

Minneapolis City Planning Department Report

Zoning Amendment (Rezoning), Conditional Use Permits, Site Plan Review, Variances,
Vacation of Public Right of Way

BZZ – 1259

Vac. #1419

Date: September 8, 2003

Date Application Deemed Complete: July 24, 2003

End of 60 Day Decision Period: September 22, 2003

End of 120 Day Decision Period: On August 28, 2003, staff sent a letter to the applicant extending the decision period to no later than November 21, 2003

Applicant: Master Civil & Construction Engineering

Address Of Property: 2 E. 26th Street and 20 E. 26th Street

Contact Person And Phone: Patricia Fitzgerald, 872-9200

Planning Staff And Phone: Jason Wittenberg, 673-2297

Ward: 6 **Neighborhood Organization:** Whittier Alliance

Existing Zoning: 2 E. 26th Street: C1
 20 E. 26th Street: C2

Proposed Zoning: The applicant proposes to rezone 2 E. 26th Street from the C1 District to the C2 District

Zoning Plate Number: 20

Legal Description of Property Proposed for Rezoning: Lot 6, and the south 14 feet of Lot 7, Block 5, Geo. Galpin's Addition to the City of Minneapolis, according to the recorded plat thereof, and situated in Hennepin County, Minnesota.

Project Name: N/A

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Proposed Use: Mixed use building with 29 dwelling units bridging over the public alley, approximately 6,000 square feet of commercial space, underground and at-grade parking.

Conditional Use Permits:

- Required for five or more new dwelling units as indicated in Table 548-1 of the zoning code.
- A conditional use permit to increase the maximum permitted height from four stories to five stories. Although the proposed building would meet the overall building height limit of 56 feet, the c.u.p. is needed due to the fact that the proposed first level would be up to 21 feet in height at its highest point, which exceeds the maximum height of a story as defined in section 520.160 of the zoning code.

Site Plan Review: Site plan review is required for any use containing five or more new or additional dwelling units as indicated in Table 530-1 of the zoning code.

Variations:

- Variance to reduce the required north side yard from five 7 to 0 feet for the proposed ground-level parking garage adjacent to a residence district.
- Variance to reduce the required north side yard from 11 feet to 0 feet for two enclosed stairwells.
- Variance to reduce the required north side yard from 11 feet to 0 feet for residential balconies (including screening structures) atop the ground-level.
- Variance to reduce the required north side yard from 11 feet 4 feet for an approximately 18-foot section of the north residential wall with windows.
- Variance to reduce the required front yard setback along 1st Avenue South from 15 feet to 0 feet for the proposed mixed use building.
- Variance to reduce the required minimum lot area (after applicable density bonuses) from 694 square feet per dwelling unit to 550 square feet per dwelling unit, a variance of approximately 20 percent.
- Variance to increase the maximum floor area from 37,993 square feet (2.38 F.A.R., after applicable density bonuses) to 44,674 square feet (2.80 F.A.R.), a variance of approximately 17.6 percent.

Zoning Code Section Authorizing Proposed Variations: 525.520(1), (2), (3)

Proposed Vacation of Public Right of Way: The applicant proposes to vacate air rights above and subsurface rights below the public alley.

Responses from Utilities and Affected Property Owners: Utilities were notified of the request in a mailing dated June 20, 2003. Affected property owners were also notified of the proposed vacation. Easements have been requested by Xcel Energy and Qwest. Time Warner Cable has indicated that their approval is conditioned upon “if there is a need for Time Warner to relocate cable we are reimbursed the cost.” The applicant is discussing potential relocation of existing utilities in the affected area.

Previous Actions: N/A

Concurrent Review: Rezoning, conditional use permit, site plan review, variations alley vacation as noted above.

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Background: The application was continued from the meeting of August 18, 2003. The applicant proposes to construct a new mixed use development with 29 for-sale dwelling units on the north side of E. 26th Street between Nicollet Avenue and 1st Avenue South. The property is currently occupied by a parking lot (2 E. 26th St.) and a vacant commercial building (20 E. 26th St.).

The applicant proposes 48 off-street parking spaces, 13 at grade level accessory to the commercial use and 35 below grade spaces accessory to the residential use.

The applicant proposes to vacate the air rights above and the subsurface rights below the public alley to construct the building over the alley and construct the below grade parking beneath the alley. At grade level, the alley would remain open to public travel. The Public Works Department has indicated that the minimum clearance above the surface of the alley is 14 feet 6 inches.

The project appears to qualify for two density bonuses; one based on mixed use development and the other for enclosed and underground parking. The applicant is apparently exploring the potential for providing affordable housing that could make the project eligible for the affordable housing density bonus.

The eastern parcel is located in the Washburn-Fair Oaks Historic District. The applicant has appeared before the Heritage Preservation Commission (HPC) for discussion purposes only. The project is still subject to review and approval by the HPC.

The owner of the adjacent commercial property, which houses a recording studio, has expressed concern about construction noise interfering with the operation of that business. The property owner has been informed of City regulations pertaining to this issue, which are found in section 389.70 of the city's noise ordinance.

After the original application was filed and noticed, staff discovered that the first level is too tall to qualify as a single story. A story cannot exceed 14 feet under the definition found in section 520.160 of the zoning code. A conditional use permit has been filed and a revised notice was sent to surrounding property owners alerting them to the additional application.

Note: Please pay close attention to the staff recommendations. Many of the recommendations of approval are recommendations to only partially approve the applicant's requests.

Findings As Required By The Minneapolis Zoning Code for the Rezoning Application:

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

The Minneapolis Plan designates the area around 26th and Nicollet as an Activity Center, a destination that attracts large numbers of visitors, workers and residents. The portion of Nicollet Avenue on which the site is located is designated as a Commercial Corridor.

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Planning staff has identified the following policies of the Minneapolis Plan as being relevant to the request to rezone the property to the C2 District.

Relevant policy: 4.7. Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.

Relevant Implementation Steps:

- Ensure that land use regulations support diverse commercial and residential development types which generate activity all day long and into the evening.
- Discourage automobile services and drive-through facilities from locating in these designated areas.

Staff comment: The above policy and implementation steps offer mixed guidance about the rezoning from C1 to C2. Although the C2 District would allow a wider variety of uses than the C1 District, it would allow commercial uses that are automobile oriented (e.g., automobile convenience facilities, automobile repair facilities) and are not allowed in the current C1 District.

Relevant policy: 9.28. Minneapolis will support development in Commercial Corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.

Relevant Implementation Steps:

- Support a mix of uses on commercial corridors—such as retail sales, office, institutional, higher density residential, and clean low-impact light industrial—where compatible with the existing and desired character of the street.

Staff comment: The C2 District allows a wider range of commercial uses than the C1 District. The C2 District is generally recognized as being an appropriate district for Commercial Corridors. The parcel proposed for rezoning is not adjacent to a residential district or use, so the wider range of commercial uses would be less likely to have a negative impact on an adjacent use.

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

Although the rezoning would largely benefit a particular property owner, the zoning change could be considered to be in the public interest to the extent that aspects of the C2 District are supportive of more intensive residential development that would help area businesses thrive and would potentially create more activity, consistent with the Activity Center designation.

- 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 property proposed for rezoning is located at the northeast corner of the intersection.

Properties at the intersection include the following uses:

Northwest corner: Two-story mixed use building

Southwest corner: Drug store

Southeast corner: Restaurant and banquet center

The site shares a property line with a one-story recording studio.

The other half of the applicant's site, across the public alley to the east, is zoned C2. Further, there is existing C2 zoning directly across the intersection. The proposed C2 District is compatible with the existing zoning classifications and existing uses in the vicinity.

- 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.**

There are reasonable uses for the property under the existing zoning classification. The property in question could accommodate, for example, a variety of residential and commercial uses.

- 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 project is located in the heart of Eat Street, a corridor where a variety of ethnic restaurants have appeared in recent years. The more intense residential use allowed in the C2 District is consistent with the intent of the Activity Center designation that was placed in the area at approximately the same time that the site was given a C1 classification in 1999.

Findings As Required By The Minneapolis Zoning Code For A Conditional Use Permit for the Proposed Dwelling Units:

The Minneapolis City Planning Department 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.**

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Construction of 29 dwelling units in an Activity Center would not prove detrimental to public health, safety, comfort or welfare. However, the proposed size and placement of the building in question would unduly impede on the enjoyment of the multifamily residential property to the north by building up to or very near the shared property line as well as into the front yard setback.

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.

As proposed, the project would be injurious to the enjoyment of the residential property directly to the north of the site in question (along 1st Avenue) due to the combination of the number of units, setbacks, and height of the proposed structure. The applicant proposes approximately 79 dwelling unit per acre—a very high residential density.

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

The site would be accessed from the existing public alley, which is 12 feet in width. The Public Works Department has reviewed the preliminary plan and has several concerns about the proposed access and circulation pattern, including the following.

- The curb cut along 1st Avenue must leave at least 20 feet of straight curb from the intersection with 26th Street to allow for safe maneuvering near the intersection.
- There should be more space (i.e., approximately 10 feet) between the alley curb cut and the curb cut for the parking lot and should include a "bull nose" extending all the way to the street that would act as a pedestrian refuge between the curb cuts.
- The median should wrap around to the wall between the at-grade parking garage and the "tunnel" to the underground garage so that access is completely blocked off between the non-residential parking and the alley access. As drawn, vehicles traveling south down the alley could cut into at-grade off-street parking from the alley.
- The three at-grade parking spaces west of the alley will not be allowed due to a lack of maneuvering area and lack of visibility to and from these spaces.
- Vehicles exiting the underground ramp should have the ability to come to a stop on a flat surface (i.e., completely off of the exit ramp) before the front of the vehicle enters the public alley.
- If the vacation is approved, the vertical clearance between the alley and the building should be not less than 14 feet 6 inches. (Note that this is two feet less than is required for skyways spanning public streets.)

The Public Works Department will also review the final plan related to issues such as drainage and utilities.

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

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Off-street parking would be provided to meet the requirements of the zoning ordinance. See the comments above (finding number three) for concerns related to traffic circulation.

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

The conditional use permit to allow 29 dwelling units within the proposed mixed use building is consistent with the relevant provisions of the Activity Center, which calls for relatively intense residential development to contribute to activity and vitality of a mixed use districts.

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 rezoning request, relevant variances, and site plan review.

If all land use/zoning applications are approved, including several variances, the proposal will comply with all provisions of the C2 District. The applicant, through a variance to reduce the minimum required amount of lot area per dwelling unit, seeks more units than would be allowed by ordinance (even after the granting of two density bonuses). If the applicant qualifies for a third density bonus by making 20 percent of the units affordable to persons at or below 50 percent of the metropolitan median household income, the site could accommodate 27 units without the granting of a variance to reduce lot area. Thus, staff recommends that the Commission grant a conditional use permit to allow 27 dwelling units rather than the request 29 units.

Findings As Required By The Minneapolis Zoning Code For A Conditional Use Permit to Increase the Maximum Permitted Height:

The Minneapolis City Planning Department 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.

Increasing the maximum permitted height would not likely affect public health, safety, or welfare, particularly if the building complies with the overall height limit (in feet) for the district.

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 Planning Department believes that the increased height of the first floor would negatively affect the enjoyment of the property to the north if the Commission grants the requested north side yard variance to allow the garage level to be constructed up to the north property line. The variance would place a blank wall of approximately 20 feet in height approximately 10 feet from

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the south-facing windows of the residential building to the north. This would significantly affect access to light and air for the property.

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

The Public Works Department will also review the final plan related to issues such as drainage and utilities. Increasing the height in the manner proposed would not affect these issues.

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

Increasing the maximum permitted height in the manner proposed would not affect congestion of area streets.

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

The comprehensive plan instructs the City to ensure that development is in scale and compatible with nearby residential properties. Staff believes that the proposed height conforms to this principle only if the building wall complies with the required setback, which would help to ensure that the proposed garage level does not impede on the enjoyment of the neighboring property.

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 rezoning request, relevant variances, and site plan review.

If all land use/zoning applications are approved, including several variances, the proposal would comply with all provisions of the C2 District. The building would be 56 feet in height, measured from sidewalk level along 1st Avenue South, which is the maximum permitted height allowed in the district.

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

(1) Access to light and air of surrounding properties.

Although the garage level may not affect direct solar access to the windows of the dwellings to the north, the increased height combined with the proposed setback variance would create a dark, narrow area between the two buildings.

(2) Shadowing of residential properties or significant public spaces.

Although a shadow study has not been submitted, it does not appear that the garage level would increase shadowing simply due to the fact that the overall building height is far

greater than the garage level. The proposed building, which would be constructed to the maximum permitted height, would cast substantial shadows on the residential building to the north for much of the year.

(3) The scale and character of surrounding uses.

Staff is concerned that the scale of the building far exceeds other buildings at the intersection of 26th and Nicollet and would also overwhelm the residential building directly to the north of the site. The staff recommendations in this report call for a building that is reduced in floor area and number of dwelling units while providing greater setbacks from the adjacent properties.

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

It does not appear that the building would affect views of features such as landmark buildings or significant open spaces. There are no water bodies in the vicinity.

Required Findings for Major 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. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- **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.**
- **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 façade shall provide architectural detail and shall contain windows at the ground level or first floor.**

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- **In larger buildings, architectural elements shall be emphasized.**
- **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 where visible from a public street or a residence or office residence district.**
- **Entrances and windows:**
 - **Residential uses shall be subject to section 530.110 (b) (1).**
 - **Nonresidential uses shall be subject to section 530.110 (b) (2).**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

Conformance with above requirements:

The building would reinforce the street wall along Nicollet Avenue and along 26th Street. Natural surveillance would be optimized through the use of generous windows in the proposed commercial space. Staff is concerned about the lack of visibility between the at-grade parking facility and the public realm. Pedestrian access would be ideal to the commercial use and to the residential lobby. However, pedestrian access to the accessory parking facility would require that people walk through a drive aisle the entire way to the public sidewalk. The applicant must install a walkway between the parking lot and the public sidewalk to correct this dangerous and inconvenient layout. This should be done by providing a ground level door into the parking garage from the public sidewalk along 26th Street.

The building would be constructed up to the front lot lines along both Nicollet Avenue and 1st Avenue as well as the corner side lot line along 26th Street.

The applicant proposes trees in the public right of way. The applicant must have the Park Board staff review and approve any new trees proposed in the public right of way. Staff recommends that the applicant provide bicycle parking in the right of way (with an encroachment permit). There are existing public streetscape improvements that have been installed adjacent to the property. These improvements shall not be removed without Public Works and Planning having reviewed and approved such removal.

The principal entrances to the building would face the public streets. Staff is recommending that the applicant incorporate an entrance to the accessory parking facility that would not force people to walk in the driveways and drive aisles.

On-site accessory parking facilities would be located entirely within the building at grade level (accessory to the commercial use) and below grade (accessory to the residential use). Signage shall direct patrons of the commercial use to the location of the accessory parking.

The buildings would include a good deal of architectural detail, including soldier coursed brick around the ground level windows and the archway over the public alley. The ground level of the commercial use would include generous windows at ground level. Staff is concerned about the relative lack of

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visibility into the parking facility. Due to the grade change—the site slopes down to the east—the bottom of the easternmost windows would be over six feet above the sidewalk level.

Architectural elements are emphasized in that the proposed building design attempts to create distinct sections of the building that would reduce its apparent mass.

The primary materials would be a mix of brick and prefinished “classic style” shingles or stucco. The proposed exterior materials are similar and compatible on all sides of the proposed building.

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

It appears that the building entrances will be emphasized with recessions and an awning. Along Nicollet Avenue, 62 percent of the first floor façade (between two and 10 feet above grade) would feature windows. Along 26th Street, staff calculated the window area based on two distinct sections of the ground floor—the section west of the curb cut and the section east of the curb cut. The section west of the curb cut would have windows covering approximately 64 percent of the first floor façade. The section east of the curb cut, however, would feature 22 percent windows and much of this percentage would not be transparent and would leave a brick wall at eye level for much of the distance. Recognizing the challenges associated with allowing views into and out of the garage area, staff recommends that the commission grant alternative compliance for the window area provided that more windows are provided that allow views into and out of the parking garage. The same holds true for the first floor façade facing 1st Avenue South. Staff recommends that, to deter criminal activity and promote public safety, the bottom edge of the windows into the parking garage shall be no higher than four (4) feet above sidewalk level.

Sloped floors would not be visible from the parking garage. The amount window area allowing views into and out of the parking garage shall be increased and repositioned to allow views at eye level. Staff recommends that not less than 10 percent of this area include transparent windows.

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 530.140 (b).**
- **Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.**
- **Site plans shall minimize the use of impervious surfaces.**

Conformance with above requirements:

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The building entrances would be immediately adjacent to the public sidewalk. The parking facility accessory to the commercial use does not include safe and convenient pedestrian access. Parking accessory to the commercial use shall be connected to the public sidewalk along 26th Street with a walkway not less than four (4) feet in width.

The applicant is not proposing a transit shelter on the site.

The current circulation pattern includes unacceptable pedestrian-vehicle conflicts at least two points. Patrons would be forced to walk through the drive aisle and driveway to get to the public sidewalk. And pedestrians along 26th Street are not offered adequate refuge between the alley curb cut and the curb cut that accesses the accessory parking garage.

The alley that runs through the site provides access to a number of residential properties north of the site in question. The proposal currently allows an unacceptable level of vehicular access to the public alley. The Public Works Department has indicated that none of the proposed non-residential parking may be accessed from the public alley.

Given that the proposed development does not include an open parking lot, the amount of snow to be removed or stored would be minimal. However, staff is concerned that the configuration does not allow snow to be pushed off of the public alley. This could prove problematic on an alley that is already quite narrow (12 feet).

The site, as proposed, would include no permeable area.

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 shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **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.**
- **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 530.160 (b).**
 - **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**

- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 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 530.220.**
- **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 530.60, as provided in section 530.230.**

Conformance with above requirements:

The applicant proposes to build on the entire site and thus there would be no net site area on which to provide landscaping. If proposed setback variances are denied or only partially approved, resulting in the one or more open yards, the applicant must provide a landscape plan that meets the requirements of Chapter 530.

ADDITIONAL STANDARDS:

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **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.**
- **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:

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The applicant proposes wall-mounted lights along the public streets. Lighting must comply with Chapter 535 of the zoning code, noted below. The parking garage must be adequately lighted.

- 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 arranged so as not to 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 source.
 - (2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of 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 to a person of normal sensitivities when viewed from any permitted or conditional residential use.
 - (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
 - (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

Headlight glare from exiting vehicles would not shine into nearby residential structures.

It does not appear that views of significant buildings would be blocked by the development.

Shadowing of the adjacent residential property would be significant but would be minimized somewhat by the fact that the four story component of the building would be set back 11 feet from the north property line.

Wind currents should not be major concern.

From a crime prevention standpoint, the applicant should improve views into and out of the at-grade parking level and ensure that partially enclosed spaces are adequately lighted. .

The parcel to the east of the public alley is located in the Washburn-Fair Oaks historic district. The applicant has met with the Heritage Preservation Commission and will meet with the Commission again.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

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ZONING CODE: The parcel east of the alley is zoned C2. The parcel west of the alley along Nicollet Avenue is zoned C1. The applicant proposes to rezone the west parcel from C1 to C2 in order to increase the number of dwelling units that would be allowed on the property.

Parking and Loading: Without taking advantage of any applicable parking reduction incentives, the applicant would be required to provide one space per dwelling unit (29 spaces). With one retail use at 6,012 square feet, seven off-street parking spaces are required. (Note that the parking requirement for a restaurant use could be higher than this depending on the amount of public space in the restaurant.) Thus, the project requires 36 off-street parking spaces. The applicant proposes 13 spaces for the commercial use and 35 for the residential use for a total of 48 spaces. The Public Works Department has indicated that the three spaces proposed adjacent to the alley are not allowed.

Signs: The applicant proposes signs along 26th Street for the residential use. Detailed signage has not yet been proposed for the commercial use. The applicant must obtain permits for signs and all signs must meet the requirements of chapter 543 of the zoning code.

Maximum Floor Area: The maximum F.A.R. in the C2 District is 1.7. However, the project appears to qualify for density bonuses of 20 percent each for having both enclosed parking and a mix of commercial and residential uses in the building (section 548.130[b] and [c]). The bonuses increase the number of permitted dwelling units by 20 percent and increase the permitted floor area by 20 percent. The parking garage is not included in the calculation of gross floor area as noted in the definition of *Floor area, gross (GFA)* in section 520.160 of the zoning code. Together, the lots have 15,964 square feet of area. The floor area calculations are as follows:

Lot area: 15,964 square feet

Based on this lot area, 17 dwelling units would be allowed without applicable bonuses (15,964 / 900).

Calculation of two bonuses to increase the number of dwelling units by 20 percent:

$$17 \times .20 = 3.4$$

$17 + 3.4 + 3.4 = 23.8 = 23$ units allowed with two density bonuses. The applicant is considering providing affordable housing that would qualify for an additional 20 percent bonus. Adding a third density bonus would bring the allowed number of dwelling units to 27.

Calculation of two bonuses to increase the maximum permitted floor area/F.A.R.:

Lot area: 15,964 square feet

Maximum F.A.R.: 1.7

$$15,964 \times 1.7 = 27,139$$

$$27,138 \times .20 = 5427.8$$

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$27,138 + 5427.8 + 5427.8 = 37,993$ = maximum permitted floor area with two density bonuses. The applicant is considering providing affordable housing that would qualify for an additional 20 percent bonus. Adding a third density bonus would bring the allowed floor area to 43,420 square feet.

The applicant proposes to construct 44,674 square feet of floor area and thus has requested a variance to increase the amount of floor area from 37,993 square feet (2.38 F.A.R., after applicable density bonuses) to 44,674 square feet (2.80 F.A.R.), a variance of approximately 15 percent. Note that an additional bonus to increase the maximum permitted floor area, although a bonus of 20 percent, would not make the proposed amount of floor area legal since the bonus is calculated as 20 percent of the base permitted floor area rather than 20 percent of the floor area allowed after other applicable bonuses area calculated.

Minimum Lot Area: In the proposed C2 District, 900 square feet of lot area is required for each dwelling unit. The applicant qualifies for the bonuses noted immediately above, which also increase the number of units allowed by 20 percent each. Without bonuses, 17 dwelling units would be allowed if the entire site is zoned C2. With two 20 percent bonuses, the number of allowed units is increased to 23. Thus, with the bonuses, the applicant would be required to provide at least 694 square feet of lot area per dwelling unit while they propose to provide 550 square feet per dwelling unit. A variance has been requested to reduce the minimum lot area.

Height: Building height in the C2 District is four stories or 56 feet, whichever is less. The proposed building would be 56 feet in height but would be five stories in height due to the fact that the proposed first level exceeds the permitted height of a single story. The applicant has filed a conditional use permit to exceed the maximum permitted height.

Yard Requirements: The following setbacks must be provided without a variance:

Front (along 1st Ave.): 15 feet (for the first 40 feet from the residence district to the north)

Front (along Nicollet): No setback required

Interior side (along the north): Five feet plus two feet for every story above the first story for the residential use with windows. For non-residential use on the ground level adjacent to the residence district, a setback of five feet must be provided plus two feet for every story above the first. For non-residential use on the ground level adjacent to the commercial district, no setback is required.

Corner side (along 26th St.): No setback required

Specific Development Standards: None

Hours of Operation: Residential uses are not governed by maximum hours of operation. The commercial use would be limited to the following hours open to the public:

Sunday through Thursday, from 6:00 a.m. to 10:00 p.m.

Friday and Saturday, from 6:00 a.m. to 11:00 p.m.

Dumpster screening: The proposed refuse storage container would be located within the building. Note that no doors may swing into the right of way.

MINNEAPOLIS PLAN: Please see the conditional use permit analysis above.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

The City Council adopted the *Nicollet Avenue Task Force Report* in 2000. In the section of the report that deals specifically with Grant Street to 29th Street, the report states that, “Multiple opportunities exist for increasing housing density by incorporating commercial/residential mixed use concepts into the overall land use pattern.” Relevant specific policy recommendations include the following:

- Invest in commercial development from Grant to Lake with nodes at Franklin, 26th, and Lake
- Encourage reuse and development of multi-story mixed use buildings

The project is consistent with the relevant recommendations from this adopted plan.

Alternative Compliance. The Planning Commission may approve alternatives to any major 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, 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.**
- Recognizing the challenges associated with allowing views into and out of the garage area, staff recommends that the commission grant alternative compliance for the window area provided that more windows are provided that allow views into and out of the parking garage.
- The applicant proposes no on-site landscaping. If net site area is incorporated into project, landscaping must be included.

Findings Required by the Minneapolis Zoning Code for the Proposed Variances:

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.**

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Variance of north side yard from five 7 to 0 feet for the proposed ground-level parking garage adjacent to a residence district: The applicant would have reasonable use of the property while complying with the required north side yard. Constructing the building up to the side lot line adjacent to the residence district appears to be a result of attempting to overbuild the site.

Variance of north side yard from 11 feet to 0 feet for two enclosed stairwells: A project could be designed on the site that does not have the stairwells project out from the building.

Variance of north side yard from 11 feet to 0 feet for residential balconies atop the ground-level: Although the Planning Department does not believe that it is reasonable to construct balconies up to the side lot line of the adjacent residential property, the setback requirement would prevent the applicant from using the rooftop of the ground level parking garage. Since staff is recommending that the parking garage provide the required setback of seven feet from the side property line, staff recommends that the commission allow the applicant to utilize the roof of that structure for residential balconies.

Variance of north side yard from 11 feet 4 feet for approximately 18-foot section of the north residential wall with windows: Providing the required north side yard setback for a residential use with windows does not pose practical difficulties or a hardship related to developing the site. Much of the north side residential wall has been designed to comply with the setback. The only exception is the westernmost 18 feet of the north-facing wall. The plan should be revised so that all of the north wall of the residential building with windows meets the required setback.

Variance of front yard setback along 1st Avenue South from 15 feet to 0 feet for proposed mixed use building: The corner mixed use project could not be developed in a manner consistent with other mixed use and commercial projects in the immediate vicinity without the granting of the variance.

Variance of minimum lot area (after two applicable density bonuses) from 694 square feet per dwelling unit to 550 square feet per dwelling unit: Staff believes that it is reasonable to expect the applicant to comply with the minimum required lot area after eligible bonuses are calculated and after one considers that the applicant could potentially qualify for the affordable housing density bonus. The staff recommendation for this variance recommends that the commission grant only part of the variance to allow for construction of 27 units—the number of units that would be allowed if the applicant qualifies for a third density bonus.

Variance of maximum floor area from 37,993 square feet (2.38 F.A.R., after two applicable density bonuses) to 44,674 square feet (2.80 F.A.R.): Staff believes that it is reasonable to expect the applicant to comply with the minimum required floor area after eligible bonuses are calculated and after one considers that the applicant could potentially qualify for the affordable housing density bonus. The staff recommendation for this variance recommends that the commission grant only part of the variance to allow for construction of 43,420 square feet of lot area (an F.A.R. of 2.72)—the amount of floor area that would be allowed if the applicant qualifies for a third density bonus.

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- 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.**

Variance of north side yard from five 7 to 0 feet for the proposed ground-level parking garage adjacent to a residence district: Planning Department staff has not identified unique factors that would justify encroaching into the side yard setback adjacent to the residence district.

Variance of north side yard from 11 feet to 0 feet for two enclosed stairwells: The applicant has created the circumstances which have led to the variance request by designing the building in a manner that features stairwells that project out from the building.

Variance of north side yard from 11 feet to 0 feet for residential balconies atop the ground-level: The project is unique in that there is a non-residential element at ground level that is required to provide less of a north side setback than the residential use above. This creates a relatively unusable space above the ground level garage without the granting of a variance.

Variance of north side yard from 11 feet 4 feet for approximately 18-foot section of the north residential wall with windows: The Planning Department believes that the plan can reasonably be revised to comply with the required setback.

Variance of front yard setback along 1st Avenue South from 15 feet to 0 feet for proposed mixed use building: The fact that the corner property is immediately adjacent to a residence district is not generally applicable to other corner properties in the city.

Variance of minimum lot area (after two applicable density bonuses) from 694 square feet per dwelling unit to 550 square feet per dwelling unit: The Planning Department is recommending that the applicant comply with the number of units that would be allowed should the project comply with a third density bonus. This would allow 27 units compared to the 17 units allowed without any bonuses. Additional units above and beyond 27 would be overbuilding the property on the part of the applicant.

Variance of maximum floor area from 37,993 square feet (2.38 F.A.R., after two applicable density bonuses) to 44,674 square feet (2.80 F.A.R.): The Planning Department is recommending that the applicant comply with the floor area that would be allowed should the project comply with a third density bonus. This would allow 43,420 square feet of floor area compared to the 27,139 square feet allowed without any bonuses. Additional floor area above and beyond 43,420 square feet would be overbuilding the property on the part of 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.**

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Variance of north side yard from five 7 to 0 feet for the proposed ground-level parking garage adjacent to a residence district: Constructing a large, blank wall up to or near the side lot line of the adjacent multifamily residential property would have a substantial negative impact on the enjoyment of the property. Adjacent to the neighboring building, it appears that the wall would range from between 18 feet to 20 feet in height (up to a height of about 21 feet at the front property line along 1st Avenue). The proposed parking garage, which would be too tall to meet the definition of a story, would be located approximately 10 to 11 feet from the wall of the existing residential building (according to the applicant's site plan).

Variance of north side yard from 11 feet to 0 feet for two enclosed stairwells: Staff does not believe that constructing the stairwells up to or near the side lot line would meet the intent of the ordinance. The stairwell adjacent to the residence district, in particular, would loom over the adjacent residential property in a manner that the zoning code wisely prohibits.

Variance of north side yard from 11 feet to 0 feet for residential balconies atop the ground-level: The setback requirement for balconies recognizes the need for privacy and protection from noise that adjacent property owners should expect. Allowing the balconies to be built up to the north side lot line does not respect this intent. Providing modest setback of seven feet for the balconies, consistent with the setback recommended for the ground level garage, is more likely to meet the intent of the ordinance.

Variance of north side yard from 11 feet 4 feet for approximately 18-foot section of the north residential wall with windows: The regulation is intended to ensure safety of residents and adjacent properties as well as to ensure that residents would have perpetual access to light and air should a commercial project on the adjacent property be constructed up to the shared side property line. Staff does not believe that the proposal meets the intent of the ordinance.

Variance of front yard setback along 1st Avenue South from 15 feet to 0 feet for proposed mixed use building: Projects that are subject to site plan review are supposed to be constructed in a manner that reinforces the street wall. The granting of the variance would support this type of traditional urban form encouraged by both site plan review chapter and the comprehensive plan. Staff would be much more reluctant to support the front yard variance however, if the Commission chooses to grant the variance of the north side yard for the garage level. The combination of the two variances would prove quite intrusive when viewed from the adjacent property.

Variance of minimum lot area (after two applicable density bonuses) from 694 square feet per dwelling unit to 550 square feet per dwelling unit: Any dwelling units beyond what would be allowed by three density bonuses would be overbuilding the site for a property in the C2 District. Staff recommends that the Commission grant a partial variance to 591 square feet per dwelling unit, the square footage that would be required should the applicant qualify for a third density bonus. The proposed lot area per dwelling unit would be more consistent with the regulations of the C3A District. The project's proposed density is approximately 79 dwelling units per acre.

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Variance of maximum floor area from 37,993 square feet (2.38 F.A.R., after two applicable density bonuses) to 44,674 square feet (2.80 F.A.R.): Any floor area beyond what would be allowed by three density bonuses would be overbuilding the site for a property in the C2 District. Staff recommends that the Commission grant a partial variance to allow 43,420 square feet, the square footage that would be required should the applicant qualify for a third density bonus. The proposed square footage would slightly exceed the floor area allowed even by the regulations of the C3A District, a district that allows much more intense development than the C2 District.

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.**

Variance of north side yard from five 7 to 0 feet for the proposed ground-level parking garage adjacent to a residence district: Provided the wall meets the building code, staff does not anticipate that granting the variance would pose direct danger to public safety or welfare.

Variance of north side yard from 11 feet to 0 feet for two enclosed stairwells: Provided the stairwells meets the building code, staff does not anticipate that granting the variance would pose direct danger to public safety or welfare.

Variance of north side yard from 11 feet to 0 feet for residential balconies atop the ground-level: Provided the balconies meets the building code, staff does not anticipate that granting the variance would pose direct danger to public safety or welfare.

Variance of north side yard from 11 feet 4 feet for approximately 18-foot section of the north residential wall with windows: Placing the residential wall with windows approximately four feet from the side lot line would increase the danger of fire spreading to an adjacent building particularly if a taller building should be constructed some day on the adjacent property.

Variance of front yard setback along 1st Avenue South from 15 feet to 0 feet for proposed mixed use building: The proposed setback would be consistent with numerous other traditional corner developments in the surrounding area and in the city and would not prove detrimental to traffic congestion or public safety.

Variance of minimum lot area (after two applicable density bonuses) from 694 square feet per dwelling unit to 550 square feet per dwelling unit: The applicant proposes far more dwelling units than would be allowed in the base zoning district. One result may be an increase in traffic compared to a more modest building. Public safety would not be directly affected in any significant way, however.

Variance of maximum floor area from 37,993 square feet (2.38 F.A.R., after two applicable density bonuses) to 44,674 square feet (2.80 F.A.R.): The applicant proposes far more floor area than would be allowed in the base zoning district. Although the building would be out of scale

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compared to others at the intersection of 26th and Nicollet, public safety would not be directly affected in any significant way.

Findings for the Proposed Vacation of Public Right of Way: The Planning Department has not received written recommendations from the Public Works Department or the Fire Department as of August 29th. The applicant has not yet provided all of the information necessary (specifically, a precise legal description of the area to be vacated) for the Public Works Department to fully evaluate the request. Staff recommends that the Commission continue the vacation application if a recommendation from Public Works and Fire is not received by the time of the Commission meeting.

CITY PLANNING DEPARTMENT RECOMMENDATIONS:

Recommendation Of The City Planning Department for the Zoning Amendment (Rezoning) Application:

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the application to rezone the property at 2 East 26th Street from the C1 District to the C2 District.

Recommendation Of The Minneapolis City Planning Department for the Conditional Use Permit for the Proposed Dwelling Units:

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow twenty seven (27) dwelling units in a mixed use building located at 2 & 20 East 26th Street, subject to the following conditions:

1. The project is subject to review and approval by the Heritage Preservation Commission.
2. The project is subject to vacation of air rights above and subsurface rights below the public alley.

Recommendation Of The Minneapolis City Planning Department for the Conditional Use Permit to Increase the Maximum Permitted Height:

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the application to increase the maximum permitted height from four (4) stories to five (5) stories, which would allow the first level to exceed the maximum height of a story, subject to the following conditions:

1. The overall height of the building shall not exceed 56 feet.
2. The garage level shall be set back from the adjacent residence district to the north not less than seven (7) feet.

Recommendation of the City Planning Department for the Site Plan Review Application:

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for twenty seven (27) dwelling units in a mixed use building located at 2 and 20 East 26th Street, subject to the following conditions:

1. Parking accessory to the commercial use shall be connected to the public sidewalk along 26th Street with a walkway not less than four (4) feet in width.
2. Signage shall be installed to indicate the location of parking accessory to the commercial use.
3. Not less than ten (10) percent of the first floor façade of the at-grade parking garage shall allow views into and out of the garage. The bottom edge of the windows into the parking garage shall be no higher than four (4) feet above sidewalk level.
4. The Planning Department and Public Works Department shall review any proposal to remove existing public streetscape improvements (e.g., brick pillars).
5. The applicant shall obtain an encroachment permit for all improvements in the public right of way.
6. The project is subject to review and approval by the Heritage Preservation Commission.
7. The project is subject to vacation of air rights above and subsurface rights below the public alley.
8. The Planning Department shall review and approve the final site plan, landscape plan and building elevations.
9. If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit for exterior improvements.
10. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by September 26, 2004, or the permit may be revoked for non-compliance.

Recommendation of the City Planning Department for the of North Side Yard for the Proposed Ground-Level Parking Garage Adjacent to a Residence District:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **deny** the variance to reduce the required north side yard from five 7 to 0 feet for the proposed ground-level parking garage adjacent to a residence district at 2 & 20 E. 26th St.

Recommendation of the City Planning Department for the Variance Application to Reduce the Required North Side Yard from 11 Feet to 0 Feet for Two Enclosed Stairwells:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **deny** the variance to reduce the required north side yard setback from 11 feet to 0 feet for two enclosed stairwells for the proposed mixed use building at 2 & 20 East 26th Street.

Recommendation of the City Planning Department for the Variance Application to Reduce the Required North Side Yard for Residential Balconies (Including Screening Structures) Atop the Ground Level.

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The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required north side yard setback from 11 feet to 7 feet for residential balconies (including screening structures) atop the ground level for the proposed mixed use building at 2 & 20 East 26th Street, subject to the following conditions:

1. A more detailed elevation of any proposed railings or balcony screening structures shall be submitted for review and approval by the Planning Department.

Recommendation of the City Planning Department for the Variance Application to Reduce the Required North Side Yard for an Approximately 18-Foot Section of the North Residential Wall With Windows:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **deny** the variance to reduce the required north side yard setback from 11 feet 4 feet for an approximately 18-foot section of the north residential wall with windows for the proposed mixed use building at 2 & 20 East 26th Street.

Recommendation of the City Planning Department for the Variance Application to Reduce the Required Front Yard Setback Along 1st Avenue South:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required front yard setback along 1st Avenue South from 15 feet to 0 feet for the proposed mixed use building at 2 & 20 East 26th Street, subject to the following conditions:

1. The garage level shall be set back from the adjacent residence district to the north not less than seven (7) feet.

Recommendation of the City Planning Department for the Variance Application to Reduce the Minimum Lot Area:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the minimum lot area per dwelling unit from 694 square feet (after applicable density bonuses) to 591 square feet for the proposed mixed use building at 2 & 20 East 26th Street.

Recommendation of the City Planning Department for the Variance Application to Increase the Maximum Permitted Floor Area:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to increase the maximum floor area from 37,993 square feet (2.38 F.A.R., after applicable density bonuses) to 43,420 square feet (2.72 F.A.R.) for the proposed mixed use building at 2 & 20 East 26th Street.

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Recommendation of the City Planning Department for the Alley Vacation:

The City Planning Department recommends that the City Planning Commission and the City Council accept the above findings and **continue** the vacation to the meeting of September 22, 2003.