



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: November 16, 2004

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

Prepared by: Jim Voll, City Planner, (612) 673-3887

Approved by: Barbara Sporlein, Director, Planning

Subject: Appeal of the decision of the City Planning Commission by Master Engineering

Previous Directives: None.

Financial Impact: Not applicable

Community Impact:

Ward: 12

Neighborhood Notification: The Longfellow Community Council was notified of the application and has submitted a letter (please see attached letter).

City Goals: See staff report

Comprehensive Plan: See staff report

Zoning Code: See staff report

Living Wage/Job Linkage: Not applicable
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Other: Not applicable

Background/Supporting Information: Master Engineering applied for a rezoning, conditional use permit, setback variances and a site plan review to allow a 20 unit residential building at 4556 46th Street East. The City Planning Commission approved the rezoning to the OR2 District and the conditional use permit for 20 units, but denied the setback variances on 46th Street and 46th Avenue and the site plan review at its meeting of October 25, 2004. Master Engineering filed an appeal of the Planning Commission's decision (please see attached appeal) on November 4, 2004.

**Department of Community Planning and Economic Development – Planning
Division**

Rezoning, Conditional Use Permit, Variances, and Site Plan Review
BZZ-1991

Date: October 25, 2004

Applicant: Master Civil & Construction Engineering, Inc.

Address Of Property: 4556 46th Street East

Contact Person And Phone: Paul Meadows 651-260-8741

Planning Staff And Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: September 27, 2004

End of 60 Day Decision Period: November 26, 2004

Ward: 12 Neighborhood Organization: Longfellow

Existing Zoning: C1 Neighborhood Commercial District

Proposed Zoning: OR2 High Density Office Residence District

Zoning Plate Number: 34

Legal Description: Lot 12 and the east 80 feet of Lots 13, 14, and 15, Block 1, Fullers River-Dale Addition to Minneapolis.

Proposed Use: Twenty residential condominium units with underground parking.

Concurrent Review:

Rezoning: From C1 Neighborhood Commercial to OR2 High Density Office Residence.

Conditional Use Permit: For 20 dwelling units.

Variance: To reduce the required rear yard (west side) from 11 feet to 10 feet.

Variance: To reduce the required interior yard (north side) from 11 feet to 10 feet.

Variance: To reduce the required front yard setback on 46th Avenue South from 21 feet to 5 feet and to allow balconies in the required front yard.

Variance: To reduce the required front yard setback on 46th Street East from 15 feet to 5 feet and to allow balconies into the required front yard.

Variance: To allow a patio and fountain in the front yard setbacks on 46th Avenue and 46th Street.

Site Plan Review.

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(1) “to vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.”; and Chapter 530 Site Plan Review.

Background: Master Engineering is proposing to develop the parcel at the northwest corner of 46th Street East and 46th Avenue South. The proposal will consist of a three-story multi-family building of 20 units with underground parking accessed off of the alley. The applicant is requesting a rezoning from the C1 Neighborhood Commercial District to the OR2 High Density Residential District to allow 9 more dwelling units than would be permitted under the C1 zoning. A conditional use permit is necessary for all residential developments over 5 units. Setback variances are necessary to allow the building and balconies to encroach into the front yards on 46th Street and 46th Avenue.

Setback variances for the rear yard and north interior side yards from 11 feet to 10 feet were noticed, but are no longer necessary. Rear and interior setbacks are determined by the building height. They are required to meet five feet plus two additional feet for each floor over the first floor. The building was originally proposed as a four-story building, which required 11 foot setbacks on the rear and interior yards. The building has been reduced to three-stories, so the setback is reduced to nine feet. The building is setback 10 feet, so the variances on the north and west sides are no longer necessary and are being returned to the applicant.

There are balconies shown on the west side of the building that encroach into the setbacks. Balconies are allowed to encroach into the setback if they project no more than four feet into the required yard, if they do not exceed 50 square feet, and if they are no closer than 10 feet from an interior side lot line. Because the lot to the west is a reverse frontage lot the rear yard of the site is considered an interior yard. The balconies will not project more than four feet and do not exceed 50 square feet, but they are not 10 feet from the lot line; therefore they need a variance to encroach into the setback. Staff did not identify this variance so the rear balconies as shown are not allowed and will either need to be brought into conformance or a variance is necessary.

The Longfellow Community Council provided a letter with extensive commentary that is attached to his report. At the community meeting the vote was 38 to 10 against the project.

REZONING (from C1 to OR2)

Findings As Required By The Minneapolis Zoning Code:

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

The Minneapolis Plan does not have a designation for this area and 46th Street and 46th Avenue are not designated as community or commercial corridors. The existing land use map shows this area as predominantly single and two-family residential. The site is currently zoned C1 Neighborhood Commercial that would allow a nine unit building (11 with a density bonus for underground parking) and a range of commercial uses. The site is on a busy street and there is a multi-family building across 46th Avenue. There are bus routes on 46th Avenue South and the site is approximately eight blocks east of the 46th Street LRT station, so there is access to transit.

The Minneapolis Plan has the following relevant policies regarding multi-family housing:

4.9 Minneapolis will grow by increasing its supply of housing.

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.

Use new and strengthened strategies and programs to preserve and maintain existing housing stock.

Review policies and practices that determine the appropriate scale of residential development on properties that come into city ownership or request City development assistance.

Develop a close dialog with community participants about appropriate locations and design standards for new housing.

Foster community dialog with community participants about appropriate locations and design standards for new housing.

Foster community dialog about housing growth in and adjacent to city neighborhoods.

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

Implementation Steps

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

Provide and maintain moderate and high-density residential areas.

Provide and maintain areas that are predominantly developed with single and two family structures.

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.

Promote accessible housing designs to support persons with disabilities.

Promote mixed-income housing development that offers a range of dwelling unit sizes and levels of affordability.

Diversify the location distribution of affordable housing in order to allay the historic patterns of concentration of poverty that characterizes some neighborhoods.

Implement city policies related to the provision of housing for homeless individuals and families.

Support the development of housing with supportive services that help households gain stability in areas such as employment, housing retention, parenting, mental health and substance challenges.

Encourage the rehabilitation and sensitive reuse of older or historic buildings for housing including affordable housing units.

4.14 Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city.

Implementation Steps

Continue using high quality materials for new construction and historic preservation that reinforce long-term housing maintenance goals.

4.15 Minneapolis will carefully identify project sites where housing redevelopment and or housing revitalization are the appropriate responses to neighborhood conditions and market demand.

While the Minneapolis Plan provides no specific recommendation for this site, the housing polices provide guidance that the City should pursue a variety of housing options that are respectful of the surrounding neighborhood character. The rezoning of this site from C1 to OR2 would allow a greater number of dwelling units (density). It would be more limited in the range of commercial uses allowed, so in this sense it is a less intense district than the C1 District. The OR2 District would be an appropriate district to allow housing choice, while still maintaining neighborhood character, especially on a site that is located on a busy street corner with in range of an LRT station.

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

The rezoning will allow the applicant to build a residential development with more units than would be allowed under the C1 district. This is in the interest of the applicant. The rezoning would reduce the number of commercial uses allowed on the site, lessening the impact from commercial activity on the adjacent properties. It would also allow a range of house and retail choices. This can be in the public interest.

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 OR2 High Density Office Residence District is established to provide a mixed use environment of moderate to high density dwellings and large office uses, with additional small scale retail sales and services uses designed to serve the immediate surroundings. This district may serve as a transition between downtown and surrounding moderate to low density residential neighborhoods. The surrounding area is predominantly single and two-family homes zoned R1A single-family residential. While the OR2 district would not necessarily be appropriate in the middle of a block zoned R1A, it can be appropriate in this location where it would serve as a buffer between a busy street and surrounding residential. In addition, the site is currently zoned C1 and is near an LRT station.

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 a broad range of commercial and residential uses allowed under the C1 District that would be appropriate in this area.

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 site was zoned C1 in 1999 as a part of the general remapping of the City during the adoption of the current zoning code. Before this it was B2-1 and the surrounding area was still zoned R1A. There has not been a change in development or character in the adjacent area since the 1999 remapping, but in the immediate area the 46th Street LRT station has become operational that will support higher density residential at appropriate locations.

CONDITIONAL USE PERMIT (to allow 20 units)

Findings as required by the Minneapolis Zoning Code:

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.

Any residential development of five units or more requires a conditional use permit. The addition of 20 residential units can be appropriate on a busy street corner with in walking distance of an LRT station. The building may have less impact than many of the commercial uses allowed under the existing C1 zoning. However, the size of the proposed building may be out of character with the surrounding area that is predominantly single and two-family homes. While 20 units may be an appropriate density that would not be detrimental to the public, this number of units may not be attainable on the site if the building is limited to an appropriate scale with the surrounding neighborhood.

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 redevelopment of this corner for residential use could have a positive effect on surrounding properties if built at an appropriate scale.

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

Adequate utilities are existing or will be constructed. Public Works and the Fire Department have reviewed the access and circulation and find it acceptable. Vehicular access will be from the alley.

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

Twenty parking spaces are required (one per unit) and twenty-three are provided in an underground garage. Access will be off of the public alley as is typical for residential developments in the City.

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

Please see finding number 1 under the rezoning section of this report.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of the variances and site plan review.

VARIANCE (to reduce the interior and rear yard setbacks)

Setback variances for the rear yard and north interior side yards from 11 feet to 10 feet were noticed, but are no longer necessary. Rear and interior setbacks are determined by the building height. They are required to meet five feet plus two addition feet for each floor over the first floor. The building was originally proposed as a four-story building, which required 11 foot setbacks on the rear and interior yards. The building has been reduced to three-stories, so the setback is reduced to nine feet. The building is setback 10 feet, so the variances on the north and west side are no longer necessary and are being returned to the applicant.

VARIANCE (to reduce the front yard setbacks)

The OR2 district requires a 15 foot setback for the front yards. Because the adjacent property to the west is a reverse frontage lot the subject property has two front yards, one on 46th Avenue and one on 46th Street. The front yard is required to be increased where the established front yard of the closest principal structure originally designed for

residential purposes located on the same block face on either side of the property exceeds the front yard required by the zoning district. The house to the west is 13 feet from the property line, so the required setback is the district minimum of 15 feet. The house to the north of the site is 21 feet from the property line so the district minimum of 15 feet is required to be increase to 21 feet along 46th Avenue.

It is the staff's opinion that it is reasonable to allow the building to be built up to the district setback of 15 feet on 46th Avenue rather than the established 21 foot setback and that it is reasonable to allow the front yard on 46th Street to be reduced to 13 feet to match the established setback. Staff would also recommend that if these setbacks are met that the balconies, patio, and fountain should be allowed to encroach into the front yard setbacks.

Findings Required by the Minneapolis Zoning Code:

- 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.**

The applicant claims that if the setbacks are adhered to the buildable area of the site is reduced significantly and that it would not be possible to provide underground parking with the required drive aisles and stall dimensions. Reducing the size of the building would eliminate almost half of the parking. The applicant claims that this is a hardship. Staff would agree that if underground parking is to be provided, then there is hardship in meeting the setbacks for the garage, but it would still be possible to move the building back above grade, although this would increase the cost of the project significantly.

- 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 parcel has a reverse frontage lot on the west side and is "L" shaped and narrow and this makes the layout of the site more difficult. This is a situation that is not generally applicable to other properties in the OR2 districts.

- 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 setbacks is to provide a uniform building line down a block face, to preserve views up and down the street, and to ensure access to light and air. The surrounding area is mainly single-family homes that have front yard setbacks. Reducing the required setbacks to five feet with the encroaching balconies would not match the surrounding residential character and would not preserve views up and down the street. This does not meet 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.

Granting the variance that the applicant requested would allow for a large underground parking garage and this would reduce congestion in the public streets. Granting the variance should not be detrimental to the public welfare or safety, but may be out of character with the surrounding homes.

SITE PLAN REVIEW

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.
- 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.

The building will be located up to the setback lines on 46th Avenue and 46th Street. The principal entrances open onto the public sidewalks. One faces 46th Avenue and one faces the corner of 46th Street and 46th Avenue. The building façade contains architectural detail and has 30 percent windows on the first floor facades. The façades will have compatible materials on all four sides.

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.

The building entrances either open onto the public sidewalk or are connected by four-foot wide walkways to the public sidewalk. Public Works and the Fire Department have reviewed the access and circulation and find them acceptable. The development is required to have 20 parking spaces and is providing 23 spaces. The development is required to have one handicapped van accessible parking space and this space is provided.

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.

Approximately 55 percent of the site minus the buildings is landscaped. The required number of bushes and trees are provided. While the landscaping plan meets the required minimums, it is staff's opinion that it is not very attractive and recommends that the applicant work with staff to develop a revised plan.

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.

The lighting will comply with Chapters 535 and 541 including the following standards:

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.

The City's CPTED officer has recommended that all plantings follow the 3' – 7' rule to allow visibility into the site and that lighting be provided for security purposes.

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

ZONING CODE:

Hours open to the public: Hours open to the public under the OR2 zoning are 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. This is a residential use. No commercial uses are proposed.

Dumpster screening: Section 535.80. Refuse storage containers shall be enclosed

on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The dumpster at the rear of the building is required to be screened per this section.

Signage: All new signage is required to meet the requirements of the Zoning Code and permits are required from the Zoning Office. The signage plan is not yet finalized. The applicant is aware that the signs are required to meet code and that if they don't variances may be necessary.

MINNEAPOLIS PLAN:

Please see the comprehensive plan discussions under finding number one of the rezoning sections of this report.

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

There are no development plans or objectives approved by the City Council for this specific area beyond the Comprehensive Plan. The site is just outside the study area for the 46th and Hiawatha Station Area Master 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.

Alternative compliance is not necessary for this site.

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning application from the C1 Neighborhood Commercial

District to the OR2 High Density Office Residence District for property located at 4556 46th Street East.

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 conditional use permit application for 20 dwelling units for property located at 4556 46th Street East.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **return** the variance application to reduce the required rear yard setback from 11 feet to 10 feet for property located at 4556 46th Street East.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **return** the variance application to reduce the required interior (north) yard setback from 11 feet to 10 feet for property located at 4556 46th Street East.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance application to reduce the required front yard setback on 46th Avenue from 21 feet to 5 feet and in lieu thereof **approve** a variance from 21 feet to 15 feet for property located at 4556 46th Street East.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance application to reduce the required front yard setback on 46th Street from 15 feet to 5 feet and in lieu thereof **approve** a variance from 15 feet to 13 feet for property located at 4556 46th Street East.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** a variance to allow balconies, a patio, and a fountain in the front yard setbacks for property located at 4556 46th Street East subject to the following conditions:

- 1) The building is setback at 15 feet from the property line on 46th Avenue South.
- 2) The building is setback at 13 feet from the property line on 46th Street East.

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 site plan review application for property located at 4556 46th Street East subject to the following conditions:

- 1) Staff review and approval of the final site and landscaping plans. All improvements shall be completed by October 30, 2005 (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 2) If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before building permits can be issued.

Attachments:

1. Statement and findings from the applicant.
2. Letter from neighborhood group.
3. Letters from neighbors.
4. Site map.
5. Site plan, floor plans, and elevations.
6. Photos.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

**Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: November 4, 2004

TO: Blake Graham, Manager, Community Planning & Economic Development -
Planning Division; Phil Schliesman, Licenses

FROM: Neil Anderson, Supervisor, Community Planning & Economic Development -
Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development
Planning Division

SUBJECT: Planning Commission decisions of October 25, 2004

The following actions were taken by the Planning Commission on October 25, 2004. 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:

ATTENDANCE

President Martin, Vice President Hohmann, G. Johnson, Krause, Krueger, Kummer, LaShomb, MacKenzie and Schiff – 9

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

**REPORT
of the**

**CITY PLANNING COMMISSION
of the City of Minneapolis**

The attached report summarizes the actions taken at the City Planning Commission meeting held on October 25, 2004. The findings and recommendations are respectfully submitted for the consideration of your Committee.

The Minneapolis City Planning Commission, at its meeting on October 25, 2004, took action to **submit the attached comment** on the following items:

6. Master Engineering (BZZ - 1991, Ward 12) 4556 46th Street East (Jim Voll).

A. Rezoning: Application by Master Development LLC to Rezoning from C1 Neighborhood Commercial District to OR2 High Density Office Residential District for property located at 4556 46th Street East.

Action: The Planning Commission recommended that the City Council adopt the findings and approve the rezoning application from the C1 Neighborhood Commercial District to the OR2 High Density Office Residence District for property located at 4556 46th Street East.

Staff Voll presented the staff report.

President Martin opened the public hearing.

Tom Nieman (4516 E. 46th St.): We own the reverse frontal lot that is directly to the west of this proposed contract. First of all, I would like to say that our house is set back 15 feet from the sidewalk and not 13 feet. We would like to hand out a petition that was signed by the immediate neighbors about this variance. This is a petition, not against the development of the project, just the variance allowance. We feel that this project is way too big for this small area and would not be beneficial to the neighborhood at all. We would like to have taken into consideration that our sewer runs direction in connection with the property next door. There is only one sewer for these four square city lots. We were told by Paul Chellsen of the Minneapolis Water and Sewer Department that if these properties share one common sewer that the developers would have to give us our own sewer because this is a development that is being taken over, not by our doing. We brought this up at the neighborhood meeting to Master Developers and they said that they were unaware that the sewers were conjoined and that we would have to discuss this at a later date. We're asking that this issue be resolved in writing before any rezoning or development of the property is authorized. Another thing is that the proposal is to put balconies on the back side, or west side, of the building which directly overlooks our backyard and the property would be ten feet from our back yard, but they still, according to their plans, want to put balconies that extend four feet into that ten foot bumper zone, but they have not applied for a variance to that. I'm not exactly sure what their plans are there. I was hoping they could be more specific with that. Other than the fact that we would be having a three story building right next to our house and we would lose the view we have had for 27 years and sunlight until 10 o'clock in the morning, I guess that's all that I have to say at this time.

Bob Constant (4556 45th Ave. S.): When we were first approached by the developer on this at a meeting a couple weeks ago they looked at it as the gateway to Minneapolis out of St. Paul. My only comment is that I drive that route a lot. Coming across from St. Paul you see nothing but single family homes primarily in the neighborhood. This would be a concrete and brick block set right in beginning of the residential area. To me it looks like it would be totally out of place and not fit in at all. Thank you.

Kevin Sullivan (4528 46th Ave. S.): My house is four houses north of the proposed development. I have a map to hand out. I had a chance to take a look at the other Master Engineering developments in town. I was struck by the similarity between in the terms of the

design of the building that is being proposed at 46th and 46th and the design of the other four developments. Like 50th and Xerxes, 28th and Nicollet, 20th and Nicollet and the 38th Street Lofts. The thing that I was struck with was in each of these four developments that Master Engineering has done, they are done in the middle of a commercial district. I think they are great developments. When I looked at them, they really bring together each of those neighborhoods and put in a big residential presence in those neighborhoods that are predominately commercial and there is no setbacks to those commercial buildings. They are great developments and I can see when a developer of this caliber comes before you that you take them seriously and look seriously at their proposals. The point I want to leave you with today is this fifth development, the development at 46th and 46th. Even though the building itself is similar to the designs you have seen in the other four developments, the location is totally different. The reason I have this map I passed out here is because I think it shows you the distance between the proposed development and any commercial establishment. It's five city blocks. As you can see, the zoning C1 is five city blocks down towards the LRT from this development. Everything else in this neighborhood within the five city block radius is residential, mostly single family homes, and there is one 11 unit apartment building. The nature of this development in this neighborhood, in this location, I do not think is really consistent with the neighborhood. We're talking about five foot setbacks and a 40 foot high wall that goes right down the sidewalk on the way to Minnehaha Park. I would like to give a little bit of context to the location of the development as it relates to the fact that there are no commercial buildings, other than the one they are building on, within five blocks of this location. The other thing I would like to point out is that the Planning Division in their report on page five shared the concerns that some of the neighbors have. They said, and I quote: "However the size of the proposed building may be out of character with the surrounding area that is predominantly single and two-family homes while units may be in appropriate density that would not be detrimental to the public, this number of units may not be attainable on this site if the building is limited to an appropriate scale with the surrounding neighborhood." I heartily concur with that opinion and I ask that the plan as presented to you be denied and that a small plan, perhaps an OR1 zone, with 10 or 12 units, which would be much more appropriate to this small 2 ½ city house lot, would be presented and hopefully approved by you Commissioners. Thank you very much.

Jim Morrison (4524 46th Ave. S.): I live five blocks directly north of the proposed development. I would ask for an extension of decision. I think this is a prime piece of real estate for our neighborhood. I think getting more community involvement in decision...(stepped away from microphone – my notes say that he is opposed to the project and had short notice regarding the project).

President Martin: Mr. Morrison, we have a petition here...or a letter from Longfellow Community Council. Were you folks not involved in that discussion that went on in the Longfellow Community? We have a letter from Longfellow Community Council about this development, so you're saying you only found out about it 13 days ago, we have a letter dated October 14 from (audience responds)...

Jim Morrison: October 12 is the first time any of the members knew about anything.

President Martin: I'm getting the idea that people don't like it, so is there anybody that has something else to say? Is the developer here?

Don Gerberding (Developer, 2104 4th Ave. S.): I'm here this evening to discuss a new residential project in the Longfellow neighborhood. Master Engineering is seeking approval for a very high designed, 20-unit, three story condominium project with underground parking located at 46th and 46th in the Longfellow neighborhood. We view this as an opportunity to

create for the Longfellow neighborhood and we will call it a gateway project as one enters Minneapolis off the Ford Parkway bridge. We think can do it with graceful residential design elements. The site offers the opportunity to provide homeownership in a lovely setting. It's a park-like location and we hope to incorporate a fitting design that provides some public space on the corner. It is a compliment to the three and a half story apartment building directly across the street. Although it's predominantly residential to the north of the corner, there's a three and a half story apartment building on one corner and we are proposing a three story condominium residential project on the other corner. Considerable...during the design process is directed towards incorporating major elements of the 46th Street stationary master plan into this project. The project redevelops a previous gas station site most recently used as a tree services company. We're hopeful that parking for trucks and equipment will be replaced by homeownership. Also, the additional property taxes generated for the proposed uses is just under \$100,000 a year. The following elements of the 46th Street stationary plan were looked at very closely by the development team. A transit oriented project located just a half mile from the 46th stationary master plan. The plan we devised by the community. The plan also called for locating higher levels of density near transit corridors and transit venues. The project provides appropriate levels of parking for the residents, all underground. The building is pedestrian-oriented by design. It's built closer to the street with incredible views of the neighborhoods and the parks. We are thoughtful about our designs and thank you, Mr. Sullivan, for talking about our previous projects. Those were commercial projects. This is a residential project. Those were mixed-use projects with the design of those to incorporate both commercial and residential. This will have no commercial so it's a residential project, not a commercial project.

Patricia Fitzgerald (Master Development): We met with the Longfellow Community Council with a few neighborhood representatives at the end of June. That's when we were initially looking at this site and we wanted to get some early input into our design. It was a small group of neighbors, people who were invited by the Longfellow Community Council. It's unfortunate that not all the neighbors could have been present, but we didn't have an efficient way of contacting them so we worked through the neighborhood association. At those meetings we heard a few things. We heard that high-design would be important so we brought on board a quality architect, Brian Lubben. We're doing a very high quality design with a lot of glass and brick on the building. We also heard that density would be a concern and height. Whereas we were initially looking at a 25-28 unit development of four stories... we cut that back to three stories and 20 units. In addition, we decided to put in a public feature at the corner and we cut back our building on the corner to allow for a fountain or a public art component or something that would better address the street and provide an amenity to the public. We also came back to that small work group of Longfellow Community Council reps with a draft design and we got some additional feedback about how to lay out the parking and what other concerns might be brought up at the neighborhood meeting. We did have a community meeting in October. Some of the concerns we heard that night were regarding parking. Just to point out briefly that we do exceed the city zoning requirements for parking. We're providing 23 stalls for our 20 units. We feel that while this is located just outside the half mile station area for the LRT station, that the condo buyers will be attracted to LRT so it is a transit oriented development. Based on our experience with other condominium projects, buyers of condos typically have fewer cars. Often even if it's a two person household, it's a family or a couple that has decided to reduce their reliance on automobiles. This site is also located on three major bus routes so we looked at that carefully in looking at this site. I think density is a big concern and we looked at the 46th Street station area master plan which does call for higher density housing. While 20 units may seem a bit denser for some of the neighbors, compared to some of our other projects it's smaller in scale. We've also tried to keep the height down so the height of the building will match, approximately, the house to the west. In addition, there is an apartment building directly across the street to the east that's a three story building. In

comparing the density of our proposal with that building, that apartment building has 720 square feet per unit and we're providing 718 square feet per unit. In terms of density, it is comparable in the neighborhood. We understand that privacy is a concern and we will do our best to accommodate the neighbors and do some screening and landscaping wherever possible. In summary, I wanted to point out some of the ways we have tried to address neighborhood concerns and overall have planned what I think is a thoughtful development of medium density ownership housing.

Brian Lubben (Walsh Bishop Architects): It might be helpful to give you a little background on how we came to the position of the building and what our setbacks are and why we need them to be there. We're looking to get parking underneath the building and to get two rows of parking down in the lowest level. To do that we need a building that's about 65-70 feet wide. That's how we came up with the massing that you see here. Even though the building is pushed out to within five feet of the property line on the east and south side, there is an additional 12-14 feet of boulevard before you hit the street curb there in both directions. There are some mitigating factors there. We do step out slightly in front of the house that's immediately to the north of the project and the house that's immediately west of the project. That's where the massing of the project. That's what makes it possible for us to get units in there and build the parking to accommodate those units. We think that the massing is maybe becoming more and more appropriate to this area. There is a lot of traffic on 46th Street. It's a busier street and has a lot more going on there. We feel that it's appropriate to this type of development that this be located closer to that and that echoes some of the things that we talked about with 46th Street master plan. I think this building type is maybe becoming more and more appropriate in that area because of that fact. We think the character of the building with two stories of brick and a lighter story above it blend well with what's in the neighborhood there.

President Martin: You have a picture of it there?

Brian Lubben: Yes I do. We think the massing of this with two stories of brick and a lighter story above mimics a lot of what's going on in the neighborhood. There are a lot of two story houses with steeply pitched roofs that would approach 35-36 feet in height so this not out of character with the neighborhood. There certainly are houses that are smaller than that in the neighborhood, but there are houses on this same scale. We think the people who use this site will also take advantage of the transit opportunities at the 46th Street station. The parking we provided is adequate and we feel it's appropriate for this building and this number of units.

President Martin: Let me ask if the Commission were to follow all the recommendations of staff, we would deny two of the variances... how would your project change if you have that requirement to live with?

Brian Lubben: Once we lose about 10 feet on the east/west dimension, it makes it impossible to get the amount of parking down below. We'd be limited to one aisle of parking and one travel lane. Parking would go from 25 spaces to about 10 spaces because we still have to get in and out of the parking garage. I don't know that the project works at 10 spaces and maybe the same number of units.

President Martin: Commissioner Schiff.

Commissioner Schiff: I don't know the building code all that well, but could you have the parking as is below grade and then having the building above grade set back further?

Brian Lubben: Yeah, they don't have to align with each other.

Commissioner Schiff: Ok.

President Martin: Commissioner LaShomb.

Commissioner LaShomb: You just said that you could set it back. Mr. Voll on page seven of the document indicates that it's a possibility, but it would increase the cost of the project significantly. What would be the impact of setting it back on 46th and 46th? You going to lose units, what's going to happen?

Paul Meadows (2122 Hartford Ave.): I'm with Master Engineering. Council Member Schiff just suggested that we could potentially have the parking underlie the entire site and step back the building. The issue with that is there is a quite a bit of expense associated with waterproofing that decking so we have been advised against that by our construction folks. As far as the setback goes, we actually have a drawing here. Here's the edge of those far parking spots and here's the curve that the van would need to reach its spot. That's part of how we reached our width for the building and the parking deck which drove the width of the building.

Commissioner LaShomb: But the number of units wouldn't change... the size of the unit... I mean... what...

Paul Meadows: If we lost 10 feet off of the unit configuration we currently have, we'd have units that are 20 feet wide by ...it'd be very strange.

Brian Lubben: Problems with that is that, right now we have a parking garage that is sort of half in and half out of the ground so even if we could keep the full parking footprint, it would stick out of the ground about four or five feet on the south. I don't think it accomplishes what we are trying to do there. It would be set back, but on top of this large plinths level that's up above.

President Martin: Commissioner Schiff does that answer your question?

Commissioner Schiff: It does. In fact, I thought it was too good to be true when I got the first answer. It seemed so easy. I thought it brought up a second question for me, but I think I'll hold off.

President Martin: Commissioner Kummer did you have a question for the applicant?

Commissioner Kummer: Yes, thank you Madame President. What is the height of the new building? I'm going back to "per floor" from a discussion we had previously. How does that compare to the height with the existing apartment building there?

Brian Lubben: The height of our building is approximately 12 feet floor to floor and the tallest point above grade for our building is about 40 feet. The other building, I have to assume, is fairly close to that between 35-40 feet over there.

(There is a lot of "no" responses coming from audience)

President Martin: So it's different.

Commissioner Kummer: It is and I'm very familiar with that site and drove by just two days ago to double check. The existing building does sit down a little bit further because it's in

that little dip there. Why are we going from a C1 to an OR2 when there is no commercial or no office that's actually slated for that?

President Martin: Neil, can you explain that?

Staff Anderson: Commissioner Kummer, the reason they are going for the rezoning is that in the existing C1, they need 1500 square feet of lot area per unit. In the OR2, it's 700 square feet per unit so instead of having 9 units in a C1, they want to go for 20 units in the OR2. That's the reason for the rezoning. Higher density.

Commissioner Kummer: So then it doesn't match up with the classification?

Brian Lubben: I think it's a permitted use in the OR2.

Commissioner Kummer: To be strictly residential in an OR2?

Staff Anderson: Both of the zoning districts would allow residential. In the OR2, it allows some office. In the C category, it allows commercial along with residential.

President Martin: It's not completely beyond the pale of what we often do. Commissioner Hohmann.

Commissioner Hohmann: Given the staff recommendations on frontages and whatnot, have you gone back and looked, for instance, if you had to move it back on the two sides by ten feet – you'd end up with what looked like roughly a dozen spots or 12, 13, 14 spots. If you stayed C1, you could build, what, 11 units?

Brian Lubben: It's probably physically possible to do that, but I don't if it's economically feasible to do that, I think that's the problem.

President Martin: Ok. Thank you. Commissioner Schiff.

Commissioner Schiff: On the parking aisle stuff, can you go through it once more? I mean, are all the parking stalls on the east side striped for...how big are those? Are they compact size?

Brian Lubben: All the stalls we have drawn here, I believe are 9x18.

Commissioner Schiff: Is that standard? My question is more for staff than it is for the architect. The width of the spaces here, is this standard or is it already compact?

President Martin: Neil can...

Commissioner Schiff: Either Neil or Jim Voll.

Staff Anderson: The drive aisle width for going in two directions is 22 feet wide. They have enough space for that.

Commissioner Schiff: I see the minimum there at the south side of the site, but it's a little wider at the beginning for the turning radius so, ok, it's about as narrow as they can get.

President Martin: I think we have heard enough opposition from the applicant so I am closing the public hearing. I wanted Neil to share with us, remind us, what other things could be done in a C1 district if there was no zoning change here.

Staff Anderson: Commissioners, as you know, a C1 district is a commercial district so there is all different kinds of commercial that can go in the C1. Everything from general retail sales and services through banks and child care centers, grocery stores, pet stores, clinics, video stores, restaurants, small medical clinics as well as residential that we talked about with a 1500 square feet of lot area per unit, which limits this to about nine I believe. There is also some educational facilities that could go in with a conditional use permit. That's generally it.

President Martin: Ok. Thanks Neil. Commissioner MacKenzie.

Commissioner MacKenzie: This site is an interesting site. It has these unique attributes that make it more than just a site on a corner in residential in Longfellow neighborhood – 46th Street is a huge piece of that. The connection to St. Paul is another huge piece. It makes me think we need to look at what will happen on this corner in the future because something inevitably is going to happen. What I am struck with and what's a struggle for me is the question of density and the feeling or impact, if you will, that neighbors are going to get whatever happens on this site. When you look at the site plan that the applicants have submitted here, it's basically a 15,000 square foot site. It's very close to an existing single family home on its immediate west side. Whatever goes in there is going to cause some friction in the immediate surroundings. I'm not disinclined to consider change on it, I'm just a little concerned about the relationship between whatever comes on the east side of that block face versus what's there on the existing. What I'd like to ideally like to see there is a proposal that looked at both parcels together so you didn't have that immediate impact. The other thing I note of this proposal is that the FAR that you would eventually get, which is basically how much square footage is on that footprint, is about 1.8 FAR. That's really high. It's really high in Minneapolis. It's what we're looking for on our designated corridors and 46th Street is a busy street, but I'm not sure it's a designated corridor. I feel like we are often here trying to lead the way with change coming at us. We want to keep the change coming, but we get to this point where we have 10 pounds of flour and maybe we have an 8 pound sack this time. I have a big concern that this is too much though the intent is the right direction.

President Martin: Commissioner Krause.

Commissioner Krause: Madame Chair, my concerns with the project are, I don't believe the developers have met the findings for the rezoning. As I read through the report, I got the sense from the staff that this is somewhat of a close call on some of these issues. I reviewed it carefully and the first one is really arguable in terms of consistency with the applicable policies in our plans. Number two, whether the amendment is in the public interest and not solely for the interest of the single property owner. It doesn't appear to be the case. In fact, the developers architect diluted the fact that it was more of a financial outcome, or was more of a financial concern for them, that they be able to have this level of density. Even looking at some of the other findings, whether the existing uses are compatible with those other land uses around it and it's pretty clear to me while looking map that this is somewhat of an island in that case. The OR2, because it is designed to be mixed use and it is designed potentially for office uses as well, seems a strange classification to be seeking on this site to begin with. If it's being driven just by the density, and that density is being driven primarily by the finances of the project, it falls short of the findings that I think we have to have in order to rezone it.

President Martin: Commissioner Hohmann, were you...

Commissioner Hohmann: I concur with what both commissioners have said so far. I also agree real strongly with staff on the need to maintain the setbacks because this is a real residential neighborhood and without those setbacks I think you really lose a lot of that. I guess I am not real inclined to go with the rezoning.

President Martin: Ok. Commissioner Schiff.

Commissioner Schiff: I'm wondering if we're reading the same staff report. Staff doesn't recommend approval for rezonings if they don't think it's consistent with the comprehensive plan. I agree with a lot of what Commissioner MacKenzie said, we have to think about the future of 46th Street because 46th Street is not your basis residential street. It has amazing infrastructure. That boulevard is just dying to be planted and landscaped down the middle of it. That implies that 46th Street has a different purpose than 45th or 47th Streets. I drove by last weekend and parked on 46th Ave. S. and faced my car south and I was just amazed at the river of cars coming off the Ford Parkway Bridge and how amazingly heavily traveled 46th Street is and I really agree with the findings in the staff report that a project of this type and size will really buffer the rest of the residential uses further north. As staff said, this is not the kind of project we'd put in the middle of the neighborhood, but I think 46th Street really is, particularly on the very small stretch from 46th to Hiawatha, very different on the east side of 46th Street than it is on the west side of Hiawatha. We're looking at two different things here. Particularly because of the bridge and light rail. I think we're dealing with a very unique, small strip here that's only a couple blocks long. I'm also struck by the fact that this is a three-story condominium building, we don't see that very often. We know with stick construction, they can max out at stories. To me, this is not a developer that's trying to maximize out the site otherwise they would have gone to four stories and they would have said that is what's required to cover underground parking. I can only think of one other three story condominium building with underground parking that was approved by the Planning Commission or even proposed by a developer within in the past three to five years. I don't think this site is maxed out. I think if you look at OR1 zoning and the C1 zoning, you see that there is something unique happening here historically. Probably because of the bridge and the relationship with Hiawatha. I don't think staff has recommended approval here outside...I probably will recommend setting back the building slightly to preserve the setback on 46th if we get that far.

President Martin: Ok, Neil.

Staff Anderson: Commissioners, I just wanted to remind you that unlike the CUP findings and the variance findings, for rezoning findings you don't have to make a positive on all of them in order to approve a rezoning. That's what is unique about that, so if they don't meet some of the rezoning findings, that's ok and is not an issue at this point.

President Martin: Ok, Commissioner LaShomb.

Commissioner LaShomb: I have to concur with Commissioner Schiff because I live about four blocks away from this, up on 46th Avenue, and yes, there is certainly a lot of single home residential there, but 46th Avenue has a variety of things. I live in a building with 280 units. We also have a lot of land around it, which today probably wouldn't be granted to the project. I think the real fundamental question... we have to look at the larger policy issues in addition to the small policy issues. I think the larger policy issue is, if we're going to have density in the City of Minneapolis without tearing a lot of things down, we have to maximize our opportunities in places where we have them. I have walked by this site numerous times and for the four years that I have lived in my home, this site has just sat empty and just gathered dust. My reaction is that there needs to be something appropriate put on this site. I think Commissioner Schiff is right that it is a unique site. Forty-Sixth Street is a four lane

road with a divider in the middle. There is an apartment building across the street. I guess, rather than haggle about this much longer, I am going to move the rezoning and see if the votes are there and if it's not, then we'll save some time.

President Martin: Is there a second?

Commissioner Schiff: Second.

President Martin: I don't that we need further discussion since we discussed it a lot so the motion is to approve the rezoning, all those in favor? Opposed? Tie, I'm in favor.

Motion carried 5-4.

President Martin: Ok, so we have the CUP.

Commissioner LaShomb: I will move the CUP

President Martin: Second?

Commissioner Schiff: Second.

President Martin: Discussion? All in favor? Opposed? Same four? Tie, I will approve that.

Motion carried 5-4.

Commissioner Schiff: Staff recommended a setback from 21 to 15 feet, the applicant is looking for 21 feet to 5... I am going to move to approve a variance 21 feet to 10 feet which is basically in the middle which could be accomplished either by additional cost from what the applicant said of setting the upper building back and the additional waterproofing of whatever they need above ground or just by moving everything back.

President Martin: Ok. Second for that?

Commissioner LaShomb: Second.

President Martin: Discussion? Commissioner Krueger.

Commissioner Krueger: I am going to make a substitute motion to move the staff recommendation which is to deny.

President Martin: Second to that?

Commissioner Johnson: Second.

President Martin: Ok. Discussion? Commissioner MacKenzie.

Commissioner MacKenzie: My suggestion is that we ask the applicant and staff to work on the setback dimensions that are needed if they assume they have rezoning and they assume 20 units, I feel a little nervous about picking halfway points.

President Martin: So the motion that is on the floor is a substitute motion which is to approve the staff recommendation. All in favor?

Commissioner Schiff: I have a question for staff. Since staff recommended denial, but recommended approval of the CUP, the applicant stating the number of parking stalls and the number of units will be affected by adopting the staff recommended setbacks so what did you have in mind if they were to adopt your setbacks?

Staff Voll: The way staff looked at it is that 20 units could be an appropriate density on the site if we could figure out a way to do it. I don't know if we... we didn't take the time to figure out a way to do it to be honest with you. One of the things we thought about was that underground parking could be in the setback, but the building would be set back. I don't have the skills to sit down and figure out whether their proforma works to do that or not, so I didn't. That was one of the things that we thought about was having the building... but the drawings I had showed the building grade. Now I have received some drawings, I think on Thursday or Friday, I can't remember, but I didn't have a chance to go over them, but it brings up that grade issue where the underground parking would be out of the ground four feet so we would have a problem there. I don't know if that's a solution, but when I was writing the staff report based on the information that I had with the building completely at a level grade, I thought that might be a possible solution.

Commissioner Schiff: So when we get to the site plan, it's going to matter whether we're approving a site plan for a building at grade or a site plan for a building four feet above...

Staff Voll: I think it will matter if your intent is to set the building back, but put the parking underground in the setback and the building sticks four feet up out of the ground, the underground parking sticks four feet up out of the ground – that solution doesn't work. I don't think I can make those decisions based on the information I have in front of you right now. Just so you know when you get to that discussion, I don't think we'll have an answer for you.

President Martin: Ok. Alright, the motion before us is to approve the staff recommendation. All in favor?

Motion carries 5-3.

President Martin: That was for variance "D" Commissioner Krueger? Ok. Would anyone like to deal with the other two variances? Go ahead Commissioner Krueger.

Commissioner Krueger: On item E, I'll move the staff recommendation which is to deny.

President Martin: Second?

Commissioner Johnson: Second.

Motion carried 5-3.

President Martin: We have the variance that deal with the balconies, patios, fountains, etc. Commissioner LaShomb.

Commissioner LaShomb: I move the staff recommendation.

President Martin: Second?

Commissioner Johnson: Second.

President Martin: All in favor? Opposed?

Motion carries 8-0.

President Martin: Site plan. Commissioner Schiff.

Commissioner Schiff: Clarification from the applicant on which site plan we're going with, the one that shows the building at grade or with parking coming above grade, which we don't have in front of us.

Brian Lubben: The correct version is the one where the parking is about 4-4 1/2 feet out of the ground.

Commissioner Schiff: Do we have those drawings?

Brian Lubben: I think Mr. Voll does, but I am not sure they have been distributed.

President Martin: The drawings we have don't make it look that way.

Brian Lubben: I may have it here too.

Commissioner Schiff: Why did you revise your drawings from the ones we have in our packets?

Brian Lubben: The first set of drawings that we did were done without benefit of the survey. The survey came back different than what we thought so that's why the difference in elevations.

Staff Voll: This would be along the alley, the west side of the building so you can see from the north side of the site to the south side of the site. The grade changes and the building sticks up from the first floor, from the floor of the first floor. You can see that's part of the parking garage structure or the basement level that sticks up above the grade as I read the plan.

Commissioner Schiff: Given that the commission voted to deny the variances for setbacks, I would say we don't have a site plan in front of us that we can act on and so we should deny it and ... we can continue it or deny it... and either this will be handled at the appeal level or the applicant can come through with a new site plan for us to approve later on consistent with this. I'll move to deny.

President Martin: Ok. Discussion? All in favor of motion to deny site plan request?

Commissioner MacKenzie seconded.

Motion carries 8-0.