

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permits, Variances and Site Plan Review
BZZ-5182

Date: June 27, 2011

Applicant: 430 Oak Grove LLC, C/O Continental Property Group, Attn: Brad Hoyt, 10400 Yellow Circle Drive, Ste. 500, Minnetonka, MN 55343, (952) 473-1700

Address of Property: 401, 409, 403, 343 Oak Grove Street and 416 Clifton Avenue

Project Name: 401 Oak Grove Street

Contact Person and Phone: BKV Group, Inc., Attn: Gretchen Camp, 222 North Second Street, Minneapolis, MN 55401, (612) 373-9122

Planning Staff and Phone: Becca Farrar, Senior City Planner, (612) 673-3594

Date Application Deemed Complete: May 23, 2011

End of 60-Day Decision Period: July 21, 2011

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

Ward: 7 **Neighborhood Organization:** Citizens for a Loring Park Community (CLPC)

Existing Zoning: OR3 (Institutional Office Residence) District, SH (Shoreland) Overlay District, DP (Downtown Parking) Overlay District

Proposed Zoning: Not applicable for this development

Zoning Plate Number: 18

Lot area: 37,023square feet or approximately .85 acres

Legal Description: Not applicable for this development

Proposed Use: A 124-unit, multi-family residential structure.

Concurrent Review:

- Conditional Use Permit to allow 124 dwelling units.
- Conditional Use Permit to increase the maximum permitted height in the SH (Shoreland) overlay district from 2.5 stories or 35 feet to 7 stories or 84 feet at the tallest point.
- Variance of the front yard setback requirement adjacent to the north property line along Oak Grove Street.
- Variance of the corner side yard setback adjacent to the west property line along Clifton Place.
- Site Plan Review for a new 7-story, 124-unit multi-family residential structure in the Shoreland and Downtown Parking overlay and OR3 districts.

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

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Background: The site is currently a 90-space surface parking lot located at the corner of Oak Grove Street and Clifton Place. The applicant proposes to construct a new 7-story, 124 unit multi-family residential structure on the subject site. The property is zoned OR3 (Institutional Office) and is located in the Shoreland (SH) overlay district and Downtown Parking (DP) overlay district. The property is subject to the SH overlay district standards as it is located within 1000 feet of the ordinary high water mark of Loring Pond. The DP overlay district was established to preserve significant and useful buildings and to protect the unique character of the downtown area and the mixed-use neighborhoods by restricting the establishment or expansion of surface parking lots. The DP Overlay District is not applicable for this application; in fact, the proposal would result in the elimination of a large surface parking lot.

The proposal would require the following land use applications: (1) a conditional use permit for 124 dwelling units; (2) a conditional use permit to increase the maximum permitted height for a principal structure in the SH overlay district from 2.5 stories or 35 feet to 7 stories or 84 feet at the tallest point; (3) a variance of the front yard setback requirement adjacent to the north property line along Oak Grove Street from 18 feet, 8 inches (due to a front yard increase per Section 547.160) to 15 feet for the proposed building wall and to allow bay window and stair encroachments and a glass entrance canopy; (4) a variance of the corner side yard setback adjacent to the west property line along Clifton Place from 18 feet, 8 inches to 15 feet for the proposed building wall at the closest point and to allow a decorative wood arcade and glass canopy entrance; and pocket park subject to an 8 foot setback; and (5) site plan review.

The building as proposed would include 26 alcove units, 52 one-bedroom units, 13 one-bedroom plus den and 33 two-bedroom units. The principal entrance to the structure would be located off of Oak Grove Street near the intersection of Clifton Place. All ground level units are proposed to have walk-up entries. Access to two levels of underground parking totaling 154 stalls would be via a singular curb off of Oak Grove Street on the northeast side of the site. A public pocket park would be located along Clifton Place and include planters, planting areas, seating as well as pedestrian-scale and accent lighting. A private exterior courtyard is proposed on the south side of the building as well.

There have been two past development proposals submitted for the site by this same applicant. In August of 2004, the applicant proposed a mixed-use, 21-story (230 feet), 97-unit residential tower connected to seven 3-story townhomes and a 900 square foot commercial space (BZZ-1890). That proposal was unanimously denied by the Planning Commission on August 23, 2004. The applicant appealed the decision to the Zoning and Planning Committee and the City Council which upheld the Planning Commission's decision to deny all the associated applications. In February of 2005, the applicant submitted a proposal for a 7-story (77 feet tall), 74 unit development (BZZ-2140). While CPED recommended approval of the project, the project was voluntarily withdrawn by the applicant prior to the Planning Commission public hearing.

Background – Neighborhood Efforts: On April 1, 2005, the Minneapolis City Council instituted a moratorium on new construction and expansion of all development projects and uses not permitted as of right in the Loring Hill area. Policymakers were concerned about the scale, scope, and rapid pace of development projects in the Loring Hill area and enacted the moratorium in order to allow for the completion of a study to inform future development in the Loring Hill area. The moratorium expired on May 31, 2006. During that time, City staff worked with the Council Member's office and the neighborhood to consider the areas of concern within this part of the Loring Park neighborhood. Also during that time, Citizens for a Loring Park Community (CLPC) issued a Request For Proposals (RFP) and hired SRF and the Cunningham Group to write design guidelines for Loring Hill. The design guidelines were approved by CLPC in 2006, and have been used as standards that the neighborhood has used while engaged in discussions with the development community about development proposals. Since the neighborhood adoption of their design guidelines, CLPC issued an RFP for a full neighborhood master plan, hired a consultant, and has been engaging the community for the past

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year on a future vision. The primary components of the plan include transportation, public realm, sustainability, historic preservation, and land use. The plan is likely to move through the City approval process in late 2011. The City will then work with the neighborhood on implementing the plan through a rezoning study, including an evaluation of zoning on Loring Hill, in 2012.

It is important to note that the above mentioned design guidelines, while adopted by CLPC, have not been adopted by the City and do not have any current legal effect. Also, as previously noted, the Small Area Plan is not complete to date; therefore, it too has not been adopted by the City as part of the Comprehensive Plan and does not have any legal effect. While it is understandable that the neighborhood may find these documents useful in its review, the City cannot base its action on them at this time.

Additionally, a total of 4 properties have been individually designated as local landmarks on Oak Grove Street in 2011. Three are in the immediate vicinity of the proposed project, while the fourth is on the 100 block. The four landmarks are noted below:

- *425 Oak Grove Street, the Charles B. Lyon House, designated on April 21, 2011.* The Charles B. Lyon House is significant for its representation of the Shingle style of architecture, for being associated with master builder F.G. McMillan, and for its association with neighborhood identity as one of the few remaining examples of single-family residential development on Oak Grove Street from the late 19th Century.
- *419 Oak Grove Street, the Daniel B. Lyon House, designated on May 26th, 2011.* (Across Clifton Place from the project site.) The Daniel B. Lyon House is significant for its representation of the Neoclassical style of architecture, for its association with master architect Edward S. Stebbins, and for its association with neighborhood identity as one of the few remaining examples of single-family residential development on Oak Grove Street from the late 19th Century.
- *337 Oak Grove Street, the Dunn Mansion, designated on May 26th, 2011.* (Immediately adjacent to the project site.) The Dunn Mansion is significant for its representation of the Richardsonian Romanesque style of architecture, for its association with master architect Edward S. Stebbins, and for its association with neighborhood identity as one of the few remaining examples of single-family residential development on Oak Grove Street from the late 19th Century.
- *131 Oak Grove Street, The Henry E. Ladd House, designated on March 24th, 2011.* This property was nominated for designation by Council Member Goodman on January 29th, 2010. The Henry E. Ladd House is significant for its representation of the Richardsonian Romanesque style of architecture, for being associated with master architect Harry Wild Jones, for being associated with a historically significant person- Henry E. Ladd, and for its association with neighborhood identity as one of the few remaining examples of single-family residential development on Oak Grove Street from the late 19th Century.

For additional background, the nearby previously designated local landmark properties include 300 Clifton Avenue (Eugene J. Carpenter House – also on the NRHP), 314 Clifton Avenue (Elbert L. Carpenter House - also on the NRHP), 400 Clifton Avenue (Charles C. Bovey House), and 410 Oak Grove Street (The Woman's Club of Minneapolis).

While there are several individually designated historic landmarks in the vicinity, there is no geographical historic district that subjects the site to additional regulations or review criteria. There have been several recent inquiries into the possibility of establishing a historic district. Based on the City's historical reconnaissance survey or Historic Resources Inventory of the area in 2008 (prepared by Mead & Hunt), the study found that the area surrounding the site is not eligible for a historic district. However, the study did find that the subject site could be included in a further thematic study of the area. As stated on page 38, "The southwest corner of the Loring Park neighborhood contains numerous large Collegiate Gothic and Tudor Revival residential

properties. These properties are in close proximity to properties associated with the City historic context *Religious and Social Organization*, which may have influenced their development. As such, this may represent a theme and/or pattern of resources associated with an important city historic context; however, further intensive survey and research is needed to determine the extent of properties that may comprise this theme and to compare these properties to similar property types in the city.” The Heritage Preservation Regulations (HPC) are not applicable to this site, which is currently a surface parking lot.

The project has been before the City Planning Commission (CPC) Committee of the Whole (COW) on two occasions, once in April of 2011 and again in June of 2011. At the second CPC COW meeting, CLPC referenced the Minneapolis City Council adopted Loring Park Neighborhood Revitalization 10-year Action Plan (NRP). It is important to note that the referenced NRP Phase II Plan is not an approved CPED document. The plan was not reviewed or commented on by CPED prior to approval by the City Council; the NRP Phase II Plan is an aspirational document. Similar to the neighborhood design guidelines, the document is a tool but does not carry the significance or legal effect that a Small Area Plan incorporated into the Comprehensive Plan and implemented via the zoning ordinance would hold.

Staff has received official correspondence from CLPC which is attached. Numerous neighborhood letters that have been received are attached as well. All additional correspondence received prior to the Planning Commission meeting will be forwarded on for consideration.

CONDITIONAL USE PERMIT – to allow 124 dwelling units

Findings as Required by the Minneapolis Zoning Code:

The Department of 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 Planning Division does not believe that constructing a residential building containing 124 dwelling units would be detrimental to or endanger the public health, safety, comfort or general welfare. The surrounding area includes a mixture of uses including offices uses, a variety of commercial establishments and residential developments of varying densities. The proposed residential development will complement the existing uses in the area and results in the redevelopment of a surface parking lot.

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

The Planning Division does not generally believe that a 124 unit residential development 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 properties located immediately south of the site might arguably be impacted by the proposed height of the project, but not the density proposed for the site. Planning Staff believes that constructing a new 124-unit residential building on the premises would provide additional opportunities for housing within the neighborhood and that the development would also complement the existing uses that are located in the general vicinity.

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

The applicant will continue 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.

As for vehicular access, there is currently one curb cut located on Oak Grove Street that provides ingress/egress to the surface parking lot. As proposed a singular curb cut would be provided off of Oak Grove Street to the underground parking proposed for the development, although the curb cut will shift to the east.

The applicant is in the process of completing a Travel Demand Management Plan (TDMP) for the site. That document will be available prior to the Planning Commission meeting. The applicant has however, provided a Parking Study for the area surrounding the project. The Parking Study provides inventory data that indicates there is parking availability in the immediate area even with the conversion of the surface parking lot to a new residential development. The study provides information that includes the 401 Oak Grove site and one that does not as well as occupancy and availability data. That document has been attached for reference.

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

According to Chapter 541 of the Zoning Code, in the OR3 zoning district the zoning code requires 0.9 parking spaces per dwelling unit. Based on the proposal to construct a total of 124 dwelling units on the site, a total of 112 off-street parking spaces would be required for the proposed development. The applicant is proposing to provide a total of 154 spaces within a two-level underground parking garage. A total of 124 bicycle parking spaces are proposed within the underground parking garage as well.

In order to address broader neighborhood concerns regarding parking availability the applicant has prepared and provided a Parking Study for the area surrounding the project. The Parking Study indicates that there is parking availability in the immediate area even with the conversion of surface parking lot to a new residential development. The study provides information that includes the 401 Oak Grove site and one that does not as well as occupancy and availability data. That document has been attached for reference.

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

The site is located at the intersection of Oak Grove Street and Clifton Place in the Loring Park Neighborhood. The subject site is located in an Urban Neighborhood. The subject site is also located in the Downtown Growth Center. An Urban Neighborhood is identified as a predominantly residential area with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors. May include undesignated nodes and some other small-scale uses, including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, community centers, religious institutions, public safety facilities, etc.) scattered throughout. More intensive non-residential uses may be located in neighborhoods closer to Downtown and around Growth Centers. Not generally intended to accommodate significant new growth, other than replacement of existing buildings with those of similar density. The Downtown Growth Center is defined as the area within the Downtown freeway loop. As the physical and economic center of the city, Downtown is a logical place for a concentration of employment, housing, and other complementary uses. The employment base is largely office, although retail, education, and health care also play important roles. The land use pattern strengthens the concentrated office core with surrounding entertainment, cultural, and residential development. High intensity uses are encouraged to make the best use

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of the premium location and to strengthen the city’s core. The primary intersection of these definitions is that the uses on the Hill, while not overall intense, support a strong office core by their proximity and diversity.

According to the principles and polices outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

Land Use Policy 1.1 of *The Minneapolis Plan for Sustainable Growth* states, “Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.” This policy includes the following applicable implementation step: (1.1.5) “Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.”

Land Use Policy 1.2 of *The Minneapolis Plan for Sustainable Growth* states, “Ensure appropriate transitions between uses with different size, scale, and intensity.” This policy includes the following applicable implementation step: (1.2.1) “Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.”

Land Use Policy 1.8 of *The Minneapolis Plan for Sustainable Growth* states, “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.” This policy includes the following 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.”

Housing Policy 3.1 of *The Minneapolis Plan for Sustainable Growth* states, “Grow by increasing the supply of housing.” This policy includes the following applicable implementation step: (3.1.1) “Support the development of new medium- and high-density housing in appropriate locations throughout the city.

Housing Policy 3.2 of *The Minneapolis Plan for Sustainable Growth* states: “Support housing density in locations that are well connected by transit, and are close to commercial, cultural and natural amenities.” This policy includes the following 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.”

Urban Design Policy 10.1 of *The Minneapolis Plan for Sustainable Growth* states: “Promote building designs and heights that enhance and complement the image and form of the Downtown skyline, provide transition to the edges of Downtown and protect the scale and quality in areas of distinctive physical or historical character.” This policy includes the following applicable implementation step: (10.1.2) “Building placement should preserve and enhance public view corridors that focus attention on natural or built features, such as landmark buildings, significant open spaces or water bodies.”

Urban Design Policy 10.4 of *The Minneapolis Plan for Sustainable Growth* states, “Support the development of residential dwellings that are of high quality design and compatible with surrounding development.” This policy includes the following applicable implementation steps: (10.4.1) “Maintain and strengthen the architectural character of the city’s various residential neighborhoods; and (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.”

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Urban Design Policy 10.5 of *The Minneapolis Plan for Sustainable Growth* states, “Support the development of multi-family residential dwellings of appropriate form and scale.”

Urban Design Policy 10.6 of *The Minneapolis Plan for Sustainable Growth* states, “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.”

The Planning Division believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan for Sustainable Growth*. No small area plan has been adopted for the area to date.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

If all land use/zoning applications are approved, including the conditional use permits, variances and site plan review, the proposal would appear to comply with all applicable provisions of the OR3 District and the SH and DP overlay district standards.

CONDITIONAL USE PERMIT - to increase the maximum permitted height to 7 stories or 84 feet at the tallest portion of the proposed structure.

Findings as Required by the Minneapolis Zoning Code:

The Department of 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 be detrimental to or endanger the public health, safety, comfort or general welfare.

Staff does not generally believe that increasing the height of the proposed building would be detrimental to or endanger the public health, safety, or general welfare. The applicant proposes to construct a 7 story structure that is 84 feet tall (6 stories plus a mezzanine) on the site. The property is zoned OR3 which would allow a structure that is 6 stories or 84 feet tall; however, the property is located in the Shoreland Overlay district and is therefore subject to a height limitation of 2.5 stories or 35 feet. It is inevitable that any building constructed over the allowable height of 2.5 stories may have some impacts on adjacent properties in a fully-developed area. Increasing the height of the building may occasionally cast shadows on adjacent buildings during different times and seasons throughout the year. However, although shadowing will occur, it does not appear to be for significant amounts of time on any one specific building and it would not be unreasonable.

2. Will be injurious to the use and enjoyment of other property in the vicinity and will impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

This vacant property, currently utilized as a surface parking lot, is located in a fully developed area. Increasing the allowable building height, therefore, would inevitably have some minor impacts on the use and enjoyment of surrounding properties due to some shadowing and the obstruction of views. However, the proposal will not be injurious to the use and enjoyment of surrounding property, and will likely not impede the normal or orderly development of the surrounding area or the improvement of surrounding properties. The building complies with all interior setbacks and the requested variances would have little effect on shadowing. The context of the neighborhood includes buildings that are

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primarily 3 to 6 stories in height with a few scattered throughout that exceed those height limitations. Very few buildings in the surrounding area comply with the Shoreland height limitations. In fact, none of the adjacent properties appear to comply. The proposed project would be located within a block of the two, 210 foot towers of the Summit House condominiums. As previously noted, there are designated historic landmarks that abut the site and that are located in the Loring Hill area; however, there is no established historic district and the HPC regulations do not apply. As previously noted, the proposal for the subject site is for a 7-story building, although the overall height in feet meets the underlying OR3 district allowance of 84 feet.

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

The applicant will continue 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.

As for vehicular access, there is currently one curb cut located on Oak Grove Street that provides ingress/egress to the surface parking lot. As proposed a singular curb cut would be provided off of Oak Grove Street to the underground parking proposed for the development, although the curb cut will shift to the east.

The applicant is in the process of completing a Travel Demand Management Plan (TDMP) for the site. That document will be available prior to the Planning Commission meeting. The applicant has however, provided a Parking Study for the area surrounding the project. The Parking Study provides inventory data that indicates there is parking availability in the immediate area even with the conversion of the surface parking lot to a new residential development. The study provides information that includes the 401 Oak Grove site and one that does not as well as occupancy and availability data. That document has been attached for reference.

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

The additional height of the development should have no effect on the traffic congestion in the area. Measures have been provided in regard to minimizing traffic congestion from a parking perspective as the applicant would be providing off-street parking for the proposed development that exceeds the minimum requirements as well as bicycle parking for each of the 124 residential units proposed on the site.

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

See the above listed response to finding #5 in the conditional use permit application pertaining to the number of dwelling units.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

If all land use/zoning applications are approved, including the conditional use permits, variances and site plan review, the proposal would appear to comply with all applicable provisions of the OR3 District and the SH and DP overlay district standards.

ADDITIONAL STANDARDS TO INCREASE MAXIMUM HEIGHT

In addition to the conditional use standards, the city planning commission shall consider, but not be limited to, the following factors when determining the maximum height:

1. Access to light and air of surrounding properties.

This development would be expected to have some minor impacts on the amount of light and air that surrounding properties receive as the site would be transitioning from a vacant site to a fully developed site. The proposal is maintaining a 15 foot setback (building wall) along the north and west property lines abutting Oak Grove Street and Clifton Place as well as the required 17 foot setbacks on the south and east sides of the site. Planning Staff would not expect the proposal to have substantive impacts on the access to light and air of surrounding properties.

2. Shadowing of residential properties or significant public spaces.

Based on the submitted shadow studies, there would be some shadowing of adjacent residential properties; however, it does not appear to be significant. No public spaces appear to be impacted. It is likely that any redevelopment of the site would result in some shadowing of the properties to the north, northeast and northwest of the subject site. The adjacent residential structures are located to the south and west, and across Oak Grove Street to the northeast. The shadow studies indicate that due to the fact that the neighborhood is densely built-out, that during the periods of peak shadowing, much of the surrounding vicinity is currently shadowed by existing buildings. As one would expect, the most significant shadowing occurs late fall through early spring, with the peak being in mid-December. During the summer and early fall, the proposed development would appear to primarily shadow the public sidewalks and public streets abutting the site. The impacts of the project on the above noted residential properties appear to be negligible in the summer months, with slight shadowing impacts on the property to the west early in the morning during the fall, and slight impacts during the late afternoon hours on the property to the north east across Oak Grove Street. As previously noted, much of the immediate area is already shadowed during the winter months as a result of the built form that currently exists in the neighborhood. The shadow studies have been attached for reference.

3. The scale and character of surrounding uses.

The scale and character of the buildings as well as the architectural styles of the surrounding properties in this area are varied. There are taller buildings located within the neighborhood; however, the majority of the buildings are older, historical buildings typically between 3 to 6 stories. The project would result in a structure that is taller than the existing surrounding structures, but as previously mentioned, would be within the 84 foot height limitation for structures located in the OR3 district. Planning Staff believes that the proposal is not out of the scale and character of surrounding uses in the neighborhood due to the variation that currently exists. The design of the structure and the distribution of height on site renders the building compatible with the character and scale of surrounding uses.

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

As previously noted, the proposed development would likely impact some adjacent views of Loring Park and Loring Pond. There are several local historic landmarks in the broader vicinity and immediately adjacent to the site; however, there is no relevant geographic historic district that subjects the site to additional regulation. Significant shadows would not appear to affect the landmark buildings, and significant open spaces or water bodies near the development site. The proposed building would not block any public view corridors (as our adopted policy would discourage), but would impacts private view corridors as previously discussed.

ADDITIONAL STANDARDS FOR PROPERTIES LOCATED IN THE SHORELAND OVERLAY DISTRICT

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

The subject property is approximately 350 feet from Loring pond. It is unlikely that construction on the site will impact or pollute Loring Pond. As with any development, the applicant will be responsible for taking measures which prevent soil erosion and runoff during and after construction. The City is responsible for inspecting these measures for compliance with all applicable City ordinances.

2. Limiting the visibility of structures and other development from protected waters.

The applicant has provided a rendering showing visibility of the proposed building from Loring Pond that is attached to this staff report. The proposed residential structure would blend in with other structures within the neighborhood as the majority of buildings located on the hill are also located in the Shoreland Overlay district and also fail to comply with the height limitations of the overlay district. The majority of the buildings, both new and old typically range in height from 3 to 6 stories; however, there are other buildings which exceed those heights. The proposed project is consistent with the size and scale of recent project which have been approved in the immediate neighborhood.

3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

This is not applicable as watercrafts are not permitted on Loring Pond.

VARIANCE - (1) a variance of the front yard setback requirement adjacent to the north property line along Oak Grove Street from 18 feet, 8 inches (due to a front yard increase per Section 547.160) to 15 feet for the proposed building wall and to allow bay window and stair encroachments; and (2) a variance of the corner side yard setback adjacent to the west property line along Clifton Place from 18 feet, 8 inches to 15 feet for the proposed building wall at the closest point and to allow a decorative wood arcade and pocket park.

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. The property owner proposes to use the property in a reasonable manner.

Front yard setback requirement along Oak Grove Street: The applicant is seeking a variance to reduce the front yard setback adjacent to the north property line along Oak Grove Street from the required 18 feet, 8 inches to 15 feet for the proposed building wall and to allow bay window and stair encroachments and a glass canopy at the entrance. Typically in the OR3 district, a setback of 15 feet would be required; however, due to a

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front yard increase per Section 547.160 of the Zoning Code, a greater setback is required due to the setback of the adjacent 337 Oak Grove property to the east of the site. The proposed building encroachment of 3 feet 8 inches is necessary for a 28 foot section of the building nearest the entrance to the parking garage on the east side of the site. The remaining 75 feet of the building wall (excluding the bay windows) meet the required setback.

In regard to the bay window and stair encroachments, Chapter 535 allows bay window encroachments in required front yards that do not exceed 50 square feet and that do not project more than 5 feet into the required yard. As proposed the windows encroach approximately 8 feet with the size varying up to approximately 100 square feet in size. In regard to the stair encroachments, Chapter 535 allows stair encroachments in required front yards provided they do not exceed 4 feet in height. As proposed the walk-up entry stairs range in height from 1 foot, 9 inches to 7 feet tall due to the grades on site. The proposed glass entrance canopy is meant to add a decorative element to the building. Planning Staff believes that the property owner proposes to use the property in a reasonable manner and that allowing a yard reduction in this circumstance is consistent with adopted policy.

Corner side yard setback requirement along Clifton Place: The applicant is seeking a variance to reduce the corner side yard setback adjacent to the west property line along Clifton Place from 18 feet, 8 inches to 15 feet for the proposed building wall and to allow a decorative wood arcade and glass entrance canopy. A pocket park is located along the Clifton Place street frontage and encroaches into the required yard as well. Typically in the OR districts, a setback ($8+2x$, where x is equal to the number of stories above the first floor) of 20 feet would be required. However, as outlined in Section 547.160 of the Zoning Code, where a corner side yard is required, it shall not exceed the applicable front yard requirement, which in this circumstance is 18 feet, 8 inches. Planning Staff believes that the property owner proposed to use the property in a reasonable manner and that allowing a yard reduction in this circumstance is consistent with adopted policy.

2. Practical difficulties exist due to circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.

Front yard setback requirement along Oak Grove Street: The site is unique in that there are some grade challenges on the premises (9 feet from east to west); the grades result in some practical difficulties as it pertains to the design of the structure. These issues are further exacerbated by the fact that the property is subject to a greater yard as a result of the adjacent structure to the east. The majority of the actual building wall meets the required setback. The grades and the setback of the adjacent structure have not been created by persons presently having an interest in the property.

Corner side yard setback requirement along Clifton Place: The site is unique in that there are some grade challenges on the premises (a drop of 19 feet from south to north), and the lot line along Clifton Place is somewhat irregular. Because of these two factors some practical difficulties exist as it pertains to the design of the structure. As previously noted, much of the structure meets the required setback along Clifton Place. The grades and the irregularity of the adjacent structure have not been created by persons presently having an interest in the property.

3. If granted, the variance will be in keeping with the spirit and intent of the ordinance and the comprehensive plan and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

Front yard setback requirement along Oak Grove Street: The Planning Division believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

Constructing this building 15 feet from the front property line would not be out of character for the area or injurious to the use and enjoyment of other property in the vicinity. The majority of the building wall complies with the setback requirement at approximately 19 feet. The bay windows, stair encroachments and glass canopy are meant to provide character elements that are similar to those exhibited by the adjacent historic structures in the neighborhood.

Corner side yard setback requirement along Clifton Place: The Planning Division believes that the granting of this variance would be in keeping with the spirit and intent of the ordinance and the comprehensive plan. Constructing this building 15 feet from the corner side yard property line would not be out of character for the area or injurious to the use and enjoyment of other property in the vicinity. The setback varies along this property line from 15 feet to over 22 feet. Further, the pocket park would be an amenity for the neighborhood and the wider right-of-way acts as an additional buffer in this location.

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.

Front yard setback requirement along Oak Grove Street: The Planning Division believes that the granting of the front yard setback variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback variance be detrimental to welfare or public safety. Adequate parking is being provided for the development and the proposed setback provides adequate relief from the property line along Oak Grove Street.

Corner side yard setback requirement along Clifton Place: The Planning Division believes that the granting of the corner side yard setback variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback variance be detrimental to welfare or public safety. Adequate parking is being provided for the development and the proposed setback provides adequate relief from the property line along Oak Grove Street.

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.

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- 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, windows, and active functions:
 - 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.
 - g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.
Minimum window area shall be measured as indicated in section 530.120 of the zoning code.
Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

- **Ground floor active functions:** Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.
- **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. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.

The building is subject to required yards along all sides of the property, however, the building reinforces the established street wall, facilitates pedestrian access and maximizes natural surveillance. The principal entrance to the structure is located at the corner of Oak Grove Street and Clifton Place. There are individual walk-up entries to the ground-level units facing Oak Grove Street as well. Both the principal entry and the individual entries are all connected to the public sidewalk via walkways and staircases as applicable. The area in between the building and the front property line along Oak Grove Street would contain walkways, stairs and landscaping. Along Clifton Place, the plan incorporates rain gardens landscaping and walkways. A pocket park is located on the south side of the site and includes seating, landscaping and other amenities. All of the parking spaces are located underground.

The building is subject to a 20% window requirement along both Oak Grove Street (north elevation) and Clifton Place (west elevation). According to the submitted elevations, the north elevation of the building along Oak Grove Street does not meet the 20% window requirement as a total of approximately 17% are provided. This is due to the fact that windows on the west side of the building are not included in the total as a result of the grade of the site changing approximately 9 feet in elevation from east to west. The proposed windows on that portion of the west side of the structure are not located between 2 and 10 feet. Alternative compliance would be necessary. Planning Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the elevation has extensive window openings which meet the intent of the ordinance. The grade limitations make it difficult for any proposed development on the site to meet the requirements.

The west elevation of the building along Clifton Place meets the 20% window requirement as a total of approximately 22% are provided. The proposed development exceeds the 10% window requirement on each floor above the first floor that faces the public street and public sidewalk. The windows in the building are vertical in nature and are more or less evenly distributed along the building walls.

The building complies with the active functions provision as outlined above.

The exterior materials and appearance of the rear and side walls of the proposed building would be similar to and compatible with the front of the building. The materials on the proposed structure would include masonry, metal panels, cement board siding and glass. The proposed building incorporates architectural elements including recesses and projections, windows and entries that would divide the building into smaller identifiable sections.. There are no blank uninterrupted walls that exceed 25 feet in width on any of the elevations. The roof line of the building would be flat. In the general vicinity, both pitched roofs and flat roofed buildings can be found.

The parking proposed for the development is accessed via a singular curb-cut off of Oak Grove Street on the east side of the site. There are a total of 154 parking stalls proposed within a two-story underground garage. No above grade parking ramp is proposed as part of the development.

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.

All first floor entrances are connected to the public sidewalk along Oak Grove Street/Clifton Place via a series of walkways that are greater than 4 feet in width.

No transit shelters are proposed as part of this development; however, this site is in close proximity to several bus lines and bike path.

The proposed development has been designed to minimize conflicts with pedestrian traffic and surrounding residential uses. The parking areas are accessed via a singular curb cut off of Oak Grove Street; curb cuts to the site have been minimized.

There are no public alleys adjacent to the site.

The maximum impervious surface requirement in the OR3 zoning district is 85 percent. According to the applicant's submittal, 85% of the site is 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.**

The zoning code requires that at least 20% of the site not occupied by the building be landscaped. The lot area of the site is 37,023 square feet. The footprint of the building is 19,857 square feet. When you subtract the footprint from the lot size the resulting number is 17,166 square feet.; 20% of this number is 3,433 square feet. According to the applicant's landscaping plan there is 5,717 square feet of landscaping on the site or approximately 33% 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. The tree and shrub requirement for this site is 7 trees and 34 shrubs. The applicant is proposing to plant no on-site canopy trees, but is proposing 2 ornamental trees on the subject site. Additionally, the applicant is proposing to incorporate 7 canopy trees, and 9 other ornamental trees in the public right-of-way. A total of 49 shrubs are proposed in addition to extensive perennials, ornamental grasses and dense rain garden plantings. Alternative compliance is required for the quantity of on-site canopy trees proposed. Planning Staff will recommend that the Planning Commission grant alternative compliance for this provision in this specific circumstance as it would be difficult to accommodate adequate areas on site for the growth of canopy trees. The location of the below grade parking garage and the large retaining wall to the south of the site limits where canopy trees can be installed on-site. The alternative locations, both in the boulevard and just outside the property line along Oak Grove Street meet the intent of the provision.

There is no surface parking proposed for the development as all proposed parking is located in a two-story underground parking garage.

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.**

There is no surface parking proposed on the premises. All parking for the residential development is being provided in a 2-story underground parking garage which is accessed off of Oak Grove Street. The water drainage on site has been designed so as not to drain onto any adjacent lots. The applicant is incorporating on-site retention and filtration.

As previously discussed at length in the above conditional use permit to increase the maximum permitted height, Planning Staff would expect the proposal to result in the blocking of some views. The proposed building would not block any public view corridors (as our adopted policy would discourage), but would impact private view corridors as previously discussed. The proposed structure would also be expected to have some minimal shadowing impacts on adjacent properties, however, not on public spaces. The proposed structure would also be expected to have some minimal impacts on light, wind and air in relation to the surrounding area as well.

The site plan complies with crime prevention design elements as there are walkways that direct people to the building entrances, there are windows where people can see in and out along all levels of the building, there are balconies where people will be able to sit and observe adjacent spaces and public sidewalks and there are lights located near all of the pedestrian entrances and throughout the site.

While several local landmarks are located either adjacent or in close proximity to the site, the subject site is neither historically designated nor 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 - The proposed use of the site is conditional in the OR3 District. If all land use/zoning applications are approved, including the conditional use permit for the use and to increase height, variances of the front yard and corner side yard requirements, and site plan review, the proposal would comply with all applicable provisions of the OR3 District, SH and DP Overlay Districts.

Parking and Loading:

Minimum automobile parking requirement: According to Chapter 541 of the Zoning Code, in the OR3 zoning district the zoning code requires 0.9 parking spaces per dwelling unit. The DP Overlay district has the same requirement. Based on the proposal to construct a total of 124 dwelling units on the site, a total of 112 off-street parking spaces would be required for the proposed development plus three guest spaces as required in the DP overlay district. The applicant is proposing to provide a total of 154 spaces within a two-level underground parking garage which exceeds the minimum requirement.

Maximum automobile parking requirement: According to the DP Overlay district, the maximum parking requirement for projects with 10 dwelling units or more is 1.7 spaces per unit. Based on the proposed 124 dwelling units, the maximum parking requirement for the development would be 211 off-street parking spaces. The proposal to include 154 spaces does not exceed the maximum requirement.

Bicycle parking requirement: Chapter 541 requires a total of one space per two dwelling units for residential developments with 5 units or more. Therefore, a total of 62 bicycle parking spaces are required. The applicant is proposing to provide a total of 124 bicycle parking spaces within the underground parking garage which exceeds the minimum requirement and meets the location requirements. Not less than 90% of the required bicycle parking shall meet the standards for long-term bicycle parking. The long-term bicycle standards are as follows:

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- *Required long-term bicycle parking spaces shall 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. With permission of the zoning administrator, long-term bicycle parking spaces for non-residential uses may be located off-site within three hundred (300) feet of the site.*

Loading: There is a requirement of one small loading space for residential dwellings between 100 - 250 units. This loading space shall be provided within the underground parking garage.

Dumpster screening: Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The development complies with this provision as there is a trash and recycling room located within the building.

Signs: All signs will be expected to comply with Chapter 543 of the Zoning Code. Any new signage requires a separate permit from the Zoning Office.

Lighting: The applicant is proposing to install decorative pedestrian and wall mounted light fixtures on site. A photometric plan was not submitted as part of the application and will be required with the final submittal. All lighting will need to be downcast and shielded to avoid undue glare. All lighting shall comply with Chapters 535 and 541 and Planning Staff shall review the details of the fixtures in the final review prior to permit issuance.

Maximum Floor Area: The maximum F.A.R. for multi-family residential buildings within the OR3 district is the gross floor area of the building which would be approximately 116,329 square feet divided by the area of the lot which is 37,023 square feet. The outcome is 3.14 which is less than the maximum of 3.5 that is permitted in the OR3 District. The proposal is in compliance with this requirement prior to consideration of the 20% bonus which the project would be eligible for due to the enclosed/underground parking proposed for the site.

Minimum Lot Area: The minimum lot area per dwelling unit in the OR3 zoning district is 300 square feet. With 124 proposed dwelling units on a lot of 37,023 square feet, the applicant proposes approximately 298.6 square feet per dwelling unit. With consideration of the 20% bonus for enclosed/underground parking, the applicant is allowed up to 154 units on the premises. The proposal complies with the minimum lot area requirements.

Dwelling Units per Acre: With 124 dwelling units on a site having 37,023 square feet of lot area, the proposal would include approximately 146 dwelling units per acre.

Height: Typically, the maximum building height for principal structures located in the OR3 district is 6 stories or 84 feet, whichever is less. However, the site is located in the SH Overlay district and is therefore subject to a height limitation of 2.5 stories or 35 feet. The applicant proposes to construct a building on the site that is 7 stories or 84 feet tall. Please see the above listed conditional use permit findings which address the proposed request.

Yard Requirements: The required yards are as follows:

- *Front yard – Oak Grove Street = 18 feet, 8 inches (due to a front yard increase per Section 547.160)*
- *Corner side yard – Clifton Place = 18 feet, 8 inches*
- *Interior side yard/rear yard (5+2x): 17 feet*

The applicant has applied for a variance to reduce the applicable front and corner side yard requirement.

Building coverage: The maximum building coverage in the OR3 district is 70 percent. Buildings would cover approximately 54% percent of the site.

Impervious surface area: The maximum impervious surface coverage in the OR3 district is 85 percent. Impervious surfaces would cover approximately 85 percent of the site.

MINNEAPOLIS PLAN:

See the above listed response to finding #5 in the conditional use permit application for 124 dwelling units. The policies and implementation steps outlined apply to the proposed site plan review application as well.

Conformance with Applicable Development Plans or Objectives Adopted by the City Council:

As previously noted, while a small area plan is underway, it has not been completed and approved by the City.

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.

Alternative compliance is requested by the applicant to meet the following standards:

- 20% window requirement: The building is subject to a 20% window requirement along both Oak Grove Street (north elevation) and Clifton Place (west elevation). According to the submitted elevations, the north elevation of the building along Oak Grove Street does not meet the 20% window requirement as a total of approximately 17% are provided. This is due to the fact that windows on the west side of the building are not included in the total as a result of the grade of the site changing approximately 9 feet in elevation from east to west. The proposed windows on the west side of the structure are not located between 2 and 10 feet. Alternative compliance would be necessary. Planning Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the elevation has extensive window openings which meet the intent of the ordinance. The grade limitations make it difficult for any proposed development on the site to meet the requirements.
- Landscape quantities of on-site trees: 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. The tree and shrub requirement for this site is 7 trees and 34 shrubs. The applicant is proposing to plant no

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on-site canopy trees, but is proposing 2 ornamental trees on the subject site. Additionally, the applicant is proposing to incorporate 7 canopy trees, and 9 other ornamental trees in the public right-of-way. A total of 49 shrubs are proposed in addition to extensive perennials, ornamental grasses and dense rain garden plantings. Alternative compliance is required for the quantity of on-site canopy trees proposed. Planning Staff will recommend that the Planning Commission grant alternative compliance for this provision in this specific circumstance as it would be difficult to accommodate adequate areas on site for the growth of canopy trees. The location of the below grade parking garage and large retaining wall to the south of the site limits where canopy trees can be installed on-site. The alternative locations, both in the boulevard and just outside the property line along Oak Grove Street meet the intent of the provision.

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 to allow 124 dwelling units to be located on the properties at 401, 409, 403, 343 Oak Grove Street and 416 Clifton Avenue 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 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 to increase the maximum permitted height in the Shoreland Overlay district from 2.5 stories or 35 feet to 7 stories or 84 feet at the tallest point on the properties located at 401, 409, 403, 343 Oak Grove Street and 416 Clifton Avenue 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 Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the front yard setback from the required 18 feet, 8 inches to 15 feet for the proposed building wall and to allow bay window and stair encroachments and a glass entrance canopy on the properties located at 401, 409, 403, 343 Oak Grove Street and 416 Clifton Avenue.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the corner side yard setback from the required 18 feet, 8 inches to 15 feet for the building wall and to allow a decorative wood arcade and glass entrance canopy, and a variance to reduce the corner side yard setback from 8 feet to 0 feet to allow a pocket park on the properties located at 401, 409, 403, 343 Oak Grove Street and 416 Clifton Avenue.

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 application for a new 7-story, 124-unit multi-family residential structure on the properties located at 401, 409, 403, 343 Oak Grove Street and 416 Clifton Avenue subject to the following conditions:

1. Planning Staff review and approval of the final site, elevation, lighting and landscaping plans.
2. All site improvements shall be completed by June 27, 2012, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Attachments:

1. Statement of proposed use and description of the project
2. Conditional use permit and variance findings
3. Correspondence
4. Parking Study
5. Zoning Map
6. Site context, photos, renderings, shadow studies
7. Plans - site & landscape plan, floor plans and elevations
8. PDR notes
9. All neighborhood correspondence received prior to the printing of the report