

**City of Minneapolis
Community Planning and Economic Development
Planning Division Report**

Rezoning Application
Conditional Use Permit, cluster development
Variance, decrease south side yard
Variance, increase trellis height
Variance, decrease driveway width
Variance, decrease interior yard width
BZZ-1892

Date: September 27, 2004 (continued from September 13)

Applicant: Michael Lander

Address Of Property: 4251 Vincent Avenue South

Date Application Deemed Complete: August 3, 2004

End of 60 Day Decision Period: October 2, 2004

End of 120 Day Decision Period: December 1, 2004

Applicant Waives 60 Day Requirement: No

Contact Person and Phone: Patrick Burns, 612/582-2990

Planning Staff and Phone: Fred Neet, 612/673-3242

Ward: 13 **Neighborhood Organization:** Linden Hills Neighborhood Council

Existing Zoning: R1 Single-Family District

Proposed Zoning: R3 Multiple-Family District

Zoning Plate Number: 29

Legal Description: Lot 16, Block 22, First Division of Remington Park [08-028-24-42-0036]

Proposed Use: The applicant proposes to construct an additional single-family dwelling on the rear of the lot plus another efficiency unit above a new garage, and to renovate the existing single-family house on the front of the lot and construct a detached single-vehicle garage, after demolishing the existing garage and shed.

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Previous Actions: A 1993 variance for the property could not be found.

The City Planning Commission forwarded its recommendation to rezone this property from R1 to R3 on March 8, 2004, to the City Council, and continued the applications for a conditional use permit (CUP cluster) and two variances to April 8, in part for reconsideration of the site plan including location of proposed structures. A revised site plan was not submitted. Council Member Lane requested that the CUP and variances be continued again to April 19 to allow City Council action on the rezoning application. The City Council denied the rezoning on April 16. The Planning Commission denied the CUP and variances on April 19.

Concurrent Review: Conditional Use Permit for a cluster development; south side yard variance from 15 feet to 5 feet; fence-height variance from 6 feet to 8 feet to allow a trellis in the south side yard; decrease driveway width from 10 feet to 8 feet; decrease width between guest house and carriage house from 10 feet to 4 feet.

Appropriate Section(s) of the Zoning Code: Chapter 525, Article VI (zoning amendment) and Article VII (conditional use permit) plus Section 536.20 (cluster development); Sections 535.250 and 525.520(1) and (14) (authorized variances).

Background: The lot currently has three structures: a single family home, a detached garage, and the original garage, now a shed. The block has no alley. The applicant wrote the following, edited slightly:

The project involves renovation of the existing 1,200 square foot 1½ story single family home and construction of a new single car garage and two new small homes – a new two story single family home and a detached two car garage with a carriage home above. Both new structures will be built on the rear 75 feet of the lot located at 4251 Vincent Avenue South in the Linden Hills neighborhood of South Minneapolis. The lot is 56' x 152' (8,512 square feet) and is zoned R-1. The existing 1,200 sq ft two story single family home, constructed in 1904, sits on the front 75' of the property, and will be retained and improved in the project. We intend to owner occupy the new home and rent the existing home and carriage house. We will restore the original porch and sidewalk connection, paint and make various interior upgrades, and relandscape the existing home as part of the project.

The three new structures are designed to complement the existing home. The new two story has 1,900 sq ft over a full basement. The carriage house has 430 square feet over a two car garage. The total finished interior above grade square footage on the property after completion of the two new homes will not exceed 3,600 sq ft. The site plan seeks to maximize solar exposure and minimize the impact of the adjoining properties.

This is a new application. Staff recommended denial of the March 2004, applications for a CUP cluster and approval with conditions for variances to reduce the south side yard from 15 to 5 feet and to allow an 8-foot high trellis in the south side yard.

The site plan is revised. Based on findings below, staff can recommend approval of the CUP cluster, with conditions, and three of the four variances now requested. Specifically, in part, the relocation of the new (guest) house removes the considerable impacts on the property to the north.

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The property is adjacent to the Linden Hills neighborhood commercial district to the south and east, with driving and parking areas immediately to the south serving offices converted from residential uses, and with commercial parking immediately to the east. To the north and across the street to the west is an R1 Single-family District including a public library to the west southwest. To the northwest along Upton Avenue north of the commercial node is an R4 Multiple-family District.

REZONING from R1 to R3

Findings As Required By The Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The city's eight goals include:

Increase the city's population and tax base by developing and supporting housing choices citywide through preservation of existing housing and new construction.

Create strong vital commercial corridors citywide through mixed-use development, including a variety of businesses and creative housing.

General housing policies in The Minneapolis Plan include:

4.9 Minneapolis will grow by increasing its supply of housing.

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

4.12 Minneapolis will reasonably accommodate the housing needs of all of its citizens.

The following policies in The Minneapolis Plan could be are not supportive of the rezoning:

4.9 (above) continues, "Support the development of new medium- and high-density housing in appropriate locations throughout the City."

4.14 Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city.

9.8 Minneapolis will maintain and strengthen the character of the city's various residential areas.

9.21 Minneapolis will preserve and enhance the quality of living in residential neighborhoods, regulate structures and uses which may affect the character or desirability of residential areas, encourage a variety of dwelling types and locations and a range of population densities, and ensure amenities, including light, air, privacy and open space.

This location is not considered appropriate for medium-density housing, given the dominance of single-family homes on the block, and single-family homes to the south converted to offices without exterior alterations.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

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The amendment is primarily for the interest of a single property owner. Additional, well-designed residential development, however, presumably including an unit affordable to the middle-income, complies with City policy.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

Three units on one lot, including an apartment building, as permitted in R3 districts would be incompatible with the adjacent R1 uses to the north and west. Nor would R3 zoning be compatible with the two C1 uses immediately to the south which have been converted from and have the appearance of single family homes on individual lots, including residential- rather than commercial-style garages abutting the property in question.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

A single family home is a reasonable use at this site as are other uses permitted in R1 districts.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

In the most recent decades, the large existing R1 district has been remarkably stable, even reinforced by property improvements. At the same time, the Linden Hills commercial node to the east and south has experienced a moderate increase in intensity of use, and in the mid-1980s a sizable complex of townhouses and condominiums were constructed on the triangular block formed by Upton and Sheridan Avenues and 42nd Street to the east. Another condominium structure was built in 1984 at 4236 Upton, two lots northeast of the subject property. All these residential uses are zoned R4.

CONDITIONAL USE PERMIT, cluster development

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, morals, comfort or general welfare.

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The proposed residential development should not significantly affect public health, safety, morals, comfort or general welfare. It complies with the north side yard setback, and the variance requested for the south side yard is adjacent to commercial parking. The structured parking provided is designed to be compatible with the neighborhood's character. The Fire Department noted that response time to the new single family home would be slightly increased.

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, nor substantially diminish and impair property values.**

Three principal structures on one lot would be a significant departure from all adjacent properties. The value of the property to the north could be affected. The adjacent commercial properties to the south and east should not be affected.

3. **Will have adequate utilities, access roads, drainage and/or other necessary facilities.**

Fire and Public Works Departments indicate the adequacy of the existing utilities, access, and drainage.

4. **Will adequately provide ingress and egress designed as to minimize traffic congestion in the public streets.**

Two additional dwelling units will have minimal effect on the predominantly residential streets unless one or more of the households has more than one passenger vehicle. On a block without an alley, the driveways are designed to allow vehicles to exit the lot without backing into the street.

5. **Is not substantially consistent with the applicable policies of the comprehensive plan.**

See #1 under **REZONING ... Findings**, above, including references to the neighborhood's character.

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

- (A) **Any application for cluster development approval shall include a development plan which shall consist of a statement of the proposed use of all portions of the land to be included in the cluster development and a site plan showing all existing and proposed development, including but not limited to the location of structures, parking areas, vehicular and pedestrian access, open space, drainage, sewerage, fire protection, building elevations, landscaping, screening and bufferyards, and similar matters, as well as the location of existing public facilities and services.**

A full development plan is attached.

- (B) All land proposed for cluster development shall be platted or replatted into one or more lots suitable for cluster development, and as such shall comply with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.**

The 8,512 square foot lot is currently platted appropriately as a single lot for a cluster development if rezoned to R3. A deed restriction shall be provided in compliance with Chapter 598.260 providing common space and public access.

- (C) The cluster development shall meet the minimum lot area and lot width requirements of the zoning district. There shall be no minimum lot area or lot width requirements for individual lots within the cluster development.**

If rezoned to R3, the proposed cluster development exceeds the minimum lot area of 7,500 square feet and minimum lot width of 40 feet.

- (D) Yards of at least such minimum width as required by the zoning district shall be maintained along the periphery of the cluster development. Yards for individual lots within the cluster development shall not be required. The distance between principal buildings within the cluster development shall be not less than ten (10) feet.**

The south side yard requires a variance to 5 feet adjacent to a principal entrance. About 60 feet separate the two single family homes. The proposed two-car garage and carriage house is 4 feet from the proposed new (guest) house, and requires another variance (accessory structures require a 6-foot separation; principal structures require a 10-foot separation).

- (E) Not less than forty (40) percent of the land in a cluster development shall be designated as common space for the benefit of all of the residents of the development. Such common space shall be a contiguous area under common ownership or control and shall be located so that it is directly accessible to the largest practical number of dwellings within the development. Safe and convenient pedestrian access shall be provided to such common space for dwellings not adjoining such space. Common space shall include but is not limited to landscaped yards, recreation areas, wetlands, waterbodies and common parking facilities. However, not more than one-half of required common space shall consist of such parking facilities, driveways and private roadways. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.**

The applicant claims 71% of the new development will be "Common Area" or "Limited Common Area" (see Site Summary, enclosed). However, most of the "Common Area" is immediately adjacent to the existing house, separated from other common areas and structures by driveway, and is considered semi-private primarily for the existing house. The "Limited Common Area(s)," 0.9% of the lot, are divided among the three proposed residences for exclusive use by each. Of the 6,053 square feet of both "Common Area(s)," about 2,300 square feet or 37% are driveway or garage footprints. Less than 50% of the total "Common Area" is impervious.

- (F) **To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood. Not less than eighty (80) percent of the habitable floor area of single or two family dwellings and multiple family dwellings of three (3) and four (4) units shall have a minimum width of twenty-two (22) feet. Cluster developments not otherwise governed by Chapter 530, Site Plan Review, shall comply with the principal entrance and windows requirements of Chapter 535, Regulations of General Applicability. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.**

New construction is designed to be compatible with the residential neighborhood, and all dwellings exceed 22 feet in width. The new buildings will have 30% or more windows facing the public street. However, the principal entrance to the carriage house will require a side yard variance from 15 feet to 5 feet.

- (G) **An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.**

The north side yard of the larger new house is minimum, but heavily vegetated and greater than the north side yard of the existing house. The driveway is a permitted use along the south side yard, and both the driveway and the south side yard of the carriage house abut parking and drive areas of commercial uses.

VARIANCE of the south side yard from 15 to 5 feet to allow a principal entrance

Findings Required by the Minneapolis Zoning Code: assumes R3 zoning and a conditional use permit for a cluster development

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

The location of the existing house requires that the driveways, the two-car garage, and therefore the principal entrance to the carriage house be located not only to the rear of the garage but on the south side. Other reasonable uses in R3, of course, include a traditional unit structure containing 1-3 dwellings.

- 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.**

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The only characteristic that could be considered unique is that the south side yard is adjacent to cross-platted commercial rear lots used as drive and parking areas. The property owner is requesting rezoning and a conditional use permit for uses which then require the variance.

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

The intent of the 15-foot interior side yard requirement for single family dwellings with the principal entrance facing the interior side yard is to make prominent the principal entrance from public streets. However, the affected carriage house appears from the street as a garage with a second story and windows. Also, a second variance is requested for a trellis which will function as highlighting the principal entrance. As the principal entrance faces rear lots, parking, and drives, character and enjoyment are not affected.

- 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.**

Fire, Police, and Public Works Departments have reviewed the proposed project and raised no concerns about congestion, fire, public welfare or safety.

VARIANCE to allow an 8-foot high trellis within the south side yard

Findings Required by the Minneapolis Zoning Code:

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

Trellises are not mentioned in the zoning ordinance. They are treated as fences by the Zoning Office, and permitted in this location with a height limit of 6 feet. As a decorative element which also brings attention to the principal residential entrance, the proposed trellis is a reasonable use.

- 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 south side yard is adjacent to rear yards which are parking and drive areas.

- 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.**

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A decorative trellis complies with the intent of the ordinance and typically would be considered an improvement to the property.

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

A decorative trellis has no effect on these concerns.

VARIANCE to reduce driveway width from 10 feet to 8

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

An 8-foot driveway is reasonable to serve both a one-car and a two-car garage, and will increase the amount of common space for all users

- 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 south side yard is adjacent to rear yards which are parking and drive areas.

- 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.**

Increased common space is a major intent of the ordinance provisions for cluster developments, and the driveway is located the furthest possible distance from other residential uses.

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

The driveway has no effect on these concerns.

VARIANCE to reduce minimum distance from the new (or guest) house from the carriage house

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

A six-foot wide deck, rather than twelve, is reasonable, and no undue hardship has been asserted.

- 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.**

Unique circumstances justify a twelve-foot wide deck have not been asserted. The property owner is requesting rezoning and a conditional use permit for uses which then require the variance.

- 3. The granting of the variance will not 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.**

One intent of the 10-foot interior yard requirement between principal structures is to provide common space for residents of cluster developments. The interior yard variance would, however, not affect surrounding properties, only future residents.

- 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.**

Fire, Police, and Public Works Departments have reviewed a similar project and raised no concerns about congestion, public welfare or safety. Inadequate separation between a deck and an adjacent residential structure could increase the danger of fire.

RECOMMENDATIONS OF THE COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT PLANNING DIVISION:

REZONING

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **deny** the application to rezone 4251 Vincent Avenue South from R1 to R3.

CONDITIONAL USE PERMIT, cluster development

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a cluster development at 4251 Vincent Avenue South, on condition that

1. the property is rezoned from R1 to R3;
2. a deed restriction is executed to comply with the provisions of Chapter 598.90 of the Land Subdivision Regulations;
3. the final site and landscape plans are submitted to the city's Planning Division;
4. the site plan includes materials and elevations; and
5. variances of the south side yard to allow a principal residential entrance in the 15-foot required setback and to allow an 8-foot high trellis are approved.

VARIANCE to reduce the south side yard from 15 feet to 5 feet to allow a principal residential entrance

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application to reduce the south side yard from 15 feet to 5 feet to allow a principal residential entrance at 4251 Vincent Avenue South on condition that

1. the property is rezoned from R1 to R3; and
2. a conditional use permit is approved to allow a cluster development at 4251 Vincent Avenue South.

VARIANCE to allow an 8-foot high trellis within the south side yard

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application to allow an 8-foot high trellis within the south side yard at 4251 Vincent Avenue South on condition that

1. the property is rezoned from R1 to R3; and
2. a conditional use permit is approved to allow a cluster development at 4251 Vincent Avenue South.

VARIANCE to reduce driveway width from 10 feet to 8

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application to allow to reduce driveway width from 10 feet to 8 at 4251 Vincent Avenue South on condition that

1. the property is rezoned from R1 to R3; and
2. a conditional use permit is approved to allow a cluster development at 4251 Vincent Avenue South.

VARIANCE to reduce minimum distance from the new (or guest) house from the carriage house

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application to allow to reduce minimum distance from the new (or guest) house from the carriage house from 10 feet to 4 feet at 4251 Vincent Avenue South.

Attachments: applicant's statement
neighbors' letters
zoning map
site plans & floor plans (5 pp.)
elevations
photographs (6)
aerial photograph
Land Use Policy map
full application (93 pp., includes some of above)