

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permits, Variances, Site Plan Review and Right-of-Way Vacation
BZZ-5420 and Vac-1596

Date: January 23, 2012

Applicant: Mark Dwyer with Linden Hills Redevelopment, LLC

Addresses of Property: 4242, 4246, 4246 ½, 4250 and 4264 Upton Avenue South

Project Name: Linden Corner

Contact Person and Phone: Carol Lansing with Faegre & Benson, (612) 766-7005

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: December 14, 2011

End of 60-Day Decision Period: February 12, 2012

End of 120-Day Decision Period: Not applicable for this application

Ward: 13 **Neighborhood Organization:** Linden Hills Neighborhood Council

Existing Zoning: C1, Neighborhood Commercial District, R4, Multiple-family District and LH Linden Hills Overlay District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 29

Legal Description: Not applicable for this application

Proposed Use: Mixed-use building including 40 dwelling units and 11,227 square feet of ground floor commercial space

Concurrent Review:

Conditional use permit: for a multiple-family dwelling with 40 dwelling units. *This application has been returned.*

Conditional use permit: to increase the height of the building from 3 stories/42 feet to 5 stories/59 feet.

Variance: of the LH Linden Hills Overlay District to allow the building to be located more than 8 feet from the front and/or corner side property lines adjacent to Upton Avenue South and West 43rd Street.

Variance: to allow bicycle racks and a vehicle height limiter (an overhead bar with columns) in the required front yard setback along Upton Avenue South.

Site plan review: for a mixed-use building.

Vac-1596: right-of-way vacation for a trapezoidal area adjacent to 4264 Upton Avenue South.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, specifically Section 525.520(20) “to vary the standards of any overlay district...” and 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: By letter dated January 5, 2012, the state Environmental Quality Board (EQB) certified a citizen petition for an Environmental Assessment Worksheet (EAW) on the proposed Linden Corner development project and assigned the City of Minneapolis as the Responsible Governmental Unit (RGU). The letter (and an accompanying email) from EQB Executive Director, Bob Patton, was addressed and sent to former City planner Michael Orange, who retired from City employment over three years ago. The EQB letter and RGU assignment were not received by current Planning staff until 11:53 a.m. Monday, January 9, 2012 (email transmission time stamp).

It is undisputed that the proposed project does not meet any of the mandatory EAW categories. Minn. R. 4410.4300. Therefore, the next step is to determine if the project falls under any of the exemption categories listed in the environmental review rules. Minn. R. 4410.4600. If the project is exempt, it does not qualify for environmental review and no discretionary EAW can be ordered (either by citizen petition or government fiat). Minn. R. 4410.1000, subp. 3. The residential component of this project is exempt under Minn. R. 4410.4600, subp. 12(A)(4). The commercial component is exempt under Minn. R. 4410.4600, subp. 10(A)(3). There is no exemption category specifically applicable to a mixed-use project per se, although each individual component (residential and commercial), if standing alone, would clearly be exempt. Minn. R. 4410.4300, subp. 32.

The City now has an obligation to respond to the petition. This will occur at a meeting of the Zoning & Planning Committee of the City Council on January 19, 2012. In the interim, there is a prohibition on final governmental approvals pursuant to Minn. R. 4410.3100. Given this the Planning Division is recommending that this development be continued to the February 6, 2012, City Planning Commission meeting.

RECOMMENDATIONS:

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 **continue** the conditional use permit application for a multiple-family dwelling with 40 dwelling units located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Avenue South to the February 6, 2012, City Planning Commission meeting.

Recommendation of the Community Planning and Economic Development Department - Planning Division for the Conditional Use Permit:

Department of Community Planning and Economic Development – Planning Division
BZZ-5420 and Vac-1596

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission **continue** the conditional use permit application to increase the height of the building from 3 stories/42 feet to 5 stories/59 feet located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Avenue South to the February 6, 2012, City Planning Commission meeting.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission **continue** the variance of the LH Linden Hills Overlay District to allow the building to be located more than 8 feet from the front and/or corner side property lines adjacent to Upton Avenue South and West 43rd Street located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Avenue South to the February 6, 2012, City Planning Commission meeting.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission **continue** the variance to allow bicycle racks and a vehicle height limiter (an overhead bar with columns) in the required front yard setback along Upton Avenue South located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Avenue South to the February 6, 2012, City Planning Commission meeting.

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission **continue** the site plan review application for the property located at 4242, 4246, 4246 ½, 4250 and 4264 Upton Avenue South to the February 6, 2012, City Planning Commission meeting.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission **continue** the application to vacate the trapezoidal area adjacent to 4264 Upton Avenue South to the February 6, 2012, City Planning Commission meeting.