

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit, Variances & Site Plan Review  
BZZ – 4844

**Date:** August 2, 2010

**Applicant:** Alliance Housing Inc.

**Address of Property:** 2601-2623 West Broadway and 2700 Upton Avenue North

**Project Name:** Gateway Lofts

**Contact Person and Phone:** Kris Brogan, (612) 801-4942

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

**Date Application Deemed Complete:** June 21, 2010

**End of 60-Day Decision Period:** August 20, 2010

**Ward:** 5      **Neighborhood Organization:** NRRC (borders Jordan)

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

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

**Zoning Plate Number:** 7

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

**Proposed Use:** Multiple-family dwelling with 46 units.

**Concurrent Review:**

- **Conditional use permit** to allow 46 dwelling units.
- **Variance** to reduce the West Broadway front yard requirement to allow the building, a patio, and stairs that extend more than 4 feet above the natural grade.
- **Variance** to reduce the West Broadway front yard requirement to allow the bay windows has been **returned** to the applicant.
- **Variance** to reduce the 27<sup>th</sup> Avenue corner side yard requirement to allow the building, a patio, and a mechanical vent.
- **Variance** to reduce the Upton Avenue front yard requirement to allow the building, a refuse storage area and enclosure, a pergola, a walkway exceeding 6 feet in width, and a transformer.
- **Variance** to increase the allowed height of a fence/retaining wall.
- **Site plan review.**

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**Applicable zoning code provisions:** Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, Section 525.520 (1) “To vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.” and (5) “To permit an increase in the maximum height of a fence.”; Chapter 530, Site Plan Review.

**Background:** The applicant proposes to construct a new multiple-family dwelling with 46 units located at the properties of 2601-2623 West Broadway and 2700 Upton Avenue North. The vacant gas station building on the site will be demolished and a billboard will be removed. The proposed structure would be 3 stories and would have enclosed, below-grade parking accessed from Upton Avenue North. Low-density residential is located to the west and south of the site. Nonresidential uses, including a gas station and other automobile related uses, are located on the opposite side of West Broadway.

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

Front lot lines are adjacent to West Broadway and Upton Avenue North. The minimum front yard requirement in the R5 district is 15 feet unless an adjacent residential structure on the same block face is set back more. Because the subject site occupies the entire block, the minimum required front yard is 15 feet. The building, a patio, and stairs that extend more than 4 feet above the natural grade would project into the required yard adjacent to West Broadway, but are not permitted obstructions. A variance is required to allow them. The building, a refuse storage area and enclosure, a pergola, a walkway exceeding 6 feet in width, and a transformer would project into the required yard adjacent to Upton Avenue North, but are not permitted obstructions. A variance is required to allow them.

The variance to reduce the West Broadway front yard requirement to allow bay windows on the second and third floors is being returned to the applicant because the proposed bay windows are allowed as permitted obstructions by section 535.280 of the zoning code. The bay windows would not project more than five feet from the 15 foot setback (4.5 feet is proposed) and each would be less than 50 square feet in area.

A corner side yard is required adjacent to 27<sup>th</sup> Avenue North. The minimum corner side yard requirement is equal to  $8+2x$ , where  $x$  is equal to the number of stories above the first floor, or 15 feet (the applicable front yard requirement), whichever is less. A 3-story building is proposed resulting in a minimum 12 foot wide corner side yard. The building, a patio, and a mechanical vent would project into the required yard adjacent to 27<sup>th</sup> Avenue, but are not permitted obstructions. A variance is required to allow them.

The applicant is proposing to build a terraced retaining wall at the north end of the site between the proposed driveway and West Broadway. Most of the retaining wall would not retain natural grade. Where natural grade is not retained, the wall is regulated as a fence and is subject to fence height limitations. A part of the retaining wall would also have a metal fence located on top. In a front yard, a solid fence can be up to three feet in height. Outside of required yards, the maximum height of a solid fence is six feet. The proposed height of the retaining wall and fence above natural grade would vary in height from 3 feet to 10.5 feet. Increasing the allowed height of a fence requires a variance.

As of writing this staff report, staff has not received any correspondence from the neighborhood group. Staff will forward additional comments, if any are received, at the City Planning Commission meeting.

**CONDITIONAL USE PERMIT:** to allow 46 dwelling units.

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

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

**1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The applicant is proposing to clean up a polluted and abandoned site. The establishment of 46 dwelling units on the site would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

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

The proposed development site occupies an entire block. Low-density residential uses are located to the west and south of the site. Nonresidential uses, including a gas station and other automobile related uses, are located on the opposite side of West Broadway. The use would replace a defunct gas station. The placement of the building would be oriented towards West Broadway. A change in grade and a landscape buffer would provide adequate separation between the dwelling and West Broadway. Also, a large landscaped area would be provided on the west side of the building as a transition between the new development and the surrounding lower density residential neighborhood. The development of this site with a residential use should have little effect on other surrounding properties.

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

The site is served by existing infrastructure. Vehicle access and refuse pick-up would occur from Upton Avenue. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way.

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

The minimum automobile parking requirement for the proposed development is 42 spaces. The applicant would provide 42 spaces on-site. Vehicle access would be through one curb cut located on Upton Avenue. The minimum bicycle parking requirement is 23 spaces. At least 23 spaces would

be provided. The site is also adjacent to a transit stop. The development should have little effect on congestion in the streets.

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

The future land use of the site is designated as urban neighborhood by the comprehensive plan, *The Minneapolis Plan for Sustainable Growth*. West Broadway is also designated as a community corridor. According to the land use and housing principles and polices outlined in the plan, the following apply to this proposal:

Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.

*Applicable Implementation Step*

1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

Policy 1.9: Through attention to the mix and intensity of land uses and transit service, the City will support development along Community Corridors that enhances residential livability and pedestrian access.

*Applicable Implementation Step*

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

Policy 3.1: Grow by increasing the supply of housing.

*Applicable Implementation Step*

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

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

*Applicable Implementation Step*

3.2.1 Encourage and support housing development along commercial and community corridors, and in and near growth centers, activity centers, retail centers, transit station areas, and neighborhood commercial nodes.

The *West Broadway Alive* small area plan, adopted by the City Council in 2008, calls for urban scale development on this site. Appropriate urban scale development includes townhouses, small apartments, and apartment buildings 3-5 stories in height with below-grade parking.

*Staff comment:* On this part of the West Broadway community corridor, the proposed density is appropriate. Adequate automobile and bicycle parking would be provided on-site. The site also has access to frequent transit. The use would be consistent with the comprehensive plan and the *West Broadway Alive* plan.

**6. And does, in all other respects, conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.**

The use of the site for a multiple-family dwelling with 46 units will conform to the applicable regulations of the districts in which it is located upon the approval of the conditional use permit, variances, and site plan review.

**VARIANCES:** 1) to reduce the West Broadway front yard requirement to allow the building, a patio, and stairs that extend more than 4 feet above the natural grade; 2) to reduce the 27<sup>th</sup> Avenue corner side yard requirement to allow the building, a patio, and a mechanical vent; 3) to reduce the Upton Avenue front yard requirement to allow the building, a refuse storage area and enclosure, a pergola, a walkway exceeding 6 feet in width, and a transformer; and 4) to increase the allowed height of a fence/retaining wall.

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

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

The West Broadway and Upton Avenue North front yard requirements are 15 feet. The 27<sup>th</sup> Avenue corner side yard requirement is 12 feet. Variances for obstructions in these yards are requested as follows:

- Adjacent to West Broadway, the building would be set back 12 feet from the front lot line. Thirty-six square feet of the 180 square foot patio on the north side of the building would project three feet into the front yard. A patio not exceeding 50 square feet in area and projecting not more than four feet into the yard is a permitted obstruction. The stairs leading to the entrances would extend a total of 7.5 feet above natural grade, which is 3.5 feet beyond what is allowed.
- Adjacent to 27<sup>th</sup> Avenue, two corners of the building would project into the yard. One corner would be set back 5 feet and the other corner would be set back 11 feet. A corner of the patio area that extends under the second floor also projects into the yard. It would project more than 5 feet into the yard and the total area of the patio exceeds 50 square feet. A mechanical vent would be set back as close as four feet from the corner side lot line. Mechanical vents are not allowed as obstructions.
- Adjacent to Upton Avenue, the corner of the building that would extend into the yard would be set back 3.5 feet at the closest point. A 10.5 foot walkway is proposed. For multiple-family dwellings, a walkway in a front yard can be up to 6 feet wide as a permitted obstruction. The refuse storage area would be 200 square feet in area. The enclosure would be 5.5 feet tall (as measured from the street side). A pergola 9 feet high (as measured from the street side) would extend over the 10.5 foot wide walkway and the refuse storage area and enclosure. An electrical transformer would be located just south of the refuse enclosure. The transformer box would be approximately 60 inches in length, 70 inches in width, and 48 inches in height. These obstructions are not permitted in a front yard.

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- A terraced retaining wall at the north end of the site is proposed between the proposed driveway and West Broadway. Most of the retaining wall would not be retaining natural grade. Where natural grade is not retained, the wall is regulated as a fence and is subject to fence height limitations. A part of the retaining wall would also have a metal fence located on top. In a front yard, a solid fence can be up to three feet in height. Outside of required yards, the maximum height of a solid fence is six feet. The proposed height of the retaining wall and fence above natural grade would vary in height from 3 feet to 10.5 feet.

The site occupies an entire block, is a triangle, and has frontage on three streets. After subtracting out the area for the required yards, approximately 21,330 square feet of the site (less than 2/3rds) remains as buildable area. Significant changes in grade exist. The difference in grade from one side of the site to the other is as great as 16 feet. At the southwest corner of the site, the grade is highest. The grades are lowest and flatter adjacent to West Broadway. Adopted city policy supports higher density residential development on this site. Residence, office residence, and commercial districts allow multiple-family dwellings. Both residence and office residence districts have yard requirements for all uses. Commercial districts do not have yard requirements; however, the City's policies do not support commercial uses on this site. This makes a commercial zoning district inappropriate for this site. Further, the City rezoned this site from C1 to R5 in August 2009 as part of implementing the policies of the *West Broadway Alive* plan. The existing zoning and the size of the site would allow higher density and building bulk than proposed for this development. A typical development site of this size where multi-family development is appropriate does not have these existing restrictive development aspects of the subject site.

All of the above factors affect any site design for this site, including where the building, parking location, access, and circulation, entrances, stormwater management facilities, mechanicals, and refuse storage can be located. Starting with possible building and parking locations, orienting a building to West Broadway and providing below-grade parking is the most practical and the most desired because West Broadway is a community corridor and the grades along that street are most conducive for new construction. The length and width of the building is impacted by the space needed to accommodate parking for the use. To accommodate parking on the site with minimal visual impacts and impervious surfacing, the applicant would provide below-grade parking. Providing below-grade parking results in the need for fewer variances than surface parking. Surface parking located between a principal structure and front lot line requires a variance in any residence or office residence district. It would also likely require additional yard variances and possibly a variance to increase the maximum amount of impervious surface allowed. Vehicle access is limited by the shape and slope of the site. Twenty feet of straight curbing from a street intersection is required before a curb cut is allowed. The slope of a driveway must be gradual enough to prevent a vehicle from bottoming out and to prevent conflicts with pedestrians. The access and circulation for the parking affects the footprint size of the building. Emergency egress must also be provided on all floors of the building. As a result, small portions of the building must encroach into all of the required yards. In the corner side yard, a patio for one of the units is carved out above the parking garage and below the second floor overhang. This corner must project into the front yard to provide adequate structural support for the upper floors.

The north end of the site has high visibility from West Broadway, a corridor providing a gateway from outside the city. The retaining walls, although not retaining natural grade, mimic the grade change elsewhere on the site. The walls and the decorative fence provide a barrier wall adjacent to

the driveway. They also provide an elevated space to provide patio access for the community room. West Broadway is the primary corridor. Having a community room patio and entrances connecting to the public sidewalk should promote more positive activity at the street. Because of the grade changes, the parking garage would extend further out of the ground on the West Broadway side. To reach the first floor entrances, taller flights of stairs are needed. The slope of the site also affects where an accessible entrance can be provided and makes providing an accessible entrance facing Broadway difficult. Lowering the first floor elevation to provide an accessible entrance to Broadway would make below-grade parking infeasible. The proposal includes a second primary entrance facing Upton where the first floor elevation is similar to the sidewalk elevations and an accessible entrance can be provided. It is likely that most visitors to the site arriving by car will park on Upton or 27<sup>th</sup>, so making the public entrance stand out from the individual unit entrances is essential. Locating the primary entrance elsewhere on the site would also have the same site constraints.

The building and parking locations take up most of the buildable area of the site leaving little room for other site functions necessary to the development that are not located in a required yard or on a steep slope. There is no back of the site because it has frontage on three streets. Because there is no “rear” to the property or access to a service alley, objects that are usually located at the back of developments must be located between the building and a street on this site. The slope of the site also limits available locations. A mechanical vent has to be provided for the below-grade parking and in a location that doesn’t create exhaust issues for the dwellings above. With the mechanicals that would be located in the below-grade parking area, there would not be sufficient room to also provide a refuse storage area. The refuse hauler needs to have convenient access to the storage area. The refuse storage area must also be screened from the street and residences. The dwellings across the street are situated on a slope and look down on the site. To screen the storage area from their views, the applicant is proposing a pergola that extends over it. Possible locations for the transformer are further limited by Xcel’s access requirements. The transformer cannot be located in the building or underground and must be accessible from a street elevation.

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

The site occupies an entire block, is a triangle, and has frontage on three streets. It was formerly used as a gas station and requires soil remediation. Significant changes in grade exist. The difference in grade from one side of the site to the other is as great as 16 feet. At the southwest corner of the site, the grade is highest. The grades are lowest and the flattest adjacent to West Broadway. Adopted city policy supports higher density residential development on this site. Residence, office residence, and commercial districts allow multiple-family dwellings. Both residence and office residence districts have yard requirements for all uses. Commercial districts do not have yard requirements; however, the City’s policies do not support commercial uses on this site. This makes a commercial zoning district inappropriate for this site. Further, the City rezoned this site from C1 to R5 in August 2009 as part of implementing the policies of the *West Broadway Alive* plan. The existing zoning would allow higher density and building bulk than proposed for this development. The north end of the site has high visibility from West Broadway, a corridor

providing a gateway from outside the city. These circumstances are unique and have not been created by the applicant.

**3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. Fence regulations are established to promote the public health, safety and welfare, encourage an aesthetic environment and allow for privacy, while maintaining access to light and air. Where variances are requested, the applicant is proposing amenities to address any adverse impacts and to not alter the essential character of the area. With the enhanced landscaping proposed, the requests meet the intent of the ordinance.

Between the building and the West Broadway front lot line, the applicant would provide enhanced landscaping with ornamental trees and a variety of shrubs. Shade tolerant perennials would also be provided under the second tier of stairs leading to the entrances to prevent a dead-space underneath. The plantings on the terraced retaining walls and around the patio would create a focal feature rather than an uninviting garage wall. Overall, the landscaped yard proposed should provide an adequate buffer between the dwellings and the street. Sloped yards are common in the area. The tiered walls should not look out of place. The slope in front of the building and stairs reduce the visual impact of the exposed garage wall. The individual unit entrances and the community room patio also provide additional opportunities for connections to and eyes on the street. The proposed retaining wall should not block any sight lines of drivers at the Upton/Broadway intersection because it would be set back over 30 feet. At the top of the wall, a decorative fence would be provided that also acts as a barrier to the driveway leading to the below-grade parking.

Two corners of the building would project into the 27<sup>th</sup> Avenue yard. The applicant is proposing corner windows on these walls to minimize any building bulk effects. The patio located under the second floor overhang would be screened from the street. Landscaping would be provided around the mechanical vent to minimize its visibility.

The walls of the building extending into the Upton Avenue front yard would have corner windows on the upper floors to minimize any building bulk effects. Landscaping would screen the transformer and refuse enclosure from Upton Avenue. The pergola over the refuse enclosure would screen the top of the refuse storage year-round from the upper units and the dwellings across the street, which are elevated above the street. The pergola would also extend over the walkway to high-light it as a primary entrance.

**4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Granting the variances should not negatively affect public safety. The design of all obstructions has taken into consideration CPED principles. Adequate vehicle and bicycle parking would be provided on-site. The site is also adjacent to a transit stop. The applicant anticipates that tenants

will walk to many nearby services and amenities. Access for refuse pick-up and access to the transformer would occur from the street, which is similar to many other developments without alley access. Granting the variances should have little effect on congestion in the streets.

## **SITE PLAN REVIEW**

**Findings as required by the Minneapolis Zoning Code for the site plan review:**

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

### **Section A: Conformance with Chapter 530 of the Zoning Code**

#### **BUILDING PLACEMENT AND DESIGN:**

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances, 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.
- **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.

***Conformance with above requirements:***

The R5 district requires a minimum front yard of 15 feet. Front yards are required adjacent to West Broadway and Upton Avenue. A 12 foot wide corner side yard is also required adjacent to 27<sup>th</sup> Avenue. The building is mainly oriented towards West Broadway. The setbacks of the building would vary because the site is triangular in shape.

Amenities located between the building and the adjacent streets include landscaping, patios, and a shared picnic area.

Principal entrances would face West Broadway and Upton Avenue.

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

The building would include recesses and projections and windows on all sides to divide the building into smaller identifiable sections.

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

The primary exterior materials would include brick veneer, burnished block veneer, fiber cement panels, and stucco. Please note, exterior material changes at a later date would require review by the Planning Commission and an amendment to the site plan review.

All sides of the building would be compatible to each other and similar in appearance.

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

The main entrances would be sheltered, recessed and flanked by windows to emphasize their importance.

All sides of the building are subject to the window requirements because they all face a street. On the second and third floor walls, ten percent or more of the walls would be windows. On the first floor walls, twenty percent or more of the walls measured between two and ten feet would be windows except the south wall facing the intersection of West Broadway and 27<sup>th</sup> Avenue North. Twenty percent of the wall is equal to 72 square feet. The applicant would provide 22 square feet or 6.1 percent. A bedroom and a staircase are located on the other side of the wall. On the second and third floor south walls, 11.2 percent of each wall would be windows. Also, excess windows are provided on all walls of the east and west elevations to provide additional natural surveillance and visibility of the adjacent streets. For these reasons, staff is recommending that the planning commission grant alternative compliance for the first floor wall of the south elevation window requirements from 20 percent to 6.1 percent.

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

More than 70 percent of the linear frontage of each ground floor building wall would accommodate spaces with active functions.

A flat roof is proposed. The majority of buildings adjacent to West Broadway in the immediate area have flat roofs.

The enclosed parking would be located below grade.

#### **ACCESS AND CIRCULATION:**

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

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

Walkways 4 feet in width or greater would connect the public sidewalk to the main entrances.

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

Vehicle access to the site would be from one curb cut on Upton Avenue. The curb cut would be 22 feet wide. All circulation would occur within the building. The proposed access and circulation should have minimal impact on pedestrians and surrounding residential properties.

The site is not adjacent to an alley.

All of the parking would be enclosed in the building. Most of the area not covered by the building would be landscaped. The amount of impervious surface proposed for vehicle access is not excessive.

#### **LANDSCAPING AND SCREENING:**

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
  - **Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year.**
- **Screening shall be satisfied by one or a combination of the following:**
  - **A decorative fence.**
  - **A masonry wall.**
  - **A hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**
- **The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.**
- **In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.**
- **All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.**

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

The zoning code requires that a least 20 percent of the site not occupied by building be landscaped. The lot area of the site is approximately 33,267 square feet. The building would be approximately 13,788 square feet. The lot area minus the building footprint therefore consists of approximately 19,479 square feet. At least 20 percent of the net site area (3,896 square feet) must be landscaped. Approximately 14,804 square feet of the site would be landscaped. That is equal to 44.5 percent of the net lot area.

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 8 and 39 respectively. The applicant would provide 2 canopy, 4 coniferous, and 29 ornamental trees on-site and a total of 7 canopy and 6 ornamental trees in the street boulevards. The total proposed number of trees is 48. The combination, number, and location of trees proposed meets the intent of the ordinance. As a condition of each yard variance, staff is recommending that the applicant install the landscaping in each yard as shown on the plan. In the required yards, a total of 17 trees are proposed. The two on-site canopy trees would also be located in the required yards. To create an adequate tree canopy, additional trees should be installed. Staff recommends that the planning commission grant alternative compliance for the tree requirement to allow the alternative proposed as long as not less than 30 trees are installed throughout the site as well as the adjacent boulevards. A total of 555 shrubs would also be provided. The plan indicates that the remainder of the site not covered by the buildings, driveway, walkways, patios and the trash storage area would be sodded. Perennials would also be provided under the steps leading to the West Broadway building entrances.

No surface parking is proposed.

#### **ADDITIONAL STANDARDS:**

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **To the extent practical, site plans shall minimize the blocking of views of important elements of the city.**
- **To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260 related to:**
  - **Natural surveillance and visibility**
  - **Lighting levels**
  - **Territorial reinforcement and space delineation**
  - **Natural access control**
- **To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

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

No surface parking is proposed.

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

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

Wind currents should not be major concern.

Windows would be provided on all sides of the building to allow natural surveillance and visibility. The placement and type of landscaping should not significantly impede views to and from the site. Lighting would be provided throughout the site. Information submitted by the applicant indicates that lighting levels would enhance security without creating glare or excessive lighting. Landscaping would be

provided adjacent to the walkways to guide pedestrian movement in and around the site and to distinguish between public and private spaces.

The existing structure will be demolished. It is not historic or eligible for designation.

**Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council**

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

**Parking and Loading:**

*Minimum automobile parking requirement:* The minimum parking requirement for a multiple-family dwelling in the R5 district is one space per dwelling unit. A total of 46 units are proposed, therefore the minimum parking requirement is 46 spaces. The site qualifies for a transit incentive for multiple-family dwellings that reduces the minimum parking requirement by 10 percent when the proposed use is located within 300 feet of a transit stop with midday service headways of 30 minutes or less in each direction. The incentive reduces the parking requirement by four spaces resulting in a minimum parking requirement of 42 spaces. The applicant is proposing to provide 42 spaces.

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

*Bicycle parking requirement:* The minimum bicycle parking requirement is equal to one space per two dwelling units in the R5 district. Not less than 90 percent of the required bicycle parking must meet the standards for long term parking. All required bicycle parking spaces must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be installed to the manufacturer's specifications, including the minimum recommended distance from other structures. In addition, required long-term bicycle parking spaces must be located in enclosed and secured or supervised areas providing protection from theft, vandalism and weather and shall be accessible to intended users. Required long-term bicycle parking for residential uses shall not be located within dwelling units or within deck or patio areas accessory to dwelling units. The minimum requirement is 23 spaces, of which at least 21 must meet the long-term parking requirements. The applicant would provide at least 21 long-term and 2 short-term spaces.

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

**Maximum Floor Area:** The lot area is 33,267 square feet. The maximum FAR allowed in the R5 District is 2.4 when all of the required parking is provided within the building. The building would have a total of 36,207 square feet, which is an FAR of 1.09.

**Minimum Lot Area:** The minimum lot area requirement in the R5 district is 700 square feet per dwelling unit. The development qualifies for a bonus to increase the number of dwelling units by providing enclosed parking. This reduces the required lot area per dwelling unit to 594 square feet. The proposed lot size is 33,267 square feet; therefore, the applicant is proposing 723 square feet of lot area per dwelling unit.

**Dwelling Units per Acre:** The proposed density would be approximately 60 dwelling units per acre.

**Building Height:** In the R5 district, the maximum height is limited to 4 stories or 56 feet, whichever is less. The height of the building would be 3 stories and 46 feet at the top of the parapet.

**Yard Requirements:** Front lot lines are adjacent to West Broadway and Upton Avenue North. The minimum front yard requirement in the R5 district is 15 feet unless an adjacent residential structure on the same block face is set back more. Because the subject site occupies the entire block, the minimum required front yard is 15 feet. The building, a patio, and stairs that extend more than 4 feet above the natural grade would project into the required yard adjacent to West Broadway, but are not permitted obstructions. A variance is required to allow them. The building, a refuse storage area and enclosure with a pergola, a walkway exceeding 6 feet in width, and a transformer would project into the required yard adjacent to Upton Avenue North, but are not permitted obstructions. A variance is required to allow them.

A corner side yard is required adjacent to 27<sup>th</sup> Avenue North. The minimum corner side yard requirement is equal to  $8+2x$ , where  $x$  is equal to the number of stories above the first floor, or 15 feet (the applicable front yard requirement), whichever is less. A 3-story building is proposed resulting in a minimum 12 foot wide corner side yard. The building, a patio, and a mechanical vent would project into the required yard adjacent to 27<sup>th</sup> Avenue, but are not permitted obstructions. A variance is required to allow them.

**Building Lot Coverage:** The maximum lot coverage allowed in the R5 district is 70 percent, or 23,287 square feet. The proposed foot print is approximately 13,788 square feet, which covers 41.5 percent of the site.

**Impervious Surface:** The maximum impervious surface coverage allowed in the R5 district is 85 percent, or 28,277 square feet. The proposed amount of impervious surface is approximately 18,463 square feet, which covers approximately 55.5 percent of the site.

**Specific Development Standards:** Not applicable.

**Hours of Operation:** Not applicable.

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

**Screening of mechanical equipment:** All mechanical equipment is required to be arranged so as to minimize visual impact by using screening and must comply with Chapter 535 and district requirements including:

**535.70. Screening of mechanical equipment.** (a) *In general.* All mechanical equipment installed on or adjacent to structures shall be arranged so as to minimize visual impact using one (1) of the following methods. All screening shall be kept in good repair and in a proper state of maintenance.

(1) *Screened by another structure.* Mechanical equipment installed on or adjacent to a structure may be screened by a fence, wall or similar structure. Such screening structure shall comply with the following standards:

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- a. The required screening shall be permanently attached to the structure or the ground and shall conform to all applicable building code requirements.
  - b. The required screening shall be constructed with materials that are architecturally compatible with the structure.
  - c. Off-premise advertising signs and billboards shall not be considered required screening.
- (2) *Screened by vegetation.* Mechanical equipment installed adjacent to the structure served may be screened by hedges, bushes or similar vegetation.
  - (3) *Screened by the structure it serves.* Mechanical equipment on or adjacent to a structure may be screened by a parapet or wall of sufficient height, built as an integral part of the structure.
  - (4) *Designed as an integral part of the structure.* If screening is impractical, mechanical equipment may be designed so that it is balanced and integrated with respect to the design of the building.

A transformer would be located at ground level adjacent to Upton Avenue. The transformer would be screened sufficiently by landscaping.

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

**535.590. Lighting.** (a) *In general.* No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(b) *Specific standards.* All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively arranged so as not to directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light source.
- (2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility to a person of normal sensitivities when viewed from any permitted or conditional residential use.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

The applicant has submitted lighting information that indicates the proposed lighting will comply with the above standards.

**Signs:** A wall sign facing West Broadway is proposed. Any proposed signage must comply with the requirements of Chapter 543 of the zoning code and will require Zoning Office review, approval, and permits.

**Home occupations:** Some of the units proposed are intended for live-work capacities. Live-work units must comply with the home occupation regulations in Chapter 535, Article VII of the zoning code.

**Fences:** Fences are subject to the regulations found in Chapter 535, Article VI of the zoning code. The applicant is proposing to build a terraced retaining wall at the north end of the site between the proposed driveway and West Broadway. Most of the retaining wall would not be retaining natural grade. Where natural grade is not retained, the wall is regulated as a fence and is subject to fence height limitations. A part of the retaining wall would also have a metal fence located on top. In a front yard, a solid fence can be up to three feet in height. Outside of required yards, the maximum height of a solid fence is six feet. The proposed height of the retaining wall and fence above natural grade would vary in height from 3 feet to 10.5 feet. Increasing the allowed height of a fence requires a variance.

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

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

Applicable Implementation Steps

- 10.4.1 Maintain and strengthen the architectural character of the city's various residential neighborhoods.
- 10.4.2 Promote the development of new housing that is compatible with existing development in the area and the best of the city's existing housing stock.

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

Applicable Implementation Steps

- 10.6.3 Provide appropriate physical transition and separation using green space, setbacks or orientation, stepped down height, or ornamental fencing to improve the compatibility between higher density and lower density residential uses.
- 10.6.4 Orient buildings and building entrances to the street with pedestrian amenities like wider sidewalks and green spaces.
- 10.6.5 Street-level building walls should include an adequate distribution of windows and architectural features in order to create visual interest at the pedestrian level.

According to the guidelines outlined in the *West Broadway Alive* small area plan, the following apply to this proposal:

- All new buildings should be at least two stories in height.
- Front facades of new buildings should include some brick to provide an element of continuity with the historic character of West Broadway structures.

- Facades should include prominent front entrance and abundant windows glass. Principal entrances to West Broadway buildings, commercial or residential, should face the street.

*Staff comment:* The scale, character, materials, and setbacks of the proposed building would be compatible with other residences in the immediate area and are appropriate for its location on the West Broadway community corridor.

### **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 standard:

- 20 percent window requirement

On the first floor walls, twenty percent or more of the walls measured between two and ten feet would be windows except the south wall facing the intersection of West Broadway and 27<sup>th</sup> Avenue North. Twenty percent of the wall is equal to 72 square feet. The applicant would provide 22 square feet or 6.1 percent. A bedroom and a staircase are located on the other side of the wall. On the second and third floor south walls, 11.2 percent of each wall would be windows. Also, excess windows are provided on all walls of the east and west elevations to provide additional natural surveillance and visibility of the adjacent streets. For these reasons, staff is recommending that the planning commission grant alternative compliance for the first floor wall of the south elevation window requirements from 20 percent to 6.1 percent.

- Minimum tree requirement

The zoning code requires at least one canopy tree for each 500 square feet of required green space. The tree requirement for this site is 8. The applicant would provide 2 canopy, 4 coniferous, and 29 ornamental trees on-site and a total of 7 canopy and 6 ornamental trees in the street boulevards. The total proposed number of trees is 48. The combination, number, and location of trees proposed meets the intent of the ordinance. As a condition of each yard variance, staff is recommending that the applicant install the landscaping in each yard as shown on the plan. In the required yards, a total of 17 trees are proposed. The two on-site canopy trees would also be located in the required yards. To create an adequate tree canopy, additional trees should be installed. Staff recommends that the planning commission grant alternative compliance for the tree requirement to allow the alternative proposed as long as not less than 30 trees are installed throughout the site as well as the adjacent boulevards.

**RECOMMENDATIONS**

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow 46 dwelling units for the properties located at 2601-2623 West Broadway and 2700 Upton Avenue North, subject to the following condition:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the West Broadway front yard requirement to allow the building, a patio, and stairs that extend more than 4 feet above the natural grade for the properties located at 2601-2623 West Broadway and 2700 Upton Avenue North, subject to the following condition:

1. As shown on the plan, landscaping shall be provided in the West Broadway front yard.

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

The application for a variance to reduce the West Broadway front yard requirement to allow bay windows has been **returned** to the applicant.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the Upton Avenue front yard requirement to allow the building, a walkway, a refuse storage area and enclosure, a pergola, a walkway exceeding 6 feet in width, and a transformer for the properties located at 2601-2623 West Broadway and 2700 Upton Avenue North, subject to the following condition:

1. As shown on the plan, landscaping shall be provided in the Upton Avenue North front yard.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the 27<sup>th</sup> Avenue corner side yard requirement to allow the building, a patio, and a mechanical vent for the properties located at 2601-2623 West Broadway and 2700 Upton Avenue North, subject to the following condition:

1. As shown on the plan, landscaping shall be provided in the 27th Avenue North corner side yard.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to increase the allowed height of a fence/retaining wall for the properties located at 2601-2623 West Broadway and 2700 Upton Avenue North.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan review to allow a multiple-family dwelling with 46 units for the properties located at 2601-2623 West Broadway and 2700 Upton Avenue North, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, floor, site, lighting and landscape plans.
2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by August 2, 2011, or the permit may be revoked for non-compliance.
3. As an alternative to the minimum number of on-site canopy trees required by section 530.160 of the zoning code, the applicant shall provide at least 30 trees with no less than 17 trees on-site. The remainder may be provided on-site and/or in the boulevards.
4. Lighting shall comply with the standards of 535.590 of the zoning code.
5. Live-work units shall comply with the home occupation regulations in Chapter 535, Article VII of the zoning code.

**Attachments:**

1. PDR comments
2. Applicant statement of use and findings
3. Zoning map
4. Plans
5. Photos