

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit and Site Plan Review
BZZ-4306

Date: March 23, 2009

Applicant: Bashir Moghul

Address of Property: 2321 Fremont Avenue North

Project Name: 2321 Fremont Avenue North

Contact Person and Phone: Habib Moghul, on behalf of Bashir Moghul, (612) 298-1200

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: February 26, 2009

End of 60-Day Decision Period: April 27, 2009

End of 120-Day Decision Period: Not applicable for this application

Ward: 5 Neighborhood Organization: Jordan Area Community Council

Existing Zoning: R4, Multiple-family District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 8

Legal Description: Not applicable for this application

Proposed Use: Reestablishment of a nine-unit residential building

Concurrent Review:

Conditional use permit: for the reestablishment of a nine-unit residential building

Site plan review: for nine residential units in an existing building

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits and Chapter 530, Site Plan Review

Background: The applicant has applied for a conditional use permit and a site plan review application to reestablish rights for an existing nine-unit residential building located at 2321 Fremont Avenue North. The nine-unit building was originally constructed in 1987. Currently the building is condemned and the Minneapolis City Council has taken action to demolish the structure. The following timeline depicts the events that have taken place:

- In August of 2005 the building located at 2321 Fremont Avenue North was boarded by the City of Minneapolis.
- The applicant, Bashir Moghul, purchased the subject property in June of 2006.
- In July of 2006 the property was condemned and then in September of 2006 the building was added to the City's Vacant Building Registration. In general, a building is added to the Vacant Building Registration after being boarded for 60 days.
- In July of 2008 a Director's Order to Raze and Remove the building was sent to the applicant.
- In August of 2008 the applicant filed an appeal of Director's Order to Raze and Remove the building.
- On September 11, 2008, a building Code Compliance Inspection was completed at the property.
- On September 25, 2008, and January 8, 2009, the Nuisance Condition Process Review Panel heard the appeal filed by the applicant of the Director's Order to Raze and Remove the building. The recommendation of the Nuisance Condition Process Review Panel was to demolish the building.
- On February 25, 2009, the Public Safety & Regulatory Services City Council Committee concurred with the recommendation of the Nuisance Condition Process Review Panel to demolish the building.
- On March 6, 2009, the Minneapolis City Council authorized the demolition of the building.

At this time the applicant wants to reestablish rights for a nine-unit residential building. The approval of this application does not in any way affect, alter, or amend the City Council's decision on March 6, 2009, to demolish the building pursuant to the nuisance abatement procedures of Minneapolis Code of Ordinances Chapter 249, Vacant Dwelling or Building, Nuisance Condition.

CONDITIONAL USE PERMIT - for the reestablishment of a nine-unit residential building

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The Planning Division does not believe that reestablishing rights for the existing nine-unit residential building would be detrimental to or endanger the public health, safety, comfort or general welfare. Bringing the building into conformance with the International Building Code will improve the safety of the property.

2. The conditional use 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 Planning Division does not believe that reestablishing rights for the existing nine-unit residential building would be injurious to the use and enjoyment of other property in the vicinity or impede the

normal or orderly development and improvement of surrounding property. The current zoning of the property is R4, Multiple-family District, and allows nine units on the site.

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

The applicant will need to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

In the R4 zoning district the zoning code requires one parking space per dwelling unit. For nine dwelling units the parking requirement would be nine spaces. There is a surface parking area located along the alley that, if striped properly, could accommodate nine vehicles. The Planning Division is recommending that the parking area be striped accurately to accommodate nine vehicles.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

This site is located on the northwest corner of Fremont Avenue North and 24th Avenue North. Fremont Avenue North is designated as a Community Corridor. The land use features in the update to *The Minneapolis Plan* are the same as they are in the current comprehensive plan. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets (Policy 4.2).
- Strengthen the residential character of Community Corridors by developing appropriate housing types that represent variety and a range of affordability levels (Implementation Step for Policy 4.2).
- Promote more intensive residential development along these corridors where appropriate (Implementation Step for Policy 4.2).

The Planning Division believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan*.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

With the approval of the conditional use permit and the site plan review this development will meet the applicable regulations of the R4 zoning district.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- 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 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.**
 - **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.**

PLANNING DEPARTMENT RESPONSE:

- The building was constructed in 1987. Other than bringing the building into compliance with current building code standards the applicant is not proposing to make modifications to the building. The building was built with a similar setback as the rest of the dwellings facing Fremont Avenue North, the principle entrance to the building faces 24th Avenue North and can be accessed by residents and guests and there are windows on all sides of the building that maximize the opportunities for people to observe adjacent spaces and the public sidewalks.
- The site is located on a corner lot which requires that both walls abutting the streets be located within eight feet of the property line except where a greater yard is required by the zoning ordinance. In the R4 zoning district the front yard setback is 15 feet and the corner side yard setback is 8+2x, where x equals the number of stories above the first floor. In this case the building is two stories in height and therefore has a required 10-foot corner side yard setback. The building was built with a similar setback as the rest of the dwellings facing Fremont Avenue North and with an approximate 10-foot setback along 24th Avenue North.

- Currently, the area in between the building and the property line is void of landscaping. The applicant is proposing to plant a variety of trees and shrubs on the site.
- The principal entrance to the building faces 24th Avenue North.
- There is a surface parking area located along the alley that, if striped properly, could accommodate nine vehicles. The Planning Division is recommending that the parking area be striped accurately to accommodate nine vehicles.
- The exterior material of the building is cement board siding.
- There are no areas of the building that are over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements.
- At least 20 percent of the first floor and at least 10 percent of the upper floors of the building walls facing Fremont Avenue North, 24th Avenue North and the surface parking area are required to be windows. The windows in the building are existing. The applicant may not reduce the amount of windows that are in the building.
- The windows in the building are vertical in nature and are evenly distributed along the building walls.
- The roof line of the building is pitched. The majority of the dwellings in the neighborhood have pitched roofs.

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.**

PLANNING DEPARTMENT RESPONSE:

- The principle entrance to the building is connected to the public sidewalk along 24th Avenue North via a walkway.
- No transit shelters are proposed as part of this development.
- There is a surface parking area located along the alley. All residential uses on the block use the alley for vehicle access.
- There is a public alley on the block. The alley is used to maneuver into and out of the on-site parking spaces. Please note that the vehicle access shown on the site plan is not reflective of existing conditions. A separate curb cut does not exist for the property. Establishing a new curb cut next to the alley for access to the parking area would negatively impact pedestrians. Staff is recommending that the vehicle access continue to only be from the alley.
- The maximum impervious surface requirement in the R4 zoning district is 85 percent. According to the materials submitted by the applicant approximately 64 percent of the site will be pervious (36 percent impervious).

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.

PLANNING DEPARTMENT RESPONSE:

- The zoning code requires that at least 20 percent of the site not occupied by the building be landscaped. The lot area of the site is 14,758 square feet. The footprint of the building is 3,371 square feet. When you subtract the footprint from the lot size the resulting number is 11,388 square feet. Twenty percent of this number is 2,277 square feet. According to the applicant's landscaping plan there is approximately 9,400 square feet of landscaping on the site or 64 percent of the site not occupied by the building.
- The zoning code requires at least 1 canopy tree for each 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space be planted on the site. The tree and shrub requirement for this site is five and 23 respectfully. The Planning Division is recommending that the landscaping requirement be met on site.
- The zoning code requires that a seven-foot wide landscaped yard be provided along a public street, sidewalk or pathway when adjacent to a parking lot or a loading area. There is green space located between the property line and the surface parking area.

- Screening three feet in height and equal to 60 percent opacity is required around parking lots and loading areas in order to screen them from a public street, sidewalk or pathway. The Planning Division is recommending that the screening requirement be met on site.

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.**

PLANNING DEPARTMENT RESPONSE:

- Runoff from the parking area drains to the public alley.
- This building does not block views of important elements in the city.
- This building has minimal shadowing effects on the surrounding area.
- This building has minimal wind effects on the surrounding area.
- The site plan complies with crime prevention design elements as there is a walkway that directs people to the building entrance, there are windows located on all sides of the building that maximize the opportunities for people to observe adjacent spaces and the public sidewalks.
- Neither the site nor the building is historically designated or located in a historic district.

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:

- **Use:** Residential uses over five dwelling units require a conditional use permit in the R4 zoning district.

- **Off-Street Parking and Loading:** In the R4 zoning district the zoning code requires one parking space per dwelling unit. For nine dwelling units the parking requirement would be nine spaces. There is a surface parking area located along the alley that, if striped properly, could accommodate nine vehicles. The Planning Division is recommending that the parking area be striped accurately to accommodate nine vehicles.
- **Maximum Floor Area:** The maximum FAR in the R4 zoning district is 1.5. The lot in question is 14,758 square feet in area. The total gross floor area of the building is 6,742 square feet, an FAR of .46.
- **Building Height:** Building height in the R4 zoning district is limited to four stories or 56 feet. The building is two stories in height.
- **Minimum Lot Area:** The minimum lot area per dwelling unit in the R4 zoning district is 1,500 square feet. With nine dwelling units on a lot of 14,758 square feet, the applicant proposes 1,639 square feet of lot area per dwelling unit.
- **Dwelling Units per Acre:** The site is .34 acres in size. There are 26.5 dwelling units per acre on the site.
- **Yard Requirements:** The front yard setback along Fremont Avenue North is 15 feet. The corner side yard setback along 24th Avenue North is $8+2x$, where x equals the number of stories above the first floor. In this case the building is two stories in height and therefore has a required 10-foot corner side yard setback. The south interior side yard setback and the rear yard setback requirement is $5+2x$, where x equals the number of stories above the first floor. The required setback along these two sides of the property is 7 feet.
- **Specific Development Standards:** There are no specific development standards for residential uses.
- **Hours of Operation:** Residential uses are not subject to hours of operation.
- **Signs:** Signs are subject to the requirements of Chapter 543 of the zoning code. In the R4 zoning district multiple-family dwellings, of five units or more, located on a lot of less than 40,000 square feet can have one flat wall identification sign not exceeding 16 square feet and a maximum height of 12 feet or top of wall, whichever is less. On a corner lot, two such signs per building. The applicant has not proposed to have any signage on the building.
- **Refuse storage:** The applicant is proposing to locate the refuse storage containers near the surface parking area on the site. Refuse storage containers are required to be enclosed per section 535.80 of the zoning code. The Planning Division is recommending that the applicant provide detailed elevations of the proposed enclosure as part of the final plans.
- **Lighting:** A lighting plan showing footcandles was not submitted as part of the application materials.

MINNEAPOLIS PLAN:

This site is located on the northwest corner of Fremont Avenue North and 24th Avenue North. Fremont Avenue North is designated as a Community Corridor. The land use features in the update to *The Minneapolis Plan* are the same as they are in the current comprehensive plan. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support the development of residential dwellings of appropriate form and density (Policy 9.5).
- Promote the development of well designed moderate density residential dwellings adjacent to one or more of the following land use features: Growth Centers, Commercial Corridors, Community Corridors and Activity Centers (Implementation Step for Policy 9.5).

The Planning Division believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan*.

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.**

PLANNING DEPARTMENT RESPONSE:

- Alternative compliance is not warranted for this development.

RECOMMENDATIONS

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for the reestablishment of a nine-unit residential building located at 2321 Fremont Avenue North subject to the following conditions:

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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.
2. The parking area shall be striped to accommodate nine vehicles as required by Section 541.330 of the zoning code.
3. The accessible parking space shall meet the dimensional requirements of the International Building Code.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the site plan review:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review for the property located at 2321 Fremont Avenue North subject to the following conditions:

1. Approval of the final site and landscaping plans by the Community Planning and Economic Development Department – Planning Division.
2. All site improvements shall be completed by March 23, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. The amount of windows that are in the building shall not be reduced.
4. A new curb cut shall not be allowed to gain access to the parking area.
5. There shall be a minimum of five trees and 23 shrubs planted on the site as required by Section 530.160 of the zoning code.
6. The surface parking area shall be screened from the public right-of-way as required by Section 530.170 of the zoning code.
7. Signage shall comply with the requirements of Chapter 543, On-Premise signs.
8. Detailed elevations of the refuse storage container enclosure shall be submitted as part of the final plans as required by Section 535.80 of the zoning code.

Attachments:

1. Statement of proposed use
2. Responses to the conditional use permit findings

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3. Actions from the Minneapolis City Council meeting held on March 6, 2009
4. Actions from the PS&RS meeting held on February 25, 2009 and committee report
5. Findings of fact, conclusions and recommendation from the Nuisance Condition Process Review Panel and appeal report
6. Copies of letters sent to Council Member Samuels and the Jordan Area Community Council
7. Zoning Map
8. Site plan, landscaping plans and floor plans
9. Photographs of the property