

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variances, Site Plan Review and Preliminary and Final Plat
BZZ-4632

Date: December 14, 2009

Applicant: Clark Gassen with CAG Development

Address of Property: 1000 and 1022 University Avenue Southeast

Project Name: Florence Court Redevelopment

Contact Person and Phone: Gretchen Camp with BKV Group, Inc., (612) 373-9122

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: November 18, 2009

End of 60-Day Decision Period: January 17, 2010

End of 120-Day Decision Period: Not applicable for this application

Ward: 3 Neighborhood Organization: Marcy Holmes Neighborhood Association

Existing Zoning: R5, Multiple-family District and Mississippi River and University Area Overlay Districts

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 15

Legal Description: Not applicable for this application

Proposed Use: 121-unit, multiple-family development

Concurrent Review:

Conditional use permit: for a 121-unit (84 proposed and 37 existing) Planned Unit Development.

Variance: of the University Area Oriented Overlay District standards as they pertain to vehicle and bike parking.

Variance: to reduce the east interior side yard setback from the required 15 feet to a distance ranging between 13.5 feet and 10 feet for a variety of building elements and to 2 feet for a relocated detached garage.

Site plan review.

Preliminary and final plat.

Applicable 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, including permitting obstructions into required yards not allowed by the applicable regulations” and Section 525.520(20) “to vary the standards of any overlay district...”, Chapter 527, Planned Unit Development, Chapter 530, Site Plan Review and Chapter 598, Land Subdivision Regulations.

Background: The applicant is proposing to construct a new 84-unit rental project on the site. The property is currently made up of eight buildings including the existing Florence Court residential building, five additional dwellings, a garage and the gas station on the corner of University Avenue Southeast and 10th Avenue Southeast. The Florence Court building is a local historic landmark and will be rehabilitated as part of this development. In addition, four of the five existing dwellings will remain on the site and be rehabilitated. The dwelling on the corner of University Avenue Southeast and 11th Avenue Southeast and the gas station will be demolished.

This development was approved by the Minneapolis Planning Commission in December of 2008. The original land use applications included:

- Conditional use permit for a 121-unit (84 proposed and 37 existing) residential development.
- Conditional use permit to increase the height of the building from the permitted 4 stories/56 feet to 6 stories/66 feet.
- Variance to reduce the lot area requirement from 759 square feet per dwelling to 609 square feet per dwelling.
- Variance to reduce the front yard setback along University Avenue Southeast from the required 15 feet to a distance ranging between 13.5 feet and 7 feet for a variety of building elements.
- Variance to reduce the corner side yard setback along 10th Avenue Southeast from the required 18 feet to 8 feet for the building and to a distance ranging between 6.5 feet and zero feet for a variety of building elements.
- Variance to reduce the east interior side yard setback from the required 15 feet to a distance ranging between 13.5 feet and 10 feet for a variety of building elements and to 2 feet for a relocated detached garage.
- Site plan review.

Since the original approvals were granted the applicant has secured financing for the project. As part of the financing approvals the rehabilitation work on the existing buildings needs to be completed before the new building is constructed. The rehabilitation work has commenced. Another requirement of the lender is that there be two parcel identification numbers for the site; one for the new construction and one for the buildings that are going to be rehabbed. Because the parcel of land needs to be subdivided into two lots, the density count for the lot with the new construction is higher than allowed in the R5 District. Thus, the project must be reviewed as a Planned Unit Development (PUD) since the density can be spread amongst all lots that are part of the PUD. Other than the subdivision, no other aspect of the development is changing.

Since the development is being reviewed as a PUD, the conditional use permit to increase the height of the building and the front and corner side yard setbacks are no longer required since the City Planning Commission can approve alternatives to the zoning regulations applicable to the zoning district in which

the planned unit development is located where the planned unit development includes site amenities. It should also be noted that since the original approvals were granted the minimum lot area requirement in the R5 zoning district was reduced from 900 square feet per dwelling unit to 700 square feet per dwelling unit, so a lot area variance is no longer required.

The proposed building will be six-stories in height and contain two levels of below ground parking. The parking spaces will be used by all of the residents on the site, including those who live in the Florence Court building and the four single-family homes. In addition to automobile parking there will be bicycle parking provided at a ratio of one space per dwelling unit. The building has been designed to look like several narrow buildings pieced together through the use of building recesses and building materials. The interior courtyard located on the site will be preserved. The majority of the existing canopy trees will be saved, the existing driveway will be resurfaced using stamped concrete and a patio with additional landscape materials will be constructed near the new construction.

There will be a total of 121 dwelling units and 313 bedrooms on the site. In the existing Florence Court building there will be 33 dwelling units. There will be a total of 16 one-bedroom units, four two-bedroom units, nine three-bedroom units and four four-bedroom units. The four existing single-family dwellings will each have four bedrooms. And in the new building there will be 84 dwelling units. There will be a total of five one-bedroom units, 33 two-bedroom units, 25 three-bedroom units and 21 four-bedroom units.

The zoning code prohibits more than one residential building per zoning lot. Since the existing site has more than one residential structure on the lot the applicant applied for a historic variance to allow more than one residential structure to remain on the zoning lot. On August 12, 2008, the Heritage Preservation Commission approved a Certificate of Appropriateness for the demolition of the dwelling on the corner of University Avenue South and 11th Avenue Southeast. The demolition permits for the remaining four dwellings were denied. On October 28, 2008, the Heritage Preservation Commission approved a Certificate of Appropriateness for the new construction and a historic variance to allow for more than one residential structure on the zoning lot.

CONDITIONAL USE PERMIT - for a 121-unit (84 proposed and 37 existing) Planned Unit Development

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

- 1. The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The Planning Division does not believe that constructing a new 84-unit residential development on the same site as the existing 33-unit Florence Court development and four existing single-family dwellings will be detrimental to or endanger the public health, safety, comfort or general welfare. The surrounding area includes a mixture of residential developments of varying densities including sororities

and fraternities and dormitories for the University of Minnesota. The University of Minnesota owns an adjacent parking lot to the east of the site and the university campus itself is located across 11th Avenue Southeast from the site. The proposed 84-unit development will complement the Florence Court site itself and the surrounding uses.

2. The conditional use 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 Planning Division does not believe that a 121-unit residential development would be injurious to the use and enjoyment of other property in the vicinity or impede the normal or orderly development and improvement of surrounding property. The proposed development will enhance the surrounding neighborhood and the Florence Court site itself. The number of curb cuts leading to and from the site will be reduced from six to two which will minimize conflicts between pedestrians and vehicles and green boulevards with canopy trees will be installed along both 10th Avenue Southeast and University Avenue Southeast providing for a buffer between the street and public sidewalk. The existing courtyard on the site will be enhanced with the removal of surface parking and the installation of a new landscaping plan.

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

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

As for vehicular access, there are currently six curb cuts leading into the site. The applicant is proposing to eliminate four of the curb cuts leaving only the two that currently allow access to the driveway that runs through the site. The entrance to the underground parking garage is located approximately 90 feet from University Avenue Southeast. Traffic flow between University Avenue Southeast and the garage entrance will be two-way. This portion of the driveway will be 22 feet in width. However, once past the entrance to the underground parking garage the applicant has converted the two-way driveway to a one-way driveway heading towards 11th Avenue Southeast. This portion of the driveway will be 18 feet in width.

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

In the R5 zoning district the zoning code requires 1.0 parking space per dwelling unit. For 121 dwelling units the parking requirement would be 121 spaces. The applicant is proposing to provide a total of 129 parking spaces on the site. Of the 129 spaces, eight of the parking spaces are tandem spaces. Because they are tandem spaces and do not open onto a required drive aisle, eight of them do not count towards the total provided.

In the University Area Overlay District the zoning code requires .5 parking spaces per bedroom. There are a total of 313 bedrooms in the development which requires 157 parking spaces on the site. As

proposed there are 129 parking spaces on the site or .41 parking spaces per bedroom. Although the .5 parking space per bedroom ratio is not being met the site is located in close proximity to several transit routes and within walking distance to the University of Minnesota. The site is located immediately adjacent to the University of Minnesota East Bank Campus and across the 10th Street Southeast bridge from the West Bank Campus. The site's proximity to the University could potentially increase the number of tenants who will not own an automobile.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

This site is located on the south side of University Avenue Southeast between 10th Avenue Southeast and 11th Avenue Southeast. University Avenue Southeast is a designated Community Corridor and the site is located three blocks west of the designated Dinkytown Activity center. The University of Minnesota/SEMI area is also a designated Growth Center. The future land use map in *The Minneapolis Plan for Sustainable Growth* designates the Florence Court site as Urban Neighborhood and the existing gas station site as Commercial. According to the principles and policies outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

- Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses (Land Use Policy 1.8).
- Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features (Implementation Step for Land Use Policy 1.8).
- Through attention to the mix and intensity of land uses and transit services, the City will support development along Community Corridors that enhances residential livability and pedestrian scale (Land Use Policy 1.9).
- Encourage the development of medium- to high-density housing immediately adjacent to Activity Centers to serve as a transition to surrounding residential areas (Implementation Step for Land Use Policy 1.12).
- Support housing density in locations that are well connected by transit, and are close to commercial, cultural and natural amenities (Housing Policy 3.2).

The Planning Division believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan for Sustainable Growth*.

The Minneapolis City Council adopted the *Master Plan for the Marcy-Holmes Neighborhood* on December 29, 2003, and a supplement to the adopted plan on January 26, 2007. The master plan for this site calls for higher density housing. Specifically the plan says to "Design new buildings surrounding Florence Court, 10th Avenue between University Avenue and 2nd Street, to compliment character of this historic building, including orientation to interior courtyards." The Planning Division believes that the proposed development is in conformance with the above policies of the *Master Plan for the Marcy-Holmes Neighborhood*. In the update to *The Minneapolis Plan* high density housing ranges between 50 and 120 dwelling units per acre. The proposed development, including the existing housing on the site, will have a density of 71.6 dwelling units per acre. As for the orientation of the development the proposed building interacts with the interior courtyard as the ground floor units have direct access to it and the upper level units have balconies facing it.

6. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

City Planning Commission can approve alternatives to the zoning regulations applicable to the zoning district in which the planned unit development is located where the planned unit development includes site amenities. Site amenities are subject to the following standards:

- All planned unit developments shall provide at least one amenity or a combination of amenities that total at least ten points, beyond those required for any alternative(s), and even if no alternative(s) is requested.
- For each alternative requested, an amenity or a combination of amenities totaling at least five points, in addition to the amenity(ies) required in section 527.120(1), shall be provided. For multiple requests of the same alternative only one amenity shall be required for those alternatives.
- Unless otherwise determined by the city planning commission, each phase of the planned unit development shall include the amenities provided for any alternatives in that phase, as a part of the construction of that phase.
- In no case shall any item be counted as an amenity for an alternative if it is utilized to qualify for a density bonus in any zoning district, a floor area ratio premium in the Downtown Districts, or any other amenity in Table 527-1, Amenities.
- Where an amenity is provided that meets the standards required in Table 527-1, Amenities, the full point value assigned to said amenity shall be obtained. Where the amenity does not meet all of the standards required in Table 527-1, Amenities, no points shall be awarded. Partial points for alternatives shall not be awarded, except as otherwise allowed in Table 527-1, Amenities.

Minimum required amenity(ies) of 10 points. The applicant is proposing to preserve, rehabilitate and restore the historically designated Florence Court building as part of the development. The rehabilitation and restoration plans have been approved by the Heritage Preservation Commission and Preservation and Design Staff. The preservation of a historically designated structure is worth ten points.

Placement and number of principal residential structures. No alternative requested. The zoning code does prohibit more than one residential building per zoning lot. Since the existing site has more than one residential structure on the lot the applicant applied for a historic variance to allow more than one residential structure to remain on the zoning lot. On October 28, 2008, the Heritage Preservation Commission approved a historic variance to allow for more than one residential structure on the zoning lot.

Bulk regulations - floor area: No alternative requested.

Bulk regulations - height: The building height in the R5 zoning district is limited to four stories or 56 feet. The applicant is proposing to construct a building that is six stories or 66 feet in height. The applicant needs to provide an amenity or a combination of amenities totaling at least five points for a building taller than four stories or 56 feet. See “amenities provided” section below.

In addition to the conditional use standards and planned unit development standards, the city planning commission shall consider, but not be limited to, the following factors when determining maximum height:

1. Access to light and air of surrounding properties.

Increasing the height of the proposed building should have minimal impact on the amount of light and air that the surrounding properties receive. The proposed building will be located between 13 and 26 feet from the residential structures on the site and across University Avenue Southeast from the residential buildings to the north.

2. Shadowing of residential properties or significant public spaces.

Shadow studies have been included as an attachment to the staff report and include shadowing impacts at 12 noon and 2 pm during March, June, September and December. The shadow study indicates that there will be some shadowing cast on the residential properties located on the north side of University Avenue Southeast during December. The interior courtyard on site will not be shadowed by the proposed building for any significant amount of time given the placement of the building on the north side of the site.

3. The scale and character of surrounding uses.

There is a mixture of building heights in the neighborhood. The majority of the buildings north of University Avenue Southeast range between one and three stories in height and the buildings south of University Avenue Southeast range between one and nine stories in height. On the Florence Court site itself the single family homes are one and a half and two stories tall and the Florence Court building is three and a half stories tall.

The character of the buildings in the neighborhood is also varied. Many of the existing dwellings in the area were constructed in the early 1900's. There are however several infill buildings that have been built in the last several decades.

4. Preservation of views of landmark buildings, significant open spaces or water bodies.

Constructing a building either four stories in height or six stories in height would block views of the Florence Court building from University Avenue given the height of the building. The proposed building would not block views of the Mississippi River given the location of the existing buildings on

Lot area requirements: No alternative requested

Yards: The required front yard setback along University Avenue Southeast is 15 feet and the required corner side yard setback along 10th Avenue Southeast is 18 feet. The applicant is proposing to reduce the front yard setback along University Avenue South to a distance ranging between 13.5 feet and 7 feet for a variety of building elements and to reduce the corner side yard setback along 10th Avenue Southeast to 8 feet for the building and to a distance ranging between 6.5 feet and zero feet for a variety of building elements. The applicant needs to provide an amenity or a combination of amenities totaling

at least five points to reduce the yard requirements along the front and corner side property lines. See “amenities provided” section below

On-premise signs: No alternative requested.

Off-street parking and loading: No alternative requested. The development meets the parking and loading requirements as specified in Chapter 541, Off-Street Parking and Loading. However, the applicant has applied for a variance of the automobile and bicycle parking requirements as specified in the University Area Overlay District. Please note that Chapter 527, Planned Unit Development, does not allow an exception to the automobile or bicycle parking or loading requirements of Chapter 551, Overlay Districts.

Amenities provided: In addition to the 10-point minimum required for all planned unit developments, the applicant must provide amenities or a combination of amenities totaling at least ten points. The applicant proposes the following amenities: outdoor open space, decorative pavement and pedestrian improvements.

Outdoor open space needs to be a contiguous ground level outdoor open space that is related to and proportional with the bulk of the building and landscaped with trees and shrubs. Rain gardens, where appropriate, are encouraged. Walkways and pathways shall be surfaced with pervious pavers, pervious concrete, decorative pavers, stamped concrete, colored concrete, brick or other decorative and durable materials. A minimum of 30 percent of the site not occupied by buildings shall be landscaped outdoor open space. A minimum of 50 percent of the provided open space shall be contiguous. The open space must be immediately accessible from the principal structure. Areas should be designed for winter use and relate to the built form with consideration given to elements such as providing shelter from wind, utilizing seasonally appropriate materials, maximizing access to sunlight and providing for snow and ice removal. Outdoor open space is worth five points.

To meet the standards for the outdoor open space amenity there needs to be at least 13,092 square feet of outdoor open space (30 percent of the site not occupied by buildings), half of which (6,546 square feet) needs to be contiguous. There is over 23,000 square feet of outdoor open space on the site. The interior courtyard is approximately 8,500 square feet in size. The courtyard is immediately accessible from both the proposed building and the existing buildings on the site. The interior courtyard is protected from the wind as it is located towards the interior of the site and is surrounded by buildings. The buildings on the south side of the courtyard range between one and three stories in height so solar access will be maximized. The Planning Division believes that the standards for this five-point amenity have been met.

Decorative pavers, pervious pavers, stamped concrete, colored concrete, pervious concrete, brick or other decorative or durable materials need to be provided for a minimum of 75 percent of surface parking and/or loading areas, drives aisles, driveways and walkways that comply with the Americans with Disabilities Act accessibility requirements. Decorative or pervious surface for on-site parking and loading areas, drives, driveways and walkways is worth three points.

The entire length of the driveway that runs through the site will be made of stamped concrete paving. In addition, the outdoor patio will be made of decorative pavement. The existing walkways that connect

the existing buildings to one another and the outdoor green space are made of concrete. These will remain as they currently exist. The Planning Division believes that the standards for this three-point amenity have been met.

Pedestrian improvements should include a site and building design that allows for exceptional and accessible pedestrian and/or bicycle access through and/or around a site that exceeds the requirements of Chapter 530, Site Plan Review. The improvements shall use a combination of landscaping, decorative materials, access control and lighting to create a safe, clear and aesthetically pleasing access through and/or around the site that complies with the Americans with Disabilities Act accessibility requirements. Pedestrian improvements are worth three points.

Walkways will connect the public sidewalks along University Avenue Southeast, 10th Avenue Southeast and Second Street Southeast to the interior of the site. There will also be a walkway provided along the east side of the site that connects the public sidewalk along University Avenue Southeast to the interior courtyard. There will also be a series of walkways provided through the middle of the site that connect the existing buildings and the proposed building to the interior courtyard. The Planning Division believes that the standards for this three-point amenity have been met.

Phasing plan: This development will be constructed as one continuous phase. The interior rehabilitation work has already commenced and the exterior rehabilitation work will be completed in the spring of 2010. Construction of the new building will begin on the summer of 2010. The units will be available in the fall of 2011.

In addition to the conditional use permit standards contained in Chapter 525, Administration and Enforcement, before approval of a planned unit development the city planning commission also shall find:

1. That the planned unit development complies with all of the requirements and the intent and purpose of this chapter. In making such determination, the following shall be given primary consideration:

a. The character of the uses in the proposed planned unit development, including in the case of residential uses, the variety of housing types and their relationship to other site elements and to surrounding development.

The proposed mix of rental dwelling units will fit in well with the neighborhood. The surrounding area includes a mixture of residential developments of varying densities including sororities and fraternities and dormitories for the University of Minnesota. The site is also located three blocks from the designated Dinkytown Activity center which contains many restaurants and retail shops.

b. The traffic generation characteristics of the proposed planned unit development in relation to street capacity, provision of vehicle access, parking and loading areas, pedestrian access, bicycle facilities and availability of transit alternatives.

The development will not have a negative impact on traffic movement or parking in the area. There will be one parking space provided for each dwelling unit on the site plus an additional eight tandem parking spaces. The site is located within close proximity to several transit routes and the University of Minnesota. There will also be a total of 127 bicycle parking spaces provided on the site that can accommodate 254 bicycles.

c. The site amenities of the proposed planned unit development, including the location and functions of open space, the preservation or restoration of the natural environment or historic features, sustainability and urban design.

The site amenities include the renovation of the existing historically designated Florence Court building, the outdoor open space, the use of decorative pavement throughout the site and the enhanced pedestrian connections to and through the site.

d. The appearance and compatibility of individual buildings and parking areas in the proposed planned unit development to other site elements and to surrounding development, including but not limited to building scale and massing, microclimate effects of the development, and protection of views and corridors.

The proposed building will be six-stories in height and contain two levels of below ground parking. The parking spaces will be used by all of the residents on the site, including those who live in the Florence Court building and the four single-family homes. The building has been designed to look like several narrow buildings pieced together through the use of building recesses and building materials. The proposed building has been sited on the north end of the site and steps down in height as it approaches the Florence Court building and the existing single-family homes. The interior courtyard located on the site will be preserved. The majority of the existing canopy trees will be saved, the existing driveway will be resurfaced using stamped concrete and an outdoor patio with additional landscape materials will be constructed near the new construction.

e. An appropriate transition area shall be provided between the planned unit development and adjacent residential uses or residential zoning that considers landscaping, screening, access to light and air, building massing, and applicable policies of the comprehensive plan and adopted small area plans.

Besides the development the only other use on the block is the adjacent surface parking lot to the east that is owner by the University of Minnesota. Located between the development and the adjacent parking lot is landscaping and a walkway.

f. The relation of the proposed planned unit development to existing and proposed public facilities, including but not limited to provision for stormwater runoff and storage, and temporary and permanent erosion control.

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other

applicable requirements. The City of Minneapolis will review and approve the applicant's stormwater management plan and erosion control plan.

g. The consideration, where possible, of sustainable building practices during the construction phases and the use of deconstruction services and recycling of materials for the demolition phase.

The proposed development will utilize high-efficiency mechanical and electrical systems to decrease energy costs. The proposed development will also feature low emitting adhesives and paints, recycled content materials and will attempt to use regional materials whenever possible. Also, while under construction the redevelopment of the site will participate in a construction waste recycling program.

2. That the planned unit development complies with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.

The platting of the site is in compliance with Chapter 598, Land Subdivision Regulations.

VARIANCE - of the University Area Oriented Overlay District standards as they pertain to vehicle and bike parking

Findings as Required by the Minneapolis Zoning Code for the Variance:

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

University Area Oriented Overlay District: The applicant is seeking a variance of the University Area Oriented Overlay District standards as they pertain to vehicle and bike parking. Specifically, the variance being requested is to reduce the off-street parking requirement from 157 spaces to 128 spaces and the bicycle parking requirement from 313 spaces to 254 spaces.

In the University Area Overlay District the zoning code requires .5 parking spaces per bedroom. There are a total of 313 bedrooms in the development which requires 157 parking spaces on the site. As proposed there are 129 parking spaces on the site or .41 parking spaces per bedroom. Although the .5 parking space per bedroom ratio is not being met the site is located in close proximity to several transit routes and within walking distance to the University of Minnesota. The site is located immediately adjacent to the University of Minnesota East Bank Campus and across the 10th Street Southeast bridge from the West Bank Campus. The site's proximity to the University could potentially increase the number of tenants who will not own an automobile. The applicant has also indicated that it would be impractical to add another level of underground parking and providing parking outdoors in the courtyard would not be desirable in terms of preserving the historic character of the site.

In the University Area Overlay District the zoning code requires one bicycle parking spaces per bedroom. There are a total of 313 bedrooms in the development which requires 313 bicycle parking spaces on the site. There will be parking for 254 bicycles on the site. The applicant has applied for a

variance to reduce the bicycle parking requirement as required by the University Area Overlay District. Although the bicycle parking requirement is not being met the site is located in close proximity to several transit routes and within walking distance to the University of Minnesota.

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.

University Area Oriented Overlay District: The site's proximity to many transit lines and the University of Minnesota is a unique circumstance of this property.

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.

University Area Oriented Overlay District: The Planning Division believes that the granting of this variance would not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. Although the automobile and bicycle parking requirements are not being met the sites proximity to the University of Minnesota and many transit routes makes the site appealing for those who choose to walk or use transit.

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.

University Area Oriented Overlay District: The Planning Division believes that the granting of the variance would have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

VARIANCE - to reduce the east interior side yard setback from the required 15 feet to a distance ranging between 13.5 feet and 10 feet for a variety of building elements and to 2 feet for a relocated detached garage

Findings as Required by the Minneapolis Zoning Code for the Variance:

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

East interior side yard setback: The applicant is seeking a variance to reduce the east interior side yard setback from the required 15 feet to a distance ranging between 13.5 feet and 10 feet for a variety of building elements and to 2 feet for a relocated detached garage. Specifically, the architectural frame around some of the windows are located 13.5 feet from the property line, the upper level balconies are located 11 feet from the property line and the ground level patios are located 10 feet from the property line. The building itself is not located in the required interior side yard.

The applicant has indicated that the building has been designed to interact with the pedestrian realm by locating the building at the required setback but then incorporating different building elements that encroach into the required setback. It should be noted that to the east of the development site is a surface parking lot that is owned by the University of Minnesota. The garage is currently located on the site. The original garage was enlarged some time in the past. The applicant is proposing to remove the addition that was added to the garage and relocate it seven feet further south on the site. Its setback from the interior property line is currently two feet and will remain two feet after it has been relocated.

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.

East interior side yard setback: The site is unique in that the only other property adjacent to the proposed development is a surface parking lot owned by the University of Minnesota. The parking lot is located between five and nine feet from the east interior side property line.

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.

East interior side yard setback: The intent of having yard controls is to provide for the orderly development and use of land and to minimize conflicts between adjacent land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The Planning Division believes that the granting of this variance would not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The elements requiring the variance will not interrupt the orderly development of surrounding land and will not create conflicts between adjacent land uses. Crime Prevention Through Environmental Design (CPTED) principles encourage sites to be designed so as to promote natural observation and maximize the opportunities for people to observe adjacent spaces and public sidewalks.

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.

East interior side yard setback: The Planning Division believes that the granting of the variance would have little impact on congestion of area streets or fire safety, nor would the proposed setback variance be detrimental to welfare or public safety.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

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 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, windows, and active functions:
 - 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.**
 - g. **In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.**
Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

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

- **Ground floor active functions: Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.**
- **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. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.**

PLANNING DEPARTMENT RESPONSE:

- **The building reinforces the street wall, facilitates pedestrian access and maximizes natural surveillance. The building is set close to the property lines, there are entrances and exits at street level that can be accessed by residents and guests and there are large windows, balconies and patios on all sides of the building that maximize the opportunities for people to observe adjacent spaces and**

the public sidewalks.

- The site is located on a corner lot which requires that both walls abutting the streets be located within eight feet of the property line except where a greater yard is required by the zoning ordinance. In the R5 zoning district the front yard setback is 15 feet and the corner side yard setback is 18 feet. The building will be constructed 15 feet from the front property line and ten feet from the corner side property line.
- The area in between the building and the property lines will contain patios and walkways and will be landscaped.
- The principal entrance to the building is located along University Avenue Southeast near 10th Avenue Southeast. In addition, each of the first floor dwelling units will have their own entrance.
- All of the on-site parking associated with this development is located in two levels of underground parking.
- The exterior materials of the structure include metal, cement board siding and glass. The sides and rear of the building are similar to and compatible with the front of the building.
- There is one area of the building that is over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements. The area is 27 feet in width and located on the first floor of the building facing the existing Florence Court building. The building has been designed to look like three narrow buildings pieced together. The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow this one area of the building to be over 25 feet in length and blank. There will be landscaping located around the perimeter of the building which will protect the building from graffiti and provide visual interest.
- At least 20 percent of the first floor and at least 10 percent of the upper floors of the University Avenue Southeast and 10th Avenue Southeast sides of the building are required to be windows. The project's compliance with these requirements is as follows:
 - University Avenue Southeast: the percentage of windows on the first floor of the building is 42 percent and the percentage of windows on the upper levels of the building is in excess of 10 percent.
 - 10th Avenue Southeast: the percentage of windows on the first floor of the building is 51 percent and the percentage of windows on the upper levels of the building is in excess of 10 percent.
- The windows in the building are vertical in nature and are evenly distributed along the building walls.
- The entire building frontage along both University Avenue Southeast and 10th Avenue Southeast contain active functions.
- The principal roof line of the building will be flat. In the neighborhood there is a mixture of flat roofed and pitched roofed buildings.

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 530.150 (b) related to alley access.**

- **Site plans shall minimize the use of impervious surfaces.**

PLANNING DEPARTMENT RESPONSE:

- All of the entrances leading into the building are connected to the public sidewalk via a series of walkways that run through the site.
- No transit shelters are proposed as part of this development.
- All of the on-site parking associated with this development is located in two levels of underground parking.
- There are no public alleys adjacent to the site.
- The maximum impervious surface requirement in the R5 zoning district is 85 percent. According to the materials submitted by the applicant 31 percent of the site will be pervious (69 percent impervious).

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, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**
- **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.**
- **Except as otherwise provided, 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 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**
- **The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.**
- **In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.**
- **All other areas not governed by sections 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 530.210.**
- **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 530.80, as provided in section 530.220.**

PLANNING DEPARTMENT RESPONSE:

- The zoning code requires that at least 20 percent of the site not occupied by the building be landscaped. The lot area of the site is 73,750 square feet. The footprint of the buildings are 30,110 square feet. When you subtract the footprint from the lot size the resulting number is 43,640 square feet. Twenty percent of this number is 8,728 square feet. According to the applicant's landscaping plan there is 23,207 square feet of landscaping on the site or approximately 53 percent of the site not occupied by the building.
- The zoning code requires at least 1 canopy tree for each 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space be planted on the site. The tree and shrub requirement for this site is 18 and 88 respectfully. The applicant is proposing to have 33 canopy trees (19 existing and 14 proposed) and 361 shrubs located on the site. The applicant is also proposing to have 16 ornamental trees and many perennials and native grasses located throughout the site. In addition, there will be seven new canopy trees planted in the right-of-way.

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.**

PLANNING DEPARTMENT RESPONSE:

- There are no outdoor parking lots that create stormwater run-off.
- There are a number of landmark buildings in the area including the Florence Court building and several buildings located on the north side of University Avenue Southeast which are part of the University of Minnesota Greek Letter Chapter House Historic District. Given that Florence Court is on the south side of University Avenue Southeast and the historic district is located on the north side of University Avenue Southeast the proposed building will block views of these buildings from one another.
- Shadow studies have been included as an attachment to the staff report and include shadowing

impacts at 12 noon and 2 pm during March, June, September and December. The shadow study indicates that there will be some shadowing cast on the residential properties located on the north side of University Avenue Southeast during December. The interior courtyard on site will not be shadowed by the proposed building for any significant amount of time given the placement of the building on the north side of the site.

- This building should have minimal wind effects on the surrounding area.
- The site plan complies with crime prevention design elements as there are walkways that direct people to the building entrances, there is series of internal walkways that connect all of the entrances to one another, there are large windows, balconies and patios on all sides of the building that maximize the opportunities for people to observe adjacent spaces and the public sidewalks and there are lights located near all of the pedestrian entrances and throughout the site.
- The Florence Court property is made up of seven buildings including the existing Florence Court residential building, five additional dwellings and a garage. The entire Florence Court property is historically designated but the only structure on the site that is protected is the Florence Court building itself. The gas station site is not designated.

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:

- **Use:** Residential uses over five dwelling units require a conditional use permit in the R5 zoning district.
- **Off-Street Parking and Loading:**

Minimum automobile parking requirement: The minimum parking requirement for dwellings is one parking space per dwelling unit. For 121 dwelling units the parking requirement would be 121 spaces. The applicant is proposing to provide a total of 129 parking spaces on the site. Of the 129 spaces, eight of the parking spaces are tandem spaces. Because they are tandem spaces and do not open onto a required drive aisle, eight of them do not count towards the total provided.

In the University Area Overlay District the zoning code requires .5 parking spaces per bedroom. There are a total of 313 bedrooms in the development which requires 157 parking spaces on the site. As proposed there are 129 parking spaces on the site or .41 parking spaces per bedroom. The applicant has applied for a variance to reduce the off-street parking requirement as required by the University Area Overlay District.

Maximum automobile parking requirement: There is no maximum parking for dwellings in the R5 zoning district.

Bicycle Parking: The bicycle parking requirement for a multiple-family development is one space per two dwelling units. The bicycle parking requirement for this development is 61 spaces. Not less than 90 percent of the required bicycle parking spaces shall meet the standards for long-term bicycle parking. Required long-term bicycle parking spaces shall be located in enclosed and secured or supervised areas providing protection from theft, vandalism and weather and shall be accessible to

intended users. Required long-term bicycle parking for residential uses shall not be located within dwelling units or within deck or patio areas accessory to dwelling units. In total, 55 of the required bicycle parking spaces need to be enclosed.

There will be a total of 121 bicycle parking spaces provided in the parking garage and an additional six bicycle parking spaces provided outside. All of the bicycle parking spaces can accommodate two bicycles. In total, there will be parking for 254 bicycles on the site.

In the University Area Overlay District the zoning code requires one bicycle parking spaces per bedroom. There are a total of 313 bedrooms in the development which requires 313 bicycle parking spaces on the site. There will be parking for 254 bicycles on the site. The applicant has applied for a variance to reduce the bicycle parking requirement as required by the University Area Overlay District.

Loading: The loading requirement for a multiple-family development with 100 to 250 dwelling units is one small loading space. Trucks can park along the driveway when loading or unloading.

- **Maximum Floor Area:** The maximum FAR in the R5 zoning district is 2.0. The lot in question is 73,750 square feet in area. The applicant proposes a total of 136,402 square feet of gross floor area, an FAR of 1.85.
- **Building Height:** Building height in the R5 zoning district is limited to four stories or 56 feet. The applicant is proposing to construct a building that is six stories or 66 feet in height.
- **Minimum Lot Area:** The minimum lot area per dwelling unit in the R5 zoning district is 700 square feet. Section 547.130 allows a 20 percent density bonus for enclosed parking. This development qualifies for the density bonus which, when calculated, would result in a minimum lot area of 560 square feet per dwelling unit. With 121 dwelling units on a lot of 73,750 square feet, the applicant proposes 609 square feet of lot area per dwelling unit.
- **Dwelling Units per Acre:** The site is 1.69 acres in size. There are 71.6 dwelling units per acre proposed on the site.
- **Yard Requirements:** The front yard setback requirement is 15 feet. In this case both University Avenue Southeast and 2nd Street Southeast are front yards. The east interior side yard setback requirement is $5+2x$, where x equals the number of stories above the first floor. The resulting setback along this side of the building is 15 feet. The corner side yard setback for this development is $8+2x$, where x equals the number of stories above the first floor. The resulting setback along this side of the building is 18 feet. The applicant has applied for a variance to reduce the required setback along the east interior property line.
- **Specific Development Standards:** There are no specific development standards for residential uses.
- **Hours of Operation:** Residential uses are not subject to hours of operation.

- **Signs:** Signs are subject to the requirements of Chapter 543 of the Zoning Code. In the R5 zoning district one can have one wall identification sign not exceeding 32 square feet with a maximum height of 12 feet or top of wall, whichever is less. On a corner lot, two such signs per building. In addition, one freestanding ground sign not exceeding 32 square feet in area and eight feet in height.

The applicant is proposing to have one wall sign located on the northwest corner of the building. The sign will be attached to the foundation of the porch that is located near the principal entrance. The sign measures approximately three square feet and is located three feet off of the ground.

- **Refuse storage:** There will be a trash room located on the first floor of the proposed building and an enclosed trash area located near the driveway exit at 11th Avenue Southeast.
- **Lighting:** A lighting plan showing footcandles was not submitted as part of the application materials.

MINNEAPOLIS PLAN:

This site is located on the south side of University Avenue Southeast between 10th Avenue Southeast and 11th Avenue Southeast. University Avenue Southeast is a designated Community Corridor and the site is located three blocks west of the designated Dinkytown Activity center. The University of Minnesota/SEMI area is also a designated Growth Center. The future land use map in *The Minneapolis Plan for Sustainable Growth* designates the Florence Court site as Urban Neighborhood and the existing gas station site as Commercial. According to the principles and policies outlined in *The Minneapolis Plan for Sustainable Growth*, the following apply to this proposal:

- Preserve, maintain, and designate districts, landmarks, and historic resources which serve as reminders of the city's architecture, history, and culture (Heritage Preservation Policy 8.1).
- Protect historic resources from modifications that are not sensitive to their historic significance (Implementation Step for Urban Design Policy 8.1).
- Require new construction in historic districts to be compatible with the historic fabric (Implementation Step for Urban Design Policy 8.1).
- Encourage new developments to retain historic resources, including landscapes, incorporating them into new development rather than removal (Implementation Step for Urban Design Policy 8.1).
- Support the development of residential dwellings that are of high quality design and compatible with surrounding development (Urban Design Policy 10.4).
- Support the development of multi-family residential dwellings of appropriate form and scale (Urban Design Policy 10.5).
- Medium-scale, multi-family residential development is more appropriate along Commercial Corridors, Activity Centers, Transit Station Areas and Growth Centers outside of Downtown Minneapolis (Implementation Step for Urban Design Policy 10.5).
- 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 (Urban Design Policy 10.6).
- Design buildings to fulfill light, privacy, and view requirements for the subject building as well as for adjacent properties by building within required setbacks (Implementation Step for Urban Design Policy 10.6).

- 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 (Implementation Step for Urban Design Policy 10.6).
- Orient buildings and building entrances to the street with pedestrian amenities like wider sidewalks and green spaces (Implementation Step for Urban Design Policy 10.6).
- Street-level building walls should include an adequate distribution of windows and architectural features in order to create visual interest at the pedestrian level (Implementation Step for Urban Design Policy 10.6).

The Planning Division believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan*.

The Minneapolis City Council adopted the *Master Plan for the Marcy-Holmes Neighborhood* on December 29, 2003, and a supplement to the adopted plan on January 26, 2007. The master plan for this site calls for higher density housing. Specifically the plan says to “Orient buildings to streets with parking and driveways placed behind buildings”, “Design higher density residential buildings with some form of outdoor spaces for residents, including balconies, patios, courtyards and rooftop gardens”, “Incorporate indoor parking into all new residential buildings” and “Create urban streetscapes along University Ave, 4th St and 10th Ave using street trees and pedestrian amenities”. The Planning Division believes that the proposed development is in conformance with the above policies of the *Master Plan for the Marcy-Holmes Neighborhood*.

ALTERNATIVE COMPLIANCE:

- **The Planning Commission or zoning administrator 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, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, 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.**

PLANNING DEPARTMENT RESPONSE:

- **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.** There is one area of the building that is over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements. The area is 27 feet in width and located on the first floor of the

building facing the existing Florence Court building. The building has been designed to look like three narrow buildings pieced together. The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow this one area of the building to be over 25 feet in length and blank. There will be landscaping located around the perimeter of the building which will protect the building from graffiti and provide visual interest.

PRELIMINARY AND FINAL PLAT - PL-240

Required Findings:

1. The subdivision is in conformance with these land subdivision regulations, the applicable regulations of the zoning ordinance and policies of the comprehensive plan.

The applicant is proposing to replat several lots into two new lots. Lot 1 is being created for the proposed development and Lot 2 is being created for the existing buildings on the site. Individual lots within PUD's are exempt from the public street frontage requirement of section 598.230 and the design requirements of sections 598.240 and 598.250.

The subdivision is in conformance with the design requirements of the land subdivision regulations except for Section 598.230 (5), which requires utility easements to be five feet wide on side lot lines and ten feet wide on rear lot lines, where no alley is provided. In order to be in conformance with the land subdivision regulations, a variance of Section 598.230 (5) is required to eliminate the drainage and utility easements from both lots. While variances from the zoning code require a separate application, variances from the subdivision standards are done as a part of the subdivision application subject to the standards listed below.

598.310. Variances. Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

(1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.

(2) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.

Given the layout of the proposed development drainage and utility easements are not possible around the interior lot lines. The applicant has indicated that since they own all of the land that drainage easements are not needed. The Public Works Department has agreed that drainage easements are not needed for this development. Given this the Planning Division recommends varying the drainage easement requirement to zero.

Section 598.260 Planned unit developments and cluster design, requires the design of a subdivision for a cluster development to implement the site plan as approved by the Planning Commission and shall include a deed restriction designating the following:

- 1. The relationship between all common spaces and each individual lot (rights in the common spaces and proportionate ownership accruing to the individual lot).**

The applicant will own all of the land so this provision is not necessary.

- 2. Provision for access to each lot that does not have frontage on a public street.**

All lots have frontage on a public street.

- 3. A requirement that an owner's association be created. The duties and responsibilities of the owner's association shall include maintaining the elements of the cluster development as authorized under the zoning ordinance or other applicable regulations.**

The applicant will own all of the land so the creation of an owner's association is not necessary.

- 4. A provision that the taxes, special assessments, and other charges and fees that would normally be levied against the common spaces shall be levied against the individual lot occupied or to be occupied by buildings in direct proportion to the interest that is stated in the deed restriction and shall provide that such levies shall be a lien against the individual lots.**

The applicant will own all of the land so this provision is not necessary.

- 5. A requirement that any disposition of any of the common property situated within the cluster development shall not be made without the prior approval of the Planning Commission.**

If an amendment is made to the PUD the proposed amendments shall be reviewed and approved by the City Planning Commission.

- 2. The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.**

The applicant is proposing to replat several lots into two new lots. Lot 1 is being created for the proposed development and Lot 2 is being created for the existing buildings on the site.

- 3. All land intended for building sites can be used safely without endangering the residents or users of the subdivision or the surrounding area because of flooding, erosion, high water table, soil conditions, improper drainage, steep slopes, rock formations, utility easements or other hazard.**

The site is flat and does not present the above hazards.

4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.

The parcels created by this application present no foreseeable difficulties for this development. No significant alterations to the land appear necessary.

5. The subdivision makes adequate provision for stormwater runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development will not exceed the amount occurring prior to development.

The Sewer Division of the Public Works Department will review and approve the drainage and sanitary system plans for this development prior to building permits being issued.

RECOMMENDATIONS

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a 121-unit (84 proposed and 37 existing) Planned Unit Development located at 1000 and 1022 University Avenue Southeast 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. As required by section 527.120 of the zoning code, the development includes the following amenities from Table 527-1, Amenities: historic preservation, outdoor open space, and pedestrian improvements.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance of the University Area Oriented Overlay District standards to reduce the off-street parking requirement from 157 spaces to 128 spaces and the bicycle parking requirement from 313 spaces to 254 spaces.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the east interior side yard setback from the required 15 feet to a distance ranging between 13.5 feet and 10 feet for a variety of building elements and to 2 feet for a relocated detached garage located at 1000 and 1022 University Avenue Southeast.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review for the property located at 1000 and 1022 University Avenue Southeast subject to the following conditions:

Department of Community Planning and Economic Development – Planning Division
BZZ-4632

1. Approval of the final site, landscaping, elevation and lighting plans by the Community Planning and Economic Development Department – Planning Division.
2. All site improvements shall be completed by December 14, 2011, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the preliminary and final plat:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the preliminary and final plat application for the property located 1000 and 1022 University Avenue Southeast.

Attachments:

1. Preliminary Development Review report form November 5, 2008
2. Statement of proposed use
3. Conditional use permit and variance findings, including shadow studies
4. Subdivision findings, including copies of the preliminary and final plat
5. November 30, 2009, letter from the City Attorney's office regarding the plat
6. November 4, 5 and 2009, letter and e-mails to Council Member Hofstede and the Marcy Holmes Neighborhood Association (MHNA)
7. Previous CPC and HPC actions
8. Zoning Map
9. Civil plans, site plan, landscaping plans, floor plans and elevations
10. Photographs of the site and surrounding area