

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit for a Cluster Development Amendment and Variances
BZZ-5430

Date: December 12, 2011

Applicant: Lupe Property Company

Address of Property: 1011 4th Street SE

Project Name: 1011 4th Street SE Cluster Development

Contact Person And Phone: Adam Meyer – Studio M Architects 612-524-5375

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

Date Application Deemed Complete: November 17, 2011

End of 60 Day Decision Period: January 16, 2012

Ward: 3 Neighborhood Organization: Marcy-Holmes

Existing Zoning: R5 Multiple-family District and UA University Area Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 15

Legal Description: Not applicable for this application.

Proposed Use: Twelve-unit cluster development with two buildings.

Concurrent Review:

Conditional Use Permit: For a twelve-unit cluster development.

Variance: Of the established front yard that is approximately 25 feet at the easterly end of the site and 35 feet at the westerly end of the site to allow the buildings, canopies, patio, stairs and landings, and fencing to encroach into the setback at various distances.

Variance: To increase the amount of allowable compact parking spaces from 25 percent (five spaces after rounding) to approximately 56 percent (10 spaces).

Appropriate Zoning Code Provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, specifically Section 525.520(1) “To vary the yard requirements”; and Section 525.520(7) “To increase the percentage of required parking spaces that may be satisfied by providing compact parking spaces”; and Chapter 530, Site Plan Review.

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Background: The applicant is proposing to demolish the existing fraternity building at 1011 4th Street SE and replace it with two buildings with of 12 townhome style units. Building A is the west building and Building B is the east building. The zoning code does not allow two residential structures on one lot, except as a planned unit development or a cluster development. The applicant is proposing a cluster development, which requires a conditional use permit and site plan review for a development of over five units in the R5 Multiple-family District. The site is not part of the University of Minnesota Greek Letter Chapter House Historic District.

In June of 2011, the City Planning Commission approved a conditional use permit and site plan review for a 12-unit cluster development (BZZ-5166) with conditions. The actions are listed below:

1011 4th Street SE Cluster Development (BZZ-5166, Ward: 3), 1011 4th St SE.

A. Conditional Use Permit: Application by Lupe Property Company, LLC, for a conditional use permit for a 12-unit cluster development for property located at 1011 – 4th Street SE.

Action: The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings and **approve** the conditional use permit application for a 12-unit cluster development located at 1011 4th St SE subject to the following condition:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. If the future buildings are ever sold separately, then the cluster development shall be replatted in conformance with the applicable requirements of the zoning code and the subdivision ordinance.

B. Site Plan Review: Application by Lupe Property Company, LLC, for a site plan review for property located at 1011 – 4th Street SE.

Action: The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings and **approve** the site plan review application for a 12-unit cluster development located at 1011 4th St SE subject to the following conditions:

1. CPED Planning staff review and approve the final site, landscaping, and building elevations plans before building permits may be issued.
2. All site improvements shall be completed by June 13, 2012, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
3. The portion of the accessible parking space loading area that encroaches into the west side interior side yard setback shall be a concrete walkway.

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4. The applicant shall consider substituting decorative deciduous trees for some of the proposed spruce trees to eliminate hiding areas at the front of the building. Any evergreen species shall be a yew or arborvitae.
5. The entire four foot area at the northwest corner of the parking lot for the length of the parking stall be landscaped with a raised permanent planter. Alternatively this could be done at the northeast corner and the parking row shifted west.
6. The lighting plan shall be adjusted to comply with Section 535.590 of the zoning code. A note shall be placed on the plan stating that the lighting will comply with Section 535.590 of the zoning code.
7. Additional windows will be added to units five and eleven.
8. Plugs will be used in place of seeds in the rain garden.
9. The applicant shall work with staff to route storm water infrastructure in a way that would attempt to save existing trees.

The Planning Commission also approved alternative compliance for the following:

- To reduce the allowable percentage of windows on the first floor of the rear elevation of the buildings from 20 percent to 12 percent. The windows have not changed from the original proposal.
- To reduce the number of canopy trees from four to one, but with a condition of approval (see condition number nine listed above in this report) that the applicant work to save existing trees. The drainage plan has been revised so that one additional 24 inch diameter oak tree will be saved in the front yard. The other oak tree in the front yard will be removed.
- To eliminate the requirement that all parking spaces be within 50 feet of an on-site deciduous tree.
- To allow wheel stops in lieu of concrete curbing in the parking area.

The applicant now proposes to amend the approvals to increase the size of both buildings, which moves their front walls closer to 4th Street SE. This now requires a variance of the established front yard setback. Originally, the applicant had proposed making Building A larger, where it would also encroach in to the front yard setback. At this time staff asked the applicant if it would be possible to reconfigure both buildings to allow for a landscaping area at the rear of the site, as long as it would not harm the existing oak trees at the front of the site. The intent being that if there were to be a front yard setback variance, and if it would be considered appropriate, then it would be an opportunity to green the site.

In response, the applicant moved the rear walls of the buildings further from the rear property line, reconfigured the parking layout, and increasing the number of compact parking spaces from five to ten. After reviewing the proposed changes, staff informed the applicant that while the plan had provided more green space at the rear of the site, it was the opinion of staff that we could not support the increase in the number of compact spaces, the parking layout, and green strip that is only three feet wide, due to

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concerns about the survival of the landscaping and the function of the parking lot. Planning staff informed the applicant of this concern and gave the applicant an opportunity to amend the plan and withdraw the compact parking variance. The applicant choose to pursue the proposal with the compact parking variance, because they believe it provides a better site plan, but also with the understanding that if the variance to increase the number of compact parking spaces is denied they will still be able to implement the parking plan, based on the previously approved design. Please see the attached letter from the applicant and the two versions of Sheet L1, attached to this report, that show how the parking would work with or without the variance of the number of compact parking spaces.

It is not possible to move the building forward further than shown in the applicant's proposal without harming the existing oak tree in the front yard. A front yard setback variance is necessary regardless of the rear parking layout as the size of the buildings are increasing slightly. Staff supports the granting of the front yard setback variance.

The revised site plan addresses the conditions of approval from the original review (BZZ-5166). The proposed changes are considered minor changes to the approved site plan review, so a site plan review amendment is not required, but the development is still subject to the review, findings, and conditions of approval of the original site plan review where applicable. The applicant now proposes to amend the approvals to move both buildings forward.

Minneapolis Development Review has indicated that the project revisions do not require a new Preliminary Development Review (PDR) and that the PDR report from the original applications also provides comments for this proposal.

Please see the attached letters from the neighborhood group to the developer. As of the writing of this staff report no comments addressed directly to the city staff have been received from the neighborhood group. Staff will forward comments received, if any, at the Planning Commission meeting.

CONDITIONAL USE PERMIT AMENDMENT (for a twelve-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 fraternity building, that houses 40 students, and replace it with a two-building, 12-unit townhouse style cluster development. The site is located on a community corridor zoned for multiple-family development. It is surrounded by multiple-family housing. The proposed changes should be an improvement to the site and should not have negative impacts on the surrounding area subject to the cluster development standards, site plan review and staff recommended conditions of approval.

- 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 comprehensive plan and small area plan designate this area as appropriate for multi-family housing. The removal and replacement of the fraternity building with a new multi-family cluster development, with the associated site improvements, should not be injurious to property in the vicinity nor impede orderly development subject to the cluster development standards, site plan review and staff recommended conditions of approval.

- 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 12 units and 40 bedrooms for a parking requirement of 20 spaces. This site is in the UA University Area Overlay District, which has a parking requirement of .5 spaces per bedroom, or one space per dwelling unit, whichever is greater, for residential buildings. The development qualifies for a transit incentive in Section 541.200 of the zoning code that allows a 10 percent reduction in the required parking for multiple-family developments within 300 feet of a transit stop with midday service headways of 30 minutes or less in each direction. To qualify for this incentive the transit routes can not be one direction. Route 2 travels in two directions with midday service of 15 minutes with bus stops on 10th Avenue SE and 4th Street SE which are within 300 feet of the site. A ten percent reduction of the required 20 spaces is two spaces, for a reduced requirement to 18 parking spaces and 18 spaces are provided in the parking lot. The site has access to transit and bike routes and is within walking distance of the University of Minnesota. The applicant is requesting a variance to increase the number of allowable compact parking spaces (see the variance section of the staff report). Staff does not recommend approval of the variance; however, if the variance is granted or denied there is room for 18 parking spaces at the rear of the site.

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

The Minneapolis Plan for Sustainable Growth designates 4th Street SE as a Community Corridor. Community Corridors support new residential development of medium density (20-50 dwelling units per acre) housing, as well as increased housing diversity in neighborhoods. The proposed development has a density of 35 dwelling units per acre, which is considered medium density. The plan has the following relevant policy for Community Corridors:

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

- 1.9.1 Support the continued presence of existing small-scale retail sales and commercial services along

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Community Corridors.

1.9.2 Support new small-scale retail sales and services, commercial services, and mixed uses where Community Corridors intersect with Neighborhood Commercial Nodes.

1.9.3 Discourage uses that diminish the transit and pedestrian oriented character of Community Corridors, such as automobile services and drive-through facilities.

1.9.4 Discourage the conversion of existing residential uses to commercial uses outside of Neighborhood Commercial Nodes.

1.9.5 Encourage the development of low- to medium-density housing on Community Corridors to serve as a transition to surrounding low-density residential areas.

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

The plan has the following relevant policies from the housing chapter:

Policy 3.1: Grow by increasing the supply of housing.

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

3.1.2 Use planning processes and other opportunities for community engagement to build community understanding of the important role that urban density plays in stabilizing and strengthening the city.

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

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

3.2.2 Engage in dialogue with communities about appropriate locations for housing density, and ways to make new development compatible with existing structures and uses.

Policy 3.6: Foster complete communities by preserving and increasing high quality housing opportunities suitable for all ages and household types.

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

3.6.2 Promote housing development in all communities that meets the needs of households of different sizes and income levels.

3.6.3 Maintain a healthy supply of multifamily ownership and rental housing, and promote the development of alternative forms of homeownership such as cooperative housing and co-housing.

3.6.4 Provide and maintain moderate and high-density residential areas, as well as areas that are

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predominantly developed with single and two family structures.

In addition, the comprehensive plan has the following policies from the Urban Design chapter:

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

- 10.4.1 Maintain and strengthen the architectural character of the city's various residential neighborhoods.
- 10.4.2 Promote the development of new housing that is compatible with existing development in the area and the best of the city's existing housing stock.
- 10.4.3 Advance the understanding of urban housing and retail design among members of the design and development community.

Policy 10.5: Support the development of multi-family residential dwellings of appropriate form and scale.

- 10.5.1 Smaller-scale, multi-family residential development is more appropriate along Community Corridors and Neighborhood Commercial Nodes.
- 10.5.2 Medium-scale, multi-family residential development is more appropriate along Commercial Corridors, Activity Centers, Transit Station Areas and Growth Centers outside of Downtown Minneapolis.
- 10.5.3 Large-scale, high-rise, multi-family residential development is more appropriate in the Downtown Minneapolis Growth Center.

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

- 10.6.1 Design buildings to fulfill light, privacy, and view requirements for the subject building as well as for adjacent properties by building within required setbacks.
- 10.6.2 Promote the preservation and enhancement of view corridors that focus attention on natural or built features, such as the Downtown skyline, landmark buildings, significant open spaces or bodies of water.
- 10.6.3 Provide appropriate physical transition and separation using green space, setbacks or orientation, stepped down height, or ornamental fencing to improve the compatibility between higher density and lower density residential uses.
- 10.6.4 Orient buildings and building entrances to the street with pedestrian amenities like wider sidewalks and green spaces.
- 10.6.5 Street-level building walls should include an adequate distribution of windows and architectural features in order to create visual interest at the pedestrian level.
- 10.6.6 Integrate transit facilities and bicycle parking amenities into the site design.

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The Master Plan for the Marcy-Holmes Neighborhood was approved by the City Council on December 29, 2003. The land use map on page 1-3 designates this area of 4th Street SE as appropriate for multiple-family housing. The plan recommends the addition of owner occupied housing and 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. 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).” The site meets this standard.

Chapter eight outlines various design guidelines including preserving the street character, appropriate landscaping including varied plant types, varied rooflines especially on longer buildings, quality building materials and appropriate building massing. The plan does call for landscaped parking lots behind buildings.

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 R5 Multiple-family District and the UA University Area Overlay District upon the approval of the conditional use permit amendment, front yard setback variance, and the previous site plan review approval. The development will be able to conform the zoning regulations if the compact parking variance is approved or denied. Further the development will be in compliance with 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 one parcel under single ownership. The parcel and the building will be owned by Lupe Property Company. The applicant is aware that if either of the buildings are sold separately, then a replatting of the site with provisions for common area is required by the cluster development standards and the subdivision ordinance.

- (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 700 square feet per dwelling unit, whichever is greater. The site is 14,667 square feet, which would allow a density of 35 units. There are 12 dwelling units proposed in two structures for 1,222 square feet of lot area per dwelling unit. The minimum lot width requirement is 40 feet. The development has 88.49 feet of frontage on 4th Street 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 buildings are two-story buildings. The required front yard setback is 15 feet or the established setback of the nearest principal structure used for residential purposes. The proposed buildings do not meet the established setback, which is greater than the 15 foot district setback, and runs from 25 feet at its closest point to the front lot line at the east to 35 feet at the west. The front wall of Building A (the westerly building) will be setback 25 feet at its closest point to the street and the front wall of Building B (the easterly building) will be setback 24 feet at its closest point to the street. Also encroaching in the front yard setback are canopies, a gate, a patio, and landings (please see the zoning section of finding number 6 of the conditional use permit findings for a more detailed description of the requirements). The applicant has requested a variance of these requirements and staff is recommending approval (please see the variance section of this report).

The rear and interior side yard setbacks are required to be five feet, plus two feet for every floor above the first, or seven feet for a two story building. The buildings meet the rear and interior setbacks. The minimum distance between the buildings is ten feet and in the middle of the courtyard area it increases to 15 feet.

The accessible parking space encroaches in to the westerly setback. Parking is not allowed in the side yard setback outside of the rear 40 feet of the lot. The zoning administrator has made the determination that the part of the space that is encroaching in to the setback will be used only as a loading area due to the installation of a removable bollard. Further the loading area is required, as a condition of approval, to be a concrete walkway in the setback and walkways are permitted obstructions.

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- (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 14,667 square feet, of which not less than 40 percent (5,867 square feet) shall be dedicated to common area. The site plan shows 5,900 (40 percent) of which 3,200 is landscaped area and the common courtyard and 2,550 is parking. The parking is 43 percent of the common area, which is less than 50 percent of the common area. The common area is contiguous, under common ownership and control, and is located to be accessible from a central courtyard, where most of the units have their entrances, and that is connected to the public street by a walkway.

- (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 site is bordered by various two-story multi-family structures, some of which are houses converted for multiple-family use, and others that are apartment buildings build in or since the 1950s. The materials of the proposed buildings are cement board panels on all sides with metal panels at the front.

As noted above, the surrounding area is a mix of buildings with different architectural styles with brick, wood, stucco, and or vinyl siding. The proposed materials are compatible with the surrounding development. Building A (the west building) is 26 feet wide and Building B (the east building) is 28 feet wide. This cluster development is subject to Chapter 530, Site Plan Review. The City Planning Commission approved the site plan (BZZ-5166) on June 13, 2011. The site plan review section of this report provides a detailed description of the windows and building and site design.

- (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 be compatible with the surrounding area. There is landscaping at the front of the

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site and on the west side, the east side and the rear have an access drive and parking in a manner similar to the other properties around the building. The applicant is proposing a three foot green strip at the rear of the property that necessitates a variance to increase the number of compact parking spaces. Staff is not recommending approval of the variance, so if it is denied this green strip will not be provided.

(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.

ZONING CODE: The proposed residential cluster development requires a conditional use in the R5 Multiple-family District.

Off-Street Parking and Loading: *Minimum automobile parking requirement:* The zoning code requires one parking space per dwelling unit. The UA University Area Overlay District requires .5 spaces per bedroom, but not less than one per dwelling unit. The development has eight three-bedroom units and four four-bedroom units for a total of 40 bedrooms and 12 units. This requires 20 spaces. The development qualifies for a transit incentive in Section 541.200 of the zoning code that allows a 10 percent reduction in the required parking for multiple-family developments within 300 feet of a transit stop with midday service headways of 30 minutes or less in each direction. To qualify for this incentive the transit routes can not be one direction. Route 2 travels in two directions with midday service of 15 minutes with bus stops on 10th Avenue SE and 4th Street SE which are within 300 feet of the site. A ten percent reduction of the required 20 spaces is two spaces, for a reduced requirement to 18 parking spaces and 18 spaces are provided in the parking lot. One accessible space is required and one is provided.

At least 75 percent of the required parking spaces shall comply with the minimum dimensions for standard spaces. For 90 degree parking spaces, as shown on the site plan, a standards space is 18 feet deep by eight feet six inches wide. Compact spaces are 15 feet deep by eight feet wide. The development is required to have 18 parking spaces, so at least 13 spaces are required to be standard spaces and five would be allowed to be compact spaces. The applicant is proposing 10 compact spaces, which increases the allowable number of compact spaces from 25 percent to 56 percent. This requires a variance. Staff does not recommend approval of the variance (see the variance section of the staff report).

Maximum automobile parking requirement: There is no maximum for dwelling units outside of the downtown zoning districts except the number of vehicles parked outdoors for residential uses shall not exceed two per dwelling unit.

Bicycle parking requirement: Multiple-family dwellings are required to provide one bike parking space per every two dwelling units; however, the UA University Area Overlay District requires one bike parking space per bedroom. At 40 bedrooms, 40 bike parking spaces are required. Not less than 90 percent of these spaces shall meet the standards for long-term bicycle parking, which requires that they are located in enclosed or supervised areas providing protection from theft, vandalism, and weather and are accessible to intended users. There is a secure room on the first floor of Building B (east building)

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that will provide 36 bike parking spaces and a four-space bike rack is provide on the south side of the south building.

Loading: No loading space is required.

Maximum Floor Area: There is no maximum FAR in the R5 District for cluster developments.

Building Height: Building height for cluster developments in the R5 District is limited to 2.5 stories or 35 feet, whichever is less. The proposed structures will be two stories, or 28 feet, six inches (30 feet at the highest part of the front parapet).

Minimum Lot Area: The R5 District requires a minimum lot area of 5,000 square feet or 700 square feet of lot area per dwelling unit, whichever is greater. With 12 proposed dwelling units on a lot of 14,667 square feet, the applicant proposes 1,222 square feet of lot area per dwelling unit.

Dwelling Units Per Acre: The applicant proposes 35 dwelling units per acre.

Yard Requirements: The new buildings are two story buildings. The required front yard setback is 15 feet or the established setback of the nearest principal structure used for residential purposes. The proposed buildings meet the established setback, which is greater than the 15 foot district setback, and runs from 25 feet at its closest point to the front lot line at the east to 35 feet at the west.

The front wall of Building A (the westerly building) will be setback 25 feet at its closet point to the street and the front wall of Building B (the easterly building) will be setback 24 feet at its closest point to the street. Also encroaching in the front yard setback:

Awnings and canopies: Awnings and canopies are permitted to encroach no more than 2.5 feet in to the front yard. The two canopies over the front doors encroach varying distances from five to six feet into the setback.

Balconies, decks, and ground level patios: Balconies, decks, and ground level patios that do not exceed 50 square feet can encroach into a front yard setback. There is a small patio in front of the two buildings, in the front yard setback, where all of the walkways converge that is approximately 66 square feet.

Fences: There is an eight foot high gate between the two buildings that is flush with the front walls in the front yard setback. It exceeds the allowable three foot limit in a front yard. It is eight feet tall, but it is flush with the front walls of the buildings and does not extend out beyond the fronts of the buildings.

Stairs and landings: Entrance landings can not exceed 16 square feet in a front yard setback. The landings in the front yard setback are 20 square feet.

A variance is required for the building, canopies, patio, gate, and landings to encroach into the front yard setback. Staff is recommending approval of this variance (see the variance section of the staff report).

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The rear and interior side yard setbacks are required to be five feet, plus two feet for every floor above the first, or seven feet for a two-story building. The minimum distance between the buildings is ten feet and in the middle of the courtyard area it increases to 15 feet.

The accessible parking space encroaches in to the westerly setback. Parking is not allowed in the side yard setback outside of the rear 40 feet of the lot. The zoning administrator has made the determination that the part of the space that is encroaching in to the setback will be used only as a loading area due to the installation of a removable bollard. Further the loading area is required, as a condition of approval, to be a concrete walkway in the setback and walkways are permitted obstructions.

Specific Development Standards: The specific development standards for a cluster development are listed in the findings of the conditional use permit section of this staff report.

Signs: All signs are required to meet the requirements of Chapter 543 of the zoning code and permits are required from the Zoning Office. No signage is proposed. The applicant is aware that signs require zoning office approval and permits.

Refuse storage: 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 residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The refuse containers are screened per code.

Lighting: The lighting will comply with Chapters 535 and 541 including the following standards:

535.590. Lighting. (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance. (b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

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

directed only onto the facade or roof.

VARIANCE (of the established front yard setback)

Findings as required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The required front yard setback in the R5 district is 15 feet; however, the required front yard shall be increased where the established front yard of the closest principal building originally designed for residential purposes located on the same block face on either side of the property exceeds the front yard required by the zoning district. In such case, the required front yard shall be not less than such established front yard, provided that where there are principal buildings originally designed for residential purposes on both sides of the property, the required front yard shall be not less than that established by a line joining the nearest front corners of both buildings. The building to the west is setback approximately 42 feet while the building to the east is setback approximately 22 feet. By drawing a line between the two building, from the points closest to 4th Street SE, an established setback is created across the subject property that is approximately 35 feet on the west side running to approximately 25 feet on the east side. This established setback is greater than the district setback and the setback of the property to the east reducing the buildable area of the lot. While the intent of the ordinance was to require greater setbacks when adjoining properties were setback further than the district setback, in this case the property to the west is the only one on the block (and on the blocks to the east and west) that is setback so far and therefore is out of character with the majority of the area. This can be considered a practical difficulty. This circumstance is unique to the property and has not been created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

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. Further, front yard setbacks allow views up and down the street for properties. While the proposal will move the buildings and associated canopies, patios, stairs, landings and fencing forward into the established setback, they will still be setback further than the building to the east (please see the zoning code section of finding number 6 of the conditional use permit findings for a more detailed description of the setback requirements). In addition, they will still provide an appropriate buffer between properties and the public sidewalk and allow views up and down the street. The front wall of Building A (the westerly building) will be setback 25 feet at its closet point to the street and the front wall of Building B (the easterly building) will be setback 24 feet at its closest point to the street. This

request is reasonable and in keeping with the spirit and intent of the ordinance and the comprehensive plan.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

The majority of the properties to the east and west are within 25 feet of the front property line, with the exception of the property immediately to the west, which is setback approximately 42 feet. The proposed development will encroach into the established front yard, but will still allow a significant front yard that provides light, air, and views for the adjacent properties. The granting of the variance should have little effect on surrounding property.

VARIANCE (to allow an increase in the amount of compact parking spaces)

Findings as required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

At least 75 percent of the required parking spaces shall comply with the minimum dimensions for standard spaces. For 90 degree parking spaces, as shown on the site plan, a standard space is 18 feet deep by eight feet six inches wide. Compact spaces are 15 feet deep by eight feet wide. The development is required to have 18 parking spaces, so at least 13 spaces are required to be standard spaces and five would be allowed to be compact spaces. The applicant is proposing 10 compact spaces, which increases the allowable number of compact spaces from 25 percent to 56 percent. The applicant is proposing an increase in the number of compact spaces to allow for additional green space on the property. It is not possible to add the green space without making the buildings smaller or reducing the size of the parking spaces. There is enough room at the rear of the site to provide the standard size parking spaces with the elimination of the green space to provide a functional parking lot. Staff is concerned that the landscape area is not large enough to survive and that the number of compact parking spaces will make parking and maneuvering difficult. Because there is an alternative to the applicants plan, staff does not believe there is a practical difficulty.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

In general, parking lot design standards are established to provide for the orderly development and use of land and to minimize parking and maneuvering conflicts between vehicles. The proposed

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increase in the number of parking spaces will create a lot where the drive aisle varies in its location and that has tight maneuvering spaces. This is not in keeping with the spirit and intent of the ordinance and the comprehensive plan.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

The majority of the properties adjacent to the parking lot have surface parking lots paved up to the property lines. If the variance is granted or denied it should have little effect on the surrounding properties.

RECOMMENDATIONS

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

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 amendment application for a 12-unit cluster development located at 1011 4th Street 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) If the future buildings are ever sold separately, then the cluster development shall be replatted in conformance with the applicable requirements of the zoning code and the subdivision ordinance.
- 3) The site plan is subject to the conditions of approval for the original application BZZ-5166 (listed in the background section of this amended staff report) with and amendment to the completion date to December 12, 2012, (unless extended by the zoning administrator).

Recommendation of the Community Planning and Economic Development Department – Planning Division for the front yard setback variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application of the established front yard that is approximately 25 feet at the easterly end of the site and 35 feet at the

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westerly end of the site to allow the buildings, canopies, patio, stairs and landings, and fencing to encroach into the setback at various distances for a 12-unit cluster development located at 1011 4th Street SE subject to the following conditions:

1) The buildings, canopies, patio, stairs and landings, and fencing shall encroach no further into the setback in any direction than is shown on the site plan provided for this staff report.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the compact parking variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance application to increase the amount of allowable compact parking spaces from 25 percent (five spaces after rounding) to approximately 56 percent (10 spaces) for a 12-unit cluster development located at 1011 4th Street SE.

Attachments:

1. PDR Report
2. Statements from applicant.
3. Zoning map.
4. Site plans, floor plans, and elevations.
5. Photos of the site.