currently is around the corner on 4<sup>th</sup> Street SE). They are 22 feet wide. The structures are existing and comply with the window requirements of the code. The structures will have pitched roofs, architectural detail, and wood siding or stucco.

**(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 buildings are designed to compatible with the surrounding area. There is landscaping around the site that should provide screen and a transition consistent with surrounding residential properties. Staff recommends that any new chain-link fencing be black vinyl coated fencing or decorative wrought iron type fencing to provide a more attractive transition. Landscaping and screening is required along the east side of the parking lot.

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

This cluster development does not include manufactured homes.

**The Master Plan for the Marcy-Holmes Neighborhood:**

*The Master Plan for the Marcy-Holmes Neighborhood* was approved by the City Planning Commission on November 17, 2003 and by the City Council on December 29, 2003. The plan supports multi-family housing for the properties on the river side of 4<sup>th</sup> Street SE (see pages 1-2 and 2-2). The plan supports the addition of owner occupied housing. While this proposal does not add owner occupied housing, it does not eliminate it either. The plan calls for better maintenance of rental properties and this proposal should improve the site. It is the staff opinion that the proposed development, with the recommended conditions of approval, is in conformance with the *Master Plan for the Marcy-Holmes Neighborhood*.

**VARIANCES (to reduce corner and interior yard setbacks)**

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

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

The applicant proposes to demolish an existing duplex to the north of the five-unit building at (but on the same lot as) 401 University Avenue SE and to move another duplex from 408 4<sup>th</sup> Street SE to the site to replace the demolished duplex. The 4<sup>th</sup> Avenue SE side of the site is a corner yard with a required setback of 10 feet. The relocated duplex will have a nine foot wide entryway be up to the property line, but the rest of the building will be setback six to 22 feet. An eight-foot wide part of the rear entryway will encroach less than a half foot into the east side seven foot interior setback, but the majority of the building will be 15 to 29 feet from the east property line. The parking is up to the property line as well.

Because there is a large 13 foot interior boulevard along 4<sup>th</sup> Avenue SE and only a small part of the building and parking encroach into the setbacks, staff believes that this is a reasonable use of the property. Requiring the building and parking to be setback 10 feet when the other structures on the block face are up to the property line would deprive the applicant of a use of the property similar to other structures in the area and this can be considered a 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 site has a large 13 foot interior boulevard and the other structures on the block face are up to the property line. These are circumstance that are not generally applicable to other properties in the City and 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.**

The intent of side yard setbacks is to provide a reasonable buffer between homes and to allow access to light and air for structures. The majority of the structure and parking will meet the required setbacks and there are other structures on the block face built up to the property line, so granting this variance will not circumvent the intent of the ordinance. Parking is not allowed in the east five-foot interior yard.

- 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 variance should have no effect on congestion as it will not increase traffic demand at the site. The variance should not be detrimental to the public welfare or safety and will not increase the danger of fire.

## **RECOMMENDATIONS**

### **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 conditional use permit application for a seven-unit cluster development located at 401 University Avenue SE subject to the following conditions:

- 1) The parking area shall be reduced from 45 feet to 40 feet to have the smallest amount of impervious surface while still allowing 18 foot deep parking spaces and a 22 foot wide drive aisle.
- 2) The parking shall be moved out of the five-foot east side interior setback for parking and the asphalt removed.
- 3) All new fencing shall be a decorative wrought iron or black steel type fencing along the 4<sup>th</sup> Avenue SE frontage and University Avenue SE frontage (if provided on this frontage) and black vinyl coated chain link along the interior and rear property lines.
- 4) A walkway shall be provided from the front entrance of the duplex to the public sidewalk and from the parking area to both structures.
- 5) Landscaping and screening shall be provided for the parking lot on the east and west sides, subject to encroachment permits, if necessary.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the corner yard on 4<sup>th</sup> Avenue SE from 10 to zero feet for a relocated duplex and parking as a part of a seven-unit cluster development located at 401 University Avenue SE.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the east side interior yard from seven feet to six feet a relocated duplex as a part of a seven-unit cluster development located at 401 University Avenue SE.

**Attachments:**

1. Statement from applicant.
2. Zoning map.
3. Site plan.
4. Photos of the site.