

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit and Variance
BZZ – 3414

Date: March 5, 2007

Applicant: Don Nieken

Address of Property: 4134 Fremont Avenue North

Project Name: 4134 Fremont Avenue North Residence

Contact Person and Phone: Scott England, (612) 676-2700

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

Date Application Deemed Complete: February 2, 2007

End of 60-Day Decision Period: April 3, 2007

Ward: 4 **Neighborhood Organization:** Webber-Camden

Existing Zoning: R4 Multi-Family Residence District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 4

Legal Description: Not applicable for this application.

Proposed Use: Multi-family dwelling with 6 dwelling units.

Concurrent Review:

Conditional use permit to allow 6 dwelling units.

Variance to reduce the minimum lot size requirement from 9,000 square feet to 6,400 square feet (29 percent).

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; and Chapter 525, Article IX Variances, Section 525.520 (1) “To vary the lot area...up to 30 percent...”.

Background: The property owner, Don Nieken, proposes to legalize a sixth dwelling unit in an existing multiple-family residence located at 4134 Fremont Avenue North. The property is located in a primarily residential area with low density, although commercial properties are located around the intersection of Fremont and 42nd Avenue North. In 1957, a 2-story, 5-unit residential structure with a garden level was constructed on the subject site. In 1976, the owner at that time applied for a variance to reduce the minimum lot area requirement to allow six units. The variance was denied. It is not known exactly

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when the sixth unit was illegally established in the building, but it was at least 15 years ago. In August of 2006, a fire occurred in the building. At the time the property owner applied for a building permit to repair the fire damage, zoning staff discovered that the number of units was nonconforming.

A multiple-family dwelling is allowed as a conditional use in the R4 District. The property is deemed to have a conditional use permit for five dwelling units. Adding another dwelling unit requires a modification of the conditional use permit. In the R4 district, the minimum lot area requirement is 1,500 square feet per dwelling unit. Therefore, a lot size of 9,000 square feet is required for 6 units. The lot size is 6,400 square feet. The applicant is requesting to reduce the requirement by 29 percent.

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

CONDITIONAL USE PERMIT: to allow 6 dwelling units.

Findings as required by the Minneapolis Zoning Code:

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

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

The establishment of 6 dwelling units on the site would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

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

The surrounding area is partially developed. There are two vacant properties on the opposite side of Fremont Avenue. Because the unit has existed for many years and no exterior changes are proposed, the use should have little effect on surrounding properties.

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

The site is served by existing infrastructure. Vehicle access would be from the alley.

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

The minimum parking requirement for the residence is 6 spaces (one per dwelling unit). Five vehicle parking spaces would be provided behind the building adjacent to the alley. In lieu of the sixth parking space, the owner is providing bike storage space in the basement of the building for the tenants. The use should have little effect on congestion in the streets.

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

The site is adjacent to Fremont Avenue, which is designated as a community corridor by *The Minneapolis Plan*. It is also close to a designated commercial node at the Fremont and 42nd Avenue North intersection. According to the principles and polices outlined in the plan, the following apply to this proposal:

4.2 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Applicable Implementation Step

Strengthen the residential character of Community Corridors by developing appropriate housing types that represent variety and a range of affordability levels.

Promote more intensive residential development along these corridors where appropriate.

4.5 Minneapolis will identify Neighborhood Commercial Nodes that provide a shopping environment of small-scale retail sales and commercial services and are compatible with adjacent residential areas.

Applicable Implementation Steps

Promote medium density residential development around Neighborhood Commercial Nodes.

4.9 Minneapolis will grow by increasing its supply of housing.

Applicable Implementation Steps

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

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

Applicable Implementation Steps

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

Promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.

Staff comment: The development would be medium density (40.8 dwelling units per acre), which is appropriate on a community corridor with close proximity to a commercial node. It would also allow the city to increase its supply and diversity of housing types. The use would be consistent with the comprehensive plan.

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

Some existing conditions on the site are not in compliance with district requirements. Fences are required to be kept in good repair. Areas of the fence in front of the building require repair. The parking spaces to the rear of the building must be clearly marked. Screening is also required between the parking area and adjacent residential properties. Staff is recommending that these violations are addressed as a condition of approval for the conditional use permit. Therefore, the site would conform to the applicable regulations of the district in which it is located upon the approval of the conditional use permit and the variances.

VARIANCE: to reduce the minimum lot size requirement from 9,000 square feet to 6,400 square feet (29 percent).

Findings as required by the Minneapolis Zoning Code:

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

The applicant is requesting to reduce the minimum lot size requirement per dwelling unit from 1,500 square feet to 1,066.7 square feet. The development would be medium density, which is appropriate on a community corridor with close proximity to a commercial node. The proposed lot area would be reasonable.

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.

Fremont Avenue is designated as a community corridor and the commercial properties around the Fremont and 42nd Avenue intersection are designated as a commercial node. The sixth unit was established before the current owner purchased the property. Although these circumstances are not unique, they were not created by the property owner.

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.

Lot area requirements are established to ensure compatibility with surrounding uses. Establishing medium density on a community corridor with close proximity to a commercial node meets the intent of the ordinance. Staff is unaware of any negative affects that the sixth unit has had on the surrounding properties since it was established.

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.

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The proposed variance should not increase the danger of fire or endanger public safety. Adequate parking facilities are provided on-site.

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 6 dwelling units for the property located at 4134 Fremont Ave N, subject to the following conditions:

1. The fence shall be repaired and maintained as required by section 535.410 of the zoning code.
2. The parking area shall be in compliance with the provisions of Chapter 541 affecting screening and marking of parking spaces.
3. All site improvements shall be completed by March 5, 2008, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the minimum lot size requirement from 9,000 square feet to 6,400 square feet (29 percent) to allow 6 dwelling units at the property 4134 Fremont Ave N.

Attachments:

1. Statement of use
2. Applicant Findings
3. Zoning map
4. Plans
5. Photos