

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variances and Site Plan Review
BZZ 4083

Date: July 21, 2008

Applicant: Crockett Investments, Inc.

Address of Property: 3403 38th Avenue South

Project Name: Longfellow Park Townhomes

Contact Person and Phone: David Crockett, (612) 845-5290

Planning Staff and Phone: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: June 27, 2008

End of 60-Day Decision Period: August 26, 2008

Ward: 9 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: C1 Neighborhood Commercial District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 28

Legal Description: Not applicable for this application

Proposed Use: Six Residential Townhomes

Concurrent Review:

- **Conditional use permit** to allow for six dwelling units.
- **Variance** to reduce the front yard setback along 34th Street East from 14 feet to 8 feet 6 inches for approximately 50 square feet of the proposed structure and from 14 feet to 4 feet for a parking area on a reverse corner lot, where both obstructions are located within the first forty feet from the adjacent residential property boundary.
- **Variance** to reduce the front yard setback along 38th Avenue South from 20 feet to 15 feet 3 inches for approximately 130 square feet of the proposed building located within the first forty from the adjacent residential property boundary.
- **Variance** to reduce the interior side yard from 15 feet to 13 feet to allow for a principal entrance facing an interior side lot line.
- **Variance** to increase the maximum height of a fence in the required front yard from 3 feet to 6 feet for approximately 8 feet of the fence along the south property line.

CPED Planning Division Report
BZZ – 4083

- **Variance** to reduce the minimum width of a drive aisle to allow for maneuvering in the alley.
- **Site Plan Review**

Applicable zoning code provisions: Chapter 520 General Provisions; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances; Chapter 530 Site Plan Review; Chapter 541 Off-Street Parking.

Background: The first structure on the subject property was a single-family dwelling constructed in 1905. The dwelling was demolished a couple decades later to allow for the construction of a filling station in 1926. Previous zoning applications include a rezoning (R-793) in 1974 from B2S-1 to B2S-3 for the purpose of converting the use from a filling station to a residential apartment building. The apartment building was never constructed. In the mid 1970's, the use was converted from an automobile convenience facility to a minor automobile repair, which was most recently the site was Hovde's Auto Repair. The principal structure was destroyed March 8, 2007, and the only remaining structures on the property are two garages.

The applicant is proposing to demolish the remaining structures and develop the site as six residential townhouses that will eventually be sold to Minneapolis Public Housing Authority (MPHA) under turnkey contract. The six new MPHA units would replace six scattered site MPHA units and, according to the applicant, would result in more efficient housing maintenance. The development will consist of four four-bedroom units plus den of 1,590 square feet each and two three-bedroom units plus den of 1,488 square feet each. A new residential development of six dwelling units is a conditional use in the C1 Neighborhood Commercial District.

The parcel is reverse corner lot, with adjacent structures fronting along 34th Street East and 38th Avenue South. A reverse corner lot is a corner lot that includes a side lot line adjacent to the street that is substantially a continuation of the front lot line of the adjacent property to the rear, thereby requiring adherence to front yard setbacks along both street frontages. The subject property is zoned C1 Neighborhood Commercial District and the adjacent parcels to the east and south are existing single family dwellings that are zoned R1A Single Family District. Where a street frontage includes property zoned residential or where a street frontage includes structures used for permitted or conditional residential purposes, a front yard equal to the lesser of the front yard required by such residence or office residence district or the established front yard of such residential structure shall be provided in the commercial district for the first forty (40) feet from such residence or office residence district boundary or residential property. The minimum required yard along 34th Street East for the first forty feet of the parcel is 14 feet. There is a 9 foot by 5 foot 6 inch portion of the structure within the required yard along 34th Street. This portion of the structure is proposed to be located 8 feet 6 inches away from the north property line. Therefore the applicant has requested a variance to reduce the front yard setback along 34th Street East from 14 feet to 8 feet 6 inches to allow for a portion of the new structure on a reverse corner lot. Additionally, parking areas are not a permitted obstruction in the required front yard. The applicant is proposing to locate the proposed parking area adjacent to the alley and locate just over one parking stall in the required front yard; therefore, the applicant is requesting a variance to reduce the front yard setback along 34th Street East from 14 feet to 4 feet to allow for the surface parking area. Similarly, there is a 20 foot required front yard along 38th Avenue South, for the first 40 feet from the south property line, due to the adjacent single family dwelling zoned R1A. Again a small portion of the structure, approximately 4 feet 9 inches by 27 feet 5 inches, is proposed to be located within the front

CPED Planning Division Report
BZZ – 4083

yard setback. The structure is proposed to be located approximately 15 feet 3 inches to the west property line along 38th Avenue South. Therefore, the applicant has requested a variance to reduce the required setback along 38th Avenue South from 20 feet to 15 feet 3 inches.

The minimum interior side yard setback for a two-story residential structure in the C1 District is seven feet. However, the minimum interior side is increased when a principal entrance faces the interior lot line and shall be not less than fifteen (15) feet. The applicant has proposed two entrances on the south side of the building. One of the entrances is located approximately 7 feet 1 inch to the interior side property line; however, it faces the east property line along the alley and is therefore not subject to the 15 foot interior side yard setback provision. The other proposed entrance faces the south interior side yard and it is located approximately 13 feet to the south interior side property line. Therefore, the applicant has requested a variance from 15 feet to 13 feet to allow for a principal entrance facing a side lot line.

The applicant is proposing to install a privacy fence along the south property line. An 8 foot portion of the proposed fence is within the required front yard. The maximum height of a fence greater than 60% opaque in the front yard is 3 feet. Therefore, the applicant has requested a variance to increase the maximum height of a fence from 3 feet to 6 feet, for approximately 8 feet in length, within the required front yard along the south property line.

The applicant is proposing to locate 5 standard stalls and one handicapped (car) accessible space adjacent to the alley, 18' feet in depth. The applicant is providing 7 feet of area behind the parking spaces to the alley. A minimum drive aisle for two-way traffic adjacent to 90 degree stalls is 22 feet. Only dwellings of one to four units or cluster developments are allowed to use the alley to maneuver vehicles in the alley. Therefore, the applicant is requesting a variance to reduce the minimum width of a drive aisle from 22 feet to 7 feet to allow for the maneuvering of vehicles in the alley.

In addition to the requested conditional use permit and variances, an application for site plan review is required for new structures containing five or more new or additional dwelling units.

The site is in the Howe neighborhood and belongs to the Longfellow Community Council organization. Staff has not received correspondence from the neighborhood organization at the time of writing this report; however a neighborhood meeting was scheduled for July. Staff will forward any comments, if received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT: to allow for six dwelling units in the C1 District.

Findings as required by the Minneapolis Zoning Code for the conditional use permit:

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings below 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 addition of six residential units at the corner of an intersection should not endanger the public health safety or welfare. The site is required to meet public works and site plan review requirements regarding access, drainage, and landscaping.

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, so the proposed redevelopment of this site should not impede development of the surrounding area. If all public works and site plan review standards are met the site should be an improvement over the minor automobile repair shop in regards to access and impervious surface. The development will be located on the site of a recently destroyed minor automobile repair site, which in itself will improve the area.

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 is from the alley to the rear of the site. The applicant has requested a variance to allow for the maneuvering of vehicles in the alley. The Public Works Department has reviewed the project for appropriate transportation access and drainage and stormwater management in or over the public right of way. A copy of the Preliminary Development Review report is attached to the staff report.

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

Public works has reviewed and tentatively approved the access to the parking area. Six parking spaces are required and 6 parking spaces will be provided. In addition, there is on-street parking on the same block and across the street. A six unit residential building has approximately the same parking requirement as the previous use as a minor automobile repair. The applicant is not proposing to construct a basement or sufficient storage area for bicycles. Staff is recommending the installation of bicycle racks to accommodate no fewer than six (6) bicycles on the property.

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

The proposed development is in conformance with the Minneapolis Housing Principles. Principle One states that, “the variety of housing types throughout the city, its communities, and the metropolitan area shall be increased, giving prospective buyers and renters greater choice in where they live.” Policy 4.11 of *The Minneapolis Plan* states that “Minneapolis will improve the range of housing options for those with few or constrained choices.” Policy 4.12 states that, “Minneapolis will both assume its appropriate responsibility for improving housing options among those with few or constrained choices, and collaborative partners at the regional, state, federal, and local level to assure that appropriate solutions are pursued throughout the region.”

The comprehensive plan, *The Minneapolis Plan for Sustainable Growth*, was recently amended and adopted by the City Council and will be forwarded to the Metropolitan Council for review. In the amended plan, the site is designated as Urban Neighborhood. Urban Neighborhood is defined as a predominantly residential area with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors.

Chapter 10 states that “new housing development provides an opportunity to reinforce the urban character of specific areas of the city. Building more housing close to or within commercial developments is the key to stronger commercial and other mixed-use markets. At all times, multi-family residential development needs to have a clear connection to the street with adequate windows, architectural details and landscaping. The scale of the development should be compatible with the character of the surrounding area.”

The proposed development is in conformance with the above noted housing principles and policies of the comprehensive plan.

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

The use of the site for a multi-family residence would conform to the applicable regulations of the districts in which it is located upon approval of the variances and site plan review.

VARIANCES:

- **Variance** to reduce the front yard setback along 34th Street East from 14 feet to 8 feet 6 inches for approximately 50 square feet of the proposed structure and from 14 feet to 4 feet for a parking area on a reverse corner lot, where both obstructions are located within the first forty feet from the adjacent residential property boundary.
- **Variance** to reduce the front yard setback along 38th Avenue South from 20 feet to 15 feet 3 inches for approximately 130 square feet of the proposed building located within the first forty feet from the adjacent residential property boundary.
- **Variance** to reduce the interior side yard from 15 feet to 13 feet to allow for a principal entrance facing an interior side lot line.
- **Variance** to increase the maximum height of a fence in the required front yard from 3 feet to 6 feet for approximately 8 feet of the fence along the south property line.
- **Variance** to reduce the minimum width of a drive aisle to allow for maneuvering in the alley.

Findings Required by the Minneapolis Zoning Code:

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

Front yard setbacks: The subject property is a reverse corner lot, with two required front yard setbacks along both 34th Street East and 38th Avenue South. The property is zoned C1 and is subject to required front yards for the first 40 feet due to adjacent residential zoning and structures to the east and south. The applicant is seeking a variance to reduce the front yard setback along 34th Street East from 14 feet to 8 feet 6 inches to allow for the proposed structure and from 14 feet to 4 feet to allow for a parking area within a required front yard. The portion of the structure within the required yard is approximately 9 feet by 5 feet 6 inches (49.5 square feet) and approximately one parking space within the parking area. Front yards are the most protected yards with the greatest degree of regulation and a reverse corner lot reduces the buildable area of

CPED Planning Division Report
BZZ – 4083

a lot due to these increased yard requirements. Strict adherence to the ordinance would not allow for a small portion of the structure or allow the use to meet the required number of parking stalls, both of which are reasonable uses of the property.

The applicant is also requesting a variance to reduce the front yard setback along 38th Avenue South from 20 feet to 15 feet 6 inches to allow for approximately 130 square feet of the proposed structure. Again, staff believes that the use and structure are reasonable uses of the property and strict adherence to the ordinance would not allow for the use as proposed.

Interior side setback for a principal entrance: One of the principal entrances of the six unit townhouse structure faces the interior side property line to the south. The zoning code requires a minimum setback of 15 feet when a principal entrance faces an interior side lot line to avoid adverse impacts to the adjacent property owner. Without the principal entrance facing the side lot line, the structure would exceed the required interior side yard setback of 7 feet. The applicant has proposed the principal entrance 13 feet to the interior side property line. The principal entrance facing the interior side property line is located to the rear yard of the adjacent structure. Staff believes that the strict adherence to the zoning ordinance would prohibit the entrance in this location and not allow for a reasonable use of the property because access to this unit would not be feasible in another location. In addition, the applicant is providing a six-foot privacy fence along the south property line to mitigate potential nuisance to the adjacent property owner.

Fence height: The applicant is proposing to install a solid privacy fence, six feet in height, along the south property line to allow for privacy between the proposed development and the adjacent single family dwelling. Approximately eight feet of the fence will be located within the required front yard where the maximum height of a solid fence cannot exceed 3 feet. The applicant has stated that the height and location of the fence was suggested by the adjacent property owner. Staff believes that increasing the maximum height of the fence for approximately 8 feet will allow for reasonable use of the property.

Drive aisle width (maneuvering in the alley): The applicant is proposing to locate the parking area on a surface lot, adjacent to and accessed from the alley. The parking stalls are at a 90 degree angle to the alley and the zoning code requires a minimum of 22 feet for uses other than dwellings of four units or less. In addition, there is a minimum distance between a dwelling and a parking area of 6 feet. The proposed parking area will be located approximately 7 feet to the alley and the alley is 14 feet wide. Staff believes that a distance of 21 feet to maneuver a vehicle is sufficient for a six unit building and would allow for reasonable use of the property.

- 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.**

Front yard setbacks: The conditions upon which the front yard setback variances are requested are unique to the parcel of land and have been created by the applicant. The applicant is proposing to construct a multiple family dwelling on a parcel zoned C1 on a reverse corner lot. The C1 District does not require a minimum front yard setback unless it is adjacent to residential

structures or zoned property. The existing parcel is a reverse corner lot, which requires even greater required yards along both 34th Street East and 38th Avenue South; the type of parcel being a reverse corner lot is unique to the parcel of land.

Interior side setback for a principal entrance: The applicant is proposing to construct a six unit townhome structure; each unit will have their own individual access to the dwelling unit. One of the proposed entrances will face the south interior property line and be located approximately 13 feet away; the minimum required yard is 15 feet for a side entrance. The structure is meeting all of the other minimum yard requirements along the south interior property. The parcel is a reverse corner lot, which reduces the buildable area of the lot. The circumstances affecting the property exist and were not created by the applicant. Setting the building back to comply with the yard requirement for a side entrance would require a greater front yard setback variance along 34th Street East.

Fence height: The applicant is proposing to construct a six-foot fence along the south property line to allow for greater privacy between the proposed multiple family dwelling and the adjacent single family dwelling. The subject property is zoned C1 and is located on a reverse corner lot. The C1 District does not require a minimum front yard setback unless it is adjacent to residential structures or zoned property and the reverse corner lot requires even greater yard requirements. These conditions upon which the fence height variance is requested are unique to the parcel of land and have been created by the applicant.

Drive aisle width (maneuvering in the alley): The applicant is proposing to locate the parking area on a surface lot, with seven feet of area to allow for maneuvering before the alley where the minimum is 22 feet. Residences of one to four dwellings and cluster developments are permitted to use the public rights-of-way for maneuvering; however, other uses are not. The circumstances affecting the property exist and were not created by the applicant. Setting the parking further to the west an additional 15 feet would comply with the requirement for maneuvering vehicles on the property, however it would require a greater front yard setback variance along 38th Avenue South.

- 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.**

Front yard setbacks: Granting the variances for a reduced front yard setbacks along 34th Street East and 38th Avenue South will not alter the essential character of the surrounding neighborhood and will not be injurious to the use or enjoyment of other property in the vicinity due to the minimal portion of the building that is within the required yard. However, there is a potential visual impact to the neighboring single family dwelling to the east with the proposed parking area. The applicant has proposed parking stalls at 9 feet wide. The minimum width for a standard 90 degree stall is 8 feet 6 inches. If the applicant were to reduce the width of the parking stalls, an additional three feet of landscaping would be provided and the adjacent neighbor would have less of a visual impact. Staff believes that the proposed structure will not significantly impact the character of the area.

Interior side setback for a principal entrance: 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. If the yard requirement were based on the height of the building adjacent to the yard and no side entrances were proposed, only a 7 foot setback would be required. The proposed side entrance is located entirely to the rear of the neighboring single-family dwelling and the applicant is proposing to install a six-foot privacy fence to improve the separation of uses. Therefore, the proposed building would not have any more affect on light and air than a building complying with the 2-story height requirement. Also, the purpose of the side entrances should have little effect on the adjacent residence. The granting of the variance should be in keeping with the intent of the ordinance.

Fence height: The applicant is proposing to increase the maximum height of a fence in the required front yard from 3 feet to 6 feet for approximately 8 feet of the fence. The intent of the ordinance requiring a reduced fence height in the required front yard is to protect the public from the inability to see around the fence and to avoid a “fortress-like” appearance. The applicant’s intent of the fence is to provide additional privacy between the adjacent single family home and the proposed structure. Staff believes that the proposed fence will not alter the essential character of the surrounding neighborhood or be injurious to the use or enjoyment of other property in the vicinity due to the minimal portion of the fence that is within the required yard. Staff believes that the proposed fence will not significantly impact sightlines or the character of the area.

Drive aisle width (maneuvering in the alley): The applicant is proposing to locate the parking area on a surface lot, adjacent to and accessed from the alley. The parking stalls are at a 90 degree angle to the alley and the zoning code requires a minimum of 22 feet for uses other than dwellings of four units or less. The proposed parking area will be located approximately 7 feet to the alley and the alley is 14 feet wide. Staff believes that the proposed distance of 21 feet from the parking area to the opposite side of the alley is sufficient to allow for the maneuvering of vehicles and that this arrangement is consistent with the intent of the ordinance. However, there is insufficient room for the applicant or a future owner to construct a detached garage on the site. Additional variances would be needed for such a future expansion.

- 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.**

All variances: Granting of the requested variances would likely have no impact on the congestion of area streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Required Findings for Site Plan Review

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 and windows:
 - Residential uses:
Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor

above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

- a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
- **Nonresidential uses:**

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
 - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
 - e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
 - 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.

Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

- The form and pitch of roof lines shall be similar to surrounding buildings.
- **Parking Garages:** The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

Conformance with above requirements:

The building is located up to or beyond the required setbacks for residential buildings in the C1 district. The applicant has requested variances to allow for reduced setbacks for the northeast and southwest corners of the structure.

Four of the principal entrances face the public streets, with two facing 34th Street East and two facing 38th Avenue South. The area between the building and the lot line will include open porches and landscaping. The building is designed to be compatible with nearby residential

properties and will have front porches to emphasize the entrances on 34th Street East and 38th Avenue South.

The parking area is located off the alley to the rear of the structure and interior to the property.

The building shows sufficient architectural detail and amounts of windows to avoid large blank walls, not exceeding twenty-five (25) feet in length.

The exterior materials of the structure are similar and compatible on all four sides. The proposed exterior materials include brick, cement lap board siding and shake style cement board siding. Plain face concrete block would not be used as a primary exterior building material.

The principal entrances will be clearly defined with open porches and walkups will be accented with windows.

The applicant is required to provide a minimum of 20% glazing on the first floor and 10% on the second floor on three of the elevations; east, west and north. The applicant has provided the following percentages: 23% on the first floor and 21% on the second floor of the North elevation facing the 34th Street East, 26% on the first floor and 23% on the second floor of the West elevation facing 38th Avenue South and 16.6% on the first floor and 19% on the second floor of the East elevation facing the parking area. The applicant is requesting alternative compliance to reduce the required window percentage on the East elevation facing the parking area. The floor plan indicates living rooms and kitchens in each unit along this elevation, where additional windows would be difficult to provide without significant changes. The building's design exceeds the number of required windows on all other elevations. Staff is recommending that the Planning Commission grant alternative compliance to providing 20% windows on this elevation of the first floor with the condition that additional vertical elements are provided. For example, the installation of a green screen or trellis along this elevation will enhance the wall without the necessity of providing the additional windows. All of the proposed windows will be vertical in proportion and evenly distributed.

A proposed roof is a 4/12 pitched hip roof. There are a variety of roof styles and pitches in the area. The proposed roof line appears to be visually consistent with other structures in the area.

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 530.140 (b).**
- **Site plans shall minimize the use of impervious surfaces.**

Conformance with above requirements:

The applicant has provided walkways connecting the principal entrances to the adjacent public sidewalk and parking areas. The applicant has provided a walkway connecting the access aisle of the handicapped parking area to the sidewalk to the south of the property. Staff is recommending that the applicant reconfigure the walkway to connect the south walkway to the northerly public sidewalk between the proposed parking area and landscaping. This will improve the connection and safety for pedestrian movements on and around the site. In addition, this will eliminate the need for the walkway within the required seven feet of landscaping on the north and south sides of the parking area. The area between the structure and the parking area is only six feet; therefore staff is recommending that the applicant provide three feet of landscaping and a three foot walkway. Additionally, staff recommends that the applicant reconfigure the walkways in the front of the building to connect to the public sidewalk along 38th Avenue South to minimize possible cut-through traffic.

There are no transit shelters within the proposed development; however, there are Metro Transit bus stops on the northeast and southwest corners of the intersection at 34th Street East and 38th Avenue South.

Public works has reviewed the alley access to the parking area at the rear of the site. The access will be improved by relocating it to the alley. The two large existing curb cuts on 34th Street East and 38th Avenue South will be eliminated. In addition, traffic should decrease from a commercial use to a residential use.

The site plan shows a significant decrease in the amount of impervious surface than what currently exists on the site.

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 shall be landscaped as specified in section 530.150 (a).**

• **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**

• **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.**

• **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 530.160 (b).**

• **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**

- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**

- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**

- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible.**

- **All other areas not governed by sections 530.150, 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 530.220.**

- **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 530.60, as provided in section 530.230.**

The zoning code requires at least 20 percent of the site not occupied by buildings be landscaped. The lot area is 10,276 square feet and the proposed building footprint is 4,678 square feet. The lot area minus the building footprints therefore consists of approximately 5,598 square feet. At least 20 percent of the net site area (1,120 square feet) must be landscaped and the applicant is providing 2,282 square feet, which equals 40.8 percent of the net site area.

The zoning code requires at least one canopy tree for each 500 square feet and at least one shrub for each 100 square feet of required green space. In addition, not less than one (1) tree shall be provided for each twenty-five linear feet or fraction thereof of parking lot frontage along a public street. The tree and shrub requirement for this site is 3 and 12 respectively. The applicant has shown 3 deciduous trees on the property and 7 more in the public right-of-way, four of which are canopy trees. The applicant has also shown 50 shrubs on the property and an additional 35 shrubs in the public right-of-way. The applicant has requested alternative compliance from 3 canopy trees to 0 to allow for tree species that are suitable for the area and preferred by the applicant. Staff is recommending that the Planning Commission grant alternative compliance.

A seven-foot landscaped yard adjacent to the parking area is required along the north, south and east property lines due to adjacency of the property to a public street and residential uses. The applicant is providing a four foot walkway and parking area within the seven feet along the north property line. Staff believes that the proposed pedestrian walkway is more appropriate between the parking area and the building, instead of the area within the required landscaped yard along the north property line. In addition, the applicant has sufficient area to adjust the parking spaces to the south three feet by reducing the minimum width of the proposed parking stalls from 9 feet to 8 feet 6 inches. The applicant is proposing to landscape the right-of-way with shrubbery and hedging and is therefore requesting alternative compliance to providing a seven foot required yard along the north property line. Staff believes that by landscaping the four foot proposed pedestrian walkway and adjusting the parking to the south by three feet, the seven foot

requirement could be met and the alternative compliance measure would not be required. In lieu of providing the entire required landscaped yard along the south property line, the applicant is requesting alternative compliance to locate an electrical transformer, trash enclosure and walkway within the landscaped yard. Staff is recommending that the applicant reconfigure the south walkway by relocating out of the required landscaped yard. Staff is recommending the planning commission grant alternative compliance to allow an electrical transformer and trash enclosure in a portion of the landscaped yard so as to avoid additional variances. The applicant is unable to provide a landscaped area of seven feet adjacent to the alley; staff is recommending that the planning commission grant alternative compliance to providing a seven foot landscaped yard adjacent to the alley to allow for vehicles to maneuver in and out of the alley.

Screening, not less than 3 feet high and less than 60% opaque, is required for approximately 25 feet along the north property line, 6 feet and 95% opaque for approximately 25 feet along the south property line, and approximately 60 feet along the alley due to the adjacency of the parking area to a public street and residential uses. The applicant has shown hedging in the public right-of-way between the public sidewalk and the private walkway. The applicant is also proposing to install a solid privacy fence along the south property line that meets the screening requirement. The applicant is not proposing any screening along the east property line adjacent to the alley due to the impracticality of providing screening where vehicles will be maneuvering. The applicant is requesting alternative compliance to providing the required screening within the property boundaries along the north property line. As previously mentioned, staff is recommending that the applicant provide a walkway between the building and parking area in order to avoid the proposed four foot walkway along the north property line and instead provide the required landscaping and screening in that location. Additionally, staff is recommending that the applicant install a four foot open and decorative fence along 34th Street East to meet CPTED standards, which will also meet the screening requirement adjacent to the parking area. Staff is recommending that the planning commission grant alternative compliance to providing a 6 foot high, 95% opaque fence along the alley to allow for the maneuvering of vehicles in and out of the parking area.

Turf, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees shall cover all areas that are not paved or landscaped.

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:

Wheel stops will be provided between the parking area and the proposed building. With the proposed landscaping, the property should be able to support a fair amount of on-site filtration.

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.

The site design provides natural surveillance and visibility to allow views into the area. However, the proposal could control and guide movement on the site with the addition of a four foot open and decorative fence along the 38th Avenue South and 34th Street East. This will clearly define the walkways between the principal entrance and the parking areas and distinguish between public and non-public spaces.

The existing structures are neither historic nor eligible for historic 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 C1. Multiple family dwellings of five units or more are conditional uses in the C1 District.

Parking: The off-street parking requirement for multiple family dwellings is one space per dwelling unit. The applicant is proposing six dwelling units and six off-street parking spaces.

Maximum Floor Area: The maximum floor area ratio in the C1 District is 1.7. The lot area is 10,276 square feet. The proposed structures are 9,356 square feet. The floor area ratio is .91.

Height and Bulk: The maximum building height in the C1 District is limited to two and a half stories or 35 feet, whichever is less. The proposed structure is two stories and 24 feet 5 inches in height.

Minimum Lot Area: The minimum lot area for multiple family dwellings in the C1 District is 900 square feet of lot area per dwelling unit. The applicant is proposing 1,712 square feet per dwelling unit.

Dwelling Units per Acre: There are 25.4 dwellings per acre proposed.

Yard Requirements: The subject site is zoned C1 and there are yard requirements along the all four property lines due to adjacency to residential uses and zoning classifications. The applicant has requested variances to the yard requirements along the north property line to allow for a portion of the structure and the parking area, along the south property line for a portion of the structure and to allow a principal entrance facing an interior side lot line.

Hours of Operation: Not applicable

Signs: All new signage is required to meet the requirements of the code.

Refuse screening: The proposed refuse containers and screening is shown adjacent to the proposed addition and will be collected on site. Staff is recommending that the refuse container meet section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent uses.

Lighting: Lighting proposed for the development complies with Chapter 536 Specific Development Standards for the canopy lighting, 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 shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) 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 from any permitted or conditional residential use.
- (3) Lighting shall not 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.
- (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.

MINNEAPOLIS PLAN AND RELEVANT SMALL AREA PLANS:

See findings under #5 for the Conditional Use Permit.

Alternative Compliance. The Planning Commission 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, 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 for the following standards:

- Twenty percent windows – first floor east elevation facing the parking area

The applicant is required to provide a minimum of 20% glazing on the first floor and 10 % on the second floor on three of the elevations; east, west and north. The applicant has provided 16.4% on the first floor of the East elevation, facing the parking area. The applicant is requesting alternative compliance to reduce the windows on the first floor of the East elevation facing the parking area. Staff is recommending that the Planning Commission grant alternative compliance to providing 20% windows on this elevation of the first floor with the condition that additional vertical elements be provided. For example, the installation of a green screen or trellis along this elevation will enhance the wall without the necessity of providing the additional windows.

- Not less than one (1) canopy tree for each 500 square feet of required landscaping.

The zoning code requires at least one canopy tree for each 500 square feet of required green space. The applicant is required to provide a minimum of 3 canopy trees. The applicant has shown 3 deciduous trees on the property; however none of them are canopy trees. The applicant has requested alternative compliance from 3 canopy trees to 0 to allow for tree

CPED Planning Division Report
BZZ – 4083

species that are suitable for the area and are preferred by the applicant. Staff is recommending that the Planning Commission grant alternative compliance.

- Parking area landscaping – adjacent to the north property line

A seven-foot landscaped yard adjacent to the parking area is required along the north, south and east property lines due to adjacency of the property to a public street and residential uses. The applicant is providing a four foot walkway and parking area within the seven feet along the north property line. Staff believes that the proposed pedestrian walkway is more appropriate between the parking area and the building, instead of the area within the required landscaped yard along the north property line. In addition, the applicant has sufficient area to adjust the parking spaces to the south three feet by reducing the minimum width of the proposed parking stalls from 9 feet to 8 feet 6 inches. The applicant is proposing to landscape the right-of-way with shrubbery and hedging and is therefore requesting alternative compliance to providing a seven foot required yard along the north property line. Staff believes that by landscaping the four foot proposed pedestrian walkway and adjusting the parking to the south by three feet, the seven foot requirement could be met and the alternative compliance measure would not be required.

- Parking area landscaping – adjacent to the south property line

A seven-foot landscaped yard adjacent to the parking area is required along the north, south and east property lines due to adjacency of the property to a public street and residential uses. In lieu of providing the entire required landscaped yard along the south property line, the applicant is requesting alternative compliance to locate an electrical transformer, trash enclosure and walkway within the landscaped yard. Staff is recommending that the applicant reconfigure the south walkway by relocating out of the required landscaped yard. Staff is recommending the planning commission grant alternative compliance to allow an electrical transformer and trash enclosure in a portion of the landscaped yard so as to avoid additional variances.

- Parking area landscaping – adjacent to the east property line

A seven-foot landscaped yard adjacent to the parking area is required along the north, south and east property lines due to adjacency of the property to a public street and residential uses. The applicant is unable to provide a landscaped area of seven feet adjacent to the alley; staff is recommending that the planning commission grant alternative compliance to providing a seven foot landscaped yard adjacent to the alley to allow for vehicles to maneuver in and out of the alley.

- Parking area screening – adjacent to the north property line

Screening, not less than 3 feet high and less than 60% opaque, is required for approximately 25 feet along the north property line due to the adjacency of the parking area to a public street. The applicant has shown hedging in the public right-of-way between the public sidewalk and the private walkway. The applicant is requesting alternative compliance to providing the required screening within the property boundaries along the north property line. As previously mentioned, staff is recommending that the applicant provide a walkway

between the building and parking area and remove the proposed four foot walkway along the north property line and instead provide the required landscaping and screening in that location. Additionally, staff is recommending that the applicant install a four foot open and decorative fence along 34th Street East to meet CPTED standards, which will also meet the screening requirement adjacent to the parking area.

- Parking area screening – adjacent to the east property line

Screening, not less than 6 feet and 95% opaque is required along the alley due to the adjacency of the parking area to a public street and residential uses. Staff is recommending that the planning commission grant alternative compliance to providing a 6 foot high, 95% opaque fence along the alley to allow for the maneuvering of vehicles in and out of the parking area.

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 for the construction of a six-unit townhome residential structure located 3403 38th Avenue South in the C1 Neighborhood Commercial District, subject to the following conditions:

1. The Community Planning and Economic Development Planning Division shall review and approve the final floor plans and site plans.
2. Bicycle racks shall be provided to accommodate no fewer than six (6) bicycles on the property.
3. 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 variance to reduce the front yard setback along 34th Street East from 14 feet to 8 feet 6 inches for the proposed structure and from 14 feet to **7** feet to allow for a parking area on a reverse corner lot to allow for the construction of six unit townhouse structure for the property located at 3404 38th Avenue South in the C1 Neighborhood Commercial District.

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 variance to reduce the front yard setback along 38th Avenue South from 20 feet to 15 feet 3 inches to allow for the construction of six unit townhouse structure for the property located at 3404 38th Avenue South in the C1 Neighborhood Commercial District.

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 variance to reduce the interior side yard from 15 feet to 13 feet to allow for a principal entrance facing an interior side lot line to allow for the construction of six unit townhouse structure for the property located at 3404 38th Avenue South in the C1 Neighborhood Commercial District.

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 variance to increase the maximum height of a fence in the required front yard from 3 feet to 6 feet for approximately 8 feet of the fence along the south property line for the property located at 3404 38th Avenue South in the C1 Neighborhood Commercial District.

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 variance to reduce the minimum width of a drive aisle to allow for maneuvering in the alley for the property located at 3404 38th Avenue South in the C1 Neighborhood Commercial District.

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

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review to allow for the construction of six unit townhouse structure for the property located at 3404 38th Avenue South in the C1 Neighborhood Commercial District, subject to the following conditions:

1. CPED Planning staff review and approval of the final site, elevations and landscaping plans.

CPED Planning Division Report
BZZ – 4083

2. The walkways from the entrances along 38th Avenue South shall connect directly to the public sidewalk along 38th Avenue South.
3. A minimum of three feet of landscaping and a three-foot pedestrian walkway shall be provided between the structure and the parking area.
4. As an alternative compliance measure to reduce required window area, additional vertical elements shall be provided along the east elevation, including but not limited to, the installation of a green screen or trellis.
5. Provision of a 4-foot high decorative fence along the front of the site along the 38th Avenue South and 34th Street East frontages to control access to the site and to prevent cut-through traffic along the south side of the property.
6. All site improvements shall be completed by July 21, 2009, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

Attachments:

1. PDR Report
2. Statement of use and findings
3. Neighbor correspondence
4. May 30, 2008, letters to Longfellow Community Council and CM Schiff
5. Zoning map
6. Visual representation of requested variances on the site plan
7. Site survey, site plan, landscaping plan, building elevations and floor plans
8. Photos of the site and surrounding area
9. Oblique aerials