

Department of Community Planning and Economic Development – Planning Division
Zoning Amendment (Rezoning), Conditional Use Permits, Site Plan Review
BZZ – 2257

Date: August 1, 2005

Applicant: Dan Bartus, DAN-BAR Homes, LTD

Address of Property: 4136, 4140 & 4152 Dight Ave.

Project Name: 42nd Street Studios, Phase II

Contact Person and Phone: Tony Videen, 612-216-6363

Planning Staff and Phone: Jason Wittenberg, 612-673-2297

Date Application Deemed Complete: June 28, 2005

End of 60-Day Decision Period: August 27, 2005

End of 120-Day Decision Period: N/A

Ward: 12 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: I1

Proposed Zoning: Add the Industrial Living (IL) Overlay District to the property located at 4136 Dight Ave. The Industrial Living Overlay already exists on other lots within the development.

Zoning Plate Number: 33

Legal Description of the Property to be Rezoned: Not provided at this time.

Proposed Use: Twelve (12) unit cluster development in two proposed four-story buildings

Concurrent Review:

Zoning Amendment (rezoning):

Conditional use permit: Required for dwelling units in the Industrial Living Overlay District

Conditional use permit: Required to increase the maximum permitted height of a cluster development from 2½ to 4 stories.

Site plan review: Required for any development of five or more dwelling units

Applicable zoning code provisions:

Chapter 525, Zoning Amendments

Chapter 551, Overlay Districts.

CPED Planning Division Report
BZZ – 2257

Chapter 530, Site Plan Review.

Background: On October 20, 2003, the City Planning Commission approved phase II of the 42nd Street Studios, a three-story, eight-unit residential cluster development. The Phase II project was presented to the Commission several months after the phase I project. Because phase II includes more than one residential building on a zoning lot, the applicant was required to apply for a cluster development. Cluster developments are limited to 2½ stories in height. The previous applications included a rezoning to add the Industrial Living Overlay District, a conditional use permit for the residential cluster development, a conditional use permit to increase the maximum permitted height, and site plan review.

The City Planning Commission's actions included the following:

4140 & 4152 Dight Avenue (Jason Wittenberg)

Zoning Amendment (Rezoning)

Application by Dan Bartus to rezone the properties at 4140 Dight Avenue and 4152 Dight Avenue to add the IL Overlay District to the existing I1 District.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to rezone the properties at 4140 Dight Avenue and 4152 Dight Avenue to add the IL Overlay District to the existing I1 District.

Conditional Use Permit

Application by Dan Bartus for a conditional use permit to allow construction of an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue.

Motion: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow construction of an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue, subject to the following conditions:

1. An easement shall be submitted guaranteeing perpetual vehicular access to the site across the property to the south of the cluster development. Evidence of such easement shall be submitted to the Planning Department prior to the issuance of a building permit.
2. The area along the north lot line shall be landscaped and screened to the standards of section 530.150 of the zoning code.
3. Prior to issuance of a certificate of occupancy, all land proposed for the 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.

Conditional Use Permit

Application by Dan Bartus for a conditional use permit to increase the maximum permitted height of a cluster development from two and a half (2.5) stories to three (3) stories for an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue.

Motion: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to increase the maximum permitted height of a cluster development from two and a half (2.5) stories to three (3) stories for an eight (8) unit cluster development located at 4140 & 4152 Dight Avenue.

Major Site Plan Review

Application by Dan Bartus for a site plan review for 4140 & 4152 Dight Avenue.

Motion: The City Planning Commission adopted the above findings and **approved** the site plan review application for eight (8) dwelling units located at 4140 & 4152 Dight Avenue, subject to the following conditions:

1. The walkway parallel to the north property line shall provide a continuous walking surface not less the four (4) feet in width from the public right of way to the common open space at the west end of the property.
2. As indicated on the proposed plan, a walkway shall connect all of the dwelling units to the public sidewalk along East 42nd Street.
3. The applicant shall preserve not less than one (1) tree on the site.
4. An easement shall be submitted guaranteeing perpetual vehicular access to the site across the property to the south of the cluster development. Evidence of such easement shall be submitted to the Planning Department prior to the issuance of a building permit.
5. Exterior lighting shall be reviewed and approved by the Planning Department prior to obtaining a building permit.
6. The applicant shall obtain an encroachment permit for all improvements in the public right of way.
7. The Planning Department shall review and approve the final site, landscape plan, and building elevations prior to issuance of a permit.
8. If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit.
9. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by November 7, 2004, or the permit may be revoked for non-compliance.

The applicant did not submit final plans and did not obtain a permit within one year of the above actions. The permits, with the exception of the rezoning, have expired.

The applicant has made substantial revisions to the project, incorporating additional property (triggering the need to rezone to add the Industrial Living Overlay District to the property at 4136 Dight Ave.), and including additional dwelling units and a partial fourth story.

The Fire Department has identified issues that may result in substantial changes to the proposed plan. Thus, staff is recommending that the Commission continue the applications to the next hearing in order to provide the applicant an opportunity to address these issues.

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Zoning Amendment (Rezoning):

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **continue** the application to rezone the property

CPED Planning Division Report
BZZ – 2257

located at 4136 Dight Avenue to add the IL (Industrial Living) Overlay District to the meeting of August 15, 2005.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit for a Cluster Development:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission continue the application for a conditional use permit for a 12-unit cluster development located at 4136, 4140 & 4152 Dight Avenue to the meeting of August 15, 2005.

Recommendation of the Community Planning and Economic Development Department – Planning Division to Increase the Maximum Permitted Height in a Cluster Development:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission continue the application for a conditional use permit to increase the maximum permitted height of a cluster development from two-and-a-half (2.5) stories to four (4) stories at 4136, 4140 & 4152 Dight Avenue to the meeting of August 15, 2005.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission continue the application for site plan review for a 12-unit cluster development at 4136, 4140 & 4152 Dight Avenue to the meeting of August 15, 2005.