

Department of Community Planning and Economic Development – Planning Division
Rezoning Petition, Conditional Use Permit, Variances, Site Plan Review, Plat and Alley Vacation
BZZ – 3971, PL-224 and Vac-1542

Date: April 14, 2008

Applicant: KK Corporation

Address of Property: 3725-3729 29th Avenue South

Project Name: 3725 29th Avenue South Multi-family Dwelling

Contact Person and Phone: John Bell, (612) 374-8282

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

Date Application Deemed Complete: March 21, 2008

End of 60-Day Decision Period: May 20, 2008

End of 120-Day Decision Period: On March 24, 2008, staff sent the applicant a letter extending the decision period no later than July 19, 2008.

Ward: 9 **Neighborhood Organization:** Standish Ericsson Neighborhood Association

Existing Zoning: R1A Single-Family Residence District and PO Pedestrian Oriented Overlay District

Proposed Zoning: R5 Multiple-Family Residence District with the PO Pedestrian Oriented Overlay District

Zoning Plate Number: 27

Legal Description: To be provided by the applicant.

Proposed Use: Multi-family dwelling with 64 units.

Concurrent Review:

Petition to rezone the properties of 3725-3729 29th Avenue South from R1A to R5.

Conditional use permit to allow 64 dwelling units.

Variance to reduce the minimum lot size requirement by 15.6 percent.

Variance to allow parking within 6 feet of a dwelling.

Site plan review.

Preliminary plat.

Alley vacation.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, specifically section 525.520 (2) “To vary the lot area...requirements up to 30 percent...” and section 525.520 (8) “To permit parking that cannot comply with the location requirements for on-site parking, as specified in Chapter 537, Accessory Uses and Structures, and Chapter 541, Off-Street Parking and Loading.”; Chapter 530, Site Plan Review; and Chapter 598 Land Subdivisions.

Background: The applicant proposes to construct a new 4-story multiple family dwelling with 64 units at the properties of 3725-3729 29th Avenue South. The 38th Street Light Rail Transit Station is located directly east of the site. To the north, south, and west, the area around the site is predominantly low-density residential. The site currently consists of vacant lots with an alley and sidewalk running through the middle of it. The Met Council holds an easement for the east/west portion of the alley. The applicant proposes to relocate the alley to the south end of the site with access to 29th Avenue. A sliver of land approximately 3 feet wide would remain. The applicant proposes to deed this land once it is replatted as an outlot to the adjacent residential property. The sidewalk would extend along the northern portion of the property. The applicant has indicated that they will give an easement to Metro Transit for the sidewalk.

The site is currently zoned R1A. The applicant is proposing to rezone the subject properties to R5 to allow 64 dwelling units. Please note, the proposed outlot is not included in this rezoning request because the applicant intends to deed it to the adjacent residential property, which is zoned R1A.

A multifamily dwelling with 5 or more units in the R5 district is a conditional use. Upon approval of a conditional use permit, the action must be recorded with Hennepin County as required by state law.

The proposed lot area is 38,242 square feet. Please note, the area occupied by the proposed alley and outlot are not included in the proposed lot area. The minimum lot area requirement in the R5 district is 900 square feet per dwelling unit, or 57,600 square feet for 64 units. The applicant qualifies for a 30 percent density bonus for locating all required parking within the building. With the density bonus, the minimum lot size is 708.2 square feet per unit, or 45,324.8 square feet for 64 units. The proposed lot are per unit is 597.5 square feet. The applicant is requesting to reduce the minimum lot size requirement by 15.6 percent.

All open parking spaces must be located at least 6 feet from a dwelling of any type. The zoning code definition of dwelling includes any part of the dwellings structure, therefore the surface parking spaces that extend under the building do not comply with this requirement. A variance is requested for this location requirement.

Site plan review is required for any new use with 5 or more dwelling units.

To dedicate the alley and deed land to the adjacent property, the applicant is proposing a plat. The land to be deeded to the adjacent property would be platted as an outlot. Only the preliminary plat is being reviewed at this time.

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Relocation of the alley is required to allow the building as proposed. The applicant is requesting that part of the north/south alley be vacated. Before building permits can be issued for the project, Met Council will need to release the easement for the rest of the alley on the site.

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

REZONING: Petition to rezone the properties of 3725-3729 29th Avenue South from R1A to R5.

Findings as required by the Minneapolis Zoning Code for the rezoning petition:

- 1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.**

The site is located within a designated transit station area, 38th Street, in *The Minneapolis Plan*. According to the principles and polices outlined in the plan, the following apply to this proposal:

4.9 Minneapolis will grow by increasing its supply of housing.

Applicable Implementation Steps

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

Support the development of infill housing on vacant lots. Use partnerships and incentives to reduce city subsidy level and duration of vacancy.

4.18 Minneapolis will encourage both a density and mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.

Applicable Implementation Step

Concentrate highest densities and mixed-use development nearest the transit station and/or along Commercial Corridors, Community Corridors and/or streets served by local bus transit.

The *38th Street Station Area Plan* was adopted by the City Council in October, 2006. The plan recommends multi-family residential, such as townhomes and stacked flats, with a height of 4-stories on the site.

Staff comment: The R5 district would allow medium to high density, which is appropriate on a site directly adjacent to an LRT transit station. It would also allow the city to increase its housing supply and develop a vacant property. The proposed rezoning is in conformance with these goals of *The Minneapolis Plan* and the *38th Street Station Area Plan*.

- 2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.**

The site is located adjacent to the 38th Street LRT station. The *38th Street Station Area Plan* calls for multi-family residential on this site because of its proximity to the LRT station. Increased density around LRT stations supports the success of public transit. The amendment is in the public interest and not solely in the interest of the property owner.

- 3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.**

The immediate area is predominantly low-density residential. The 38th Street LRT station is located to the east of the site. These properties are zoned R1A. Increased density around LRT stations supports the success of public transit. The R5 district would also provide a transition area between the low-density neighborhood and the LRT station. The proposed zoning should be compatible with the surrounding uses and zoning classifications.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

The R1A district would allow up to 7 single-family dwellings on the site. The R5 district would allow multi-family residences. Because the site is adjacent to a transit station, medium- to high-density residential would be more appropriate use of the land than low-density housing allowed in the existing district.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

The adopted plan for the area and *The Minneapolis Plan* anticipate and promote the redevelopment of this site for higher residential density because it is adjacent to an LRT station. A rezoning study is currently in the review process for the properties within the boundaries of the *38th Street Station Area Plan* located west of Hiawatha Avenue, including this site. In the rezoning study, staff is recommending R5 zoning for the subject site.

CONDITIONAL USE PERMIT: to allow 64 dwelling units.

Findings as required by the Minneapolis Zoning Code:

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

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

Construction of a multifamily residential building of four stories with 64 dwelling units on the site would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

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

The surrounding area is fully developed. The adopted plan for the area and *The Minneapolis Plan* anticipate and promote the redevelopment of this site for higher residential density because it is adjacent to an LRT station. The development of this site for residential use should have a positive effect on surrounding properties.

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

The site would be served by existing infrastructure. Vehicle access would be from 29th Avenue and the proposed alley. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way.

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

The minimum parking requirement for the proposed development is 58 spaces (0.9 spaces per unit). The applicant is proposing 74 vehicle parking spaces. Secure bicycle parking would be provided for the residents as well as guests. The applicant has submitted a draft Travel Demand Management Plan. The traffic study found negligible impacts to both the arterial roadways and to the neighborhood. Measures of the study included not participating in the critical parking district in the neighborhood. The on-site parking is intended to provide enough parking for residents and their guests. The development should have little effect on congestion in the streets.

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

The site is located within a designated transit station area, 38th Street, in *The Minneapolis Plan*. In addition to the principals and policies in the rezoning section of this report, the following apply to this proposal:

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

Applicable Implementation Steps

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

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

4.18 Minneapolis will encourage both a density and mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.

Applicable Implementation Steps

Ensure that new development density is well integrated with existing neighborhood character through transitions in scale and attention to design.

Support the development of new housing types in the TSA, including townhomes, mansion apartments, garden apartments, granny flats/carriage houses, and multi-family residential buildings.

Recruit land uses that value convenient access to downtown Minneapolis or other institutional or employment centers that are well served by transit.

4.19 Minneapolis will require design standards for TSAs that are oriented to the pedestrian and bicyclist and that enforce traditional urban form.

Applicable Implementation Steps

Ensure that TSA building and site design is oriented to the pedestrian (e.g., reinforcing street walls, anchoring street corners, creating semi-public outdoor spaces, creating visual interest, providing adequate fenestration, and ensuring that principal building entrances open onto public sidewalks).

Ensure that TSA development is well integrated into the surrounding neighborhoods through attention to building design, landscaping, and transitions in density and land use.

4.20 Minneapolis will provide direct connections to transit stations for pedestrians, bicyclists, and bus riders.

Applicable Implementation Step

Enhance pedestrian connections and wayfinding from neighborhoods with high concentrations of transit users.

4.21 Minneapolis recognizes that parking is a necessary part of the urban environment, but will limit the amount, location, and design of parking in TSAs in order to encourage and support walking, bicycling, and transit use.

Applicable Implementation Step

Restrict the location of off-street parking for new development to the side or rear of buildings, so that there are direct connections between the public sidewalk and the principal entrances of buildings.

The 38th Street Station Area Plan was adopted by the City Council in October 20, 2006. The plan recommends multi-family residential, such as townhomes and stacked flats, with a height of 4-stories on the site. In addition to the small area plan policies discussed in the rezoning section of this report, the following apply to this proposal:

5.1. Development at or near the station site should be designed and used so that the station becomes a new focal point for the neighborhood.

5.3. The design of any new development on the station block should help “frame” or “front” the station, creating a sense of enclosure and visually drawing people to 38th Street.

6.1. Heights of new buildings shall be related to their neighborhood context.

Staff comment: The proposed high-density residential development would benefit from close proximity to the 38th Street LRT transit station. It would include a variety of unit types that would also allow the city to increase its supply and diversity of housing types. The building

would be 4-stories in height. Portions of the fourth floor would be stepped back as a mitigation measure for the difference in scale of the proposed building and the surrounding single-family dwellings. The building would comply with all yard requirements. Enhanced landscaping would be provided around the perimeter of the site. The building and site design would be oriented towards pedestrians, bicyclists, and LRT transit riders. The building walls facing the LRT station and tracks would contain high-quality materials and an abundant amount of the windows. Multiple entrances would be provided around the building, including one facing the LRT station. Bike racks would be provided next to that entrance. Secure bicycle storage would be provided in the building for the residents. The applicant is proposing to provide an easement for the walkway that connects 29th Avenue to the LRT station through the site. Visibility of the surface parking area would be limited from the LRT and the street with its proposed placement behind the buildings. The use would be consistent with the comprehensive plan and the small area plan.

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

The proposed use will conform to the applicable regulations of the district in which it is located upon the approval of the rezoning, conditional use permit, variances, site plan review, plat and alley vacation.

VARIANCE: to reduce the minimum lot area requirement by 15.6 percent.

Findings as required by the Minneapolis Zoning Code:

Findings as required by the Minneapolis Zoning Code:

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

The applicant is requesting to reduce the minimum lot size per dwelling unit from 708.2 square feet to 597.5 square feet (15.6 percent). The applicant is proposing to dedicate land to reroute the alley to the south end of the site. Because the dedicated land would become public right-of-way, the right-of-way area is not included in the lot area calculation for the development. Also, the applicant is required to provide a corner cut for the new alley resulting in an outlot. An outlot is not buildable and is not included in the lot area for the development. The applicant proposes to deed the land to the adjacent property owner. If the area for the dedicated sidewalk and outlot were included in the lot area, the variance would be to reduce the lot area requirement to allow only 6 additional dwelling units. The site is located next to the 38th Street LRT station. Increased density around LRT stations supports the success of public transit. Because the applicant is providing an amenity that serves the public interest and the site is next to an LRT station, the proposed density is reasonable.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property.

Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

The site is located next to an LRT station. An alley currently runs through the middle of the site. To make a larger parcel, the applicant is proposing to relocate the alley to the south end of the site. The subdivision ordinance requires the applicant to provide a corner cut for the new alley resulting in an outlot. An outlot is not buildable and is not included in the lot area for the development. These circumstances are unique and were not created by the property owner.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Lot area requirements are established to ensure compatibility with surrounding uses. The site is adjacent to single-family dwellings and an LRT station. The development would include a number of design features that should minimize adverse affects on the surrounding properties. All required parking would be located on the site. Additional parking is proposed for guest parking as well. Up to 5 unrelated persons could reside in a dwelling in the R5 district. The proposed dwelling units would not have more than two bedrooms. Smaller sized units would likely result in fewer numbers of persons living in each unit. A number of amenities are provided on-site for residents, including a community room and an outdoor patio on top of a green roof located away from the adjacent residential property. The building would comply with all yards requirements. Portions of the fourth floor would be stepped back as a way to reflect a transition in scale of buildings and uses. Establishing higher density on a site adjacent to an LRT station meets the intent of the ordinance.

- 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.**

The proposed variance should not increase the danger of fire or endanger public safety. Adequate parking facilities are provided on-site and the site is adjacent to a light rail transit station. The additional traffic generated by the development should not have a large impact on the public streets.

VARIANCE: to allow parking within 6 feet of a dwelling.

Findings as required by the Minneapolis Zoning Code:

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

All open parking spaces must be located at least 6 feet from a dwelling of any type. The zoning code definition of dwelling includes any part of the dwellings structure, therefore the surface parking spaces that extend under the building do not comply with this requirement. A trash room, bicycle storage room, office, and rear entrance would be located next to the parking spaces

that would be located within 6 feet of the building. No individual dwelling units would be adjacent to the surface parking area. The request is reasonable.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The site is adjacent to a LRT station, a public street and a residence. The parking area is proposed at the rear of the site where it would be least visible. A draft travel demand management plan was done for this development. One measure of the travel study that the applicant has agreed to is to not allow residents of the development to participate in the critical parking overlay district. Without the granting of the variance, the amount of guest parking would be further limited. These circumstances have not been created by the applicant.

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.**

The intent of the ordinance is to provide adequate separation between vehicles and dwellings to reduce adverse impacts of vehicles, such as noise and fumes. A trash room, bicycle storage room, office, and rear entrance would be located next to the parking spaces that would be located within 6 feet of the building. No individual dwelling units would be adjacent to the surface parking area. Granting the variance should have no affect on the dwellings.

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.**

The granting of this variance should not increase the danger of fire or endanger public safety because the spaces are not adjacent to any individual dwelling units.

SITE PLAN REVIEW

Findings as required by the Minneapolis Zoning Code for the site plan review:

- A. **The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. **The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

Section A: Conformance with Chapter 530 of the Zoning Code

BUILDING PLACEMENT AND DESIGN:

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- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances and windows:
 - Residential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

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

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

 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
 - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
 - e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
 - f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.

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

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

Conformance with above requirements:

The building would follow the established set back of the residence to the south of the site. Windows would be provided at ground level to provide natural surveillance and visibility. A pedestrian walkway would connect the public sidewalk to the main building entrance. A rear entrance would also be provided that connects to a walkway leading to the LRT station.

The minimum front yard requirement is 18.5 feet. The building would be set back 18.5 feet from the front lot line.

The area between the building and the street would be landscaped.

The main entrance would face 29th Avenue.

Most of the parking would be provided in the building. A surface parking area with 13 spaces would be located at the rear of the site.

The building design includes recesses and projections and windows on all levels to divide the building into smaller identifiable sections. Portions of the fourth floor would be set back as well.

There would not be any blank, uninterrupted walls exceeding 25 feet in length.

The primary exterior materials would include brick, stone, fiber cement panels, metal panels, stucco and glass. Please note, exterior material changes at a later date would require review by the Planning Commission and an amendment to the site plan review.

All sides of the building would be compatible.

Plain face concrete block would not be used as a primary exterior building material.

The main entrance facing 29th Avenue would be recessed and sheltered by a canopy to emphasize its importance. The rear entrance providing convenient access to the LRT station would also be sheltered by a canopy. An entrance from the surface parking area would also be provided.

The walls facing 29th Avenue, the surface parking area, and the public pathway leading to the LRT station are subject to the minimum window requirements. The amount of windows on all walls of all levels would exceed the minimum requirements, except the first floor walls facing the surface parking area and the walls of the enclosed parking garage facing the public pathway do not comply with these requirements. All windows would be distributed in an even manner.

All windows would be vertical in proportion, except the windows of the first floor wall on the east elevation facing the surface parking area.

- *Walls facing the surface parking area:* Twenty percent of the walls facing the surface parking area are required to be windows. On the east facing wall, 130.4 square feet of windows are required. Twenty-four square feet or 3.7 percent of windows are proposed. These windows are not vertical in proportion. On the south facing wall of the parking garage, 84.8 square feet of windows are required. None are proposed. The doors on that wall do not count towards the window requirements; however, they would allow for some surveillance of the parking area. The windows proposed on the east wall are adjacent to a bicycle storage room and an office. The other uses along this wall include a trash room, maintenance room, emergency egress, and a delivery room. These uses limit the amount of windows that can be provided. The amount of windows on the upper levels exceeds 20 percent. These windows allow views into the surface parking area as well. For these reasons, staff is recommending that the planning commission grant alternative compliance.
- *Walls facing the public pathway:* Twenty percent of the first floor walls facing the pathway leading from the LRT station are required to be windows. On the parking garage wall that faces east, 105.6 square feet of windows are required. On the parking garage wall that faces north, 43.2 square feet are required. No windows are proposed on either wall. More than 20 percent of the first floor wall to the right of the garage and the walls on the upper levels would be windows. These windows should provide sufficient surveillance to the public pathway. For this reason, staff is recommending that the planning commission grant alternative compliance.

A flat roof is proposed. The surrounding residences, primarily single- or two-family dwellings, have pitched roofs. Most of the buildings fronting 38th Street have flat roofs.

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.**

Conformance with above requirements:

The main building entrances would be connected to the public sidewalks with walkways that exceed four feet in width.

A transit shelter is not adjacent to 29th Avenue.

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The below-grade parking garage would have access from 29th Avenue through a 20 foot wide curb cut. The surface parking area and parking garage would be accessed from the alley. The vehicle access should have minimal impact on pedestrians and surrounding residential properties.

The maximum impervious surface coverage allowed in the R5 district is 85 percent. The lot area is 38,242 square feet, therefore 32,506 square feet of impervious surface is allowed. The proposed amount of impervious surface is approximately 26,542 square feet, which covers 69.6 percent of the site. Most of the impervious area would be occupied by the building. A green roof is proposed above the enclosed parking garage. The amount of impervious surface would not be excessive.

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.**

Conformance with above requirements:

The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is approximately 38,242 square feet. The building footprint would be approximately 19,274 square feet. The lot area minus the building footprints therefore consists of approximately 18,968 square feet. At least 20 percent of the net site area (3,794

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square feet) must be landscaped. Approximately 11,639 square feet of the site would be landscaped. That is equal to 61.4 percent of the net lot area.

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 8 and 38 respectfully. The applicant would provide 15 deciduous canopy trees and 178 shrubs on-site. Three coniferous trees are also proposed. The remainder of the landscaped area would be covered with sod.

A landscaped yard at least 7 feet wide and screening that is 95 percent opaque and 6 feet in height is required between the parking area and the alley because a residence is located to the south of the proposed alley. An 11-foot wide yard is proposed. Screening is not proposed between the parking area and the alley. The applicant is proposing to install a 6-foot high wood privacy fence in the 3 foot strip of land proposed to be deeded to the adjacent residential property. This fence would sufficiently screen the view the parking area from the residential property. Staff is recommending that the planning commission grant alternative compliance.

All surface parking spaces would be within 50 feet of an on-site deciduous canopy tree.

Installation and maintenance of all landscape materials must comply with the standards outlined in section 530.210.

ADDITIONAL STANDARDS:

- All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.
- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260 related to:
 - Natural surveillance and visibility
 - Lighting levels
 - Territorial reinforcement and space delineation
 - Natural access control
- To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

Conformance with above requirements:

Concrete curbing would be provided around the surface parking area. Run-off would collect in a below-grade stormwater storage and infiltration structure.

The building should not impede any views of important elements of the city.

The building complies with all yard requirements. It should not significantly shadow the adjacent street or surrounding properties.

Wind currents should not be major concern.

The site includes crime prevention design elements. An abundant amount of windows would be provided on all sides of the building to allow natural surveillance. Lighting would also be provided on all sides of the site. The zoning code requires that lighting levels do not adversely impact surrounding properties. Walkways would be provided to guide people to, from and through the site. Shrubs would be planted between the proposed surface parking area and the adjacent LRT facility to prevent people from walking through that area.

No structures exist on the site.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE: The site is currently zoned R1A. It is also located in the 38th Street Station Area Pedestrian Oriented Overlay District. The applicant is proposing to rezone the subject properties to R5 to allow 64 dwelling units. A multifamily dwelling with 5 or more units in the R5 district is a conditional use.

Parking and Loading: Generally, the minimum parking requirement is one space per unit. In the PO overlay district, 90 percent of that requirement must be provided. Therefore, 58 spaces must be provided. Seventy-four spaces would be provided on-site. The minimum loading requirement is determined by the conditional use permit. No designated loading spaces are proposed on-site. However, staff believes the surface parking area with direct access to the elevator lobby provides sufficient space for loading.

All open parking spaces must be located at least 6 feet from a dwelling of any type. The zoning code definition of dwelling includes any part of the dwellings structure, therefore the surface parking spaces that extend under the building do not comply with this requirement. A variance is requested for this location requirement.

Maximum Floor Area: The proposed lot area is 38,242 square feet. The maximum FAR allowed in the R5 District is 2.0. The applicant qualifies for a 30 percent density bonus for locating all required parking within the building (density bonuses are increased to 30 percent in the transit station area PO districts). Therefore the maximum FAR increases to 2.6. The building would have a total of 65,416 square feet, which is an FAR of 1.71.

Minimum Lot Area: The proposed lot area is 38,242 square feet. The minimum lot area requirement in the R5 district is 900 square feet per dwelling unit, or 57,600 square feet for 64 units. The applicant qualifies for a 30 percent density bonus for locating all required parking within the building. With the density bonus, the minimum lot size is 708.2 square feet per unit, or 45,324.8 square feet for 64 units. The proposed lot are per unit is 597.5 square feet. The applicant is requesting to reduce the minimum lot size requirement by 15.6 percent.

Dwelling Units per Acre: The applicant proposes a density of 73 dwelling units per acre.

Lot Coverage: The maximum lot coverage allowed in the R5 district is 70 percent. The lot area is 38,242 square feet, therefore 26,769 square feet of coverage is allowed. The proposed footprint is approximately 17,867 square feet, which covers 46.7 percent of the site.

Impervious Surface Coverage: The maximum impervious surface coverage allowed in the R5 district is 85 percent. The lot area is 38,242 square feet, therefore 32,506 square feet of impervious surface is allowed. The proposed amount of impervious surface is approximately 26,542 square feet, which covers 69.6 percent of the site.

Building Height: The maximum height allowed in the R5 district is 4 stories or 56 feet, whichever is less. The proposed building would be four stories and approximately 40 feet in height.

Yard Requirements for the R5 District: A front yard is required adjacent to 29th Avenue. The minimum front yard requirement is 15 feet unless the setback of an adjacent structure is greater. The adjacent residential structure to the south is set back 18.5 feet from the front lot line. Therefore, an 18.5 foot front yard is required. The building would be set back 18.5 feet. Walkways that do not exceed 6 feet in width, and balconies and patios that do not exceed 50 square feet are permitted obstructions in front yards. The proposed obstructions would comply with the permitted obstructions regulations.

Interior side yards are required along the north and south lot lines. The minimum interior side yard requirement is equal to $5+2x$, where x is equal to the number of stories above the first floor. A four-story building is proposed, therefore the minimum requirement is 11 feet. The building would be set back over 65 feet from the north lot line and 11 feet from the south lot line.

A rear yard is required along the east property lines. The minimum requirement is equal to $5+2x$, where x is equal to the number of stories above the first floor. A four-story building is proposed, therefore the minimum requirement is 11 feet. The building would comply with the rear yard requirement. Parking is a permitted obstruction in a rear yard.

Specific Development Standards: Not applicable.

PO Pedestrian Oriented Overlay District Standards: General standards apply to all development located in the PO overlay. The following apply to residential developments:

- The first floor of the building must be located within eight feet of a lot line adjacent to a street unless a greater yard is required. Amenities are required between the building and the front lot line and at least one principal entrance must face the street. The minimum front yard requirement is 15 feet unless the setback of an adjacent structure is greater. The adjacent residential structure to the south is set back 18.5 feet from the front lot line. Therefore, an 18.5 foot front yard is required. The building would be set back 18.5 feet.

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Landscaping and patios would be located between the building and the street. A principle entrance facing 29th Avenue would also be provided.

- Accessory parking is required to be located at the rear or interior of the site, within the building, or entirely below grade. Most of the parking would be located below-grade. The surface parking would be located at the rear of the site. The maximum amount of accessory parking spaces cannot exceed the minimum parking requirements more than 150 percent. The proposed amount of parking does not exceed the minimum requirement by 150 percent. The driveway width for all parking facilities cannot exceed 20 feet of street frontage. The proposed driveway width would be 20 feet.

Additional standards apply to development located in the 38th Street LRT Station PO overlay. For a residential development the following apply:

- A minimum of one secured bicycle parking space must be provided for each dwelling unit. Bicycle parking must be in enclosed and secured or supervised areas providing protection for each bicycle from theft, vandalism or weather. At least 64 bike parking spaces must be provided for the residents. The applicant has indicated that that a wall anchors would be provided in front of the parking spaces in the below-grade parking garage. A bike storage room is also provided on the first floor that could accommodate up to 30 bicycles.

Hours of Operation: Not applicable.

Signs: The applicant has indicated that no new signage is proposed. Any new signage will require Zoning Office review, approval, and permits.

Fences: In the 3-foot wide strip of land that the applicant is proposing to deed to the adjacent residential property, a 6-foot high wood privacy fence is proposed. Fences in interior side yards are allowed to be 6 feet in height. Fences in required front yards are not allowed to exceed three feet in height unless the fence is less than 60 percent opaque, then it can be 4-feet in height.

Lighting: Existing and proposed lighting must comply with Chapter 535 and Chapter 541 of the zoning code including:

535.590. Lighting. (a) *In general.* No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(b) *Specific standards.* All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from 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 from any permitted or conditional residential use.
- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.
- (5) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

MINNEAPOLIS PLAN: Please see the conditional use permit section of this staff report.

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.

Alternative compliance is requested by the applicant to meet the following standards:

- Twenty percent window requirement

The walls facing 29th Avenue, the surface parking area, and the public pathway leading to the LRT station are subject to the minimum window requirements. The amount of windows on all walls of all levels would exceed the minimum requirements, except the first floor walls facing the surface parking area and the walls of the enclosed parking garage facing the public pathway do not comply with these requirements. All windows would be distributed in an even manner. All windows would be vertical in proportion, except the windows of the first floor wall on the east elevation facing the surface parking area.

- 1) *Walls facing the surface parking area:* Twenty percent of the walls facing the surface parking area are required to be windows. On the east facing wall, 130.4 square feet of windows are required. Twenty-four square feet or 3.7 percent of windows are proposed. These windows are not vertical in proportion. On the south facing wall of the parking garage, 84.8 square feet of windows are required. None are proposed. The doors on that

wall do not count towards the window requirements; however, they would allow for some surveillance of the parking area. The windows proposed on the east wall are adjacent to a bicycle storage room and an office. The other uses along this wall include a trash room, maintenance room, emergency egress, and a delivery room. These uses limit the amount of windows that can be provided. The amount of windows on the upper levels exceeds 20 percent. These windows allow views into the surface parking area as well. For these reasons, staff is recommending that the planning commission grant alternative compliance.

- 2) *Walls facing the public pathway:* Twenty percent of the first floor walls facing the pathway leading from the LRT station are required to be windows. On the parking garage wall that faces east, 105.6 square feet of windows are required. On the parking garage wall that faces north, 43.2 square feet are required. No windows are proposed on either wall. More than 20 percent of the first floor wall to the right of the garage and the walls on the upper levels would be windows. These windows should provide sufficient surveillance to the public pathway. For this reason, staff is recommending that the planning commission grant alternative compliance.

- Screening of surface parking lot

A landscaped yard at least 7 feet wide and screening that is 95 percent opaque and 6 feet in height is required between the parking area and the alley because a residence is located to the south of the proposed alley. An 11-foot wide yard is proposed. Screening is not proposed between the parking area and the alley. The applicant is proposing to install a 6-foot high wood privacy fence in the 3 foot strip of land proposed to be deeded to the adjacent residential property. This fence would sufficiently screen the view the parking area from the residential property. Staff is recommending that the planning commission grant alternative compliance.

SUBDIVISION: Preliminary plat.

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.**

A lot, outlot, and dedicated alley are proposed. In order to accommodate a corner cut for the alley, a strip of unbuildable land would remain. The applicant is proposing to plat the strip of land as an outlot and deed it to the adjacent property owner. Any lot which due to the existing grade, physical conditions, hazard of flooding, or of a size, shape or in a location not conforming to these regulations and therefore not suitable for development, may be platted as an outlot.

The subdivision would be in conformance with the requirements of the zoning ordinance. Please see the comprehensive plan findings in the conditional use and rezoning sections of the staff report. The subdivision is in conformance with the design requirements of the land subdivision regulations.

- 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 Planning Division does not believe that the proposed subdivision would be injurious to the use and enjoyment of other property in the area with a dedication of a new alley.

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

The grade change on the site is not significant. The site does not present the other noted hazards. The proposed structure should not affect the surrounding area.

- 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.**

Vehicle access would be from 29th Avenue and the new alley. The applicant will need to obtain building permits and erosion control permits prior to the start of construction.

- 5. The subdivision makes adequate provision for storm or surface water 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 does not exceed the amount occurring prior to development.**

Public Works will review and approve drainage and sanitary system plans before issuance of building permits.

ALLEY VACATION

Development Plan: The applicant intends to use the vacated alley as part of a developable area to construct a multiple family dwelling. To prevent the creation of a dead end alley, a new east/west alley segment would be constructed to allow access from 29th Avenue.

Responses from Utilities and Affected Property Owners: As of the writing of this staff report, Minneapolis Public Works have not yet responded. If comments are received, staff will forward their recommendation at the April 14, 2008 City Planning Commission meeting. It is staffs understanding that Public Works does not have any concerns about the proposed vacation. Of the responses received, there were no objections and no easements requested, except from Xcel Energy. Xcel Energy has requested that an easement be reserved for the east 30 feet of the east/west portion of the alley and the north/south portion of the alley proposed to be vacated.

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Findings: A dead-end alley would not be created if a new east/west segment is constructed with access to 29th Avenue. The building would not encroach on the requested easement by Xcel Energy. The CPED Planning Division finds that the area proposed for vacation is not needed for any public purpose, and it is not part of a public transportation corridor, and that it can be vacated if any easements requested above are granted by the petitioner.

RECOMMENDATIONS

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the petition to rezone the properties of 3725-3729 29th Avenue South from the R1A district to the R5 district.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow 64 dwelling units for the properties located at 3725-3729 29th Avenue South, 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.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the minimum lot area requirement by 15.6 percent for the properties located at 3725-3729 29th Avenue South.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to allow parking within 6 feet of a dwelling for the properties located at 3725-3729 29th Avenue South.

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 adopt the above findings and **approve** the application for site plan review to allow a multi-family dwelling with 64 units for the properties located at 3725-3729 29th Avenue South, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, site and landscape plans.

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2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by May 16, 2009, or the permit may be revoked for non-compliance.
3. The proposed privacy fence shall comply with the height requirements of Chapter 535, Article VI Fences of the zoning code.
4. Approval of the rezoning petition and alley vacation by City Council.

**Recommendation of the Department of Community Planning and Economic Development—
Planning Division for the Preliminary Plat:**

The Department of Community Planning and Economic Development—Planning Division recommends that the City Planning Commission accept the above findings and **approve** the preliminary plat for the properties of 3725-3729 29th Avenue South.

**Recommendation of the Department of Community Planning and Economic Development—
Planning Division for the Alley Vacation:**

The Department of Community Planning and Economic Development—Planning Division recommends that the City Planning Commission and the City Council accept the above findings and **approve** the vacation for the properties of 3725-3729 29th Avenue South, subject to the following conditions:

1. An easement shall be reserved for Xcel Energy.
2. A new alley opening to 29th Avenue shall be dedicated in the final plat. The final plat shall be recorded with Hennepin County.

Attachments:

1. PDR comments
2. Statement of use
3. Findings
4. Correspondence
5. Zoning map
6. Alley vacation maps
7. Hennepin County map
8. Plans
9. Photos