



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

Date: May 31, 2005

TO: Council Member Gary Schiff, Chair of the Zoning and Planning Committee of the City Council

Prepared by: J. Michael Orange, Principal Planner, 612-673-2347

Approved by: Barbara Sporlein, Director, Planning Division \_\_\_\_\_

Subject: Appeal of the 5/9/05 Planning Commission's decisions regarding the Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North (BZZ-2289)

On 5/9/05, the City Planning Commission took the following actions regarding applications by Akinyele Akinsanya, President/CEO of Brakins Homes, for the Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North (BZZ-2289) (refer to Exhibits A and B):

- A. Conditional Use Permit to construct seven (7) town homes on 908-920 Washburn Ave. N. Notwithstanding staff recommendation, the City Planning Commission approved the Conditional Use Permit application.
- B. Lot area variance: Notwithstanding staff recommendation, the City Planning Commission approved the 23 percent lot area variance.
- C. Front yard variance: Notwithstanding staff recommendation, the City Planning Commission approved the front yard variance
- D. Site Plan Review: Notwithstanding staff recommendation, the City Planning Commission approved the site plan review application with conditions.

On 5/17/05, Robert D. MacIntyre filed an appeal of all of the Planning Commission actions regarding the 7-unit Bassett Creek Woods Townhomes project: Conditional use permit for the use, lot area variance, front yard variance, and site plan review.

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**RECOMMENDATION:**

- A. Conditional Use Permit:** Application by Brakins Homes, Inc. for a conditional use permit to construct seven (7) town homes on 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the Conditional Use Permit application for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North based on the following findings:

1. The soil conditions at this property are such that they would inhibit regular development;
2. There is R4 density across the street; and
3. Seven (7) units still constitutes low density.

- B. Variance:** Application by Brakins Homes, Inc. for a lot area variance for the property at 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the 23 percent lot area variance for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North based on the following finding:

1. The soil conditions at this property are such that they would inhibit regular development.

- C. Variance:** Application by Brakins Homes, Inc. for a front yard variance for the property at 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the front yard variance for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North based on the following finding:

1. The soil conditions at this property are such that they would inhibit regular development.

- D. Site Plan Review:** Application by Brakins Homes, Inc. for site plan review for the property at 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the site plan review application for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. N based on the based on the following finding:

1. The soil conditions at this property are such that they would inhibit regular development.

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And subject to the following conditions:

1. Approval of the final site, landscaping and dumpster enclosure plans by the Department of Community Planning and Economic Development – Planning Division.
2. All site improvements shall be completed by May 9, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**Previous Directives:** None

**Financial Impact** (Check those that apply)

- No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact**

Ward:  
Neighborhood Notification:  
City Goals:  
Comprehensive Plan:  
Zoning Code:  
Living Wage/Job Linkage:  
Other:

**Background/Supporting Information:**

- Exhibit A. Final action of the Planning Commission
- Exhibit B. Planning Commission hearing minutes
- Exhibit C. Planning Division staff report
- Exhibit D. Appellants' submittals
- Exhibit E. Information the Applicant submitted at the Planning Commission hearing on 5/9/05

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**Exhibit A. Final action of the Planning Commission**

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**Exhibit B. Planning Commission Hearing Minutes**

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**Exhibit C. Planning Division staff report**

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**Exhibit D. Appellant's submittals**

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**Exhibit E. Information the Applicant submitted at the Planning Commission  
hearing on 5/9/05**

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**Department of Community Planning and Economic Development—Planning Division  
Conditional Use Permit, Site Plan Review, Lot Area and Front Yard Variances  
BZZ-2289**

**Hearing Date:** 5/9/05 (continued from the 4/25/05 hearing)

**Date Application Deemed Complete:** 3/31/05

**End of 60-Day Decision Period:** 5/30/05

**Applicant:** Brakins Homes, Inc., 4050 Olson Memorial Hwy, Suite 205, Golden Valley, MN 55422, 763-847-1345

**Address of Property:** 908 to 920 Washburn Ave. N.

**Contact Person and Phone:** Akinyele Akinsanya, President/CEO of Brakins Homes, 612-747-7437

**Staff Contact Person and Phone:** J. Michael Orange, Principal Planner. Phone: 612-673-2347; facsimile: 673-2728; TDD: 673-2157; e-mail: [michael.orange@ci.minneapolis.mn.us](mailto:michael.orange@ci.minneapolis.mn.us)

**Ward:** 5      **Neighborhood Organization:** Willard Hay Neighborhood

**Existing Zoning:** R1A, Single Family District

**Zoning Plate Number:** 12

**Proposed Use:** Application by Brakins Homes, Inc. to construct 8 town homes on 908-920 Washburn Ave. N. The project would be called the Bassett Creek Woods Townhomes.

**Prior Approvals (approved by the Planning Commission on 9/27/04):**

- **Variance:** To reduce the front yard setback from 35 feet to 25 feet.
- **Subdivision:** To replat 5½ lots into 4 lots to allow 4 single-family homes.

**Concurrent Review:** Conditional use permit for the use, site plan review, lot area variance, front yard variance.

**Applicable zoning code provisions:**

- **Conditional use permit:** Required for cluster development per Table 546-1.
- **Variance:** Lot area variance per 525.520 (2) because the 6,000 sq. ft. lot area requirement per dwelling unit would require a 48,000 sq. ft. lot and the site has 32,408 sq. ft., which is large enough to accommodate 5 units without the variance. The authorized variance allows a maximum of a 30% increase. This translates to a maximum of 7 units.<sup>1</sup>

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<sup>1</sup> The 6,000 sq. ft. per unit requirement would be reduced by 30% to 4,200 sq. ft. and the 32,408 sq. ft. site could accommodate 7.7 units. The Code rounds the number down to 7 units.

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- **Variance:** To reduce the established front yard setback from 35 ft. to 21 ft.
- **Site plan review:** Per Chapter 530 of the Zoning Code.

**BACKGROUND**

**Prior applications:** On 6/21/04, the Planning Commission considered the applicant's first proposal for this site. The applicant sought to rezone it R1 to R4. The Planning Division recommended denial but, in lieu thereof, approval of rezoning to R3, Multiple-Family District; however, the Commission and the City Council and Mayor denied the rezoning. The Commission also denied the Conditional Use Permit and site plan review applications for the project on that date. On 9/27/04, the Commission approved the applicant's second proposal for the site; namely, the subdivision and replatting applications referenced above to accommodate 4 single family homes on the site. The applicant states that he could not economically develop the site with only 4 homes and so he is now reapplying for an 8-unit development.

**Prior development:** Staff could find no City record of prior development on the site and a neighbor said there was no development there when he moved to the neighborhood in 1953. The lack of development is due to the fact that the site has unstable soil conditions. Planning staff reviewed the soil analysis for the site (available upon request) and the report indicates that steel piles of at least 90 to 110 feet are necessary for any development of the property. This will increase development costs substantially (the response to Finding 1 in the section dealing with the lot area variance includes the project architect's costs per unit for the pilings expenses). Attachment X includes the engineering report on the stability of the pilings.

**Neighboring uses:** The predominant use in the surrounding neighborhood is relatively new single-family homes, several on large lots, consistent with the R1 and R1A zoning (Attachment 1). To the west of the site across Washburn Ave. is a large triangular property owned by the Hennepin County Regional Railroad Authority. This site is zoned R4. According to County staff, the Authority purchased this site, known as Washburn Gardens, in anticipation of needing it in the event it purchases the railroad right-of-way for transit purposes. The Authority purchased 10-12 similar sites for future station and park-and-ride needs. The Authority's policy is to retain all of these properties.

West of the County property is the City boundary and Theodore Wirth Park. Vehicular access to the area is compromised somewhat because the diagonal route of the Burlington Northern Santa Fe Railroad right-of-way makes the street grid discontinuous, and there are several streets with one-way restrictions in the area (Attachment 1).

**Cluster development:** The project is classified as a cluster development. The Code defines clusters as follows: "A unified development of not less than three (3) dwelling units, either attached or detached, in which one or more principal buildings are grouped together in order to preserve common space for the benefit of the residents of the development. Cluster development allows flexibility in the location of residential structures and the size of individual lots in order to encourage a variety of housing types and the efficient use of land." The applicant has requested a

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variance to reduce the minimum amount of lot area per dwelling unit from 6,000 sq. ft. to 4,019 sq. ft., a 33% reduction. The Code limits the variance to a maximum of 30%.

**Comments from others:** Attachment 8 includes a letter from the neighborhood group, one from a resident, and another that includes numerous signatures on a petition. All are in opposition to the project.

FINDINGS

**CONDITIONAL USE PERMIT**

**A. Findings as Required By the Minneapolis Zoning Code for the Conditional Use Permit for a Cluster Development at 908 Washburn Ave. N.**

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

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

If Planning Commission approves the lot area variance, the 8-unit project would introduce medium-density (10.8 dwelling units per acre)<sup>2</sup> cluster residential uses into a low-density neighborhood. The cluster development would not be compatible with the neighborhood because it would be at a higher density than the surrounding uses.

**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 site is close to the City boundary, a block from Wirth Park, and close to the edge of a single-family neighborhood. The cluster development is not compatible with the low-density residential character of the immediate area.

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

The project includes adequate utility service and driveways consistent with all pertinent regulations. The Public Works Department has required the developer to install a sidewalk on Washburn. If approved, Public Works and Planning will determine whether there should be a sidewalk on Oak Park Ave. as well.

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<sup>2</sup> Medium density is defined as 10-30 units per acre.

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

The area has an extremely low amount of traffic and very little demand for on-street parking. The traffic generated by the residents of the 8 new units and their visitors will not be significant, and thus will not result in significant adverse impacts to the area. The Public Works Dept. has reviewed the project for driveway widths and traffic impacts. The project includes 2 off-street parking stalls per unit and there are 16 X 16-ft. aprons in front of each garage.

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

The following is a review of the project relative to the applicable plans and policies of the City.

**a. The City's Goals (selected goal):** Increase the City's population and tax base by developing and supporting housing choices city-wide through preservation of existing housing and new construction.

**b. The *Minneapolis Plan* (adopted by the City Council in 2000):**

**Policy 4.1: Minneapolis will grow by increasing its supply of housing.**

**Implementation Steps (selected):**

- Support the development of new medium- and high-density housing in appropriate locations throughout the City (refer to Policy 9.1).
- Support the development of infill housing on vacant lots. Use partnerships and incentives to reduce city subsidy level and duration of vacancy.

**Policy 4.2: Minneapolis will improve the availability of housing options for its residents.**

**Implementation Steps (selected):**

- 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.

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- Promote accessible housing designs to support persons with disabilities.

**Policy 4.3: Minneapolis will carefully identify project sites where housing redevelopment or housing revitalization are the appropriate responses to neighborhood conditions and market demand.**

**Implementation Steps (selected):**

- Maintain and strengthen the architectural character of the city's various residential neighborhoods.

**Policy 9.1: Minneapolis will support the development of residential dwellings of appropriate form and density.**

**Implementation Steps (selected):**

- Promote the development of well designed moderate density residential dwellings adjacent to one or more of the following land use features: Growth Centers, Commercial Corridors, Community Corridors and Activity Centers.
- Provide incentives to alternative forms of home ownership in moderate density areas, such as co-housing and cooperative housing.

**Policy 9.8: Minneapolis will maintain and strengthen the character of the city's various residential areas.**

**Implementation Steps (selected):**

- Infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of surrounding one and two family dwellings.
- Create traditional setbacks, orientations, pattern, height and scale of dwellings in areas where no clear architectural pattern exists.

**Policy 9.9: Minneapolis will support efforts that recognize both the increased visibility and importance of corner properties and the role of gateways in enhancing traditional neighborhood character.**

**Implementation Steps (selected):**

- Require site plan review of new development or major additions to new structures (other than single family homes) on corner properties.

**Policy 9.10: Minneapolis will preserve and enhance the quality of living in residential neighborhoods, regulate structures and uses which may affect the character or desirability of residential areas, encourage a variety of dwelling types and locations and a range of population densities, and ensure amenities, including light, air, privacy and open space.**

**Implementation Steps (selected):**

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- Apply the form and density approach within the context of a neighborhood or a site and within the framework of The *Minneapolis Plan* and NRP Plans when evaluating the appropriateness of development proposals for specific sites.

**Policy 9.11: Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.**

**Implementation Steps (selected):**

- Use both infill development and new development opportunities to increase housing in the city.
- Consistent with the City of Minneapolis adopted Housing Principles, develop strategies so that the variety of housing types throughout the city and its communities shall be increased, giving prospective buyers and renters greater choice in where they live.
- Develop an approach to residential development which combines housing form and housing density; for example, medium density residential development may be a townhouse development as well as a high-rise structure, while an attached dwelling form may result in a low density development or a medium density development.
- Ensure that new development projects incorporate a mix of housing types and affordability levels to reach a range of housing submarkets.

**Policy 9.12: Minneapolis will promote housing development that supports a variety of housing types at designated Major Housing Sites throughout the city.**

**Implementation Steps (selected):**

- Develop a citywide Housing Strategy for placing medium (10-30 units per acre) to high-density (30+units per acre) new housing on major transportation and transit corridors and near commercial revitalization projects or neighborhood amenities (e.g. sites such as Growth Centers, Major Housing Sites, Commercial Corridors)
- Concentrate new housing developments in close proximity to amenities or in locations where value will be sustained over time.
- Promote the development of new housing that is compatible with existing development in the area, as well as to existing historic or older housing stock where appropriate.
- Provide the flexibility in the City's ordinances to accommodate new housing development tailored to meet a range of different housing submarkets.

- c. **Petition's Consistency with City Plans and Policies:** The following describes how the petition relates to the above plans and policies and the Zoning Code:

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- The project would add a different form of residential choice to the neighborhood, help to grow the City's population and tax base, and provide housing for people. This is consistent with the above selected City Goal, and to some degree, Policies 4.1, 9.1, and 9.11.
  - Policy 9.12 encourages new medium-to-high density residential growth near amenity areas. Wirth Park is very close to the site.
  - Policies 4.16, 9.1, 9.11, and 9.12 state that the appropriate locations for placing medium (10-30 units per acre) to high-density (30+ units per acre) new housing is on major transportation and transit corridors and near commercial revitalization projects, or on sites such as Growth Centers, Major Housing Sites, and Commercial Corridors. The Plan does not designate this site or area for any of these growth classifications nor are there any Commercial or Community Corridors in the area.
  - Policies 4.1, 4.16, 9.1, 9.11, and 9.12 also require that new housing be compatible with the existing housing in the area. The project includes three more units than the Zoning Code would allow. At 10.8 dwelling units per acre, the project is just over the definitional threshold for medium density. The project will not be compatible with the existing housing in the area.
  - Policies 4.16 and 9.12 call for flexibility to accommodate new housing development.
- 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 and site plan review.**

If the subject permits are approved, the project will be in compliance with all applicable regulations and requirements of the Zoning Code.

**Additional Criteria for Cluster Development**

- (A) Any application for cluster development approval shall include a development plan which shall consist of a statement of the proposed use of all portions of the land to be included in the cluster development and a site plan showing all existing and proposed development, including but not limited to the location of structures, parking areas, vehicular and pedestrian access, open space, drainage, sewerage, fire protection, building elevations, landscaping, screening and buffer yards, and similar matters, as well as the location of existing public facilities and services.**
- The application includes the required information.
- (B) All land proposed for cluster development shall be platted or replatted into one or more lots suitable for cluster development, and as such shall comply**

**with all of the applicable requirements contained in Chapter 598, Land Subdivision Regulations.**

On 9/27/04, the Planning Commission approved a replatting of the site into four lots. Two of the internal lot lines are under common walls and the third sits between the two buildings. The site plan includes 16 by 16 ft. aprons at the ends of the 2-stall garages for each of the 8 units. In order to minimize impervious surfaces, the applicant could shrink or eliminate these aprons. While this could also increase the landscaping, the project already has 61% landscaping of the net site.

- (C) **The cluster development shall meet the minimum lot area and lot width requirements of the zoning district. There shall be no minimum lot area or lot width requirements for individual lots within the cluster development.**

The applicant has requested a variance to reduce the minimum amount of lot area per dwelling unit from 6,000 sq. ft. to 4,019 sq. ft., a 33% reduction. The Code limits the variance to 30% which translates to a maximum of 7 units. Seven units would equal 4,630 sq. ft. per unit, a 23% reduction from the 6,000 sq. ft. requirement.

- (D) **Yards of at least such minimum width as required by the zoning district shall be maintained along the periphery of the cluster development. Yards for individual lots within the cluster development shall not be required. The distance between principal buildings within the cluster development shall be not less than ten (10) feet.**

The applicant has requested a variance to reduce the required front yard setback from 35 feet to 21 feet.

- (E) **Not less than forty (40) percent of the land in a cluster development shall be designated as common space for the benefit of all of the residents of the development. Such common space shall be a contiguous area under common ownership or control and shall be located so that it is directly accessible to the largest practical number of dwellings within the development. Safe and convenient pedestrian access shall be provided to such common space for dwellings not adjoining such space. Common space shall include but is not limited to landscaped yards, recreation areas, wetlands, water bodies and common parking facilities. However, not more than one-half of required common space shall consist of such parking facilities, driveways and private roadways. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.**

There is no significant amount of common usable open space on the property. Residents of the units are likely to use only the open space adjacent their respective units. People are not going to use the front yards for common usable

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space. The intent of the cluster development regulations might be met if the project included fewer units and the open space created were made available for all of the residents.

- (F) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood. Not less than eighty (80) percent of the habitable floor area of single or two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall have a minimum width of twenty-two (22) feet. Cluster developments not otherwise governed by Chapter 530, Site Plan Review, shall comply with the principal entrance and windows requirements of Chapter 535, Regulations of General Applicability. The city planning commission may approve alternatives to this requirement where strict adherence is impractical because of site location or conditions and the proposed alternative meets the intent of this section.**

The project is not compatible with the scale and character of the surroundings.

- (G) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.**

The current landscape plan does not meet the requirements of the cluster regulations because it does not provide sufficient landscaping primarily on the south side of the site. However, the applicant has committed to amend the landscape plan to bring it into conformance with the Zoning Code.

- (H) Any cluster development which includes a manufactured home park shall be first allowed in the R2 District.**

The project would not include manufactured housing.

**VARIANCES**

**B. Lot Area Variance**

**Findings as Required By the Minneapolis Zoning Code for the Lot Area Variance for a Cluster Development at 908 Washburn Ave. N.**

The Board of Adjustment and Planning Commission shall not vary the regulations of the zoning code, unless it makes each of the following findings based upon the evidence presented to it in each specific case:

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

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The R1 District requirement of 6,000 sq. ft. per unit would allow 5 dwelling units on this site. The Code limits the variance to 30% which translates to a maximum of 7 units.<sup>1</sup> Seven units would equal 4,630 sq. ft. per unit, a 23% reduction from the 6,000 sq. ft. requirement.

As stated in the Background section, the soil analysis indicates that steel piles of at least 90 to 110 feet are necessary for any development of the property. This will increase development costs substantially. After the applicant obtained approval from the City to construct 4 single family homes on the site, he stated that he abandoned that project because the soil conditions made single-family residential economically impractical on this site. The fact that the site has remained vacant for at least half a century supports this conclusion. The developer's architect submitted the following estimates of the cost per unit to drive piles to support the maximum number of units based on the three possible unit counts. For a 5-unit project that the zoning would allow, the per-unit costs would be close to the 4-unit figure. For the proposed 8-unit project, the per-unit costs would be about halfway between the 4-unit and the 15-unit figure:

Number of units	4	15	25
Cost per unit of pilings	\$112,000	\$38,400	\$12,640

For the residential development to occur, which is consistent with the City's goals and policies, a lot area variance may be required.

- 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 poor soil conditions are rarely found on most residential lots.

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

The intent of the ordinance is to provide a minimum lot area per dwelling unit that is consistent and compatible with the area. The new cluster homes will not be compatible with the other homes on the block and in the area.

This project may not be the only medium-density residential in the area. The large vacant triangular site adjacent to the west, owned by the Hennepin County Regional Rail Authority, is zoned R4 and could conceivably be developed one day at the medium density allowed by the R4 District. The site is approximately 2.4 acres so about 69 units could be built on it or more with bonuses.<sup>3</sup>

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<sup>3</sup> The County has no plans to sell or develop this land at the time.

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- 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 to allow three additional units on this site will not increase congestion in the public streets, nor will it increase the danger of fire or be detrimental to the public welfare.

**C. Front Yard Variance**

**Findings as Required By the Minneapolis Zoning Code for the Front Yard Variance for a Cluster Development at 908 Washburn Ave. N.**

The Board of Adjustment and Planning Commission shall not vary the regulations of the zoning code, unless it makes each of the following findings based upon the evidence presented to it in each specific case:

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

The buildings are set back to 29 feet and they include front porches that are 8 feet in depth and some protrude 4 feet beyond the required 25-ft. setback in the R1A District. These porches exceed the maximum size allowed as obstructions in front yards. The house to the south is set back 35 feet so it establishes the required setback at 35 feet.

The applicant received Planning Commission approval on 9/27/04 of its prior application for residences on this site. That project included four single family homes. He states that he could not build the project due to the extraordinary costs for soil corrections and pilings. The Planning Commission approved a similar setback variance at that time.

It would be possible to develop the property with the houses and porches set back 35 feet, however, this would pull the front of the houses back unnecessarily from the street, which contradicts one of the goals of the site plan review chapter of the Zoning Code to bring buildings as close to the curb as possible while honoring the District setbacks. The house to the south of the site, that establishes the greater setback, is setback further than the majority of the houses on the block. Requiring the new homes to be setback 35 feet could be a hardship. Allowing the buildings to be set back to 29 ft., 6 ft. closer than the required setback, and allowing the porches to intrude into the setback an additional 4 feet is a reasonable use of the property.

- 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.**

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The poor soil conditions are rarely found on most residential lots.

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

The intent of the requirement is to preserve a unified setback along a block, to preserve open area, and to protect access to light and air. The new homes will meet the district requirement of 25 feet and will still leave a large front yard that preserves light, air and views for other homes on the block.

- 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 will not increase congestion in the public streets, nor will it increase the danger of fire or be detrimental to the public welfare as a 25 foot setback will still be provided that matches the character of the majority of the block.

**SITE PLAN REVIEW**

- D. Findings as Required By the Minneapolis Zoning Code for Site Plan Review for a Cluster Development at 908 Washburn Ave. N.**

***1. 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 (refer to the above discussions).
- c. The site plan is consistent with applicable development plans or development objectives adopted by the City Council (refer to the above discussions).

**Section A: Conformance with Chapter 530 of Zoning Code  
Building Placement and Facade:**

- **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.**

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- **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.**

**Planning Division Evaluation of Building Placement and Façade Requirements:**

- With the front yard variance, the new residential buildings will be as close to the Washburn Ave. as the varied setbacks allow.
- Platting dictates that the party walls between the middle two units for both buildings are located on the two lot lines. This requirement yields a front yard of 17 feet on the Oak Park side although the setback requirement is 10 ft., and an interior side yard setback of 12 ft. although the required setback is 7 ft.
- The principal entrances will face Washburn Ave. and the yards will include complete landscaping.
- Parking is within the buildings, consistent with the Code.
- First floor windows on the Washburn and Oak Park sides of the units exceed the 20% requirement.
- All four sides of the building are compatible with one another. Building materials include brick and concrete-based siding.

**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).**

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

**Planning Division Evaluation of Access and Circulation:**

- The Public Works Department has required the applicant to pay for new sidewalks on Washburn Ave. Planning and Public Works will determine if a sidewalk is also needed on Oak Park Ave.
- The project conforms with the Code and to the requirements of the Public Works Dept. as regards vehicular access and circulation.
- The site plan includes 16 by 16 ft. aprons at the ends of the 2-stall garages for each of the 8 units. In order to minimize impervious surfaces, the applicant could shrink or eliminate these aprons. While this could also increase the landscaping, the project already has more than 61% landscaping of the net site.

**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**

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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.

**Planning Division Evaluation of Landscaping and Screening:**

- The site (32,154 sq. ft.) less the building footprints (10,776 sq. ft.) yields a net site of 21,378 sq. ft. With the exception of the driveway and sidewalks, the entire site is landscaped with 12,964 sq. ft. of landscaping. This equals 61% of the net site. The Code requires 5 trees and 21 bushes. The current landscape plan includes 12 trees (3 existing and 9 new) and 3 bushes, however, the applicant has committed to bring the landscape plan into conformance with the Zoning Code.

**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: The Police Division has reviewed the plans.
- 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.

**Planning Division Evaluation of the Additional Standards:**

- The lighting fixtures will prevent glare from escaping the site.
- After the applicant complies with the landscaping and screening requirements in the Code, the site will effectively block headlight

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glare. The building has no significant impact on the generation of pedestrian-level winds.

- The Police Division reviewed the design as regards crime prevention design elements.

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

**ZONING CODE:**

**Hours of Operation:** N/A

**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 residents will store waste in their garages and bring them on collection day to an on-site collection area in the rear yard that will be screened according to the Code.

**Signage:** All new signage is required to meet the requirements of the Zoning Code and permits are required from the Zoning Office.

N/A

**MINNEAPOLIS PLAN:**

Refer to the findings in Section A.

**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.

**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**

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**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.**

**Planning Division Analysis Regarding Alternative Compliance:** Based on the above analysis, Alternative Compliance is not required.

**Analysis of Compliance with Amended Site Plan Review Standards.**

The City Council adopted revisions to the site plan review chapter on April 29, 2005. The following evaluates how this project complies with these new regulations:

- Second floor windows on the Washburn and Oak Park sides of the units equal 7.4% of the walls space between 2 and 10 feet and do not meet the 10% requirement.
- The proposed roof pitches at 7:12 and 10:12 are similar to other pitches in the area.
- The revised landscaping requirements would double the tree and bush requirements for this site to 9 trees and 42 bushes.

**RECOMMENDATIONS OF THE MINNEAPOLIS CITY PLANNING DIVISION**

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

The City Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the Conditional Use Permit application for the 8-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. N.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the Lot Area Variance for a Cluster Development:**

The City Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the lot area variance for the 8-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. N.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the Front Yard Variance for a Cluster Development:**

The City Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the front yard variance for the 8-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. N.

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**Recommendation of the Community Planning and Economic Development Department –  
Planning Division for the Site Plan Review Application for a Cluster Development:**

The City Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the site plan review application for the 8-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. N.

**ATTACHMENTS**

1. Zoning and lot lines in the immediate area
2. Aerial photos
3. Project drawings:
  - a) Site plan
  - b) Foundation and floor plans
  - c) Modified floor plan to accommodate additional windows
  - d) Elevations
  - e) Modified front façade with new balconies
4. Information from applicant
5. Pilings report
6. Zoning Data Sheet
7. Photos
8. Letter from the neighborhood group
9. Letters and petitions from others

**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  
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## MEMORANDUM

DATE: May 10, 2005

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division; Phil Schliesman, Licenses

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

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

SUBJECT: Planning Commission decisions of May 9, 2005

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The following actions were taken by the Planning Commission on May 9, 2005. 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:

**Present: President Martin, El-Hindi, Henry-Blythe, Krause, Krueger, Kummer, LaShomb, Motzenbecker, Schiff and Tucker – 10**

**12. Bassett Creek Lofts (BZZ-2289, Ward 5), 908-920 Washburn Avenue North (Michael Orange). This item was continued from the April 25, 2005 meeting.**

**A. Conditional Use Permit:** Application by Brakins Homes, Inc. for a conditional use permit to construct seven (7) town homes on 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the Conditional Use Permit application for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North based on the following findings:

4. The soil conditions at this property are such that they would inhibit regular development;

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5. There is R4 density across the street; and
6. Seven (7) units still constitutes low density.

**B. Variance:** Application by Brakins Homes, Inc. for a lot area variance for the property at 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the 23 percent lot area variance for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North based on the following finding:

2. The soil conditions at this property are such that they would inhibit regular development.

**C. Variance:** Application by Brakins Homes, Inc. for a front yard variance for the property at 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the front yard variance for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. North based on the following finding:

2. The soil conditions at this property are such that they would inhibit regular development.

**D. Site Plan Review:** Application by Brakins Homes, Inc. for site plan review for the property at 908-920 Washburn Ave. N.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **approved** the site plan review application for the 7-unit Bassett Creek Woods Townhomes project at 908 to 920 Washburn Ave. N based on the based on the following finding:

2. The soil conditions at this property are such that they would inhibit regular development.

And subject to the following conditions:

3. Approval of the final site, landscaping and dumpster enclosure plans by the Department of Community Planning and Economic Development – Planning Division.
4. All site improvements shall be completed by May 9, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Staff Michael Orange presented the staff report.

President Martin: This had come in as it now being presented as a cluster with 7 townhomes, would your recommendation have been so strongly a denial?

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Staff Orange: If I can ignore the word strongly and say it would still be a denial.

Commissioner Tucker: I had a question about cluster development. Is common space somewhere on the property the only characteristic, or is it something to do with the arrangement of the dwellings?

Staff Orange: Commissioner Tucker, are you referring to this project?

Commissioner Tucker: This project, or cluster development in general. What the idea embodies. If there are other characteristics besides a common space.

Staff Orange: Certainly. I focused on the common space because that was the one characteristic that this project didn't comply with.

Commissioner Tucker: But it does have it now. Does it have other characteristics of cluster development [tape unclear]?

Staff Orange: You can see the findings that are listed for cluster development starting on page 8 and they do meet the requirements of platting, the minimum lot area – that is with the approved lot area requirements, or lot area variance rather. It's the issue on 'f' on page 9, was the main criteria for our denial that its compatibility with the surrounding area. The transition area between the use and adjacent property by meeting landscaping. The applicant is going to use a combination of fencing and landscaping to buffer his project from the single family residents which are to the south. Then the last one is moot.

Commissioner Krause: This may be a question for Mr. Orange or for Jason. The nature of the soils – is there precedent for that being a hardship for purposes of moving on [tape unclear].

Staff Wittenberg: Commissioners, I don't recall that issue coming up in a similar variance request before this Commission. I think what the Commission has to decide is whether that means that the applicant paid too much for the project and got himself into an economic situation where he needed the extra density and therefore the variance is purely economic in nature or whether those soils are truly a characteristic that caused a hardship to develop.

Commissioner Krause: I think that's the question. There is certainly an economic element here. Even if the property sold for a dollar, is the nature of the soils such that the property is undevelopable without a variance.

President Martin: You can ponder that while we do public testimony. Sorry, one more question. Commissioner El-Hindi.

Commissioner El-Hindi: The soil condition, was that discovered before the first application?

President Martin: It's been known forever.

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Commissioner El-Hindi: OK. My question is the scale of the building currently what's driving the denial? So basically, if you look at the map or the photographic image of the overview of the site, you're looking at a lot of single family homes that are of a certain scale and then you come to this development which is basically gathering four units together and three units together so the scale really drastically does change. Is there any other idea in terms of breaking the scale down. Would the applicant be open to looking at a three, two and two development so they're not necessarily clustered in a four mass of the building?

Staff Orange: Commissioner, you are correct in pointing out that you can see from the aerial that virtually all of the units in the area are single family. You are correct in saying it's the scale of the three unit, four unit that was the basis for the staff denial. That's all correct. [tape unclear] did not examine trying to separate the units and so forth and the concept of clustering actually would counter that as having a more dense development on a site in order to create a common space that would be of value to all of the residents on the site. Once you start separating them out, then you've got extra tight single family homes. We did not explore that.

Commissioner Schiff: Follow up question, the same issue. Would that be consistent with a cluster development application on this site. Is that acceptable or is there something about cluster development application where the applicant would have to do a four unit and a three unit versus two-two's and a three.

Staff Orange: Jason, you can back me up on this, but it is my understanding that it is not the cluster development itself that would prohibit it. I just don't know how... the site is not big enough in order to get seven units on the site. You start divvying up tiny little yards again – now people get little side yards. You wouldn't have remaining space.

Commissioner Schiff: No you wouldn't, but the character of the neighborhood is really tiny side yards anyway, so I just wondered if it's possible. Thanks.

Commissioner Tucker: On page 8 of your report, item E, it says not less than 40 percent of the land in the cluster development should be designated as common space. Would this new proposal with seven units only as 40 percent have common space?

Staff Orange: Commissioner, I didn't make that calculation. I received this plan at this meeting. 61 percent of the site is landscaping. I would look at it and guess, but... During the public testimony, I can give you a guess.

Commissioner Kummer: The way it sounds to me, the soil conditions are such that no matter what you build on it, there's going to be a problem. So, we could sit here all night and talk about variances, or any other kind of accommodations, and can anything actually be built on it? I see nods. OK, fine, thank you.

President Martin: If you can build in downtown Chicago, you can probably build here. It's more soupy there than this would be.

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Commissioner Schiff: The other example, Commissioner Kummer this was before you were on the planning commission – we had unstable soils all up and down the Hiawatha Corridor [tape unclear, off microphone].

President Martin: OK, I'm going to open the public hearing.

Akinyele Akinsanya (President/CEO of Brakins Homes): With me tonight are Dr. Bravada Akinsanya, Mr. Stroh of Stroh Engineering, our structural engineer, Mr. Carlton Crawford, representing our architecture, Ms. Deborah Feeny, our Coldwell Banker Burnet Real Estate, Mr. Catherine Johnson, of Catherine Johnson Interior, Inc., our designer. For the past eight weeks, we have been working with the Planning Department as well as other key departments within the city including Public Works and Sidewalks to ensure our application for a conditional use permit for this project was adequately prepared and completed. Now that Michael has basically accepted responsible for the 8 versus 7, I really don't want to go into the details of that any more because now with the 7 units instead of the 8 units on which we had been working on for the past weeks, now we have adjusted the plans as you can see. Therefore, our current request is for a 7 unit cluster development instead of 8 units. Please refer to your exhibit 1A which Michael had already shown you. That's the site plan. If you look (and I'm sorry you can't see, but you can only use 8 by 11). We met with the Public Works Department and we have about 1,550 square feet of sidewalk that we are going to be contributing to the City's infrastructure system as a result of this project. As a result of the [tape unclear] in the City's infrastructure plan, every single homeowner in the area that does not have a sidewalk in front of their home are actually receiving notices from the city – they're going to have to put in sidewalks. So this is a great contribution to the City's infrastructure system. Exhibit 1B, actually, I'll jump around because it's a grading plan that basically includes everything that the site plan request – we meet all the site plan requests with this particular exhibit. Exhibit 1C is the elevation for the 4 unit building. And the architect, if you have any questions for her, because we believe that this architecture is really superb and complements what is in the area. Elevation 1D, by taking one unit out, is the new elevation for the 3 unit. Then of course, exhibit 1E, which Michael spoke to on the second floor, indicated that we have only 7.4. Now with this window right here and this window right here, we are now actually over the requirement of 10 percent – we're at about 11.4 percent. So on the lower level, we're actually about 7 percent over the requirement over the zoning code. Given the change from an 8 unit to a 7 unit, our current plan constitutes a lower density property because it translates to 9 dwelling units by acre. As you know, the threshold for a medium density development is 10 to 30 units by acre. The reports that you received last week list a 3 percent change in lot size variance and was based on 8 units. However, the CUP request now translates to 46, 30 square foot a lot, which is only a 23 percent reduction in lot size and that is 7 percent on a 30 percent variance. In essence, our obligation for a 7 unit plan meets all the requirements for a low density cluster development as well as the requirements stipulated in the City's comprehensive plan recommending that communities work to offer a variety of housing stock, especially in extenuating circumstances such as the subject property. This property presents a challenge for balancing competing needs regarding how best to develop a privately owned property. First, the surrounding residences desire that this property remain undeveloped, and if developed, they would prefer to have a City owned park. Secondly, the City has a comprehensive plan that stipulates that development on a variety of housing stock and promotes an increase in the population base as well as the City's tax base. Finally, our company has a

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need to develop this property at a reasonable cost to us and to the customers as well as meet the current market demands. Specifically, our current low-density cluster development project offers the following benefits: approximately 1,832 square feet in luxury townhomes priced at levels affordable to consumers within the neighborhood. Pratt homes, priced at similar levels for this same property with less amenities and upgraded features [tape end]. If I can point out to some, rarely do you see townhomes or even million dollar homes with 10 foot ceilings on the first floor and 9 foot ceilings on the second floor. This is all standard for this project. We also have embellished the plan for an 8 by 22 patio so that people can gather in the front. With the elimination of one of the 8 units, now to 7 units, Commissioner Tucker asked the question we actually are at about 54 percent instead of the 40 percent. That's [a] direct answer to your question. This project presents a variety of housing stock consistent with the new urban choice and the City's comprehensive plan initiatives. The homes at Bassett Creek Woods would be an association maintained community with a contribution of about 1,550 square foot of sidewalks to the City's infrastructure...

President Martin: Excuse me, you don't need to read it – we've got copies of all of this.

Akinyele Akinsanya: Well I know that.

President Martin: I would like you to highlight the things that are important rather than reading.

Akinyele Akinsanya: Yes ma'am. The biggest point that I need to make which the majority of you have been asking is this: A creative approach to resolving the prohibitively high cost of building on this lot is the shared wall concept. As you refer to exhibit 3A, these are not figures that we just picked from the air. These are actual figures that have been given to us by the people who will be doing the installation of the piers and the concrete people. If you look at the cost of the four single family homes that were presented to you, and I will show you why the costs are so high compared to the shared wall concept of the townhomes and also in direct answer to the question that I don't believe Commissioner Schiff that asked the question [sic] or Commissioner Kummer about if you break the units into two, two, two, you basically defeat the whole purpose of shared wall concept which has drastically reduced the price of pilings. If you look at this schedule, this is one of the first single family homes that the Planning Commission approved last year. There are 43 pilings just for this single family home. Because of the span and the magnitude, there are about 4 rows of beams. If you consider that with the one for the 4 unit. The reason why we have to have the shared wall townhomes concept is exactly this reason. We reduce the number of piers from 43 to 16 for each unit and the cost goes down drastically to the consumer also. We took the gamble to actually build what the neighborhood wanted, thinking that we could appease them with that. But then, the cost of actually doing the pilings alone – as you can tell – for even five single family homes, which the variance allows, would be over \$110,000 for these four single family homes that the Planning Commission approved, it would be about \$128,000 per home. But then for the townhomes, it's about \$49[,000]. So we're talking about twice, and maybe about 2 ½ times. Because the majority of people that live along Bassett Creek experience chronic water problems in their basement. A majority of people who will be speaking against this project have that problem. But the point is, everybody that lives along Bassett Creek, the water level is almost like about six feet. So if you have an 8 foot basement, you're actually 2 feet permanently in the water, which means your sump pumping

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water every single day. We have eliminated that problem completely. This project does not even include basements. Then the biggest issue along Bassett Creek because of the water level and the [tape unclear] is you have to put them on pilings. Pilings cost money. The people who use the traditional pilings, they pound them down, it takes about 3, 4, 5, 6 months to do that. The helical types of pilings that we're using, which is another investment that we have made, is about 25 to 30 percent more expensive than traditional pilings. They screw down, and you will see, this is exactly how the helical piers look. When it screws down and locks in the soil, so in a matter of days, all 113 pilings we're going to have to do for the 7 units could be done in a matter of 3 days or 4 days. For the regular pilings, it would take over 3 or 4 months. That's an investment that we have already committed to. If you note, this project has never been built on. People build in the middle of oceans, but you have to be able to make the investment to make it work. The only way it will work is to have the shared wall concept which drastically reduces the cost and makes the homes affordable to people who will love to live in the area and who can afford to live in the area. Relative to the helical piers, we have actually – our structural engineer will speak to this in a minute if you want him to and he has done several projects with the city and I believe he is a well-known structural engineer within the Metro area... Our structural engineer and the pier installer have actually performed and passed a load test of 60,000 pounds which is twice the design load of 30,000 pound required.

President Martin: You're reading again.

Akinyele Akinsanya: Well, it is important that I say that...

President Martin: We've got it in front of us. All you have to do is refer – you really don't need to read us the entire report.

Dr. Bravada Akinsanya: I think what we're trying to do is we realize that the report was given to you on short notice and we would have preferred you get it with the rest of your packet. Because of that, we're just trying to give you the consideration of knowing what you're voting on.

President Martin: That's fine; highlight the points. You don't need to read everything to us.

Dr. Bravada Akinsanya: I just wanted to let you know why we were doing it.

Akinyele Akinsanya: Also, for the 4 units that we actually tried to build, we were going to sell them for a price level we thought people would be able to buy. Because of the pilings alone and the beams that are required for the pilings, we couldn't offer the price. We couldn't sell the house for anything between \$500,000 to \$600,000. The neighborhood could not sustain that kind of price. Whereas, about 8 blocks northwest of that place, we have the same type of homes that we are building with the same type of features selling for over \$1.35 million dollars. But again, location, location, location. We couldn't sell one of these homes because people said well, I'm not going to pay that kind of money for that kind of home in that area. So how do we balance this competing need? With our realization that only the townhome approach would work, we actually requested through the neighborhood association that we needed to get input from the neighbors. An e-mail was sent out and I think you have that exhibit. An e-mail was sent out to some of the people listed on that. Not one person even called us or talked to the

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neighborhood association representative to give their views or input into the project. After the neighborhood association called us to their office, we answered every single technical or structurally related question to the satisfaction of the people who were there. The questions were well, we just want single families or we want a park. The question is if the neighborhood wants to buy the place, they can pay market value for it and do whatever they choose to do. But then they're still going to need to deal with the poor soil conditions. Maybe NRRC wants to do that, NRRC can get subsidies to do that because they will need it in order to be able to build anything on that property. So, with the realization what we are basically doing then is that I think what is really baffling to us, and I think Michael already addressed it, is that across the street the County could choose to put about 69 units of homes on that property. About 10 months ago, when we brought this plan for the first time, the Planning Department recommended that the property be zoned for R3. R3 zoning would have given us about 15 units. The same Planning Department that recommended 15 units 10 months ago is now recommending the denial of a 7 unit development. That's really baffling to us. Again, I will let the Commissioners deal with that. In closing though, we believe that this project, because we're very excited about it, is a win-win situation for everybody concerned. We can actually build this property, the city increases its tax base, people can afford to live in the area, the architecture, the height – everything matches with the neighborhood. The height, the beauty, the materials that we are using are concrete, fiber cement siding with brick or stone. We've gone out of our way to make accommodations for anything that anybody could find at any upscale project in this city; [it] was included on this project. The common area is actually almost double because of eliminating that one unit. We would have eliminated that if we knew all along. We believe that our proposal presents no negative impact to the area. To the contrary, it will increase property values; it is a project that is well needed. The shared wall concept is the creative solution that will bring to this project and that is what is going to allow us and the people who have been looking to live in this area to be able to live in this project. I believe Mr. Stroh and any member of our team will entertain your questions at this time. Thank you so much for your time. We appreciate your approval of this project. Thank you.

Staff Orange: Commissioner Tucker, you asked about how this compares to the 40 percent requirement for the common space and I've done a very rough calculation. My estimate is that the area highlighted – I'll do it in a cross hatch – this is the new proposed common area and that is approximately 18 percent of the site. The cluster requirements call for 40 percent but allow up to half of that to be common parking, but no more than 20 percent could be common parking. But at least 40 percent has to be common area. So they're close to at least that concept of at least 18 percent common green space. I wanted to see what might be in the event the Commission were to consider a 6 unit development in order to accomplish more common space. And I think an additional unit would probably bring this up to about 27 percent landscaped common green space, so those are the points I wanted to make.

President Martin: Michael, is there no landscaped common green space in front?

Staff Orange: In the front of each unit, we would consider that for the resident of the unit itself. Not counted as common area.

President Martin: Actually, in most associations, that is common area.

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Staff Orange: But it's not common to all which is the concept... Jason, am I interpreting this incorrectly?

Staff Wittenberg: I believe that all of the open space that would be accessible to residents of the project would be considered common. Then you look at the rest of the finding related to it being contiguous, and as Michael referenced, a limited amount of that being covered with parking. So, I believe that more than just the area that Michael has hatched here would be considered common open space, partly depending on how they plan to plat these lots.

Staff Orange: They are already platted. They wouldn't re-plat. But I can go back and try again.

President Martin: Well, it just seemed, I mean, I've lived in a condominium for more than 20 years and the stuff out in front of my window – anybody can use it. It's a great big front yard. As I was looking at the site plan, it looked like that was pretty much more or less the way this is too.

Staff Wittenberg: I think that Michael does raise a legitimate issue in terms of are people going to congregate in front yards that essentially act as the front yards of someone else's dwelling?

President Martin: Some days they do, some days they don't. Kind of depends on the day. Others who wish to speak.

Leif Thorsgaard (1105 Washburn Ave. N.): First off, I'd like to thank you for giving the people this side of an argument, because without our voice, there's a lot of details that get left out conveniently. I'd like you to note that each potential problem I bring up contains individually, but also look at the compounding danger that each potential problem when they're put together – what we're looking at here. To start, I'd like to note that this lot is at the bottom of two intersecting hills. The water run-off in this area is horrible. During any major rainfall or any early spring thaw, this leads to anywhere up to 3 feet of standing water. Other people have testimonies, which I'm sure we'll hear, about houses shifting and basements leaking, and they're not even on the ground zero which is where these houses are going to be built. Commissioner Schiff, last time I was here, he mentioned when they were trying to build a 30 unit apartment complex, he said, and I quote, "Sometimes a swamp just wants to be a swamp". That alone should be enough to deny. Not only is this a dried swamp bed, but there's an underground stream that runs directly underneath this. This is why Theodore Wirth Park has water pumps where you can get fresh water from the ground. Building over these water tables presents a twofold problem. The houses are not just destabilized on a peat bed, but you're also building on top of an underground creek and also the potential danger of polluting or destroying this natural resource. Additionally, this lot is across the street from two intersecting railroad tracks. I live three blocks away from that location – I feel the vibrations when the trains pass by. If you haven't been close to a moving train, it's quite an awing experience how big and powerful they are.

President Martin: OK, I'm going to counter that because I live about 70 feet from the Burlington Northern Railroad that goes straight through all the time. You get used to it.

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Leif Thorsgaard: You get used to it, yes, but I'd like to point out the fact that I have serious doubts about the stability of a house that has run-off from flooding, built on top of a dried swamp bed, and is over an underground creek, but is also dealing from the shakes of trains twice a day. Also, for getting all those problems, the price of the houses aren't even really feasible in my opinion. When they tried to build a 30 unit complex and it was thankfully shut down, the neighborhood was very happy – they proposed building 4 single family homes which you already know of. The price was originally stated to be \$450,000 and as he had spoken that the price went up to close to \$500 to \$600,000, and that's because of these pilings. However, when he had brought this to us, our neighborhood very reluctantly agreed with him because we felt that it was in the best interest to secure single family homes there before anybody else could take this land and try this mess all over again. But when January came around, there were no houses when they said they were supposed to have been built. Now we have claims of townhomes being put up for \$350,000 minimum. Well I wonder when estimates become actualities, \$350,000 might go to \$500,000 and we're stuck with this mess again. I feel sorry for Brakins Homes. They built, it was a financially stupid decision to try to buy this land. He said he took the gamble. Well, when you gamble, you lose sometimes and that's the mistake you have to live with. By trying to put houses up, by reclaiming lost income and then taking off when they start to have problems, I think that's ethically wrong. He also mentions they'd be great financial win-win situations for the people in this neighborhood due to tax increase. That's not true because the people in our neighborhood are very culturally different from say a neighborhood say in Maple Grove or other townhomes. People in this neighborhood have lived here 20 years at least and if they haven't, they're planning on living here another 20 years. This isn't a neighborhood where you buy a new townhome, live in it for 3 years and move out and sell the inflated property value. Property value inflation will only hurt our community. We are people here for the long term. We're not interested in having expensive houses – we're interested in having quality houses. I can ask you now what the difference is between individual homes and condominiums. I learned something tonight – it's shared units walls. Guess what shared unit walls also have in common with apartment buildings? It's the same difference. There are no townhomes, no apartment buildings in our neighborhood and we would really like to keep it that way. Thank you.

Thaddeus Wilderson (1015 Washburn Ave. N.): I moved to the Twin Cities in 1969 when I accepted a position at Macalester College in St. Paul, MN. The college provided me with a home for me and my family so we can get to know the Twin Cities as well as allow me the opportunity to focus on my responsibilities at the college. Two years later, we decided that we liked the Twin Cities, the college was pleased with our performance. My wife and I started to look for a place to purchase so that we might be able to raise our family. In 1961, we bought the house at 1015 Washburn Ave. N. because we loved the community, it was single family, it was space, it had a cultural mix, it had everything. And for the next 31 years, I commuted from 1015 Washburn to 1600 Grand. Now, in the last year, that community has been under attack by Brakins Homes to change it substantially. I moved here from New Orleans where we are below sea level. Michoud space center had property in East New Orleans in order to assimilate those facilities, they only needed a 10 inch slab. When the space center moved out, that property that was similar to what we have here came up for sale. They built homes on it. What happened was in order to accommodate the cost of that, they put up inferior material. Ten years later, those

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homes were cracking. Now we have an inexperienced developer who each 3 months changes the structure, the everything, who's saying they're going to build a home that is multiple families on this plot of land. No experience; everything changes each month. And we will find in 5 to 10 years whatever is put up there, as he has repeatedly said to try to accommodate his costs, will be inferior and they will crack. I only rise here to ask that you would save our community. The other Commission has reviewed this and have denied all of the requests. That parcel, there was one house on the far corner there and in about '75 they built the other homes and they stopped right at this point. I was living there. I walked down, I talked to the person who was building the home and said why are you only building homes up to this point and not completing. He said to me, 'You cannot build on that parcel of land'. And thus, everybody who has looked has concluded with good reason, good sense and everything that it's not buildable. And now we have somebody come and say we're going to put something up there that doesn't fit anything in that neighborhood. And I ask that we not let this happen to our neighborhood that has served so many of us so well.

Donna Hollie (911 Vincent Ave. N.): I have a letter attached in this package that you probably read. It says page one of one on the corner.

President Martin: Yes, got it.

Donna Hollie: I've also e-mailed to Councilman Schiff my concerns. I live in a very small house. I am the fourth house when you come into where this driveway would be, I am the fourth house. This project would sit directly behind my very small home. I am concerned about it overtaking my property. All the trees have been cut down through the alley in preparation for this project. We assumed maybe it was a done deal a couple of weeks ago because the trees were being cut down for the driveway. These were perfectly good trees. Yes, we'd like to see a park there. It's not going to happen – no one has got the money. We know that. I don't have a sump pump in my basement. My house is fine. The people to the south have sump pumps. No one has talked about what we're going to be seeing to the west of this property. Eight garages, two cars each, or seven today – they always change them. The possibility of two cars on each flat was discussed at the Northside Residents Council meeting. Would I be looking at 32 cars driving up and down and trying to turn around back there on a one-way driveway. We don't have alleys. That alley was voted out many years ago from Oak Park to 8<sup>th</sup>. We asked and said private homes, great, the property would be cleaned up which is another issue. We would have maybe some families. I have a gate that goes out into that lot. The people that owned those homes previously, some have moved on, new home owners. We can go through those gates and go visit our neighbors. That property sat vacant. We expected it would. But I would have welcomed a neighbor, would have opened my gate. I can't believe that we're here again. My neighbors on our street, on Vincent, are horrified. We love our neighborhood, we've raised our children there, I intend to bring my grandchildren there. There's a young couple who has made a purchase agreement on a house two doors down right next to Van White's former home – they saw the sign for houses. Wonderful, they're going to build some beautiful new houses there. They have a purchase agreement. Now they're hearing that they might have townhouses there. That's a great concern. All I ask is that you consider denying this and letting us have our community. Nothing against Brakin. They didn't know, they've made a bad investment. We would like just to have this motion denied.

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Chris Buchanan (NRRC Board Member, 1222 Washburn Ave. N.): A quick point about when the e-mail was sent out regarding neighborhood opinion about the project. Just state that was sent out to a limited number of neighbors. Following the residential task force meeting, I flyer'd the neighborhood and spoke to many of the neighbors about it. We had a pretty good turn-out at that meeting. Brakins Homes was able to address some of the homes at that meeting and the task force still decided to deny the plans as brought forward and I think you probably have the notes that the following week that the NRRC Board also supported our findings. We had worked with Brakins Homes in the past to try to get through with the single family homes, but obviously with the costs coming up, it was not feasible to sell those properties, we were told at one point that two of the four homes were sold and then it was taken back to one property was sold. I'd just like to state that the rest of the neighbors I have spoken with which is a pretty extensive list and we also have a signed document stating that over 70 of the neighbors are not in approval of the change of zoning. Thank you.

President Martin: They're not actually asking for a zoning change. Just so you know that.

Julio Becquer (829 Vincent Ave. N.): I [have] invested in this area for 37 years. I have raised a family in this neighborhood. And I think I will stay in this neighborhood until the last day of my life. Now, if Mr. Brakin could talk, I don't want to be repetitious of some of what the other people have said, but Mr. Brakin or his behalf could have just approached some of us and asked about the property, because I'm aware that 15 or 20 years ago, they built some homes in there and they have tremendous problems because they need pilings. So they stopped almost halfway at the end of the lot with the creek going down. That's what the problem is. And there's been a study by everybody for the last 25 years. They know it's a problem with the land and the same problem keeps coming up. I don't know what the reason they have as a gamble, but when you gamble, you win and you lose. The problem is this building will somehow change the integrity of the neighborhood. I know the gains to have when you build homes if you do it right or whatever you'd like to do with the land. Because the land has been empty for the last 40 years. But why not do it right? Now, I look to some of the notes, and it had been denied last year exactly the same way. They wanted to build 20 units, then 30 units, now he's gone to 8 units, now they've gone to 6 units. He keeps changing the program. So what is the plan?

Bernie Stroh (Stroh Engineering): We've used these piles on many, many sites for Minneapolis that were questionable soils. There's absolutely no structural issue with this site other than cost. Shared wall concept works on these sites and it's the only viable way to make this thing work if they're going to build on this site. Single families – there's just no way to make the numbers work. Not in this neighborhood at those kind of costs. That's kind of the bottom line with these sites. Granted they did take a gamble. There is a solution that he came up with. To me, it seems a very viable solution. There are no structural problems with the solution. The neighborhood notwithstanding, I can appreciate their concerns about it, and the spring water, the ground water conditions, there are geo tech reports. Everything can be resolved. There are no issues with the DNR or MnDOT that we're aware of. Those hurdles have been surpassed. Any questions in particular about the site?

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President Martin: So, Mr. Stroh, your testimony is that this pier system that we're looking at here would basically ensure that these homes if they were built would be stable for how long?

Bernie Stroh: Indefinitely. A hundred years. There's no question.

Commissioner Krause: Mr. Stroh, I have a question. What's the depth of the pilings?

Bernie Stroh: About 50 to 60 feet.

Commissioner Krause: And is there, in fact, does the geo tech work show that there is an underground stream?

Bernie Stroh: No, it doesn't show that.

Commissioner Krause: So, is there any problem with migration of contamination where these pilings are?

Bernie Stroh: Not that we're aware of. There was no assessment done of that issue. I don't believe that's a problem with this site.

Debra Finney (Coldwell Banker Burnet, Minneapolis Lakes, resides at 1814 New York): I actually grew up on Washburn Avenue North. I'm representing this project. The housing quality in terms of the building and the care that has been taken with regard to making certain that it is a quality built structure that will last that will actually complement the area has been extensive. The re-drawing with regard to the site plans and the design with the patios in the front and the amenities that will be included and the adjustments with regard to the density and such should all complement the area. I realize that many times in North Minneapolis different developers have come in and put in substandard housing which maybe didn't last over the duration. Mr. Akinsanya actually has built other housing in North Minneapolis that were put in on lots within the community and we actually hosted a meeting that everyone was invited to and only three people showed up at that meeting. When we pointed out some of the other projects that Brakins Homes had actually built, those people's fears were calmed significantly. They had walked through those properties, seen the quality of them, have seen the quality of those properties that were constructed by Brakins Homes as compared to other infill site properties that were built and in terms of the quality of the properties and how they look and feel. We've taken considerable time to make certain that the landscape design as well as the exterior and interior are totally compatible to the area and actually complement it and continue a fluidity with the other housing stock in the area that will ensure enjoyment for those who are actually there now as well as those who purchase the townhomes that are now proposed and up for your consideration. Are there any other questions you might have for me?

President Martin: Doesn't look like it.

Jan Carstens (2924 Farwell Avenue North): I only wanted to clarify a couple of things. Chris Buchanan stated that the letter you have with your packet included upwards of 70 signatures. The reality is we stopped collecting signatures when we thought that this topic was going to be

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brought up on the 25<sup>th</sup> of April. We did not find anybody who was in favor of this proposal. So of the 70 we contacted, 70 were against. Also, I remember being here about 9 months ago and talking quite a bit ago about the trade-off between the cost and the buildability of the land. At that point in time, I remember hearing that the applicant's ownership was pending based on being able to build on the land. What I remember also was a statement from one of the Council Members that maybe he should get his money back. Thank you.

Kathryn Johnson (Owner of Kathryn Johnson Interiors, not on sign-in sheet): I've been an interior designer for over 25 years and I've worked with a number of builders. When Bill Yakasana asked me to join his team, I was very excited about what his vision was for this project and I've worked with a number of builders that have tried to cut corners just to save a hundred dollars or tried to cut corners just to keep more money in their pockets. One of the reasons I am so excited about this project is because Yele has told me over and over again, 'No, I want this to have a vision of being very well built, to be a part of the community in the sense that it will not stand out'. When he presented me with the plans, the first thing I did was I drove through the neighborhood and I looked at the architectural features of the homes that were surrounding this project. I noticed that there are some very, very beautiful homes that have some significant architectural features that I wanted to also repeat in the elevations of this project. If you will look at the elevations of this project, you will see that we've incorporated high-quality building materials. We have brick, we have a better quality siding which is called Hardy board, the fencing is not just some cheap fencing – it is custom wrought iron fencing, and around that fencing we have proposed to have some very beautiful landscaping. So this project is going forward with the mindset that we want it to incorporate the neighborhood by having all this common ground space or common space for the people who will live in these homes to be out in the neighborhood, so they won't be isolated behind closed doors in what some have perceived to be over-priced housing. And speaking of just the price of this, you will notice that Yele has put in a lot of higher quality features. He is not building cheap housing. And by my experience, I can say I know what cheap housing looks like and I know how cheap housing deteriorates. Yele is not incorporating any of those materials that would deteriorate in a short amount of time. He has a vested interest in the community, he realizes the cultural differences in this community, he is a part of some of those cultural differences and I just respect how he has gone forward with all those sensitivities. Thank you.

Robert MacIntyre (2924 Farwell Ave. N.): I have an engineering question, challenge, problem, whatever with the design. Actually, I should get back to something else. What are you going to be voting on tonight?

President Martin: The application that is in front of us is for a 7 unit townhome.

Robert MacIntyre: So, I don't know anything about that. Can I ask, do you plan on doing the same grading, watershed, etc.? You're just changing the number of buildings. [Response, off microphone: It's just the number of buildings]. Then my question still pertains. Thank you. Here I have a [indicates slide]... There are some arrows here indicating watershed direction and when I was first shown this map, I kind of snickered and said how does water run uphill? This point here at the telephone pole is about 3 foot below the street level. The reason I asked the question is I wondered how much they were going to fill in here in order to achieve this water

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flow. Obviously they plan on filling. What's going to happen though, because of that in this 237 feet, if you use a quarter inch rise over foot run for water to flow down hill, they're going to have to bring this corner up about 8 feet from where it is right now which is 8 feet above what the neighboring properties area behind here then. Now obviously, it's going to be different – here it will be about 3 ½ feet all the way on to 8 feet here. Essentially, because of the topography of what's existing now, rain falls, which you have already heard about – there's going to be a huge ponding issue, not in the lot that gets corrected, but actually in the neighboring lots where people already live and exist there. The other thing I'm wondering about is along this line on the south, since there's going to be about an 8 foot embankment here, butting up against this property, I'm sure there is going to have to be some sort of a retaining wall or something which will possibly need some sort of anchoring system as well to keep that in place. I know dirt, 8 feet thick gets pretty heavy, probably as heavy as a room of a house. I think there's going to be more issues with not how much how he deals with his issues or their issues with the water flow, as much as the effect of doing anything on this property is going to affect all the existing neighbors that are there right now. One other thing that I wanted to bring up... I took the liberty of taking some pictures in the neighborhood. This is the sign that's on the lot. It is obviously still selling single family homes starting in the 600's. If the plans have changed, that looks like bait and switch to me. But from his lot, I took a picture at the next block and you see this wonderful green area just kitty corner to the lot that he's on. Well, what that wonderful green area is is Thaddeus' front yard. With a 200 foot setback to the house there which looks like these plans aren't really going to comply with some of the neighborhood homes. But next to Thaddeus, there's another home with a 200 foot setback that doesn't quite fit this 35 foot, 29 foot setback issue. Next Narvil Carl, again, about a 200 foot setback. There seems to be a standard here because Julie's house is also a 200 foot setback. Across the street from Julie is my house with what I would call a custom wrought iron fence. I built it myself. It's taken me 5 years to do because I couldn't find anybody to build the kind of fence that I wanted. I don't have a 200 foot setback. I'm only 125 feet. Right across from Washburn Avenue, there again another home with a small setback. This one is only 50 feet. Now I'm one block away from the lot that they're talking about developing. Across the street from there again, here, finally I find one that has a 40 foot setback. So we're getting down into lower numbers here. I'm just trying to show that this neighborhood has a little bit different character than what you've probably been presented with. We're trying to maintain the integrity of the character that we have. It is all single family homes and all of our neighbors are very precious to us. If Yele were moving into my neighborhood, I would be standing here fighting for him to do what he would want to do on his yard. He's not my neighbor. He's a dealer coming from the suburbs, selling a product, making a profit and leaving. Thank you very much.

Akinyele Akinsanya (off microphone): Can I answer his question because I think he said things that are untrue [tape unclear].

President Martin: I think if Commissioners have questions, those can be asked. I think I'm going to close the public hearing. I think we've heard enough from pro and con.

Commissioner LaShomb: Well, I think I've heard all I want to hear about this. When I was a little kid, my dad had the uncanny luck of trying to build houses on three lots where the ground was too soft and the houses basically never survived that long. So I'm always a little touchy

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about the issue of soil and lots and my mother was extremely touchy about it. I think someone down here raised the fundamental point about all this and I think the fundamental point about all this basically is what is the City's responsibility to develop property? Is the City willing to make some accommodation in situations where remediation drives up the cost of development on the property or is the City simply going to take the position that it's the developer's problem or, since no one probably would build on this site if they had to build single family homes, do we want lots in the city that sit empty? And I think to me, the fundamental issue really comes down to if we want this property developed, I think the city has to make some reasonable accommodations about helping the developer deal with the costs of remediation on property that's been sitting empty for 40 years and 7 units would certainly add to the tax base. So I think that's one issue. Secondly, when I look at the pictures of the houses in this neighborhood, you really got a pretty substantial mix of housing here. It isn't like every house in the neighborhood is the same. You've got some 60's houses where they have garages that go into the basements, some houses that are what we'd call 2-story bungalows, we've got some houses that are smaller homes. So to say it's going to change the character of the neighborhood to me doesn't really ring very well when you see the kind of houses that are here. It's really a much more kind of a mixed kind of neighborhood. And then the third point I'd make is that you've got an R4 zoning across the street and I represent the Hennepin County Board here on the Planning Commission and I don't know how long they're going to hang on to that property, but sooner or later, someone on the County Board is going to say we need to start unloading some of our excess property to get it back on the tax base and I'll tell you now as an R4, I don't know, Jason could probably tell you but boy they could put a lot of housing on that R4...

Staff Wittenberg: 60 units.

Commissioner LaShomb: 60 units. This 7 units would be peanuts compared to that 60 units and you wouldn't be able to come down here and tell us it was the wrong thing to do because there wouldn't be a lot of reasons to deny it. So I guess my take on this if I could figure out the appropriate findings, my personal take on this is that the City does have some responsibility to assist developers in situations where the land cannot be developed without some assistance in the remediation of the issues relating to soil or contamination and I think that there is precedence for the city doing that. Now, Commissioner Schiff may have more experience with that than I do, but I think CPED does that all the time where they have situations where they either find state, federal or local money to do remediation, usually in the pollution area. So, I guess if someone could figure out how to do this, my kind of inclination would be to say that this site will not be developed if we don't agree to support this developers efforts to do it by granting a conditional use permit and allowing the appropriate variances and all these other issues about whether the water is going to run down the street, whether the trees came down or all this stuff – none of that is really relevant to this simply because he has the right to build 4 houses here regardless of whether any of that happens. So the point basically is: Does the city want this lot to sit empty, off the tax rolls? If it does, then I think we should just say no, no, no, 7 units doesn't work here. If we want development that is appropriate, sometimes we have to do some of the things that we don't like but are appropriate to getting the development on the property so that taxes are paid, people have places to live and we meet some of our density objectives.

President Martin: So, I take that's a motion to approve the CUP?

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Commissioner LaShomb: Sure (Krause seconded).

Commissioner Krause: Madame Chair, as neighbors often do, I think they made some excellent points, although I really felt most of the comments with the exception of some of the engineering questions, the comments were really to the possibility of success for the project. Frankly, that's on the developer's shoulders. The developer is the one taking the risk. You might be right that this is not a doable project. They'll find out in the process of doing that. That's really not our job to test the market, to test the viability of the project. We are simply here looking at the land use and to me this seems like a reasonable compromise after all of the discussions that we've been through on this property – it's not the 30 units. And if the 4 units isn't viable, 7 units, given the quality of design, is a reasonable compromise for this property and I'd like to see it back on the tax rolls.

Commissioner Schiff: I'm going to support that as well given where we've come from – from 30 units down to 7. To try to make an argument today that 5 units is the maximum, but 7 is over the top and outrageous and out of control and represents a neighborhood under attack – I just can't go there. And I don't know if any Planning Commissioner is going to be able to say that 7 units is too many, 5 is the limit. It's just... One of these could be a duplex as easily. You could get to 7 units in so many different combinations for single structures – it just doesn't make a difference when you're talking this low in the total number of units. And we can't ignore the R4 lot across the street when talking about the character of the neighborhood. That just sits there, clear as day, and can't be ignored. When it is developed, if it is ever developed, it is going to probably reflect the R4 nature of the zoning rather than single family homes and subdivision. So, sometimes a swamp doesn't want to be just a swamp and sometimes it can be – through engineering – made into usable land that benefits the community and I think that's what this proposal does.

President Martin: OK, so the motion that we have is to approve the CUP for the 7 townhomes. Before we vote on that, Mr. Stroh, I'd like you to come back please. There were statements that were made about the impact that this is going to have on moving water around into other people's property. Can you say something about that?

Bernie Stroh: Well, I'm not the civil engineer for that site, but I believe that's in error. There's a survey that's been done on this site that... water can't be directed to another property – that's against ordinance. You can't do that. The builder is aware of that. So I can't really speak to that because I'm not the civil engineer.

Akinyele Akinsanya: Actually, the civil engineer in the survey, if you can read the small print, it says, 'Note: subject property lies within flood zone C areas of minimum flooding according to the Federal Emergency Management Agency'. So, I'm not an architect, I'm not an engineer. And here also, the grading, somebody was talking about 8 feet. The difference between the grading on one side to the other is 2 feet and we have retaining walls already in the back to handle that. Every single...

President Martin: You're answering more than I asked.

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Commissioner Motzenbecker: I can speak a little to that. The exhibit 1B seems to be an updated grading plan from the one which the community member was showing and you can note along the back driveway which was the piece in question – the grading does point most of the water down to the center of the site and down towards the open green space. There is some that is pointed from high points on either end, but it does move into swales that then are contained on the property on each side. And it does only rise 3 feet.

President Martin: So you're comfortable with that.

Commissioner Motzenbecker: Yes.

Commissioner Tucker: I wanted to talk a bit about the cluster development. I don't know if the site or the site plan really takes advantage of what cluster development is trying to do, but I'm also not sure that this is the right place for a cluster development. As it is, it probably reflects the rhythm of the block much better than some central space in houses clustered around. I think they're just using that as a device to move from their 4 single family houses to more units instead of going back to duplexes or something like that, so the effect may be the same. But I am very interested in establishing the use of cluster sort of honestly and not just as a device to get more units on a property. Probably more pertinent would be the setback so that these houses fit with the other houses on both blocks on either side of Oak Park Avenue North and I think we'll address that later on.

President Martin: Alright, so the motion that's before us is to approve the conditional use permit for 7 townhomes.

Commissioner El-Hindi: I just want to make sure that we kind of revisit back the idea of scale. That would be my only issue in front of us. It's not necessarily the density issue but rather of the scale. The 4 unit complex definitely would stand out in this area in this whole neighborhood from the scale of the single family residential mass. And I just wanted to point that out. And I believe that when I asked the question to the staff, is that was really the main reason for denial is the scale of what's proposed in front of us. So I just want to point that out before we vote on the motion. Thank you.

Commissioner LaShomb: I guess my response on the issue of scale is if you look at some of the pictures of the houses, you've got many houses that are up on elevations along the various streets. I mean, this is kind of – as I understand it – the bottom of the hill. So to me, maybe I'm just not getting the scale issue, but to me, the scale issue becomes less important when you've got basically streets that are going up and you also have a lot of two story houses here. I guess these are going to perhaps be a little taller because of the roof lines and I guess they're going to have 10-foot first floors which I happen to have a 10-foot condominium so I happen to like that idea a lot. But I guess my feeling about scale is that if you take a look at the topography of the neighborhood and the fact you've got a lot of 2-storey houses, I'm having trouble understanding why the scale issues is important. I could be wrong.

Commissioner El-Hindi: I'm sorry I'm not talking about the scale in terms of height. The height, I don't think there's an issue. What's been proposed is definitely in line with the height in terms

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of the neighborhood, but what I'm talking about is the scale of the actual 4-wide complex that would be there representing one single mass rather than seeing more of a 25 to 35 foot wide homes, you're going to be seeing something – and I should refer back to that – it will be I believe 91 foot, 9 inches.

President Martin: I understand that. I think one of the issues that the Commission regularly has to wrestle with when we have developments proposed wherever they are in the city that are denser than what is general pattern is what's it going to look like? I remember some of the discussion about the buildings that are going in along the Midtown Greenway and some of the neighbors who were kind of unhappy about the fact that there were 3-story buildings that were going to be next to 2-story buildings. To me, that's an issue of we're growing the city, we're adding density. Some of it is going to be a little bit larger than what's nearby and that's kind of a fact of life, but I don't know if other people are concerned about that. We'll see, I guess, how the votes go. So we've got a motion to approve the CUP for 7 townhomes. All those in favor of that motion please signify by saying aye.

The motion carried 8 – 0.

[off microphone] Commissioner LaShomb moved item B, the lot area variance (Tucker seconded).

Commissioner Schiff: What percentage are we approving lot area variance to?

Staff Wittenberg: Commissioners, I don't believe we have the exact calculation. It's something under 30, probably more than 25 percent.

Commissioner Schiff: I think we need to know an exact percentage of a lot area variance.

Akinyele Akinsanya (off microphone): 23. Actually it's in Michael's note.

President Martin: So, a lot area variance of 23 percent.

The motion carried 8 – 0.

Commissioner LaShomb: I'll move the variance on C (Krause seconded).

President Martin: OK, and again, do we know, is it the same number?

Commissioner LaShomb: 25 feet.

Commissioner Tucker: I would speak against that. I think [tape end]...assume that across the street that there's going to be much more dense development on the side of the street on which this development is occurring. We do have established houses with established rhythm and setbacks from the house and I think we ought to keep that.

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Commissioner LaShomb: Well, Michael, if we don't grant this variance, what does that do to how these are going to sit on the property?

Staff Orange: Commissioners, the front yard variance was a function of the larger setback of an adjacent house that exceeded what the norm would be for this zone that would require 25 and this would have pushed it back even further to 35. Also, the building itself is meeting the 25 foot setback that would be the standard for the district. But the front yard patios protrude 4 feet into it. So that's part of it. So in other words, first of all, let me summarize that. The setback of an adjacent house defines I think it was a 35 foot setback, just way back. The norm would be 25. It meets the 25 except for patios. If you deny the variance, there's not enough yard in the back to have everything move back. They could eliminate the patios and they could eliminate the parking pads behind the units in order to move the building back to the established setback.

President Martin: So the variance that we're voting on is the 25 feet. All those in favor of that motion signify by saying aye.

The motion carried 8 – 0.

Staff Wittenberg: Commissioners, if the soils were a reason why the variances are being granted, we should make sure that's explicitly stated.

Commissioner LaShomb: It is the reason that we are granting the variances in my opinion.

President Martin: That gets us to site plan. We have the site plan that's in this, the amended site plan in the application from Brakin.

Commissioner LaShomb: I will move approval of the amended site plan (Tucker).

Staff Orange: Madame President, Commissioners, if you also include the standard conditions... [response off microphone] You have to make changes in the landscaping plan – that's changing. And really get a good quality landscaping plan for that common alley area.

Commissioner LaShomb: Absolutely.

The motion carried 8 – 0.