



## **Request for City Council Committee Action from the Department of Community Planning and Economic Development – Planning Division**

Date: March 1, 2012

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning and Planning Committee

**Subject:** Appeal of the decision of the City Planning Commission associated with the approval of all land use applications related to the Linden Corner development located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Avenue South.

**Recommendation:** The following actions were taken by the Planning Commission on February 6, 2012 (BZZ-5420):

**7. Linden Corner (BZZ-5420 and Vac-1596, Ward: 13), 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S ([Hilary Dvorak](#)). This item was continued from the January 9, 2012 meeting.**

**A. Conditional Use Permit:** Application by Carol Lansing with Faegre & Benson, on behalf of Mark Dwyer with Linden Hills Redevelopment, LLC, for a conditional use permit for a multiple-family dwelling with 40 dwelling units located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission **returned** the conditional use permit for a multiple-family dwelling with 40 dwelling units located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S.

**B. Conditional Use Permit:** Application by Carol Lansing with Faegre & Benson, on behalf of Mark Dwyer with Linden Hills Redevelopment, LLC, for a conditional use permit to increase the height of the building from 3 stories/42 feet to 5 stories/59 feet for property located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission adopt the findings and **approved** the conditional use permit to increase the height of the building from 3 stories/42 feet to 5 stories/59 feet 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. The height of the proposed building shall be limited to 59 feet.
3. The fourth and fifth levels of the building shall be setback as shown on the plans.

**C. Variance:** Application by Carol Lansing with Faegre & Benson, on behalf of Mark Dwyer with Linden Hills Redevelopment, LLC, for a variance of the LH Linden Hills Overlay District to allow the building to be located more than 8 feet from the front and/or corner side property lines adjacent to Upton Ave S and W 43<sup>rd</sup> St for property located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the variance of the LH Linden Hills Overlay District to allow the building to be located more than 8 feet from the front and/or corner side property lines adjacent to Upton Ave S and W 43<sup>rd</sup> St located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S.

**D. Variance:** Application by Carol Lansing with Faegre & Benson, on behalf of Mark Dwyer with Linden Hills Redevelopment, LLC, for a variance to allow bicycle racks and a vehicle height limiter (an overhead bar with columns) in the required front yard setback along Upton Ave S for property located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the variance to allow bicycle racks and a vehicle height limiter (an overhead bar with columns) in the required front yard setback along Upton Ave S located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S subject to the following conditions:

1. The vehicle height limiter shall be constructed out of materials that match the character of the development.
2. Landscape materials shall be planted in the area between the north edge of the driveway and the north property line in order to provide additional screening of the bicycle racks and the vehicle height limiter.

**E. Site Plan Review:** Application by Carol Lansing with Faegre & Benson, on behalf of Mark Dwyer with Linden Hills Redevelopment, LLC, for a site plan review for a mixed-use building located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the site plan review application for the property located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Ave S subject to the following conditions:

1. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development – Planning Division.
2. All site improvements shall be completed by February 24, 2013, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. The proposed four-foot high solid wood fence located along the north side of the property shall be a four-foot high decorative fence that matches the decorative fence on top of the retaining wall.
4. There shall be at least one bicycle rack (accommodates two bicycles) provided in the commercial level of the parking garage.
5. The applicant is encouraged to provide at least 40 bicycle racks (each one accommodates one bicycle) in the residential level of the parking garage.
6. The specific elements, materials and layout of the proposed pocket park on the boulevard along Upton Ave must be approved by Public Works and CPED staff in consultation with the neighborhood.
7. The applicant shall work with CPED staff to explore on-site waste removal options.

**F. Vacation:** Application by Carol Lansing with Faegre & Benson, on behalf of Mark Dwyer with Linden Hills Redevelopment, LLC, for a right-of-way vacation (Vac-1596) for a trapezoidal area adjacent to 4264 Upton Ave S.

**Action:** The City Planning Commission recommended that the City Council accept the findings and **approve** the application to vacate the trapezoidal area adjacent to 4264 Upton Ave S subject to the following condition:

1. The current property owner shall provide an easement to the City of Minneapolis for the area that will be vacated so there is no interruption in the pocket park amenity. The easement shall be terminated if building permits have been issued for the development project.

**Ward:** 13

Prepared by: Hilary Dvorak, Interim Planning Manager, 612-673-2639 Approved by: Jason Wittenberg, Interim Planning Director Presenters in Committee: Hilary Dvorak, Interim Planning Manager
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**Community Impact:**

Neighborhood Notification: Notice of the Planning Commission hearing was mailed on January 13, 2012, and notice of the appeal was mailed on February 17, 2012.

- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 120-day decision period: May 9, 2012
- Other: Not applicable

**Background/Supporting Information:**

Jane Prince, on behalf of Linden Hills Residents For Responsible Development LLC, has filed an appeal of the decision of the City Planning Commission. The appeal is regarding the decision of the City Planning Commission on February 6, 2012, to approve all land use applications associated with the project known as the Linden Corner development, a new mixed use development including 40 dwelling units and 11,227 square feet of ground floor commercial space. The minutes from the February 6, 2012, City Planning Commission meeting are attached. The Planning Commission voted 6-0 for item A, 5-1 for item B, 6-0 for items C, D and F and 4-1 for item E.

The appellant's complete statement and reasons for the appeal are attached.