

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit for a Cluster Development and Variance  
BZZ-3851

**Date:** December 3, 2007

**Applicant:** J. Robinson

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

**Project Name:** 401 University Cluster Development

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

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

**Date Application Deemed Complete:** November 6, 2007

**End of 60 Day Decision Period:** January 5, 2008

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

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

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

**Zoning Plate Number:** 15

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

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

**Concurrent Review:**

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

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

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

**Background:** A Conditional Use Permit for a seven-unit cluster development was approved for this site on September 18, 2006 (BZZ-3155 & PW#7941). The applicant proposed to demolish an existing duplex at 401 University Avenue SE and to move another duplex from 408 4<sup>th</sup> Street SE to the site to replace the demolished duplex. An existing four-unit building (erroneously identified as a five-unit building on the previous application) would remain at the southerly end of the site and a parking lot for both structures was to be created between the buildings to consolidate parking areas and to reduce impervious surface and curb cuts.

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The applicant now proposes to do basically the same proposal, but instead of moving a duplex to the site he proposes to build a new triplex. The existing building at the corner of the site only has four units, rather than five as indicated on the previously approved application; therefore, the overall total will still be seven units, but this will be an increase of one unit from the number currently existing on the site. In addition, the number of bedrooms will increase.

The applicant was required to apply for a cluster development for the previously approved application because the site is one platted lot and Section 535.190 of the zoning code limits not more than one (1) principal residential structure per zoning lot, except in cluster or planned unit developments. While the lot is large enough to be divided into two parcels, the R5 District does not allow duplexes as a permitted use, unless part of a cluster or planned unit development, or if proposed for an existing nonconforming lot of record. The only way the existing duplex could have been removed and replaced with another *duplex* was through a conditional use permit for a cluster development, but the lot can be subdivided into two lots if the existing duplex is replaced with a new *triplex*. However, this would require various setback, impervious surface, and parking variances, without the shared parking arrangement shown by the applicant, so the conditional use permit for a cluster is still an appropriate application to allow this proposal.

The new triplex and parking encroaches into the 10 foot corner yard setback along 4<sup>th</sup> Avenue SE. The applicant has applied for setback variances to encroach into these setbacks. The proposed egress widows exceed the maximum allowable area of 16 square feet in a required setback and will have to be revised to comply with code. The new triplex is subject to 1-4 Administrative Site Plan Review.

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

**CONDITIONAL USE PERMIT (for a seven-unit cluster development)**

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

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

The applicant proposes to demolish an existing duplex to the north of, but on the same lot as, the four-unit building (please note that it was erroneously listed as a five-unit building during the previously approved cluster development) at 401 University Avenue SE and to construct a new triplex on the site. It will be located on north part of the site and a parking lot for both structures will be created between the buildings to consolidate parking areas and to reduce impervious surface and curb cuts. Additional landscaping will be added. The proposed changes should be an improvement to the site and should not have negative impacts on the surrounding area if adequate parking is provided. Staff is concerned that because of the number of bedrooms and potential occupancy, the site will not have adequate parking.

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

The surrounding area is fully developed with residential uses. The removal and replacement of a duplex, with the associated site improvements, should not be injurious to property in the vicinity nor impede orderly development if adequate parking is provided and the new building is compatible with adjacent properties.

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

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

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

The development has parking to meet code requirements. There are seven units proposed. One space per dwelling unit is required per the zoning code and one space per dwelling unit is provided. There will be an increase of one unit at the site over existing conditions and the new triplex will have 15 bedrooms (five more than the existing duplex). The new triplex will also have a potential occupancy of 15 persons, as the code allows an occupancy of one (1) family plus four (4) unrelated persons, not to exceed five (5) persons per dwelling unit. It appears likely that the proposed development will be utilized for student housing, based on its proximity to the University of Minnesota and the use of nearby properties as student rentals. The parking standard used by staff to estimate parking demand for student housing is .5 spaces per unit, so while the code will only require three spaces for the new triplex, the actual demand is closer to eight spaces.

If four spaces are dedicated to the existing four-unit building (as they have historically been) and a demand of eight is applied to the new triplex, the proposed development should have 12 spaces to adequately meet parking demand. It is not possible to add more parking to the site, so staff recommends reducing the number of units, or bedrooms, to have the parking demand more closely match the parking supply. With three spaces available for the new triplex this would allow a total of six bedrooms; however, the existing duplex has 10 bedrooms, so staff recommends that the new structure be able to have the same amount of bedrooms that currently exist in that building. If the new triplex were limited to 10 bedrooms, then the parking demand may be closer to the parking supply for both structures of seven spaces.

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

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

The plan states the following about housing in Chapter Four, “As an indicator of the relative health and livability of the city, the condition of Minneapolis' residential neighborhoods over time has proven to be an important measure of the city's prosperity. Livable neighborhoods create places that people choose to settle in. Livability suggests safety, beauty, the quality of available housing choices and affordability. These qualities should be present in all types of housing and be accessible to residents in every sector of the housing market.”

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

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

**Implementation Steps**

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

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

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

**Implementation Steps**

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

Provide and maintain moderate and high-density residential areas.

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

While the proposed use of the site is in conformance with the above noted goals, the building materials are not compatible with adjacent structures and the scale and intensity may be too large for the site. Staff is recommending changes and conditions of approval that will mitigate these factors. The proposed redevelopment of this site, with these staff recommended changes and conditions of approval, is in conformance with the above noted policies of the comprehensive plan.

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*The Master Plan for the Marcy-Holmes Neighborhood* was approved by the City Planning Commission on November 17, 2003 and by the City Council on December 29, 2003. It has not been amended to be incorporated into the comprehensive plan, but it provides policy guidance for the area. The plan supports multi-family housing for the properties on the river side of 4<sup>th</sup> Street SE (see page 1-2). The plan recommends the addition of owner occupied housing, but opposes new development that does not add to the percentage of owner-occupied dwelling units in the neighborhood (page 2-1). While this proposal does not add owner occupied housing, it does not eliminate it either and only adds one unit over the number currently existing at the site. The plan calls for better maintenance of rental properties (Chapters 2 and 3) and this proposal, with staff recommended conditions of approval, should improve the site.

The plan states the following about parking, “the neighborhood strongly supports...student housing developments...to have 0.5 parking spaces for each bed proposed in a development. The neighborhood has unique challenges with respect to the new type of apartment buildings with four or more bedrooms per apartment compared to the old model of one and two bedroom apartments. These new apartments have far more people living in them, sometimes two or more people per bedroom, than old apartments and require more parking (page 7-4).” Staff is recommending that the number of bedrooms be limited to more closely match the parking supply on site.

It is the staff opinion that the proposed development, with the recommended conditions of approval, is in conformance with the *Master Plan for the Marcy-Holmes Neighborhood*.

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

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

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

A development plan is attached that shows the existing and proposed development including the location of structures, parking areas, vehicular and pedestrian access, open space and other items required for city approvals.

**(B) All land proposed for cluster development shall be platted or replatted into one or more lots suitable for cluster development, and as such shall comply with all of the applicable**

**requirements contained in Chapter 598, Land Subdivision Regulations.**

The site is platted as one lot.

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

The minimum lot size requirement for a cluster development in the R5 district is 5,000 square feet or 900 square feet per dwelling unit, whichever is greater. The site is 11,038 square feet, which would allow a density of 12 units. There are seven dwelling units proposed in two structures; approximately 1,576 square feet per dwelling unit. The minimum lot width requirement is 40 feet. The development has approximately 66.49 feet of frontage on University Avenue SE and 166 feet on 4<sup>th</sup> Avenue SE.

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

The new triplex encroaches into the required corner yard setback along 4<sup>th</sup> Avenue SE. The porch is up to the property line and the main structure is two feet from the property line. The parking encroaches into the 10 foot corner yard setback up to the property line. The applicant has requested variances for these items and staff is recommending approval of the variances (please see the variance section of this report) with the amendment that the new triplex be setback five feet from the property line; the porch can encroach further to three feet from the property line if it is limited to 13 feet in width along 4<sup>th</sup> Avenue. The distance between the two buildings is 51 feet. The parking lot can not encroach into the east five-foot interior setback, so the asphalt shall be removed in this area and it shall be landscaped and screened per the zoning code. In addition, screening is required along the west side of the parking lot between the parking and the public sidewalk and street. This may require an encroachment permit if the landscaping is provided in the public right-of-way.

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

The site is 11,038 square feet and the proposal provides 4,465 square feet of common area or 40 percent; however, the parking area as proposed is over half of the common area, so the overall common area is required to be increased to 4,720 square feet. The parking area is 2,360 square feet (40' x 59') and can

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not be made any smaller. If the proposed triplex is moved back five feet from the property line with the porch encroachment to three feet as recommended by staff, an additional 84 square feet will be available, leaving an additional 171 square feet necessary to be added to make the parking less than half of the common area. The applicant can provide that addition square footage of open space by reducing the size of the structure. This can be done by setting it back further than the required five feet narrowing the depth, or by narrowing the width, or a combination of the two; however, the porch should remain as an architectural feature on the front façade.

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

The four-unit building exists. The materials of the proposed triplex proposed are not compatible with adjacent structures. The existing four-unit building to the south is clad in stucco and the church to the north has stucco and stone facades. The proposed triplex will have architectural detail, but it will be clad in vinyl siding. Staff recommends that the new triplex utilize stucco or lap siding that is wood or cementitious to make all four sides of the building compatible with the adjacent structures. Both structures are 22 feet wide and comply with the window requirements of the code. The new triplex is subject to the 1-4 unit Administrative Site Plan Review standards. This must be completed before a building permit may be issued.

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

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

This cluster development does not include manufactured homes.

**VARIANCES (to reduce the corner yard setback)**

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

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

The applicant proposes to demolish an existing duplex to the north of the four-unit building at (but on the same lot as) 401 University Avenue SE and to construct a new triplex to replace the demolished duplex. The 4<sup>th</sup> Avenue SE side of the site is a corner yard with a required setback of 10 feet. The triplex is proposed to be setback two feet with a 13 foot wide porch up to the property line. The parking is up to the property line as well.

Because there is a large 13 foot interior boulevard along 4<sup>th</sup> Avenue SE, staff believes that allowing some setback variance would be reasonable. Requiring the building and parking to be setback 10 feet when the other structures on the block face are up to the property line would deprive the applicant of a use of the property similar to other structures in the area and this can be considered a hardship. However, the site is short on the required open space/common area for a cluster development. Further, with new construction it should be possible to provide a setback from the property line to allow for green space and access for maintenance of the new structure. It is not unreasonable to setback the structure five feet, with a two foot additional encroachment for a 13 foot wide porch, and this does not cause an undue hardship for the applicant.

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

The site has a large 13 foot interior boulevard and the other structures on the block face are up to the property line. These are circumstance that are not generally applicable to other properties in the City and have not been created by the applicant.

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

The intent of side yard setbacks is to provide a reasonable buffer between homes and to allow access to

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light and air for adjacent structures and public walkways. The majority of the structure and parking will meet the required setbacks and there are other structures on the block face built up to the property line, so granting this variance will not circumvent the intent of the ordinance, if it is setback five feet, with an encroachment a further two feet for a 13 foot wide porch.

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

The variance may have an effect on congestion as it allows a larger building, with more bedrooms, and in turn a larger occupancy. However, with staff recommended conditions of approval, the variance should not increase traffic demand at the site. The variance should not be detrimental to the public welfare or safety and will not increase the danger of fire.

**RECOMMENDATIONS**

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a seven-unit cluster development located at 401 University Avenue SE subject to the following conditions:

- 1) The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
- 2) Staff review and approve the final site plan before building permits may be issued.
- 3) All site improvements shall be completed by December 3, 2008, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 4) Landscaping and screening shall be provided for the parking lot on the east and west sides, subject to encroachment permits, if necessary.
- 5) The new structure shall be setback at least five feet and the 13-foot wide porch shall be setback at least three feet from the corner side yard property line along 4<sup>th</sup> Avenue SE. The structure shall be reduced in size to provide for the necessary 4,720 square feet of greenspace/common area for the cluster

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development.

- 6) The exterior materials of all of the sides of the new structure shall be stucco, or wood or cement lap siding, or a combination of the two materials.
- 7) The new triplex shall have no more than 10 bedrooms total.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance to reduce the required setback for the new structure from 10 feet to zero feet and in lieu thereof **approve** a variance application to reduce the corner yard setback on 4<sup>th</sup> Avenue SE from 10 to 5 feet for a new structure and 3 feet for the porch as a part of a cluster development located at 401 University Avenue SE, subject to the following condition:

- 1) The porch shall not exceed 13 feet in width along 4<sup>th</sup> Avenue SE.

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

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

**Attachments:**

1. Statement from applicant.
2. Zoning map.
3. Site plans, floor plans, and elevations.
4. Photos of the site.