

**Excerpt from the  
CITY PLANNING COMMISSION MINUTES  
Minneapolis Community Planning & Economic Development (CPED)**

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**MEMORANDUM**

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DATE: August 7, 2014

TO: Zoning and Planning Committee

FROM: Jason Wittenberg, Manager, Community Planning & Economic Development – Land Use, Design and Preservation

SUBJECT: Planning Commission decisions of July 14, 2014

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The following actions were taken by the Planning Commission on July 14, 2014. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Tucker, Bender, Brown, Forney, Gagnon, Gisselman, Kronzer, Luepke-Pier and Slack – 9

Committee Clerk: Lisa Kusz (612) 673-3710

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**12. Linden Crossing (BZZ-6638, Ward: 13), 4250 and 4264 Upton Ave S ([Mei-Ling Anderson](#)).**

**A. Conditional Use Permit:** Application by Mark Dwyer for a conditional use permit to increase the maximum allowed height from the permitted 3 stories/42 feet to 4 stories/56 for the properties located at 4250 and 4264 Upton Ave S to allow a new four-story, mixed-use building with 20 residential units.

**Action:** The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to increase the maximum allowed height from the permitted 3 stories/42 feet to 4 stories/56 feet at the properties located at 4250 and 4264 Upton Ave S, 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 two years of approval.

**Aye:** Bender, Brown, Gisselman, Kronzer, Luepke-Pier and Slack

**Nay:** Forney and Gagnon

**B. Variance:** Application by Mark Dwyer for a variance to reduce the north interior side yard setback from 11 feet to 9 feet for the building wall, to 5 feet for two balconies with awnings, and to 2 feet for a terrace for the properties located at 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the north interior side yard setback from 11 feet to 9 feet for the building wall, to 6.5 feet for two balconies with awnings, and to 2.5 feet for a terrace at the properties located at 4250 and 4264 Upton Ave S.

**Aye:** Bender, Brown, Gisselman, Kronzer, Luepke-Pier and Slack

**Nay:** Forney and Gagnon

**C. Variance:** Application by Mark Dwyer for a variance to reduce the west interior side yard setback from 12 feet to 10 feet for the building wall and terrace and to 6 feet for the balconies with awnings, and from 11 feet to 5 feet for two balconies with awnings and to 4 feet for a terrace for the properties located at 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the west interior side yard setback from 12 feet to 10 feet for the building wall and terrace, to 7.5 feet for the balconies with awnings, and from 11 feet to 6 feet for two balconies, and to 5.5 feet for a terrace at the properties located at 4250 and 4264 Upton Ave S.

**Aye:** Bender, Brown, Gisselman, Kronzer, Luepke-Pier and Slack

**Nay:** Forney and Gagnon

**D. Site Plan Review:** Application by Mark Dwyer for a site plan review to allow a new, mixed-use building with 20 residential dwelling units and approximately 6,155 square feet of commercial space located at 4250 and 4264 Upton Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the site plan review application to allow a new, mixed-use building with 20 residential dwelling units and approximately 6,155 square feet of commercial space at the properties located at 4250 and 4264 Upton Ave S, subject to the following conditions:

1. Approval of the final site, elevation, landscaping, and lighting plans by CPED.
2. All site improvements shall be completed by July 14, 2016, unless extended by the zoning administrator, or the permit may be revoked for non-compliance.
3. All signs are expected to comply with Chapter 541 of the Zoning Code. All new signage requires a separate permit from CPED.
4. Landscape materials that reach a minimum height of five feet shall be used to screen the transformer from the public sidewalk along Upton Ave S.

**Aye:** Bender, Brown, Gisselman, Kronzer, Luepke-Pier and Slack

**Nay:** Forney and Gagnon

Staff Anderson presented the staff report.

President Tucker opened the public hearing.

**Mark Dwyer (4632 Washburn Ave S):** We already have a three story building that is approved. We are proposing to add units on the roof that cover 50% of the roof. The roof is 17,000 square feet and we think this is a good use for this roof space. Not only does it create housing without tearing down homes or destructing green space, it's done in a manner that is scaled back per the suggestions of the small area plans. We've

worked very hard since submitting this application to get accurate information out to the neighbors. We had meetings with COW, an article in Southwest Journal, I had a meeting with my neighbors for about 2 ½ hours where we talked about changes in the proposal, the notification through the city. Up until Saturday there were about 12 letters with concern and support. On Saturday a letter was sent out by Linden Hills Neighbors for Responsible Development. The letter would have readers believe that this, in effect, is a case of a developer taking siege of our commercial node and requesting a building that was previously turned down. This is not that project. That was twice as big and had twice the retail and parking spaces. That building was 59 feet and five stories. It extended another 60 feet to the north. We had an addition three lots in the assembly for that project. This project is two lots. I think that letter caused a lot of concern for people. The information that we put out only generated about 12 letters. That letter and the misinformation in it generated 250 responses. I think when the information is put out there accurately the neighborhood is ok with this addition of housing to the roof. Thank you.

**Commissioner Gisselman:** You mentioned misinformation in this letter. Most of the comments were related to the height of the building. Was there anything in the letter related to the height of the building?

**Mark Dwyer:** The letter stated that this building height was the same as the prior submittal that was turned down. That would suggest we were asking for a building that was 59 feet and five stories. That was the impression that would have been left with the reader.

**Cory Reinhold (4289 Sheridan Ave):** I have a lot of good things to say about this development, but I don't think it is consistent with the area plan to change it at this point. Giving it that much more height affects the neighbors a lot. I just don't think that the area plan should be completely overlooked.

**Commissioner Luepke-Pier:** Can you elaborate exactly how it is going to affect the neighbors?

**Cory Reinhold:** It affects the light in the neighborhood. It affects just the area. The business area does not have tall buildings in it. If you were to see the business node you would see this is a big change. The area fully supports the three story development, which is a big change also, but I think taking it to another level is a real compromise for the neighborhood.

President Tucker closed the public hearing.

**Commissioner Brown:** I will move staff recommendation to approve items A, B, C and D (Slack seconded).

**Commissioner Gagnon:** I have a question about someone getting an approval for a three story project and then coming back for a variance of the height. How common is that?

**Staff Wittenberg:** I don't recall a lot of precedence with this specific example, but we have seen projects come back before this body with multiple changes four or five times or more with changes that have included increasing the bulk significantly from previously approved versions before being built.

**Commissioner Luepke-Pier:** Can you refresh my memory in regard to the small area plan for this neighborhood in terms of where they were planning to concentrate density so we can grow the city sustainably? I can't remember if it's far from this node or around this node or where exactly it would be.

**Staff Anderson:** My understanding is that it would be near this node, but I'm not sure if there are specific references as to where that should be concentrated.

**Commissioner Bender:** Could you clarify how far the fourth story is set back from the edge of the building?

**Staff Anderson:** I believe the closest it would be here is 12 feet and everything else would exceed that dimension.

**Aye:** Bender, Brown, Gisselman, Kronzer, Luepke-Pier and Slack

**Nay:** Forney and Gagnon