

Department of Community Planning and Economic Development – Planning Division
Rezoning, Conditional Use Permit, Variances, and Site Plan Review
BZZ-1991

Date: October 25, 2004

Applicant: Master Civil & Construction Engineering, Inc.

Address Of Property: 4556 46th Street East

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

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

Date Application Deemed Complete: September 27, 2004

End of 60 Day Decision Period: November 26, 2004

Ward: 12 **Neighborhood Organization:** Longfellow

Existing Zoning: C1 Neighborhood Commercial District

Proposed Zoning: OR2 High Density Office Residence District

Zoning Plate Number: 34

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

Proposed Use: Twenty residential condominium units with underground parking.

Concurrent Review:

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

Conditional Use Permit: For 20 dwelling units.

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

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

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

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

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

Site Plan Review.

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Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, specifically Section 525.520(1) “to vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.”; and Chapter 530 Site Plan Review.

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

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

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

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

REZONING (from C1 to OR2)

Findings As Required By The Minneapolis Zoning Code:

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

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

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

4.9 Minneapolis will grow by increasing its supply of housing.

Implementation Steps

- Support the development of new medium- and high-density housing in appropriate locations throughout the City.
- Support the development of infill housing on vacant lots. Use partnerships and incentives to reduce city subsidy level and duration of vacancy.
- Use new and strengthened strategies and programs to preserve and maintain existing housing stock.
- Review policies and practices that determine the appropriate scale of residential development on properties that come into city ownership or request City development assistance.
- Develop a close dialog with community participants about appropriate locations and design standards for new housing.
- Foster community dialog with community participants about appropriate locations and design standards for new housing.
- Foster community dialog about housing growth in and adjacent to city neighborhoods.

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

Implementation Steps

- Increase the variety of housing styles and affordability levels available to prospective buyers and renters.
- Provide and maintain moderate and high-density residential areas.
- Provide and maintain areas that are predominantly developed with single and two family structures.
- Promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.
- Promote accessible housing designs to support persons with disabilities.
- Promote mixed-income housing development that offers a range of dwelling unit sizes and levels of affordability.
- Diversify the location distribution of affordable housing in order to allay the historic patterns of concentration of poverty that characterizes some neighborhoods.
- Implement city policies related to the provision of housing for homeless individuals and families.
- Support the development of housing with supportive services that help households gain stability in areas such as employment, housing retention, parenting, mental health and substance challenges.
- Encourage the rehabilitation and sensitive reuse of older or historic buildings for housing including affordable housing units.

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

Implementation Steps

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

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

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

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

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

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

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

4. Whether there are reasonable uses of the property in question permitted under the existing

zoning classification, where the amendment is to change the zoning classification of particular property.

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

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

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

CONDITIONAL USE PERMIT (to allow 20 units)

Findings as required by the Minneapolis Zoning Code:

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

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

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

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not

impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

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

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

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

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

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

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

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

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

VARIANCE (to reduce the interior and rear yard setbacks)

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

VARIANCE (to reduce the front yard setbacks)

The OR2 district requires a 15 foot setback for the front yards. Because the adjacent property to the west is a reverse frontage lot the subject property has two front yards, one on 46th Avenue and one on 46th Street. The front yard is required to be increased where the established front yard of the closest principal structure originally designed for residential purposes located on the same block face on either side of the property exceeds the front yard required by the zoning district. The house to the west is 13 feet from the property line, so the required setback is the district minimum of 15 feet. The house to the north of the site is 21 feet from the property line so the district minimum of 15 feet is required to be increase to 21 feet along 46th Avenue.

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

Findings Required by the Minneapolis Zoning Code:

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

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

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

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

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance**

and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

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

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

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

SITE PLAN REVIEW

Required Findings for Major Site Plan Review

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

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

ACCESS AND CIRCULATION:

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

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

LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
- Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).
- Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b)
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).
- Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).
- The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.
- Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.
- All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.
- All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.

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

ADDITIONAL STANDARDS:

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

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- **Site plans shall include crime prevention design elements as specified in section 530.260.**
- **Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

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

535.590. Lighting. (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance. (b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.
- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.
- (5) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

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

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

ZONING CODE:

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

Dumpster screening: Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The dumpster is at the rear of the building is required to be screened per this section.

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

MINNEAPOLIS PLAN:

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

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

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

Alternative Compliance. The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
- The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

Alternative compliance is not necessary for this site.

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning application from the C1 Neighborhood Commercial District to the OR2 High Density Office Residence District for property located at 4556 46th Street East.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the conditional use permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for 20 dwelling units for property located at 4556 46th Street East.

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

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

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

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

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

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

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

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

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

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

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

Recommendation of the Community Planning and Economic Development Department – Planning Division for the site plan review:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for property located at 4556 46th Street East subject to the following conditions:

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

Attachments:

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