



# CPED STAFF REPORT

Prepared for the City Planning Commission

CPC Agenda Item #12  
 July 14, 2014  
 BZZ-6638

## LAND USE APPLICATION SUMMARY

**Property Location:** 4250 and 4264 Upton Avenue South  
**Project Name:** Linden Crossing  
**Prepared By:** [Mei-Ling Anderson](#), City Planner, (612) 673-5342  
**Applicant:** Mark Dwyer, Linden Hills Redevelopment, LLC  
**Project Contact:** Mark Dwyer  
**Request:** To construct a four-story, mixed-use building with 20 residential units.  
**Required Applications:**

<b>Conditional Use Permit</b>	To increase the maximum allowed height from the permitted 3 stories/42 feet to 4 stories/56 feet.
<b>Variance</b>	To reduce the north interior side yard setback from 11 feet to 9 feet for the building wall, to 6.5 feet for two balconies with awnings, and to 2.5 feet for a terrace.
<b>Variance</b>	To reduce the west interior side yard setback from 12 feet to 10 feet for the building wall and terrace, to 7.5 feet for the balconies with awnings, and from 11 feet to 6 feet for two balconies, and to 5.5 feet for a terrace.
<b>Site Plan Review</b>	For a new, mixed-use building with 20 residential dwelling units and approximately 6,155 square feet of commercial space.

## SITE DATA

<b>Existing Zoning</b>	CI Neighborhood Commercial District LH Linden Hills Overlay District
<b>Lot Area</b>	25,052 square feet / 0.58 acres
<b>Ward(s)</b>	13
<b>Neighborhood(s)</b>	Linden Hills Neighborhood Council
<b>Designated Future Land Use</b>	Mixed Use
<b>Land Use Features</b>	Neighborhood Commercial Node
<b>Small Area Plan(s)</b>	<a href="#">Linden Hills Small Area Plan</a>

<b>Date Application Deemed Complete</b>	June 20, 2014	<b>Date Extension Letter Sent</b>	Not applicable
<b>End of 60-Day Decision Period</b>	August 19, 2014	<b>End of 120-Day Decision Period</b>	Not applicable

## BACKGROUND

**SITE DESCRIPTION AND PRESENT USE.** The subject site consists of two parcels of land at the northwest corner of the intersection of Upton Avenue South and West 43<sup>rd</sup> Street in the Linden Hills Neighborhood. The property located at 4250 Upton Avenue South is occupied by a vacant two-story office building and the property at 4264 Upton Avenue South is occupied by a one-story building that was most recently occupied by Famous Dave's restaurant and was previously a gas station.

**SURROUNDING PROPERTIES AND NEIGHBORHOOD.** The site is located within a designated Neighborhood Commercial Node with a mix of commercial uses, multi-family housing, low-density residential housing, and a library. Lake Harriet is less than a mile to the east of the subject property.

**PROJECT DESCRIPTION.** The proposed development would be a four-story, mixed-use building with 6,155 square feet of ground-level retail and three levels of residential uses, for a total of 20 dwelling units. The approximate gross floor area of the proposed building would be 50,996 square feet. The commercial space would be designed for four individual retail or office tenants, and the unit mix includes, one-, two-, and three-bedroom units.

The applicant is proposing a total of 60 parking spaces, of which 38 would be located below-grade for residential uses and 22 would be provided at-grade, within the building, for the non-residential uses. The applicant is proposing to honor existing parking agreements for ten of the 22 spaces provided for public use.

The pocket park located at the corner of Upton Avenue South and West 43<sup>rd</sup> Street will remain in place after construction is complete. The applicant is not proposing any modifications to the park and will instead build around it.

The applicant had completed a Travel Demand Management Plan (TDMP) for a former development project proposed for the site, which was approved by both Public Works and CPED Planning. A new TDMP was not required for this development.

**RELATED APPROVALS.** This proposal is an amendment to a project that was approved by the City Planning Commission (CPC) as of October 2012. The primary difference between the previously approved project and the one that is being proposed is the addition of a partial fourth story, which would add two residential units. The approved project contains 42,421 square feet in gross floor area, and the current proposal would increase this by 8,575 square feet to 50,997 square feet. The building's footprint of 21,076 square feet would not increase with the proposed project.

A prior proposal for a five-story building with 40 dwelling units and 11,227 square feet of commercial space. This project would have also spanned three additional parcels with a total of 89,803 square feet of gross floor area. While the CPC approved the project, the decision was appealed and the City Council denied the project in March 2012.

Planning Case #	Application	Description	Action
BZZ-5745	Variances, Site Plan Review	Three-story mixed-use building with 18 dwelling units and 6,052 square feet of commercial space across two parcels.	Approved by the CPC on October 1, 2012.
BZZ-5420	CUP for height, Variances, Site Plan Review, Vacation	Five-story mixed-use building with 40 dwelling units and 11,227 square feet of commercial space across five parcels.	Approved by the CPC on February 6, 2012; appeal upheld by the City Council on March 8, 2012.

**PUBLIC COMMENTS.** As of the printing of this report, staff has received 13 comments from the public in opposition to the project and the neighborhood group has not submitted comments on the project. Any additional correspondence received prior to the public meeting will be forwarded on to the Planning Commission for consideration.

## ANALYSIS

### CONDITIONAL USE PERMIT

The Department of Community Planning and Economic Development has analyzed the application to increase the maximum allowed height from the permitted 3 stories/42 feet to 4 stories/56 feet based on the following [findings](#):

1. *The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

The maximum allowed height of a building in the CI Neighborhood Commercial District is 2.5 stories or 35 feet, whichever is less. However, the maximum permitted height of a structure in the CI district is three stories or 42 feet if the project qualifies for the mixed commercial-residential density bonus. This project qualifies for both the density bonus and, therefore, the maximum height increase.

The proposed 56-foot tall building will not be detrimental to or endanger the public health, safety, comfort, or general welfare provided that the development complies with all applicable building codes, life safety ordinances, and Public Works standards.

2. *The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.*

The surrounding area contains a range building heights of between one to seven stories. The residential building to the north has three stories; the properties to the east of the subject site have four stories; there is a four-story building located near the southeast corner of Upton Avenue South and West 43<sup>rd</sup> Street; a seven-story building is located one block to the south of the development. The zoning classifications in the surrounding area support as-of-right building heights of four and six stories (R4, R5, R6, OR3, and C2). The CI zoning district applies to approximately twenty properties at or near the intersection of Upton Avenue South and West 43<sup>rd</sup> Street. The CI zoning

district allows buildings heights up to three stories or 42 feet for projects that qualify for the mixed commercial-residential density bonus. As the measurement of building height in the zoning code is based on the adjacent natural grade rather than actual sea elevation, the varied topography of the area plays an important role in the impact a building's height has in conjunction with the structure's bulk and height as measured by the zoning code. If all of the parcels located in the surrounding area were redeveloped up to their permitted building heights, the parcels located at the intersection of Upton Avenue South and West 43<sup>rd</sup> Street would be located in the middle of a valley.

The subject site is separated from adjacent uses on all four sides of the property. There is a public street along the east and south property lines, and the west and northwest portions of the site would contain landscaping. The single-family homes to the west of the site are located approximately 70 feet away from the shared property line. To the north, there is an accessory parking lot separating the subject site and the adjacent three-story residential building. Additionally, the fourth story of the proposed building would be set back at least 12 feet from each building wall.

For these reasons, CPED does not believe that increasing the height of the building will 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.

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

Increasing the height of the proposed building will not have an impact on utilities, access roads, or drainage.

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

Increasing the height of the proposed building will have no impact on traffic congestion in the public streets. The number of units is permitted and the TDMP for the project found that all intersections included in the study area would operate acceptably at Level of Service B or better in the weekday a.m. and p.m. peak hours. In addition, the TDMP found that the site is providing adequate on-site parking.

5. *The conditional use is consistent with the applicable policies of the comprehensive plan.*

The proposed development would be consistent with the following general land use policies of *The Minneapolis Plan for Sustainable Growth*:

**Land Use Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.**

- 1.2.1 Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.

**Land Use Policy 1.5: Promote growth and encourage overall city vitality by directing new commercial and mixed use development to designated corridors and districts.**

- 1.5.1 Support an appropriate mix of uses within a district or corridor with attention to surrounding uses, community needs and preferences, and availability of public facilities.
- 1.5.2 Facilitate the redevelopment of underutilized commercial areas by evaluating possible land use changes against potential impacts on the surrounding neighborhood.

**Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.**

- 1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

**Land Use Policy 1.11: Preserve and enhance a system of Neighborhood Commercial Nodes that includes a mix of housing, neighborhood-serving retail, and community uses.**

- 1.11.4 Encourage a height of at least two stories for new buildings in Neighborhood Commercial Nodes, in keeping with neighborhood character.
- 1.11.5 Encourage the development of medium- to high-density housing where appropriate within the boundaries of Neighborhood Commercial Nodes, preferably in mixed use buildings with commercial uses on the ground floor.

**Environment Policy 6.2: Protect and enhance air quality and reduce greenhouse gas emissions.**

- 6.2.2 Support energy efficiency and resource conservation.
- 6.2.7 Promote the development of sustainable site and building standards.

**Urban Design Policy 10.6: New multi-family development or renovation should be designed in terms of traditional urban building form with pedestrian scale design features at the street level.**

- 10.6.1 Design buildings to fulfill light, privacy, and view requirements for the subject building as well as for adjacent properties by building within required setbacks.
- 10.6.3 Provide appropriate physical transition and separation using green space, setbacks or orientation, stepped down height, or ornamental fencing to improve the compatibility between higher density and lower density residential uses.

The site is located within the boundaries of the *Linden Hills Small Area Plan* adopted by the City Council in December 2013. The plan identifies speaks specifically to building height, shading, and commercial character. It includes the following general guidance for building height:

- Encourage overall building heights and floor-to-floor heights that reflect the adjacent architectural context and encourage buildings that are shorter than the current Zoning Code maximums for 3 and 4 story buildings (42 feet and 56 feet respectively).
- The fourth story of any building in the three neighborhood commercial nodes and along the community corridors shall be stepped back from the street facing façade(s) of the building by at least 10 feet.

The proposed development's building height of 56 feet would be consistent with the height of other buildings within the commercial node. In addition, the fourth story of the proposed project would be stepped back 10 feet from all facades to minimize shadowing on adjacent streets and residential uses. Similarly, the plan encourages the massing of new development to reflect the character established by the massing of existing development within the Neighborhood Commercial Node. The proposed project appropriately articulates the existing massing intervals of the surrounding node on each façade.

6. *The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.*

If the requested land use applications are approved, the proposal will comply with all provisions of the CI Neighborhood Commercial District.

### **Additional Standards to Increase Maximum Height**

In addition to the conditional use permit standards, the Planning Commission shall consider, but not be limited to, the following [factors](#) when determining the maximum height of principal structures in commercial districts:

1. *Access to light and air of surrounding properties.*

The proposed building would be 56 feet in height as measured from natural grade. However, the building wall adjacent to the public sidewalk would be 42 feet above the adjacent grade, as the fourth story covers the middle 50 percent of the third floor and is stepped back from the edge of the floors below by 12 feet or more on all sides of the property. Increasing the height of the proposed development should not impede access to light and air that the surrounding properties receive.

2. *Shadowing of residential properties, significant public spaces, or existing solar energy systems.*

The proposed building bulk is centered on the property. Allowing an increase of 14 feet above the permitted height would not have significant shadowing effects on adjacent residential properties, significant public spaces, or existing solar energy systems, if any.

The applicant submitted a shadow study showing the proposed development's impacts at 9 a.m. and 4 p.m. on June 21<sup>st</sup>, on September 23<sup>rd</sup>, and on December 21<sup>st</sup>. The shadow study indicates that there will be minimal shadowing cast on the residential properties located on the north and west sides of the development site during June, September, and December. The study does indicate some shadowing impacts on the residential properties located on the west side of the development in the winter study. The materials also include a comparison of the shadowing effect at same times of day and same times of year for a building that is 42 feet in height within the same building footprint. Due to the fourth level being set back at least 12 feet from the edge of the third floor on all sides of the building, there is little difference in shadowing impacts between the 42-foot proposal and the 56-foot proposal.

There are two existing solar energy panel systems in the area. One is on a commercial building located at 2813 West 43<sup>rd</sup> Street. The proposed development will have no impact on this system. The other solar energy panel system is located at 4231 Vincent Avenue South. The applicant submitted a detailed shadow study that looks at how the proposed development would impact the solar energy panel system located at 4231 Vincent Avenue South. The study concludes that some portion of the solar energy panel system will be shadowed between November 10<sup>th</sup> and February 1<sup>st</sup>. The longest that the solar energy panel system will be in a shadow during any given day is one hour and ten minutes. Thus, the building would not have a substantial impact on the functionality of the system.

The zoning code limits the height of a story to 14 feet in height. In the past, many conditional use permits to increase the height of a building from four stories to five stories have been approved. In most cases, the overall height of the five-story building was 56 feet, and the height of the proposed building is four stories/56 feet.

3. *The scale and character of surrounding uses.*

The buildings in the surrounding area range between one and seven stories. The residential building to the north is three stories in height, there are four-story buildings located towards the northeast and east sides of the site, there is a four-story building located near the southeast corner of Upton Avenue South and West 43rd Street and there is a seven-story building located one block south of the site on the northwest corner of Upton Avenue South and West 44th Street.

The character of the buildings in the neighborhood is varied. Most of the commercial buildings and many of the single-family homes were built in the early 1900s, while many of the multiple-family dwellings were built mid-twentieth century. There are, however, several infill buildings that have been built in the last ten years.

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

The proposed development will not block views of landmark buildings, significant open spaces, or bodies of water.

## VARIANCES

The Department of Community Planning and Economic Development has analyzed the application for a variance to reduce the north interior side yard setback from 11 feet to 9 feet for the building wall, to 6.5 feet for two balconies with awnings, and to 2.5 feet for a terrace, and a variance to reduce the west interior side yard setback from 12 feet to 10 feet for the building wall and terrace and to 7.5 feet for the balconies with awnings, and from 11 feet to 6 feet for two balconies, and to 5.5 feet for a terrace based on the following findings:

I. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

The applicant is seeking a variance to reduce the north interior side yard setback from 11 feet to nine feet for the building structure, to 6.5 feet for two balconies with awnings on the third floor, and to 2.5 feet for the second floor terrace. The public hearing notice listed the setback for the balconies as five feet and the setback for the terrace as two feet, however, the actual distance to the property line is actually greater and the description in the staff report has been updated to reflect this.

Similarly, the applicant is seeking a variance to reduce the west interior side yard setback from 12 feet to 10 feet for the building wall of the structure and second floor terrace, to 7.5 feet for the second and third floor balconies with awnings adjacent to the RI district, and from 11 feet to 5.5 feet for the second floor terrace, and to six feet for the two third floor balconies. The actual setback distances to the property line for the balconies and terraces are actually greater than was described in the public hearing notice, and the setback description in the staff report has been updated to reflect the actual proposed distance.

The zoning code allows balconies, decks, and ground level patios not exceeding 50 square feet in area to project up to four feet into a required interior side yard of a multiple family dwelling, provided that the balcony, deck, or ground level patio be located no closer than ten feet from the interior side lot line. The proposed fabric awnings located over the balconies trigger a setback variance, as they project more than four feet into the required north interior side yard and the

balconies are within the ten-foot minimum distance to the property line that would be required for a permitted obstruction.

The site is zoned CI Neighborhood Commercial District and is located in a designated Neighborhood Commercial Node. The applicant is trying to balance the policies that support increased commercial activity and residential density on the site with the need to provide outdoor space for the residents by designing the development as a mixed-use building. The property is shaped like an “L” and the building footprint follows the shape of the lot, which makes it difficult to accommodate outdoor open space for the residential units. Balconies with awnings or resident rooftop terraces are being proposed for each unit to accommodate outdoor space for the residents. CPED staff believes that practical difficulties exist in complying with the ordinance because of the circumstances unique to the property.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The request to allow a reduced setback along the north interior and west interior property lines to accommodate residential rooftop terraces and balconies with awnings is reasonable and is in keeping with the spirit and intent of the ordinance and comprehensive plan. The intent of having hard controls is to provide for the orderly development and use of land, and to minimize conflicts between adjacent land uses by regulating the dimension and use of yards by providing adequate light, air, open space, and separation of uses. The proposed rooftop terraces and balconies with awnings will not diminish light, air, or open space for the adjacent properties. There is a surface parking lot located to the north of the development site. The single-family homes that are located to the west of the site are located approximately 70 feet away.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

Granting the variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. Again, there is a surface parking lot located to the north of the development site and the single-family homes located to the west of the site are located approximately 70 feet away.

## SITE PLAN REVIEW

The Department of Community Planning and Economic Development has analyzed the application based on the required [findings](#) and [applicable standards](#) in the site plan review chapter:

### **I. Conformance to all applicable standards of Chapter 530, Site Plan Review.**

#### **Building Placement and Design – Meets requirements**

- The building reinforces the street wall, facilitates pedestrian access, and maximized natural surveillance. The building entrances at street level can be accessed by residents, guests, employees, and customers. There are large windows facing the street that maximize the opportunities for people to observe adjacent spaces and the public sidewalks.
- The site is located on a reverse corner lot, which requires that both walls abutting the streets be located within eight feet of the property line. The first floor of building is within eight feet of both the front property lines on both Upton Avenue South and West 43rd Street.

- The area between the building and property lines will be used for additional sidewalk space and landscaping. The applicant is proposing to locate a transformer in the northeast corner of the site between the building and Upton Avenue South. CPED is recommending that the applicant provide landscaping materials that reach a minimum height of five feet to screen the transformer from the public sidewalk.
- The principal entrance to the building is oriented toward Upton Avenue South. In addition, each of the individual commercial tenant spaces has an entrance facing either Upton Avenue South or West 43<sup>rd</sup> Street.
- All of the proposed parking is located below ground or enclosed within the building.
- The building wall along Upton Avenue South is approximately 197 feet in length. The applicant has used a variety of materials, recesses in the building wall, bay windows, and different size window openings to break up the façade into smaller sections.
- There are no areas of the development that are over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements.
- The exterior materials of the building will include stone, brick, metal, and Nichiha. The sides and rear of the building are similar to and compatible with the front of the building. Plain face concrete block is not proposed as an exterior material.
- The Linden Hills Overlay District requires that at least 40 percent of the first-floor façade facing a public street or sidewalk be windows or doors of clear or lightly tinted glass that allows views into and out of the building, as measured between two and ten feet above the finished level of the first floor. In addition, at least 10 percent of the upper floors facing a public street, sidewalk, pathway, or on-site parking lot are required to be windows. The window requirement applies to the Upton Avenue South (east) and West 43<sup>rd</sup> Street facades (south). The project is in compliance with the minimum window requirement (see **Table I**).
- The windows are vertical in nature and are evenly distributed along the building walls.
- Seventy-four percent of the building frontage along Upton Avenue South and 60 percent of the building frontage along West 43<sup>rd</sup> Street contain active functions. Alternative compliance is required for the frontage along West 43<sup>rd</sup> Street.
- The principal roof line of the building will be flat. The majority of the commercial buildings and the multiple-family buildings in the area have flat roofs and the majority of the single-family homes in the area have pitched roofs.

**Table I. Percentage of Windows Required for Elevations Facing a Public Street, Sidewalk, Pathway, or On-Site Parking**

	Code Requirement		Proposed	
<b>Upton Ave S (East facade)</b>				
1 <sup>st</sup> Floor	40% minimum	630 sq. ft.	43%	636 sq. ft.
2 <sup>nd</sup> and 3 <sup>rd</sup> Floors	10% minimum	256 sq. ft.	33%	856 sq. ft.
4 <sup>th</sup> Floor	10% minimum	175 sq. ft.	35%	620 sq. ft.
<b>W 43<sup>rd</sup> St (South facade)</b>				
1 <sup>st</sup> Floor	40% minimum	205 sq. ft.	63%	324 sq. ft.
2 <sup>nd</sup> and 3 <sup>rd</sup> Floors	10% minimum	183 sq. ft.	33%	600 sq. ft.
4 <sup>th</sup> Floor	10% minimum	126 sq. ft.	16%	199 sq. ft.

**Access and Circulation – Meets requirements**

- All of the principal entrances leading into and out of the building are connected to the public sidewalk either directly or via a walkway.

- No transit shelters are proposed as part of this development.
- All of the proposed parking is located below-ground or enclosed within the building. Vehicular access has been designed to minimize conflicts with pedestrians and surrounding residential uses.
- There are no public alleys adjacent to the site.
- There is no maximum impervious surface requirement in the CI zoning district. According to the materials submitted by the applicant, 90 percent of the site will be impervious. Currently, 78 percent of the site is impervious.

**Landscaping and Screening – Meets requirements**

- The composition and location of landscaped areas complement the scale of the development and its surroundings.
- The zoning code requires that at least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is 25,052 square feet and the building footprint is 21,076 square feet. The difference is 3,976 square feet, and 20 percent of this number is 795 square feet. The applicant is proposing approximately 2,617 square feet of landscaping on the site, or approximately 66 percent of the site not occupied by the building.
- The zoning code requires that the site contain at least one canopy tree per 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space. The tree requirement for this site is two and the shrub requirement is eight. The applicant is providing a total of three canopy trees and 20 shrubs on-site, as well as a variety of perennials. The applicant is also proposing new canopy trees and other landscape materials in the right-of-way along both Upton Avenue South and West 43<sup>rd</sup> Street.
- All areas not occupied by buildings contain landscaping.
- There is no surface parking proposed for the site, so the site is not subject to the screening and landscaping requirements for parking areas per Chapter 530.

**Table 2. Landscaping and Screening Requirements**

	<b>Code Requirement</b>	<b>Proposed</b>
<b>Lot Area</b>	--	25,052 sq. ft.
<b>Building footprint</b>	--	21,076 sq. ft.
<b>Remaining Lot Area</b>	--	3,976 sq. ft.
<b>Landscaping Required</b>	795 sq. ft.	2,617 sq. ft.
<b>Canopy Trees (1: 500 sq. ft.)</b>	2 trees	3 trees
<b>Shrubs (1: 100 sq. ft.)</b>	8 shrubs	100 shrubs

**Additional Standards – Meets requirements**

- There are no surface parking spaces proposed on the site.
- There are no important elements of the city near the site that will be obstructed by the proposed building.
- This building should have minimal shadowing effects on public spaces and adjacent properties.
- This building should have minimal wind effects on the surrounding area.
- The site plan complies with crime prevention design elements as the building entrances are located up to the front property lines, there are windows where people can see in and out

along all levels of the building and there are lights located near all of the entrances and throughout the grounds.

- This site is neither historically designated nor is it located in a historic district.

**2. Conformance with all applicable regulations of the zoning ordinance.**

The proposed use of a multiple-family dwelling with five or more units and general retail sales and services is *permitted* in the CI zoning district.

**Off-street Parking and Loading – Meets requirements**

- The minimum parking requirement for the development is 28 spaces, assuming that the four commercial spaces will be occupied by general retail sales and services. There will be a total of 60 spaces provided, as shown in **Table 3**.
- The Linden Hills Overlay District requires that the number of accessory spaces for nonresidential uses shall not exceed 150 percent of the minimum requirement. The minimum requirement for non-residential uses is 15 and the allowance under the overlay district regulations is 23. The proposed total of 22 spaces therefore meets the Linden Hills Overlay District regulations.

**Table 3. Vehicle Parking Requirements Per Use (Chapter 54I)**

	<b>Minimum Parking Requirement</b>	<b>Maximum Parking Allowed</b>	<b>Linden Hills Overlay District Maximum</b>	<b>Proposed</b>
<b>Residential</b>	20	--	--	38
<b>General retail sales and services</b>	8	31	12	12
<b>Easement Uses</b>	--	--	--	10
<b>Total</b>	<b>28</b>	<b>31</b>		<b>60</b>

- The minimum bicycle parking requirement for multiple-family dwellings with five or more units is one space per two dwelling units. The development contains 20 dwelling units and the minimum number of bicycle parking spaces is ten. The applicant is proposing 20 bicycle racks in the below-grade parking garage for the residents of the building.
- The minimum bicycle parking requirement for the general retail sales and services uses is 3 spaces per use. Retail spaces that have less than 1,000 square feet in gross floor area are exempt from this requirement. There are two retail spaces with more than 1,000 square feet in gross floor area, so the total minimum bicycle requirement for non-residential uses is 6.
- The development is not subject to a loading requirement.

**Table 4. Bicycle Parking and Loading Requirements (Chapter 54I)**

	<b>Minimum Bicycle Parking</b>	<b>Minimum Short-Term</b>	<b>Minimum Long-Term</b>	<b>Proposed</b>	<b>Loading Requirement</b>	<b>Proposed</b>
<b>Residential dwellings</b>	10	--	Not less than 90%	20 long-term	None	None
<b>General retail sales and services</b>	6	Not less than 50%	--	12 short-term	None	None
<b>Total</b>	<b>16</b>	<b>--</b>	<b>--</b>	<b>32</b>	<b>0</b>	<b>0</b>

**Building Bulk and Height** – *Requires conditional use permit*

- The maximum floor area ratio (F.A.R.) in the CI zoning district is 1.7. The development qualifies for the mixed residential-commercial density bonus, for a maximum of 2.04 in allowed F.A.R.
- The lot in question is 25,052 square feet in area. The applicant is proposing 50,996 square feet in gross floor area, for a total of 2.04.
- As previously mentioned, a conditional use permit is required to increase the development’s allowed height in the CI zoning district from 3 stories/42 feet, whichever is less, to 56 feet.

**Table 5. Building Bulk and Height Requirements**

	<b>Code Requirement</b>	<b>Proposed</b>
<b>Lot Area</b>	--	25,052 sq. ft. / 0.58 acres
<b>Gross Floor Area (GFA)</b>	--	50,996 sq. ft.
<b>Maximum Floor Area Ratio (GFA/Lot Area)</b>	2.04	2.04
<b>Maximum Building Height</b>	3 stories or 42 feet, whichever is less	56 ft.

**Residential Lot Requirements** – *Meets requirements*

- The proposed dwelling units (DUs) are part of a mixed-use building and the residential lot dimension requirements for the CI district do not apply to this development.

**Table 6. Residential Lot Summary**

	<b>Code Requirement</b>	<b>Proposed</b>
<b>Dwelling Units (DU)</b>	--	20 DUs
<b>Density (DU/acre)</b>	--	34.5 DU/acre
<b>Minimum Lot Area</b>	--	1,252 sq. ft. per DU

**Yard Requirements** – *Requires variance(s)*

- The front yard setback along Upton Avenue South and West 43rd Street is zero feet. In the CI zoning district, setback requirements do not typically apply when adjacent to another commercial zoned property. However, when the use is residential and there are windows facing an interior side or rear property line, a setback is required of 5+2x, where x equals the number of stories above the first floor. This provision applies to the north interior property line and the southern portion of the west rear property line. The resulting setback along these two property lines is 11 feet. The northern portion of the west rear building wall is adjacent to property that is zoned R1, so the west rear interior setback is 6+2x, where x equals the number of stories above the first floor. The resulting setback along this property line is 12 feet. The applicant has applied for variances to reduce the north interior and west rear setbacks to accommodate the building structure, rooftop terraces, and balconies with awnings over them.

**Table 7. Minimum Yard Requirements**

	<b>Zoning District</b>	<b>Proposed</b>
<b>Front</b> (East – Upton Ave S)	0 ft.	7.5 ft.
<b>Front</b> (South – W 43 <sup>rd</sup> St)	0 ft.	0 ft.
<b>Interior Side</b> (North – adjacent to C1)	11 ft.	9 ft. – building wall 6.5 ft. – balconies 2.5 ft. – terrace
<b>Interior Side</b> (West – adjacent to R1)	12 ft.	10 ft. – building wall 7.5 ft. - balconies
<b>Interior Side</b> (West- adjacent to C1)	11 ft.	5.5 ft. - terrace 6 ft. - balconies

**Signs** – *Not applicable*

- Signs are subject to Chapter [543](#) of the Zoning Code. No signage is proposed for the development at this time and the applicant will be required to submit a separate signage permit application for any signage that is proposed in the future.

**Dumpster Screening** – *Meets requirements*

- There will be trash and recycling rooms located within building on the first floor.

**Screening of Mechanical Equipment** – *Meets requirements with Conditions of Approval*

- The transformer adjacent to Upton Avenue South shall be fully screened.

**Lighting** – *Meets requirements with Conditions of Approval*

- A lighting plan showing footcandles shall be submitted to show compliance with the requirements of Chapter 535, Regulations of General Applicability.

**Impervious Surface Area** – *Not applicable*

**Specific Development Standards** – *Not applicable*

**LH Linden Hills Overlay District Standards** – *Meets requirements*

- The proposal is in compliance with the LH Linden Hills Overlay District.

**3. Conformance with the applicable policies of *The Minneapolis Plan for Sustainable Growth*.**

*The Minneapolis Plan for Sustainable Growth* identifies the site as Mixed Use on the future land use map and is located within a designated Neighborhood Commercial Node. In addition to the policies cited for the conditional use permit application, the proposed development is consistent with the following principles and policies outlined in the comprehensive plan:

**Urban Design Policy 10.4: Support the development of residential dwellings that are of high quality design and compatible with surrounding development.**

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

**Urban Design Policy 10.5: Support the development of multi-family residential dwellings of appropriate form and scale.**

- 10.5.1 Smaller-scale, multi-family residential development is more appropriate along Community Corridors and Neighborhood Commercial Nodes.

**Urban Design Policy 10.6: New multi-family development or renovation should be designed in terms of traditional urban building form with pedestrian scale design features at the street level.**

- 10.6.1 Design buildings to fulfill light, privacy, and view requirements for the subject building as well as for adjacent properties by building within required setbacks.
- 10.6.3 Provide appropriate physical transition and separation using green space, setbacks or orientation, stepped down height, or ornamental fencing to improve the compatibility between higher density and lower density residential uses.
- 10.6.4 Orient buildings and building entrances to the street with pedestrian amenities like wider sidewalks and green spaces.
- 10.6.5 Street-level building walls should include an adequate distribution of windows and architectural features in order to create visual interest at the pedestrian level.

**Urban Design Policy 10.14: Encourage development that provides functional and attractive gathering spaces.**

**Urban Design Policy 10.15: Wherever possible, restore and maintain the traditional street and sidewalk grid as part of new developments.**

**Urban Design Policy 10.16: Design streets and sidewalks to ensure safety, pedestrian comfort and aesthetic appeal.**

- 10.16.1 Encourage wider sidewalks in commercial nodes, activity centers, along community and commercial corridors and in growth centers such as Downtown and the University of Minnesota.
- 10.16.2 Provide streetscape amenities, including street furniture, trees, and landscaping, that buffer pedestrians from auto traffic, parking areas, and winter elements.
- 10.16.3 Integrate placement of street furniture and fixtures, including landscaping and lighting, to serve a function and not obstruct pedestrian pathways and pedestrian flows.
- 10.16.4 Employ pedestrian-friendly features along streets, including street trees and landscaped boulevards that add interest and beauty while also managing storm water, appropriate lane widths, raised intersections, and high-visibility crosswalks.

**Urban Design Policy 10.18: Reduce the visual impact of automobile parking facilities.**

CPED believes that the proposed development is in conformance with the above policies of *The Minneapolis Plan for Sustainable Growth*.

#### **4. Conformance with applicable development plans or objectives adopted by the City Council.**

The site is located within the boundaries of the *Linden Hills Small Area Plan* adopted by the City Council in December 2013. The project is also located within a Neighborhood Commercial Node and is consistent with the small area plan's land use guidance:

- The Neighborhood Commercial Nodes and Community Corridors are valued for their eclectic diversity of buildings and their scale. New development should reflect the character of the area through articulation, such as massing intervals and varied setbacks. This should be achieved through more than just a change in building materials.

The proposed project appropriately articulates the existing massing intervals of the surrounding node on each façade through regular projections and recesses in the building wall, awnings, windows, and exterior building materials.

The plan speaks specifically to building height, shading, and commercial character. It includes the following general guidance for building height:

- Encourage overall building heights and floor-to-floor heights that reflect the adjacent architectural context and encourage buildings that are shorter than the current Zoning Code maximums for 3 and 4 story buildings (42 feet and 56 feet respectively).
- The fourth story of any building in the three neighborhood commercial nodes and along the community corridors shall be stepped back from the street facing façade(s) of the building by at least 10 feet.

In addition, the plan articulates the importance of “transition areas” between new three- or four-story buildings that are adjacent to single- or two-family structures. The plan calls for the top floor to be set back an additional ten feet from the required rear and side yards of the property. The nearest single or two-family home would be 70 feet to the west and the top floor of the proposed development would be set back from the building wall by 12 feet at minimum in every direction. Staff believes that the project conforms with the applicable policies of the small area plan.

#### **5. Alternative compliance.**

The Planning Commission or zoning administrator may approve alternatives to any site plan review requirement upon finding that the project meets one of three criteria required for [alternative compliance](#). Alternative compliance is not being requested for this development.

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development for the Conditional Use Permit:**

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to increase the maximum allowed height from the permitted 3 stories/42 feet to 4 stories/56 feet at the properties located at 4250 and 4264 Upton Avenue South, subject to the following conditions:

- I. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity

requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within two years of approval.

**Recommendation of the Department of Community Planning and Economic Development for the Variance:**

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the north interior side yard setback from 11 feet to 9 feet for the building wall, to 6.5 feet for two balconies with awnings, and to 2.5 feet for a terrace at the properties located at 4250 and 4264 Upton Avenue South.

**Recommendation of the Department of Community Planning and Economic Development for the Variance:**

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the west interior side yard setback from 12 feet to 10 feet for the building wall and terrace, to 7.5 feet for the balconies with awnings, and from 11 feet to 6 feet for two balconies, and to 5.5 feet for a terrace at the properties located at 4250 and 4264 Upton Avenue South.

**Recommendation of the Department of Community Planning and Economic Development for the Site Plan Review:**

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application to allow a new, mixed-use building with 20 residential dwelling units and approximately 6,155 square feet of commercial space at the properties located at 4250 and 4264 Upton Avenue South, subject to the following conditions:

1. Approval of the final site, elevation, landscaping, and lighting plans by CPED.
2. All site improvements shall be completed by July 14, 2016, unless extended by the zoning administrator, or the permit may be revoked for non-compliance.
3. All signs are expected to comply with Chapter 541 of the Zoning Code. All new signage requires a separate permit from CPED.
4. Landscape materials that reach a minimum height of five feet shall be used to screen the transformer from the public sidewalk along Upton Avenue South.

**ATTACHMENTS**

1. Written description and findings submitted by applicant
2. Zoning map
3. Survey
4. Plans
5. Building perspectives
6. Elevations
7. Section and shadow studies
8. Photos
9. Correspondence

**LINDEN CROSSING MIXED-USE PROJEC  
FERQUEST TO AMEND DEVELOPMENT PLAN  
STATEMENT OF PROPOSED CHANGE AND PROJECT DESCRIPTION  
JUNE 17, 2014**

**Summary of Proposed Changes**

We are pleased to submit this application to amend the current approval for Linden Crossing (“Project”) – a mixed-use project at the NW corner of 43<sup>rd</sup> Street West and Upton Avenue South in the Minneapolis neighborhood of Linden Hills.

Currently approved for 3 levels, the Project was subject to moratorium constraints at the time of land use application. We were not eligible for the standard FAR bonus nor for added height. Implemented in Fall-2012, the moratorium provided time for creation of a small area plan (SAP). The moratorium has been lifted, and the small area plan is now complete. We would like to begin construction this Fall-2014.

As now approved, the building is 3-stories with underground and enclosed ground level parking, first floor retail and residential condos on floors 2 and 3. The roof is 17,000 sf in area, and surrounded on the outer edge by a 3-foot parapet. We’d like to put stepped-back housing and outdoor decks in this roof area. We propose covering 50-percent (1/2) of this 3<sup>rd</sup> floor roof area with 4 condo homes. These will step back 12-feet or more from the outer wall edge of the 3<sup>rd</sup> floor. The building footprint, design and quality will not change from what is now approved.

From adjacent streets and sidewalks, the overall height and scale of the project will seem mostly unchanged from what is approved. Most shadowing from the added condo homes will be on the building itself. And as now approved, the building has enough parking for the added residences.

The added living space will cover 50% of the roof, and transform the rest of the roof to be better used with decks and plantings.

A note on an older proposal that was rejected on appeal. You are aware that, as now approved, the Project follows a prior submittal named Linden Corner. It was approved but overturned on appeal in 2012 for being “too massive” for the neighborhood. It was 5 stories, spanned 5 lots, and totaled 89,803 GSF. Even with the added units on the 3<sup>rd</sup> floor rooftop, this Project is on 2 lots and is just over one-half the GSF of Linden Corner.

**Comparison of the LINDEN CROSSING Project as Approved vs. Proposed**

	<u>As Now Approved</u>	<u>Amend Request</u>
Stories / Height	3 stories / 42'	4 stories / 56' Will cover 50% of 3rd floor (CUP for Height Requested)
Gross Floor Area	42,588 gsf FAR = 1.70	Plus 8,408 gsf = 50,996 gsf total FAR = 2.04 Allowed FAR = 2.04
Commercial Uses	6,052 gsf	6,154 gsf
Dwelling Units	18 du's	Increase of 2 du's to 20 du's
DUs Concentration	31 per acre	35 per acre
Total Parking	62 stalls	Same: 62 stalls
Yards	9 and 10 foot yards required Variances Approved	11 and 12 foot yards required Yard Variances Requested
Assembly	2 lots / 25,052 sf	Same

**Statement Of Proposed Use**

The Project transforms a challenged site into a neighborhood benefit. New stores will activate the street front to complement existing area retail. New condominiums will address the growing need for well-located empty-nester housing choices.

The first floor of the building contains 6,154 gross square feet of street-front commercial space for up to four retailers. The exterior presents with a balance of stone and brick, and varying English-style storefronts of painted wood. The first floor will also have an entrance lobby for the residential units.

Floors two and three are residential-only, with a total of 16 condominium homes clad primarily in brick and panel. These levels step back in several places to create texture and terracing. The fourth floor units will be stepped back considerably from the level below, and are clad in a composite board and batten “medium or dark bronze” in color. Each condominium home has one or more exterior living spaces.

The Project’s fourth floor will contain 4 stepped-back dwelling units covering 50% of the third level roof. The 920 sf rooftop communal deck for residents will be accessed by an elevator lobby, and 2 stairwell vestibules. The remainder of the rooftop will contain decks for private resident use.

Project related vehicle traffic is divided between W. 43<sup>rd</sup> Street and Upton. Underground parking for the condominium owners is accessed from W 43<sup>rd</sup> Street. The first floor public parking area is accessed from Upton Avenue. Garbage is picked-up once per week at curbside on Upton. UPS-type deliveries for the retail tenants can be received on either street. Moving trucks hired by condo owners for move in/out will service curbside on Upton.

Parking spaces are required as follows:

- Twenty parking spaces are required for the 20 dwelling units.
- Eight spaces are required for the on-site commercial uses
- Ten parking spaces are required for off-site uses that currently park on-site via easement.

Parking spaces are provided as follows:

- Thirty eight secure parking spaces (1.9 ratio) below grade for residents.
- Ten for the on-site commercial.
- Two may be purposed for condo guests / service vans.
- Ten parking spaces for the easement stalls.

Below-grade parking (38 stalls) will serve building residents. Public parking (22 stalls) is provided at grade within the building. These public stalls will serve the Project’s retail users and a neighboring business with existing parking easement rights.

The project will be built to a LEED standard. Certification will not be sought. Advice will be sought through the Xcel Energy EDA program to maximize energy efficiency. There will be ample bike racks provided. The site is near the Lake Harriet portion of the Grand Rounds bike route and connect trails. It is also on the MTC bus line number 6. Programs encouraging residents to compost and recycle will be ongoing.

From most sidewalk perspectives, Linden Crossing will present as a three-story building. This is due to the cornice, the parapet, and to the step-back of the upper floor. As a result Linden Crossing shadows about the same with the rooftop units as without. Please see the attached comparative shadow study.

We believe the amended version of the Project offers added housing in a manner that creates benefit without burdening neighboring properties.

The Project does not encroach on the City’s easement at the corner of 43<sup>rd</sup> and Upton Ave. Thus, the “pocket park” at the corner will remain at its current location.

## **Existing Conditions**

The site is made up of two parcels located at the NW corner of 43<sup>rd</sup> Street and Upton Avenue South. Famous Dave's occupied a converted gas station near the corner (4264 Upton) and Edward Jones was the main tenant in a small stucco office building to the north (4250 Upton). Both Famous Dave's and Edward Jones have recently closed / vacated. Of the 25,052 SF of site area, roughly 72% is currently asphalt surface parking. Less than 4% of the site is green space.

Soils are contaminated due to the site's former gas station use. We have been awarded much needed grant funding for site cleanup. We have worked closely with PEER Engineering and American Engineering Testing to manage extensive boring activity, soils testing, and remediation planning. The site is enrolled in the MPCA VIC program.

## **Project Values and Neighborhood Engagement**

The Project is locally grown. Nearly every member of our development team lives or works in Linden Hills. We value the role of our parks, lakes, and business district in bringing us together as neighbors.

We value design form that fits and build quality that lasts. We support green space and green development. We value the benefit of open and honest public engagement.

Public engagement informing this development includes: two-dozen neighborhood council meetings over 3 years; a Fall-2011 series of design Review and Input Groups ("RINGS") meetings with nearly 40 neighbor participants; and City-level feedback gained through review of the prior project proposals.

The design of this project is also informed by the Linden Hills Neighborhood Small Area Plan and the Linden Hills Zoning Overlay. The SAP recommends stepping back the 4<sup>th</sup> story of any building along the street by 10-feet to further reduce the visibility of a fourth story from the street and overall visual impact of four story buildings. The Project's 4<sup>th</sup> story will step back 12-feet or more from the street and all other sides of the building.

## **Required Applications**

1. Conditional use permit for increased height to 4 stories/56 feet.
2. Variance for location of levels 2 and 3, balconies and terrace in a required yard.
3. Site plan review.

## Required Applications

1. Conditional use permit for increased height to 4 stories/56 feet.
2. Variance for location of levels 2 and 3, balconies and terrace in a required yard.
3. Site plan review.

### CONDITIONAL USE PERMIT FOR ADDITIONAL HEIGHT REQUIRED FINDINGS

A conditional use permit is being applied for to allow the building to exceed the 3 story/42-foot height limit for mixed-use buildings in the C-1 District. The proposed building is 4 stories/ 56' in height. The request for increased height for this project meets the required findings for the issuance of a conditional use permit under § 525.340 and the additional considerations for increased height in § 548.110:

1) *That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

The proposed building height will not be detrimental to or endanger the public health, safety, comfort or general welfare. From most sidewalk perspectives, Linden Crossing will present as a 3-story building due to the cornice element at the top of the third level, the 3-foot parapet around the perimeter of the 3<sup>rd</sup> floor roof, and the step-back of the upper floor living spaces by 12 or more feet from all sides. A substantial distance separates the Project from neighboring residential structures. Relative to the lower floors of the building, the two homes to the west are 72-feet away, and the condominium complex to the north is 115-feet away. The articulation of the facades further mitigate the impact of the building mass.

2) *The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.*

The proposed 4-story building will not be injurious to the use and enjoyment of other property or impede the normal and orderly development of the area and is likely to have a positive effect on property values in the area. There is precedent for height in this area; there are several 4-story residential buildings nearby and there is a 7-story condominium building (measured from the average elevation of its base) one block south at 44<sup>th</sup> Street and Upton. These other buildings lack articulation and none have upper levels that are stepped back. Also, within 100 yards of the project, a condominium building is under construction. It sits in the Lake Harriet Shoreland Overlay District and received approval this year for a needed variance for a fourth floor. Due to area topography, the ground levels of these neighboring buildings are at higher elevations than Linden Crossing. By bringing residential density, expanded commercial services, and high-quality infill development to this corner, this mixed-use project will enhance the use, enjoyment and development of properties in the surrounding area.

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

Adequate utilities, access, drainage, and other necessary facilities will be provided for the project and the proposed height of the building will have no impact on these features.

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

The additional height will have no impact on traffic congestion in the public streets.

5) *The conditional use is consistent with the applicable policies of the comprehensive plan.*

The Project is consistent with the following guidance from the Minneapolis Plan for Sustainable Growth:

- Ensure appropriate transitions between uses with different size, scale, and intensity (Land Use Policy 1.2).
- Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area (Land Use Policy Implementation Step 1.2.1).
- Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses (Land Use Policy 1.8).
- Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features (Land Use Policy Implementation Step 1.8.1).
- Preserve and enhance a system of Neighborhood Commercial Nodes that includes a mix of housing, neighborhood-serving retail, and community uses (Land Use Policy 1.11).
- Encourage the development of medium- to high-density housing where appropriate within the boundaries of Neighborhood Commercial Nodes, preferably in mixed use buildings with commercial uses on the ground floor (Land Use Policy Implementation Step 1.11.5).
- Design buildings to fulfill light, privacy, and view requirements for the subject building as well as for adjacent properties by building within required setbacks (Urban Design Policy Implementation Step 10.6.1).

The Project is also consistent with the policies of the recently adopted small area plan for Linden Hills.

- New buildings should exhibit similar height, massing and human scale as those that surround them. (SAP "Outline of Themes" p.25).
- Three or four story buildings are allowed in the commercial nodes. (SAP "Building Height and Length" p.46).
- The fourth story of any building in the three neighborhood commercial nodes and along the community corridors shall be stepped back from the street facing façade(s) of the building by at least 10 feet. (SAP "Building Height and Length" p.46).
- ..stepping back the fourth story of the building from street wall reduces the visibility of a fourth story from the street and the overall visual impacts of a four story building, furthering the compatibility with the existing context. (SAP "Building Height and Length" p.47).

The conditional use is consistent with the comprehensive plan policies applicable to the site, including the guidance for appropriate scale and form. From street level perspective, the building will present as a 3-story building. The fourth level will be stepped back 12-feet from the street facing, and all other, facades of the 3-story building. The topography of the area is such that the top of the proposed 4-story

building will be similar or lower in elevation than “shorter” buildings within a block or two radius from the project site, so the visual impact of the building from a distance will be compatible with the surrounding context.

6) *The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.*

With approval of the other zoning applications for the project, it will conform to the applicable regulations of the zoning district.

**Additional factors to be considered when determining the maximum height per §548.110:**

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

Public right-of-way separates the Project from a commercial building to the east and south. On the south 1/3<sup>rd</sup> of the west side of the Project, the first floor garage wall is 5 to 7-feet away from a one-story commercial building built to the property line. Residential levels two and three of the Project step away 9-feet, and level four is 30 to 39-feet, from this shared property line. Relative to residential levels two and three of the Project, the two homes to the west are 72-feet away, and the condominium complex to the north is 115-feet away. Allowing an increase in height to 4 stories will not impede access to light and air for the surrounding properties.

(2) *Shadowing of residential properties, significant public spaces, or existing solar energy systems.*

The shadow studies indicate that the proposed 4-story building will shadow neighboring residential properties at various times, particularly in winter, but the degree of shadowing is not unusual compared to that typically experienced in an urban neighborhood. Moreover, as demonstrated by the comparative shadow studies, the shadows cast by the proposed 4-story building are essentially the same as those that would be cast by a building that was 42-feet tall (and which does not require a CUP for increased height). The building does not shadow significant public spaces. Shadowing of the corner “pocket park” along Upton will occur in the afternoons under any build scenario.

Two solar energy panel systems were identified on surrounding properties. (See enclosed map of solar panel locations.) One is located on the hardware store (formerly the co-op) at 2813 W. 43<sup>rd</sup> Street to the south of the project site and will not be shadowed by the new building. The second is located on the roof of a single-family home at 4231 Vincent Avenue. The panel is located on the western-most end of the south-facing side of the roof. It is anticipated that some portion of the house (but not always including the solar panel) will be shadowed by Linden Crossing from approximately November 15<sup>th</sup> to February 1<sup>st</sup>. On December 21<sup>st</sup>, when the new building will cast the longest shadow, it is projected that the house will be completely clear of shadow from Linden Corner by approximately 10:30 a.m.

(3) *The scale and character of surrounding uses.*

To the north and northeast of the project site is a surface parking lot. To its north are condominium buildings and townhomes of three and four stories in height. Commercial buildings immediately across Upton and 43<sup>rd</sup> are one and two stories tall. Single family dwellings are located on the adjacent lots to the west of the project site. There are several large and tall apartment/condo buildings (mostly 4-

stories and one 7-story building) scattered within one and two blocks around the intersection. A 4-story condominium building is under construction within 100 yards of the site. It sits in the Lake Harriet Shoreland Overlay and received approval this year for a needed CUP for a fourth floor. The topography of the area is such that the top of the proposed 4-story building will be similar or lower in elevation than “shorter” buildings within a block or two radius from the project site. The character of the proposed design takes its cues from the traditional urban forms and features of the Linden Hills commercial node. The highly-articulated facades and quality finishes of the building will be a positive contribution to the architectural character of the area and vastly more appealing than the design of many of the nearby multiple-family dwellings.

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

The Project will not block views of landmark buildings, significant open spaces or water bodies.

#### **VARIANCE OF YARD REQUIREMENT REQUIRED FINDINGS**

Uses in the Commercial zoning districts are not generally subject to yard requirements; however, this project is subject to yard requirements because it is a residential project that includes windows facing an interior side yard or rear yard, and because it is adjacent to an R1 zoning district on the west. For the approved 3-story project, variances were approved for terraces and balconies to project into the required 9-foot and 10-foot yards. The building itself complied with the yard requirements. Because the yard requirement increases with building height, the setback requirements for the proposed 4-story building are 11 and 12 feet and the following variances are being requested.

North interior side yard requirement adjacent to C1 District: The parking lot property to the north is also zoned C1. There is no setback requirement for non-residential uses adjacent to commercially zoned property, so there is no setback requirement for the first floor. There is an 11-foot setback requirement ( $5 + 2x$ ) for the upper floors because they are residential uses. The building wall on the second and third floors is set back 9 feet and projects into the side yard by 2 feet. The terrace area on top of the first-floor roof is within 3 feet and the third floor balconies with awnings are within 6 feet of the property line and also require a variance from the 11-foot setback requirement.

West rear yard adjacent to C1 District: The second and third residential floors are subject to an 11-foot setback on the facade of the building facing the C1 property to the west. The building wall on the second and third floors is set back 9 feet and projects into the side yard by 2 feet. The terrace area on top of the first floor roof projects within 5 feet and a balcony on the third floor projects within 6 feet of the property line and also require a variance from the 11-foot setback requirement.

West rear yard requirement adjacent to R1 District: The portion of the west facade that is adjacent to property zoned R1 is subject to a 12-foot setback requirement that applies to all floors ( $6 + 2x$ ). The building wall is setback 10 feet and projects into the rear yard by 2 feet. Two balconies project within 7 feet of the property line and also require a variance from the 12-foot setback requirement.

We are proposing to add a stepped back 4<sup>th</sup> floor without increasing the setback of the building walls for the lower floors. The proposed 4<sup>th</sup> floor will be stepped back 21 feet or more from all property lines, and 12 feet from the edge of the 3<sup>rd</sup> floor wall. Thus, the impact of the building will be like that of a 3-story building. Maintaining the same building wall, terrace and balcony placements will have the same impact as for the 3-story project already approved.

The project meets the required findings for a variance under § 525.500 of the Zoning Code.

1) *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

A key goal of the project is to provide a housing choice for the neighborhood that is not currently available: accessible, condominium homes with high-quality design and amenities located in the Linden Hills neighborhood commercial node. The proposed homes are appealing to residents who are empty nesters and want to downsize and stay in the area. This project goal is consistent with policies of the comprehensive plan that “promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.” Land Use Policy Implementation Step 1.8.1. This housing type requires spacious units and balcony or terrace amenities. The challenge is to balance unit design, desired density at this node, and setback requirements, including the increased setback associated with the adjacent R1 district which has greater requirements than other residential districts. The L-shape of the development site and the corner easement also impose constraints on the arrangement of the building, uses and amenities. These circumstances present practical difficulties in complying with the ordinance.

2) *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The proposed setbacks are reasonable and typical of what is constructed throughout the city. The purpose of setback requirements is to ensure light and air and appropriate separation of uses. The surrounding development is a commercial building, a parking lot and residential lots that have deep back yards between the houses and the project site. The proposed setbacks will not diminish access to light and air for surrounding uses. As discussed in the findings for the CUP for increased height, the building design is also consistent with the policies of the comprehensive and small area plans.

3) *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

The granting of the variance will not alter the essential character of the area, be injurious to the use or enjoyment of other properties, or be detrimental to health, safety or welfare. As noted, the proposed terraces and balconies are typical of multiple-family housing projects throughout the city and are an enhanced design feature. The north side of the building faces a commercial parking lot and the reduced setbacks will not interfere with the use of that property. The southwest terrace and balcony face a commercial building. The west side of the building faces the back yards of single-family homes. Those houses are set near the front of their lots, are 72-feet from the shared property line.

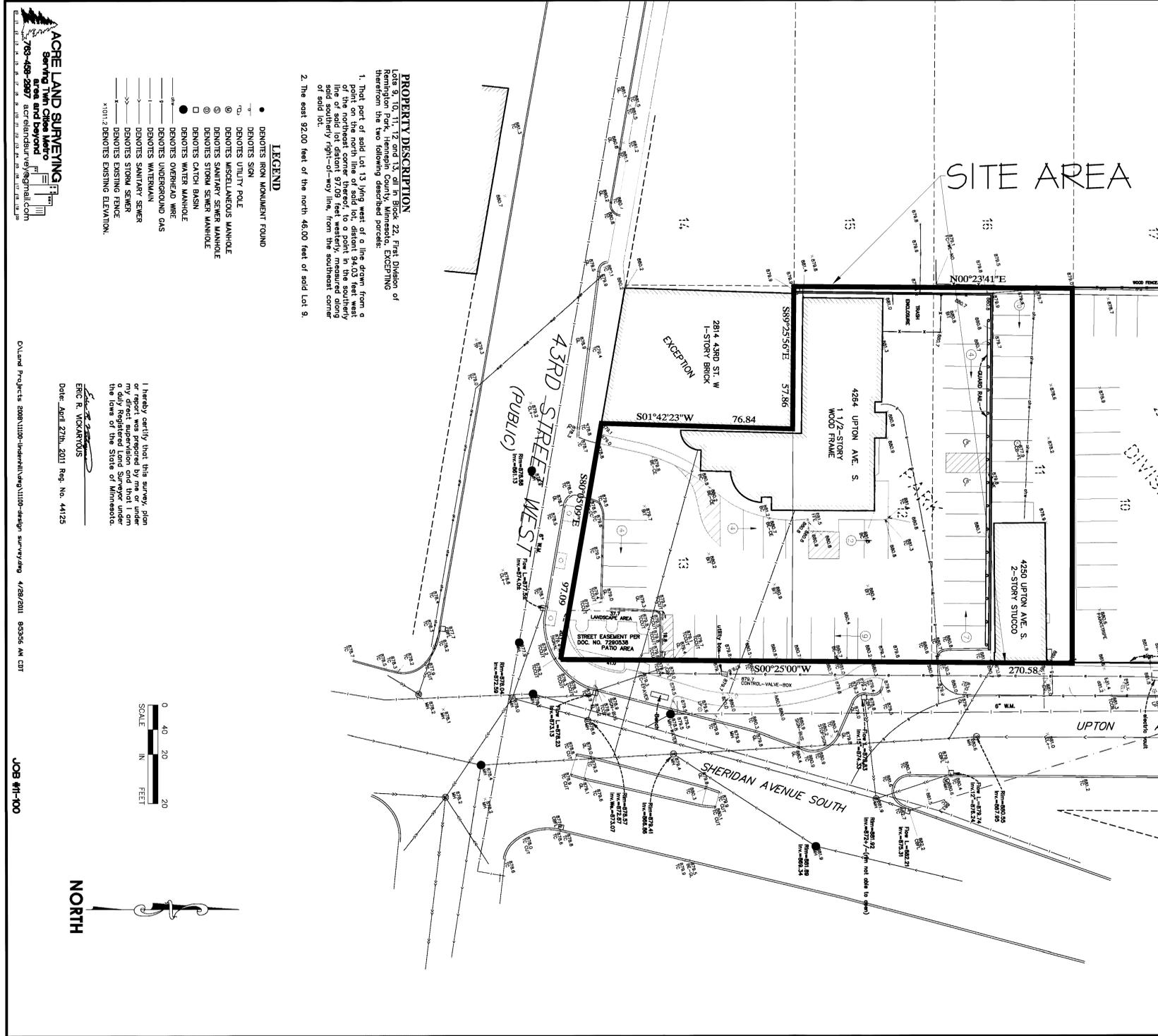


PROPERTY ADDRESS

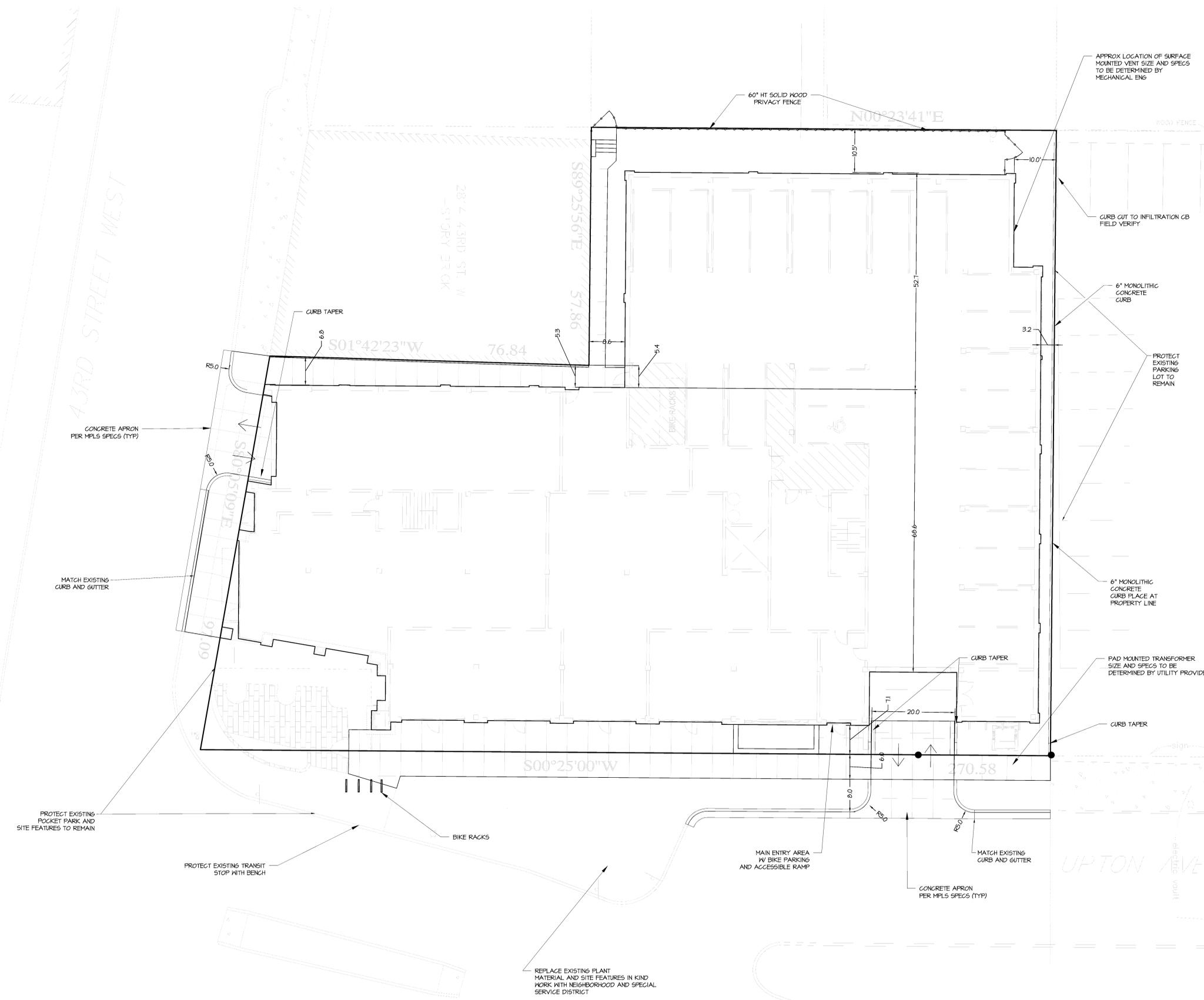
4250 & 4264 Upton Avenue South

FILE NUMBER

BZZ-6638

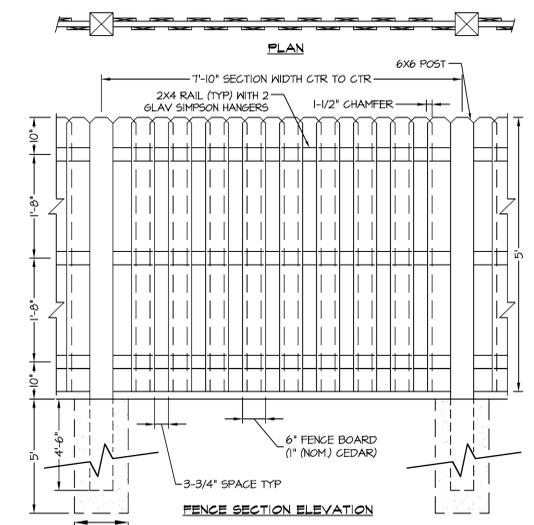






**AREAS AND QUANTITIES:**  
 SITE AREA = 0.51 ACRES (25,059 SF)  
 DISTURBED AREA = 0.80 ACRES (35,000 SF)  
 NEW IMPERVIOUS AREA = .03 ACRES  
 EXISTING IMPERVIOUS AREA = 0.55 ACRES (23,846 SF) 45%  
 PROPOSED IMPERVIOUS AREA = 0.52 ACRES (22,436 SF) 84%  
 BUILDING COVERAGE AREA = 0.48 ACRES (21,464 SF)  
 REQUIRED LANDSCAPE YARD AREA: 113 SF = 20% OF 3,504 SF (25,053 SF MINUS 21,464 SF)  
 PROPOSED LANDSCAPE YARD AREA: 2,611 SF

- LAYOUT NOTES:**
- PROPOSED HORIZONTAL AND VERTICAL ALIGNMENTS SHALL BE VERIFIED WITH THE EXISTING BENCHMARK PRIOR TO CONSTRUCTION ACTIVITIES.
  - LOCATIONS OF STRUCTURES, ROADWAY PAVEMENTS, CURBS AND GUTTERS, BOLLARDS, AND SITE IMPROVEMENT MATERIALS ARE APPROXIMATE AND SHALL BE STAKED IN THE FIELD, PRIOR TO INSTALLATION FOR REVIEW AND APPROVAL BY THE ENGINEER/LANDSCAPE ARCHITECT.
  - DIMENSIONS SHOWN ARE TO FACE OF CURB AND FACE OF BUILDING FOUNDATION WALL. LOCATIONS SHALL BE STAKED IN THE FIELD AND VERIFIED WITH THE DRAWINGS PRIOR TO EXCAVATION ACTIVITIES.
  - DECORATIVE PAVEMENT PATTERNS, TEXTURES, COLORS AND MATERIALS SHALL BE REVIEWED BY THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.
  - ACCESSIBLE CURB RAMPS SHALL CONTAIN TRUNCATED DOME LANDINGS AND BE CONSTRUCTED IN ACCORDANCE TO LOCAL ACCESSIBLE REQUIREMENTS.
  - PARKING STALLS SHALL BE STRIPED WITH A 4" WIDE WHITE PAINTED LINE. ACCESSIBLE ACCESS AISLES SHALL BE PAINTED WITH A 4" WIDE WHITE PAINTED LINE, 18" ON CENTER AND AT 45° ANGLE TO THE STALL. STOP LINES SHALL BE 12" WIDE WHITE PAINTED LINE.
  - CURB AND GUTTER TYPE SHALL BE B612 UNLESS OTHERWISE NOTED ON THE DRAWINGS. CURB AND GUTTERS HEIGHTS, LENGTHS, AND WIDTHS SHALL BE TAPERED TO MEET DIFFERENT CURB TYPES (EXISTING AND PROPOSED).
  - RECORD DRAWINGS SHALL BE MAINTAINED THROUGHOUT THE CONTRACT AND SHALL BE SUBMITTED TO THE OWNER UPON SUBSTANTIAL COMPLETION.
  - SERVICE DELIVERY AND TRASH PICKUP WILL BE PERFORMED BY CURBSIDE PICKUP, SIMILAR TO OTHER BUSINESSES WITHIN THIS DISTRICT WITHOUT ALLEYS.

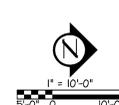


**NOTES:**  
 1. FOOTING DIAMETER TO BE 14". MINIMUM DEPTH 60".  
 2. DIMENSIONS SHOWN ARE NOMINAL FOR WOOD.

**5' SHADOWBOX WOOD FENCE**  
 N T S

**LEGEND:**

	CONCRETE PAVEMENT AS SPECIFIED (PAD OR WALK)
	PROPERTY LINE
	CURB AND GUTTER
	FENCE



7812 - PRELIM SUBMITTAL  
 8012 - CITY SUBMITTAL

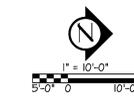
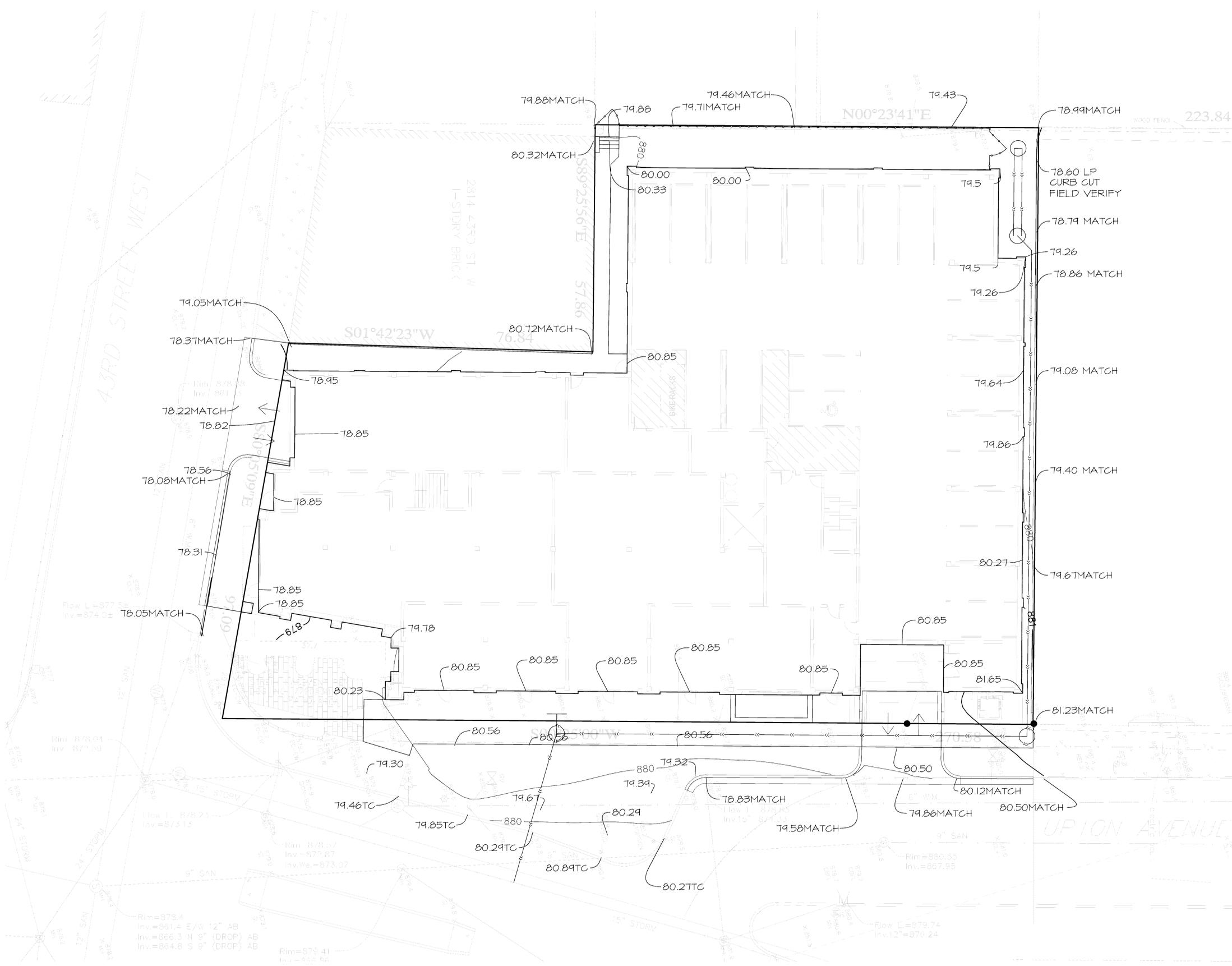
Date	8/31/24	JBW	TRE	10019
Project Architect				
Permit Submittal Date				
Project Number				

**GENERAL GRADING NOTES:**

- SEE SITE PLAN FOR HORIZONTAL LAYOUT.
- CONTRACTOR SHALL REFER TO RECOMMENDATIONS IN THE GEOTECHNICAL REPORT FOR ANY ADDITIONAL SITE PREPARATION INFORMATION, SOIL CORRECTION, TYPE OF BACKFILL, OR REQUIREMENTS.
- EXCAVATION AND EMBANKMENT ACTIVITIES SHALL BE PERFORMED IN ACCORDANCE WITH THE GEOTECHNICAL REPORT RECOMMENDATIONS.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR MAINTENANCE OF GRADE STAKES THROUGHOUT THE DURATION OF CONSTRUCTION TO ESTABLISH PROPER GRADES. THE CONTRACTOR SHALL ALSO BE RESPONSIBLE FOR A FINAL FIELD CHECK OF FINISHED GRADES ACCEPTABLE TO THE ENGINEER/LANDSCAPE ARCHITECT PRIOR TO TOP-SOIL AND SODDING ACTIVITIES.
- EXCESS FILL MATERIAL SHALL BE REMOVED AND LEGALLY DISPOSED OF BY THE CONTRACTOR OFF-SITE.
- PROPOSED SPOT GRADES ARE FLOWLINE FINISHED GRADE ELEVATIONS, UNLESS OTHERWISE NOTED.
- GRADES OF WALKS SHALL BE INSTALLED WITH 5% MAX. LONGITUDINAL SLOPE AND 1% MIN. AND 2% MAX. CROSS SLOPE, UNLESS OTHERWISE NOTED.
- PROPOSED SLOPES SHALL NOT EXCEED 3:1 UNLESS INDICATED OTHERWISE ON THE DRAWINGS. SLOPES GREATER THAN 3:1 REQUIRE SURFACE ROUGHENING BY EITHER "STAIRSTEP" GRADING, GROOVING, FURROWING, OR TRACKING TO AVOID RUNOFF VELOCITY AND RECEIVE EROSION CONTROL BLANKET AS SPECIFIED. SLOPES LESS THAN 3:1 NOT STABILIZED WITH VEGETATION SHALL HAVE THE SURFACE ROUGH GRADED TO REDUCE RUNOFF VELOCITY UNTIL SOIL HAS BECOME STABLE AND MATURE. AT NO TIME THROUGHOUT THE DURATION OF THE CONTRACT, SHALL SLOPES BE A SMOOTH GRADE OR A COMPACTED SURFACE.
- CONTRACTOR SHALL STRIP, STOCKPILE, AND RE-SPREAD SUFFICIENT TOPSOIL TO PROVIDE A MINIMUM 4" COMPACTED DEPTH TO DISTURBED AREAS TO BE SEEDED OR SODDED.

**EROSION CONTROL NOTES:**

SEE EROSION CONTROL PLAN FOR EROSION AND SEDIMENTATION NOTES.



**LEGEND:**

- EX: 1' CONTOUR ELEVATION INTERVAL
- 41' --- 1' CONTOUR ELEVATION INTERVAL
- 822.0 SPOT GRADE ELEVATION (FLOW LINE UNLESS OTHERWISE NOTED)
- COMBINATION SILT FENCE, CHAIN LINK CONSTRUCTION FENCE

7/15/2 - PRELIM SUBMITTAL  
 8/12 - CITY SUBMITTAL

Date	8/31/18
Project Architect	JBW
Permit Submittal Date	TBD
Project Number	10016

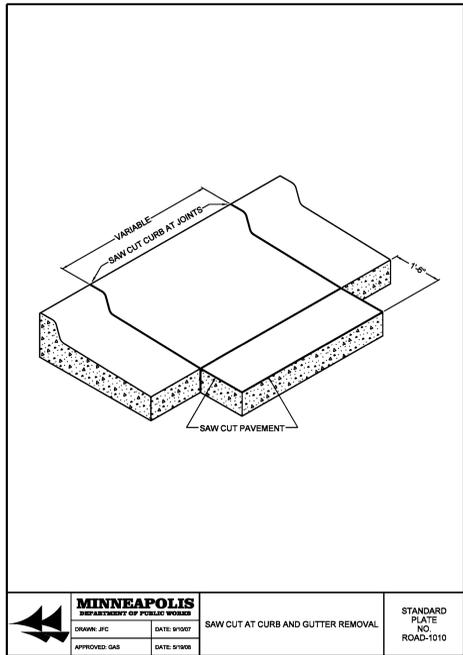
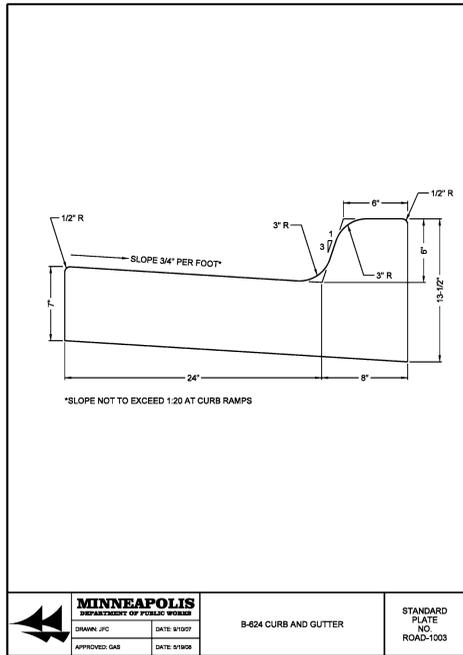
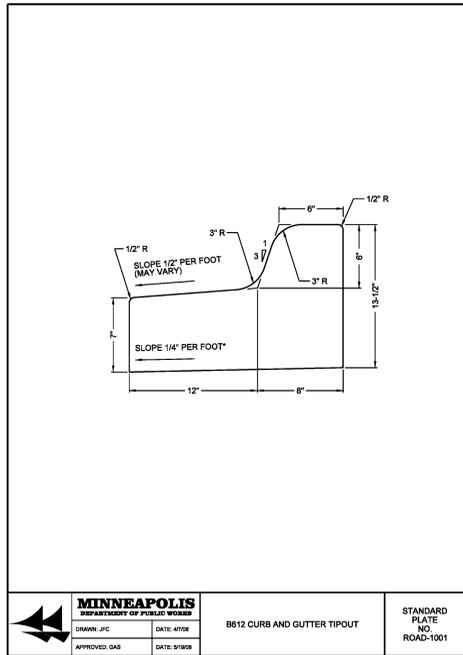
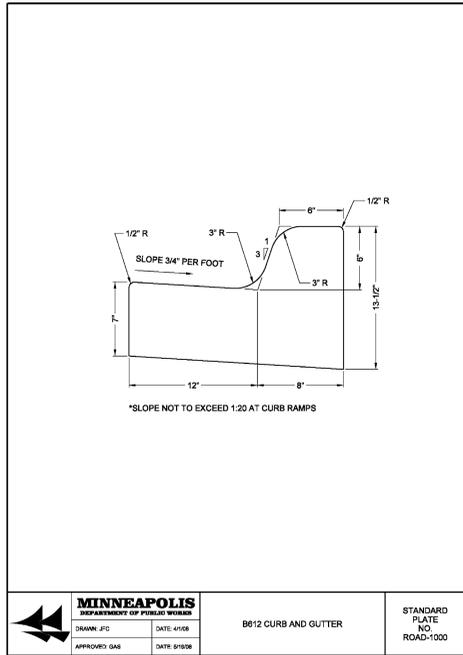
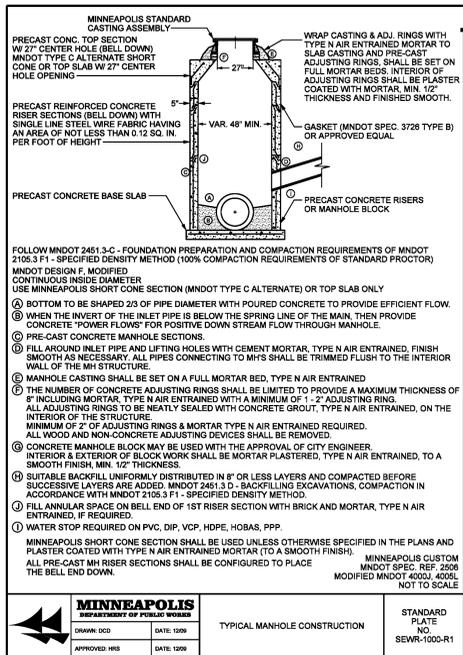
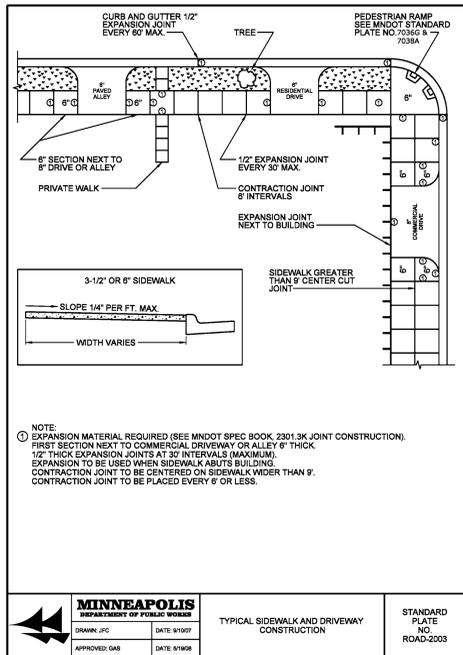
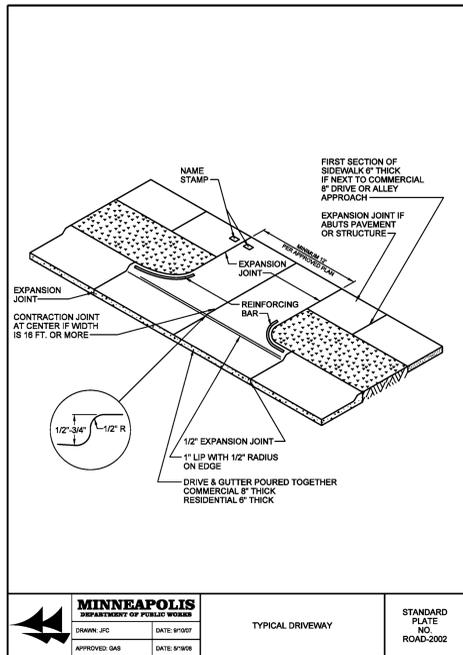
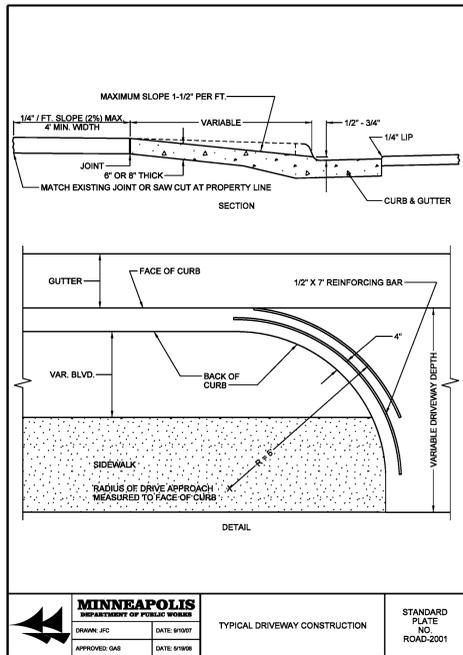
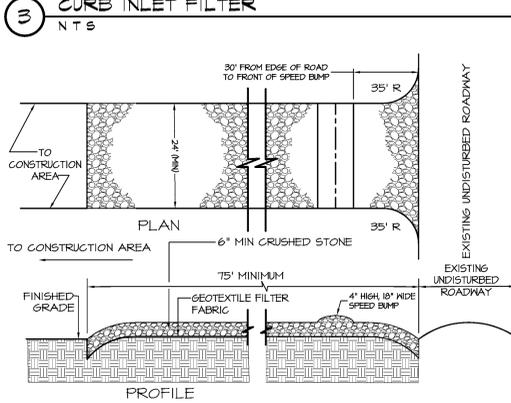
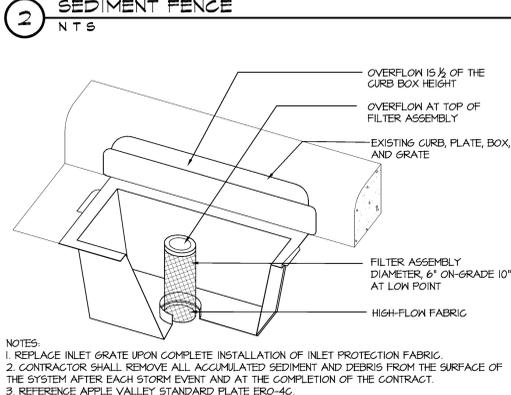
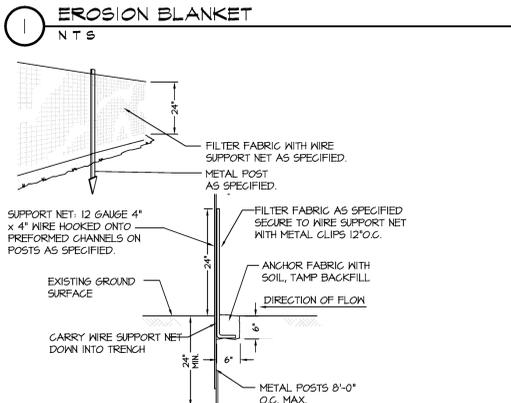
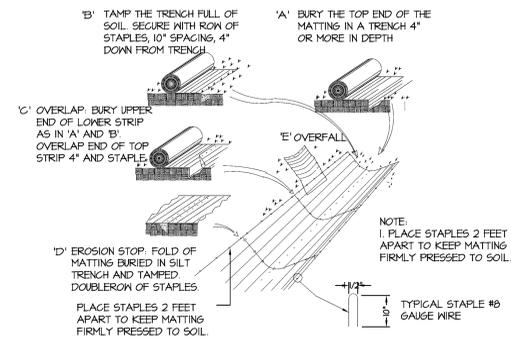
CONDOMINIUMS

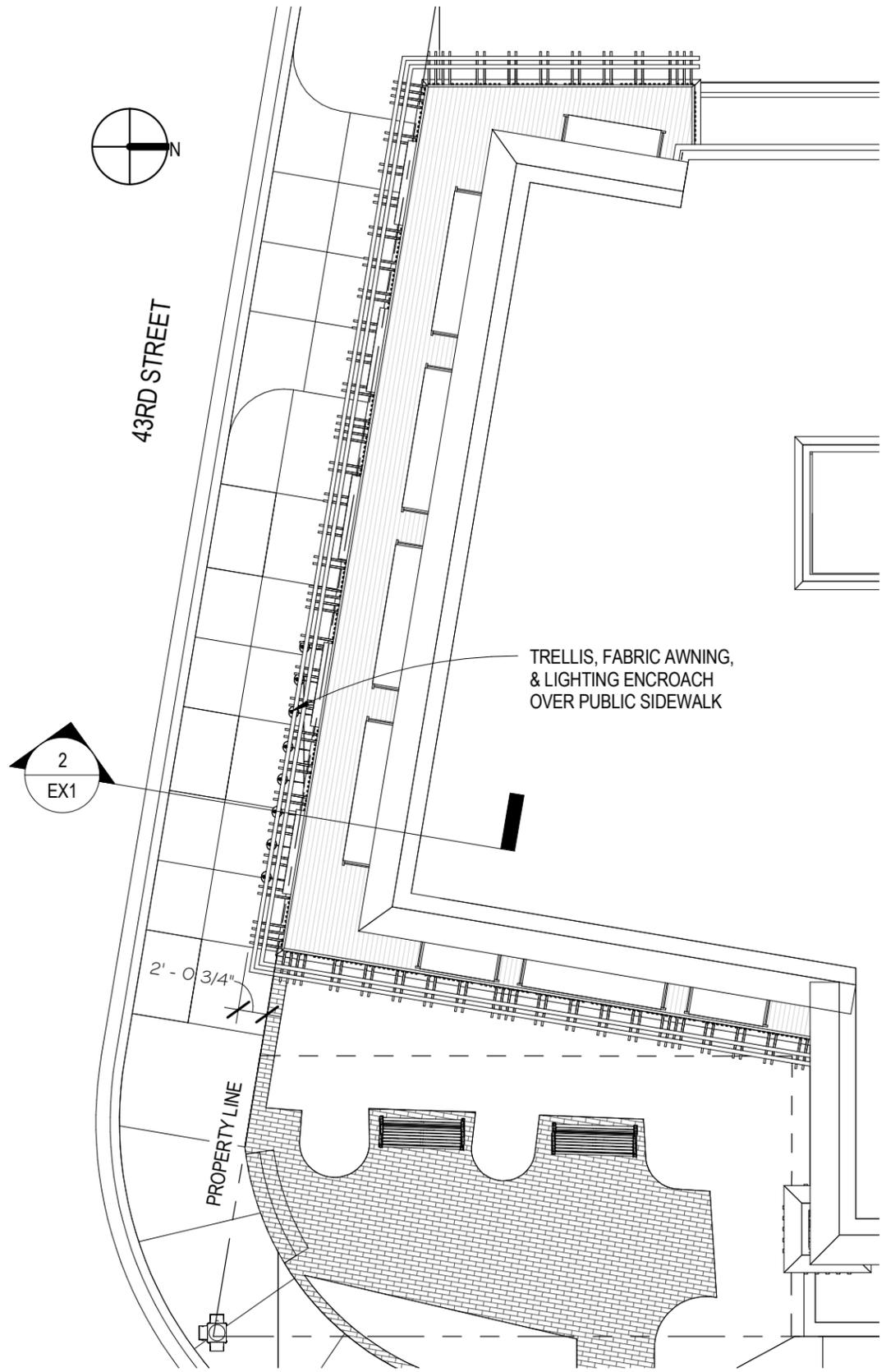
GRADING AND DRAINAGE PLAN

**C3**

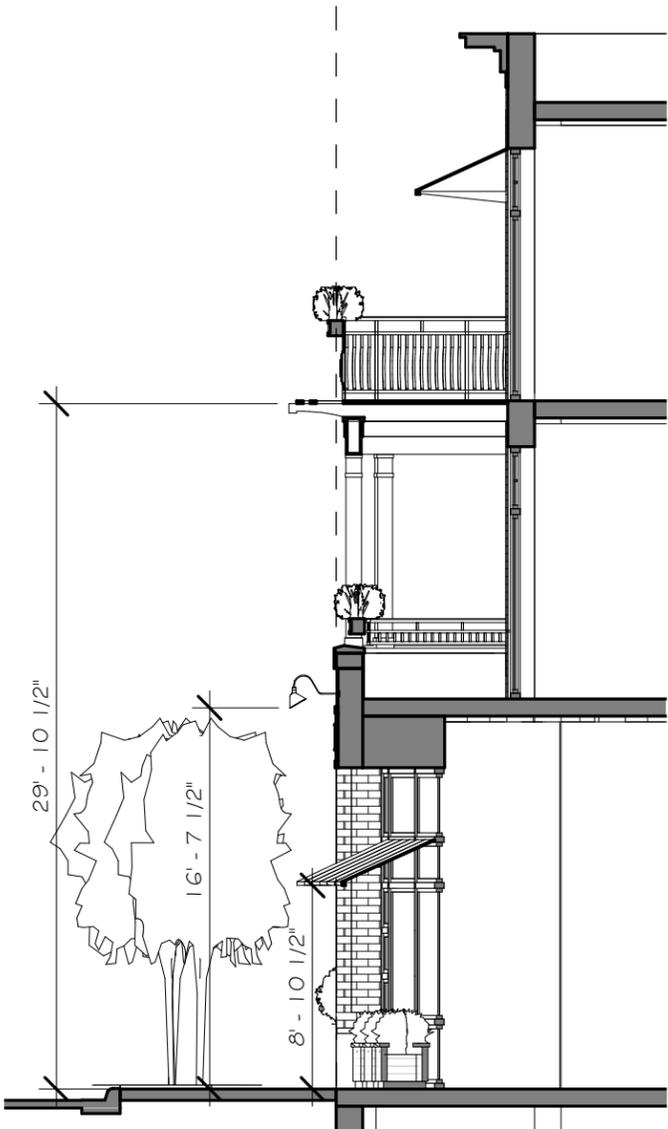








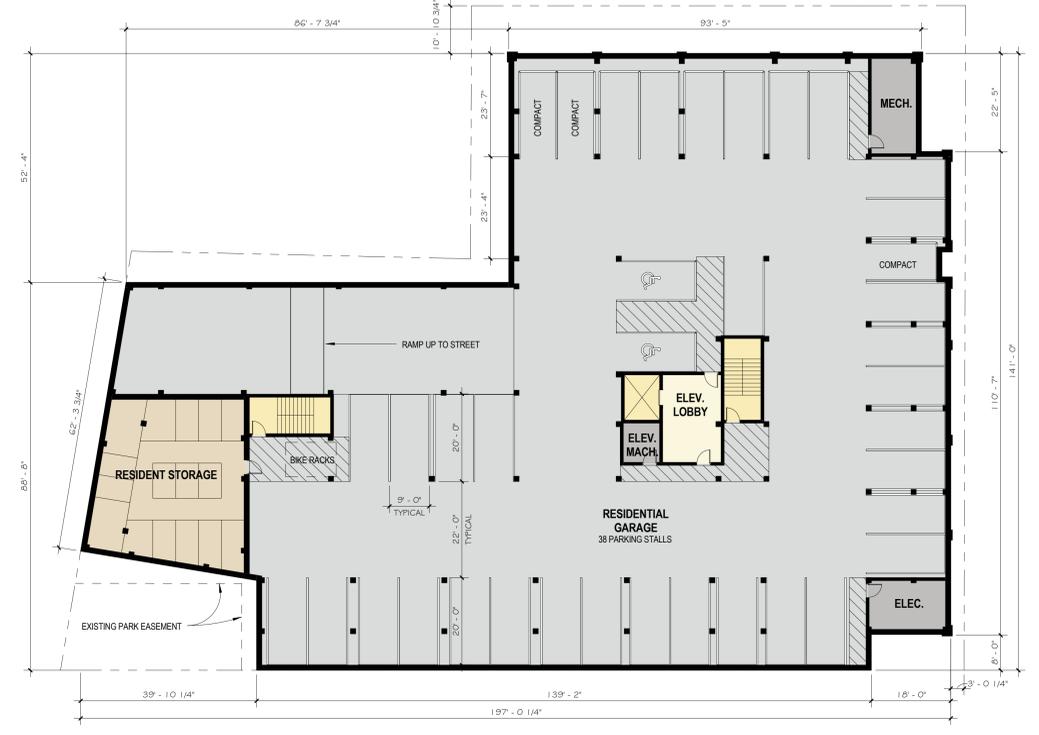
**1** Encroachment Plan  
SCALE 3/32" = 1'-0"



**2** Sidewalk Section  
SCALE 1/8" = 1'-0"

Date	10/26/12
Project Number	10016





UNIT MIX BY TYPE			PARKING REQUIRED			PARKING PROVIDED			NET BUILDING AREA BY USE		GROSS BUILDING AREA BY FLOOR	
THREE BED	7	35%	RESIDENTIAL (1 SPACE/UNIT REQ'D)	20		Garage	38		USE	AREA	BELOW GRADE GARAGE	21099 SF
TWO BED	13	65%	EASEMENT SPACES	10		1st Floor	22		Garage	27888 SF	Above Grade Garage	21059 SF
Grand total	20	100%	TOTAL REQUIRED	42		Grand total	60		Garage	6287 SF	1st Floor	9870 SF
			EXTRA SPACES	18					RETAIL LEASABLE	37227 SF	2nd Floor	17330 SF
									RETAIL SPACE	6154 SF	3rd Floor	17331 SF
									SHARED COMMON	207 SF	Roof Top Floor	8005 SF
									VERTICAL CIRCULATION	2360 SF	Grand total	81925 SF
											SITE AREA	25,052 SF = 56 ACRES
											F.A.R.	50.996 / 25,052 = 2.04



Date	06/25/14
Project Architect	N/A
Permit Submit Date	
Project Number	10016

Floor Plans



**1 Perspective from Southeast**  
 SCALE

**2 Perspective from Northeast**  
 SCALE



**3 East Elevation**  
 SCALE 3/32" = 1'-0"

**4 North Elevation**  
 SCALE 3/32" = 1'-0"



**5 West Elevation**  
 SCALE 3/32" = 1'-0"

**6 South Elevation**  
 SCALE 3/32" = 1'-0"

Date	08/09/14
Project Architect	N/A
Permit Submit Date	10/01/14
Project Number	10016

Color Elevations



1 ELEVATION - EAST  
SCALE 3/16" = 1'-0"

Date	06/06/14
Project Architect	N/A
Permit Submit Date	
Project Number	10016

East Elevation

cA21



1 ELEVATION - SOUTH  
SCALE 3/16" = 1'-0"



METAL CORNICE  
COMPOSITE PANEL  
METAL CORNICE  
FABRIC AWNING  
BALCONY WITH ALUMINUM RAILING  
PREFINISHED PANELS  
STONE CAP  
BASE BRICK

Rooftop Roof 56'-0"  
WOOD SCREEN FENCING  
DECORATIVE METAL CORNICE  
Parapet 44'-0"  
Rooftop Floor 41'-10"  
FABRIC AWNING  
ALUMINUM RAILING  
3rd Floor 28'-0"  
CEDAR WOOD TRELLIS  
PAINTED COLUMN & BEAM ENCLOSURES  
ALUMINUM RAILING  
2nd Floor 15'-0"  
BLUESTONE  
BASE BRICK  
BLUESTONE BASE  
1st Floor 0'-0"

1 ELEVATION - WEST  
SCALE 3/16" = 1'-0"

Date	08/09/14
Project Architect	N/A
Permit Submit Date	10/06
Project Number	10016

West Elevation

cA23

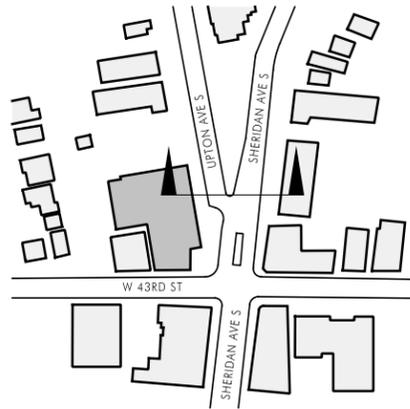


**1** ELEVATION - NORTH  
SCALE 3/16" = 1'-0"

Date	08/09/14
Project Architect	N/A
Permit Submit Date	
Project Number	10016

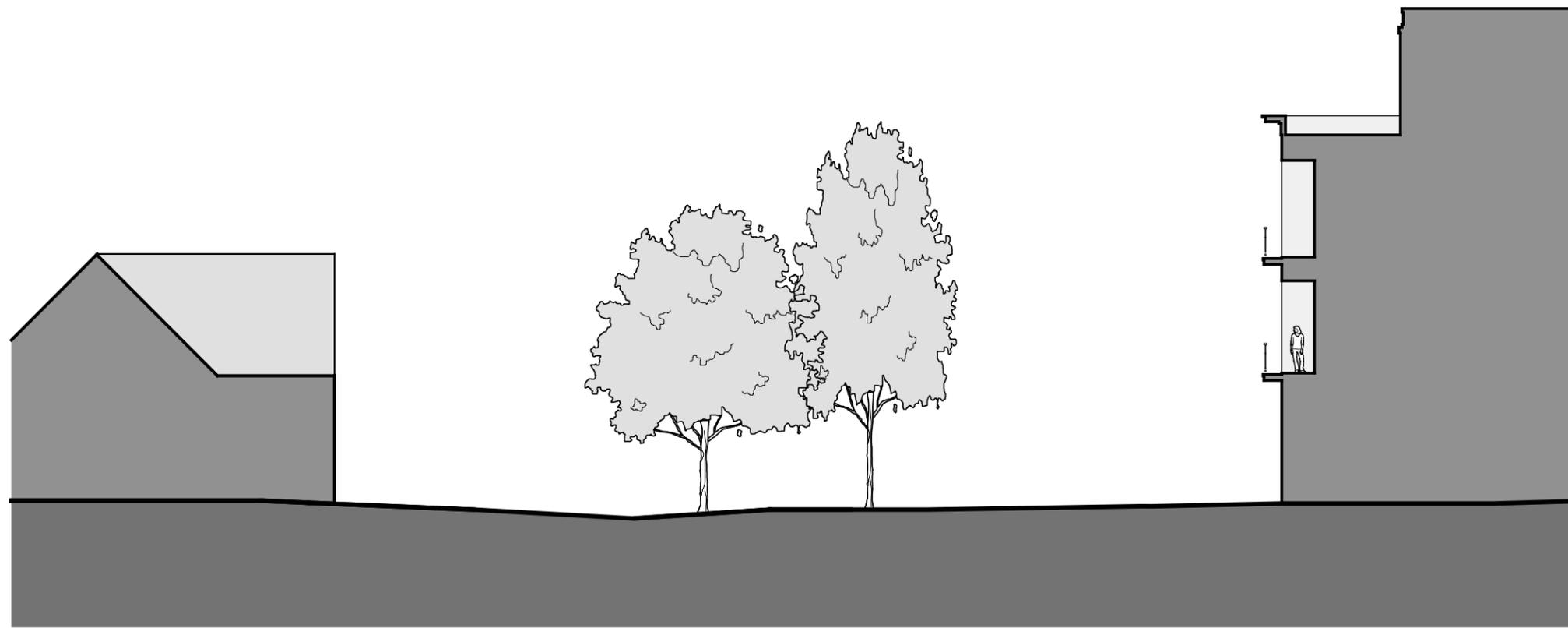
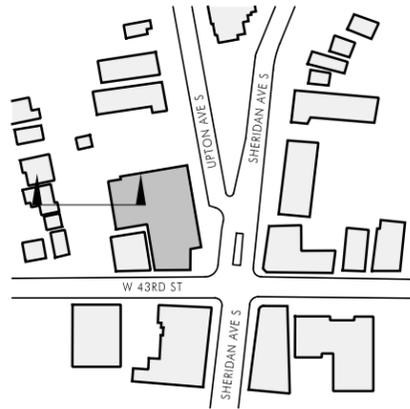
North Elevation

cA24



STREET SECTION - LOOKING NORTH ON UPTON

# LINDEN CROSSING



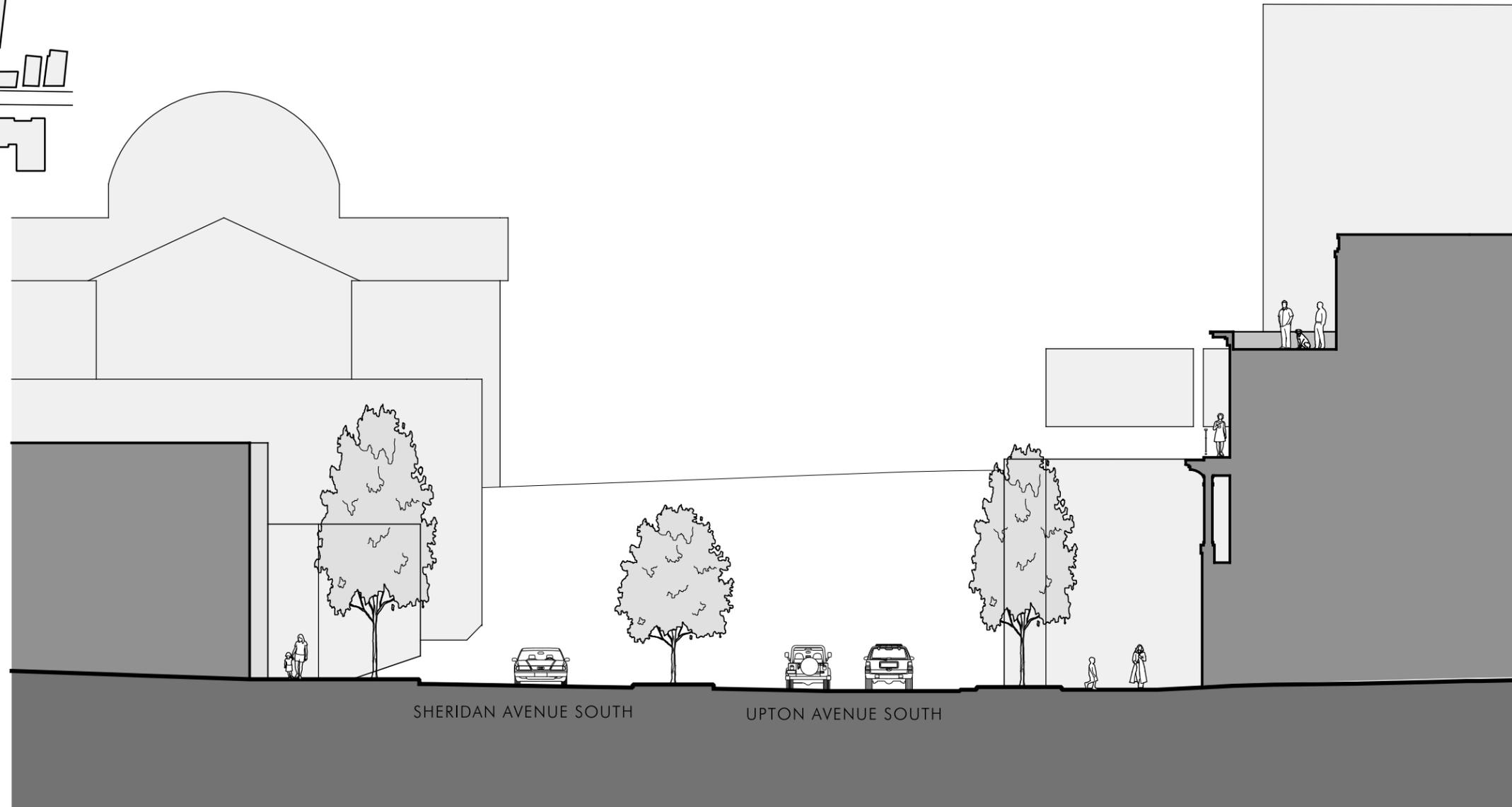
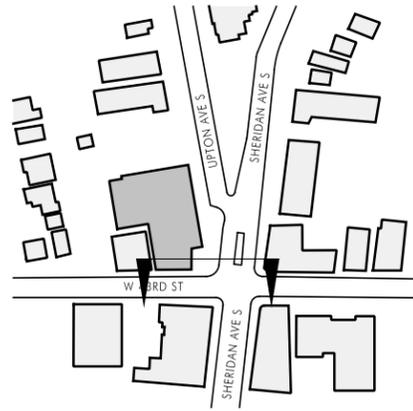
SECTION LOOKING NORTH

# LINDEN CROSSING

06.16.14

SCALE:  $\frac{1}{16}'' = 1'-0''$

Drawing 2

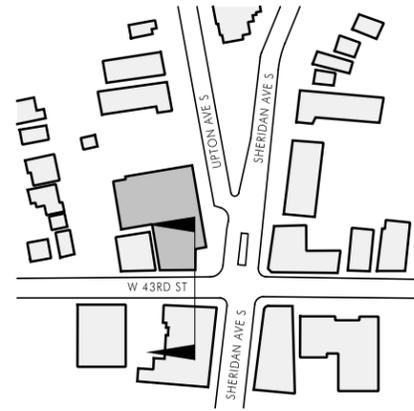


SHERIDAN AVENUE SOUTH

UPTON AVENUE SOUTH

STREET SECTION - LOOKING SOUTH ON UPTON/SHERIDAN

# LINDEN CROSSING

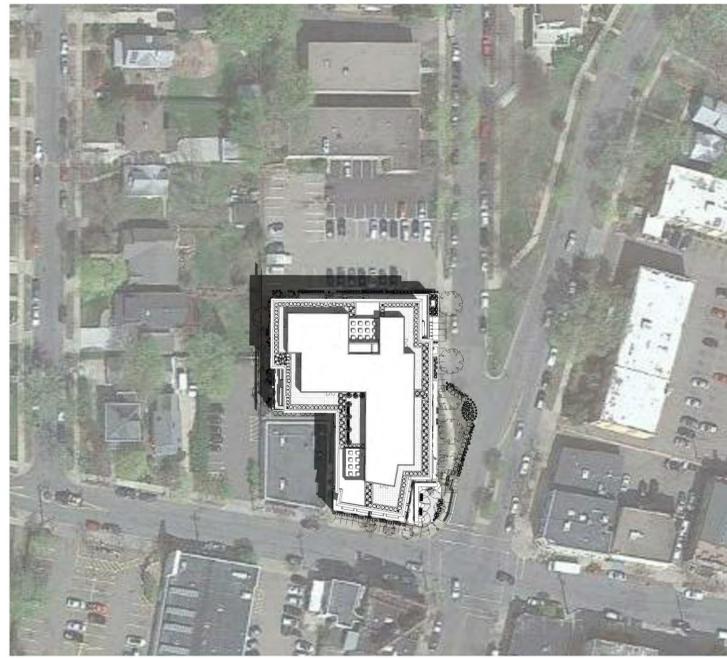


STREET SECTION - LOOKING WEST ON 43RD STREET

# LINDEN CROSSING



Shadow Study - Summer Solstice- 9am



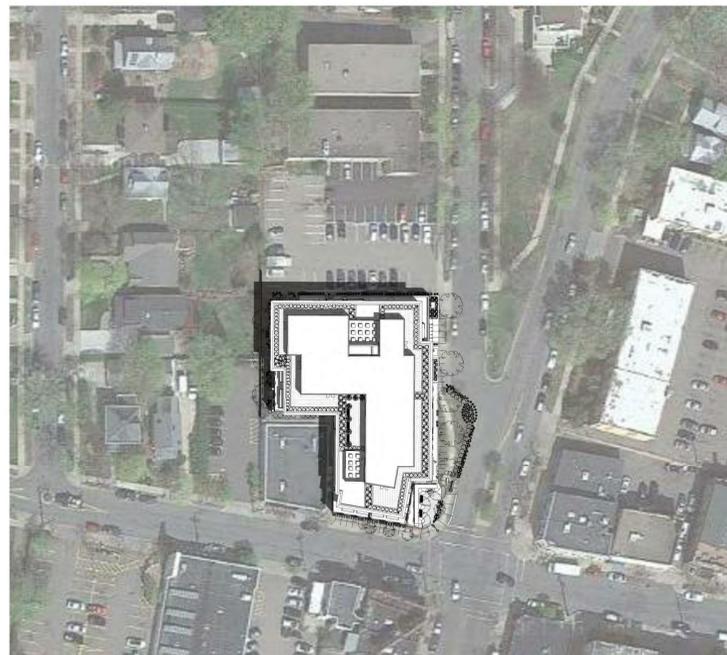
Shadow Study - Summer Solstice- 12 noon



Shadow Study - Summer Solstice- 4pm



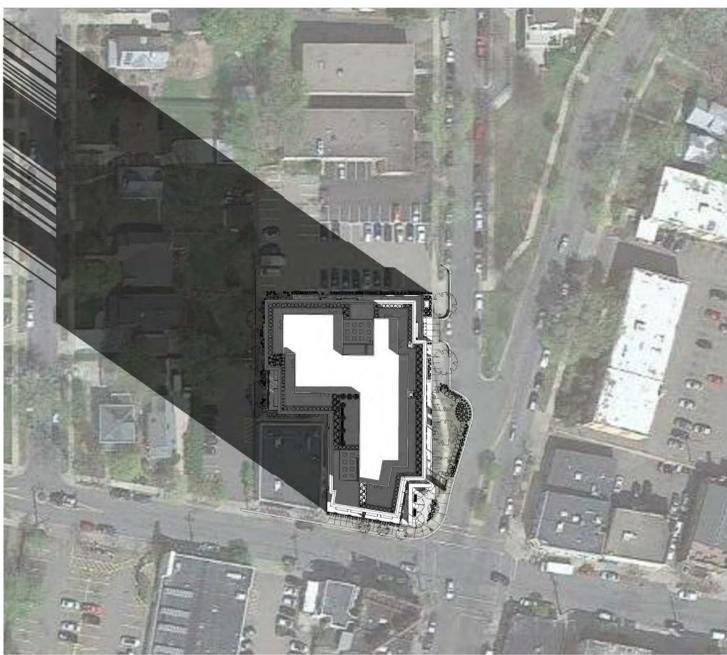
Shadow Study - Equinox - 9am



Shadow Study - Equinox - 12 noon



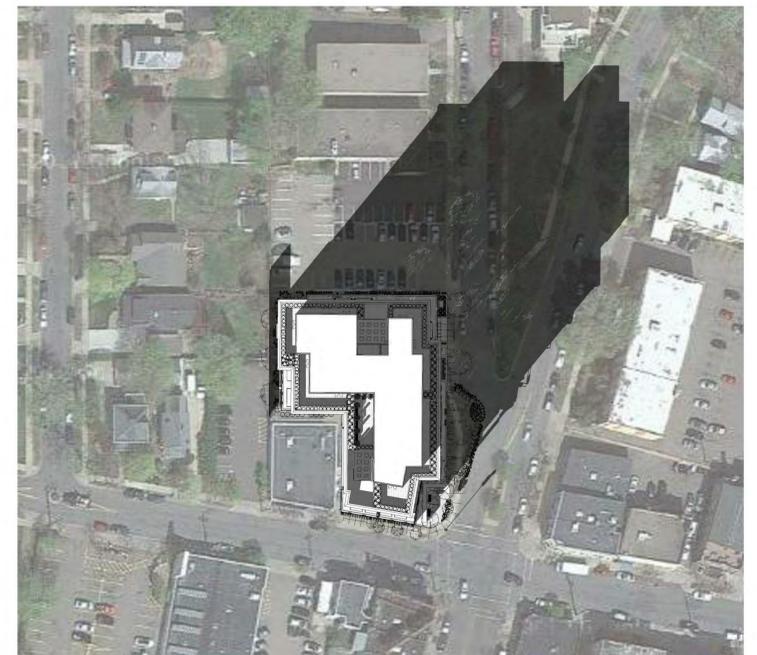
Shadow Study - Equinox - 4pm



Shadow Study - Winter Solstice- 9am



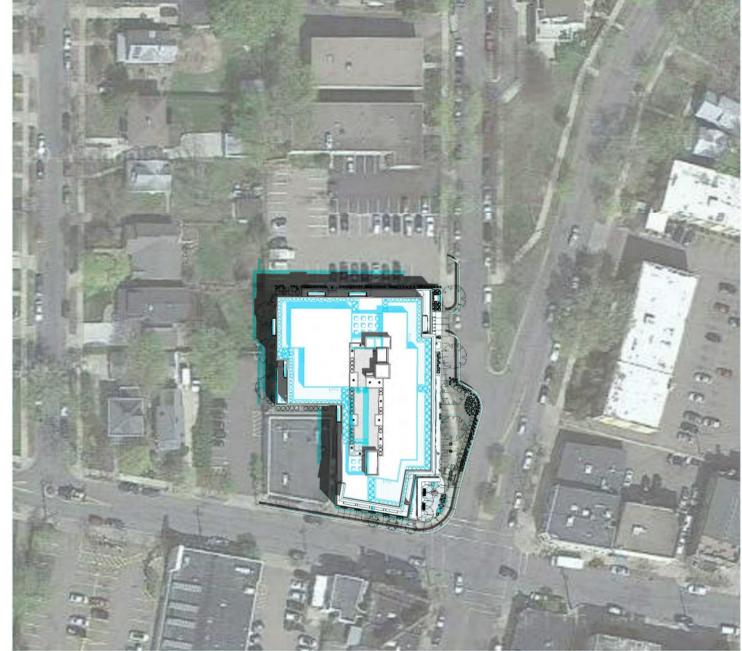
Shadow Study - Winter Solstice- 12 noon



Shadow Study - Winter Solstice- 4pm



Shadow Study - Summer Solstice- 9am



Shadow Study - Summer Solstice- 12 noon



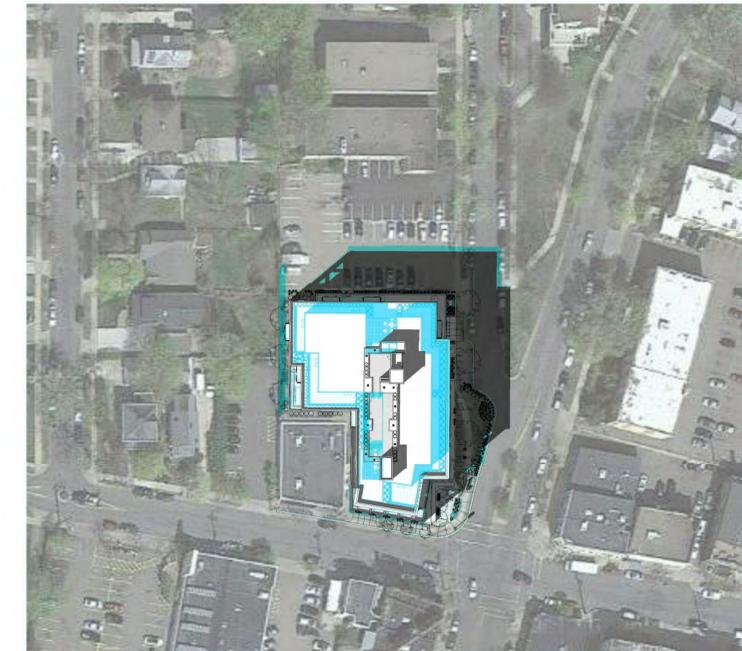
Shadow Study - Summer Solstice- 4pm



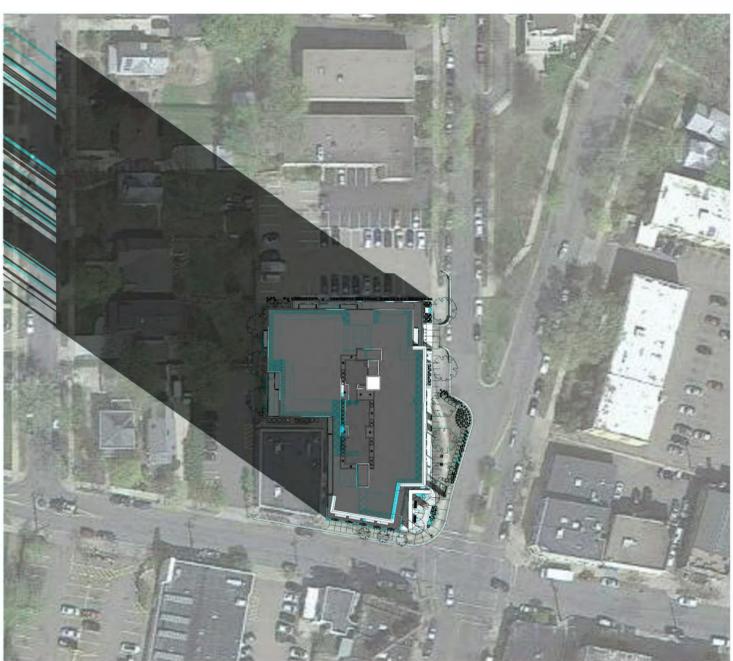
Shadow Study - Equinox - 9am



Shadow Study - Equinox - 12 noon



Shadow Study - Equinox - 4pm



Shadow Study - Winter Solstice- 9am

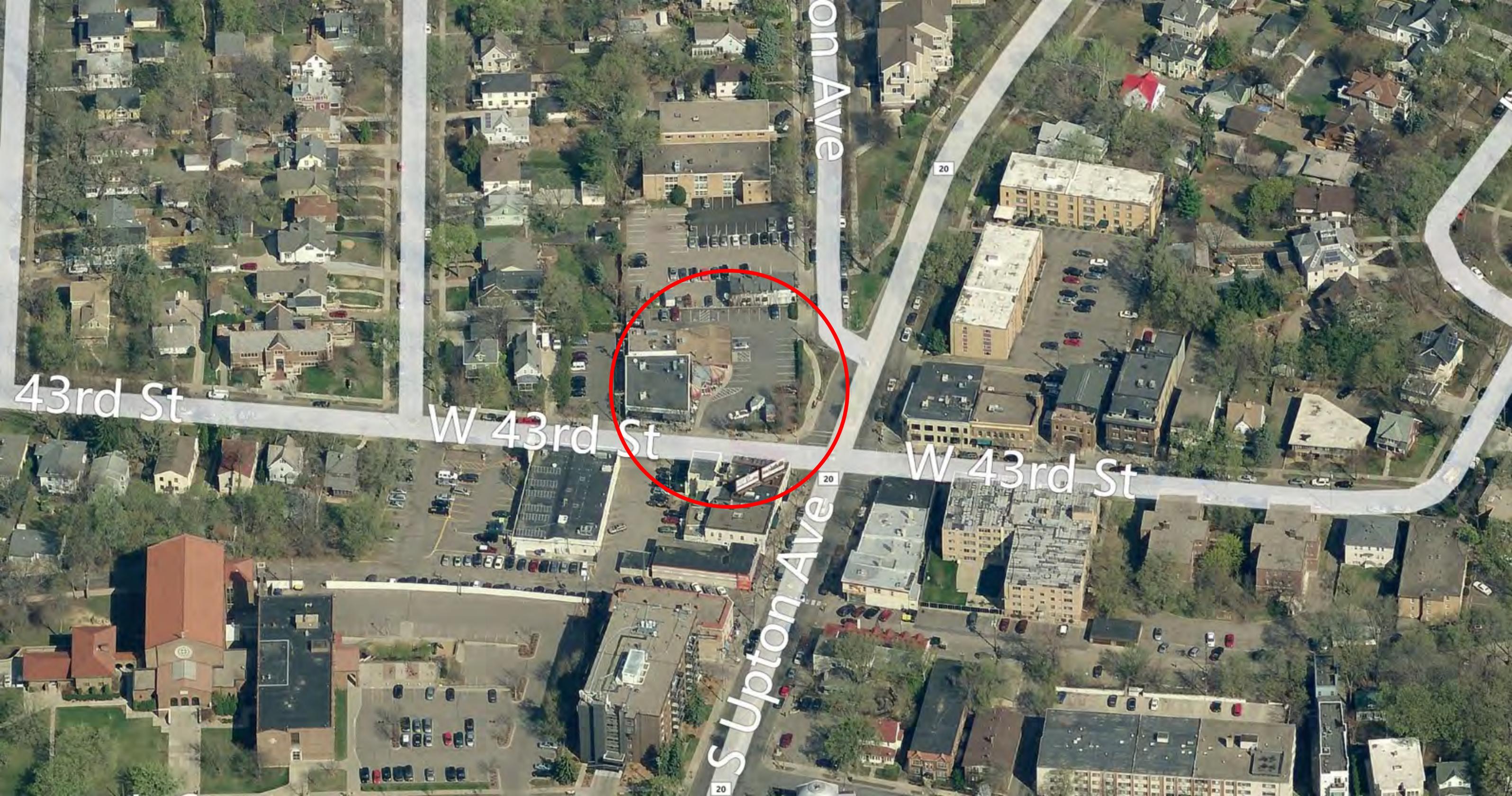


Shadow Study - Winter Solstice- 12 noon



Shadow Study - Winter Solstice- 4pm

Date	08/03/12
Project Architect	NA
Permit Submit Date	10/06
Project Number	10016



on Ave

20

43rd St

W 43rd St

W 43rd St

Supton Ave

20



Site Context

Date	06/09/14
Project Architect	NA
Permit Submit Date	NA
Project Number	10016

Site Context

cA00



01.JPG, Front of Famous Daves - West Look



02.JPG, Side of Famous Dave's - North Look



05.JPG, Back of Office Bldg - East Look



06.JPG, Side of Office Bldg - South Look



07.JPG, Front of Office Bldg - West Look



03.JPG, Side of Famous Daves - SW Look



08.JPG, Houses West of Site



10.JPG, Houses West of Site



09.JPG, Houses West of Site



11.JPG, Multi Res North of Site



13.JPG, Multi Res - NE of Site



14.JPG, Multit Res NE of Site



12.JPG, Multi Res Buildings North of Site - Street View



15.JPG, Multi Res East of Site



16.JPG, Retail / Office East of Site



18.JPG, Uses & Blbrds South of Site



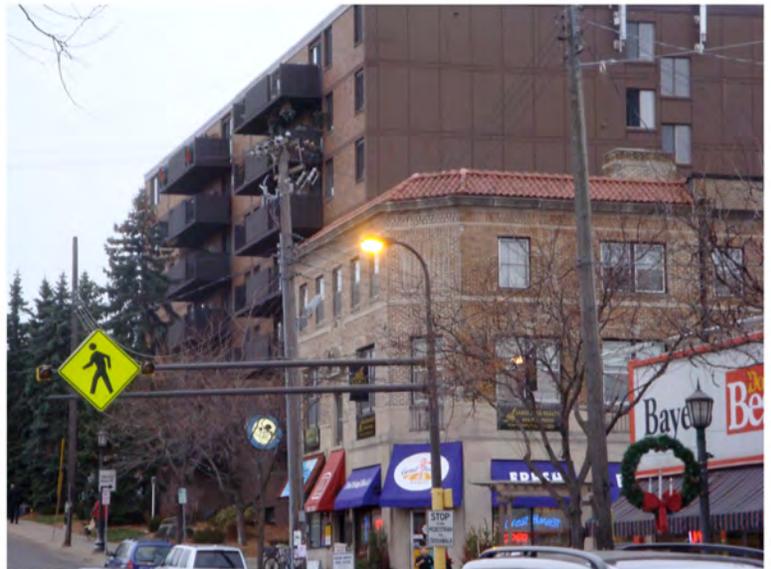
19.JPG, Uses South of Site



17.JPG, Multi Uses SE of Site



25.JPG, Within 1/2 Block - Design that informs Linden Corner



21.JPG, Within 1/2 Block - 7 Story Bldg on Hilltop



24.JPG, Across Street from Site - 4 story flat front



23.JPG, Within 1 Block - 4 story flat front - on hilltop



22.jpg, Within 1/2 Block - 7 story on hilltop



04.JPG, South Side of Office Bldg - North Look



26.JPG, Great Shops Linden Corner will Compliment



20.JPG, Uses South of Site



west look 1.JPG copy



West Look 2.JPG copy



West Look 3.JPG copy



West Look 4.JPG copy



West Look 5.JPG copy



West Look 6.JPG copy



West Look 7.JPG copy

**From:** [Dona M. Clark](#)  
**To:** [Anderson, Mei-Ling C.](#)  
**Subject:** Proposed Linden Corner project expansion  
**Date:** Wednesday, June 25, 2014 3:38:37 PM

---

Hello Mei - Ling,

I write to express my dissent to the proposed expansion of project called Linden Corners, to be located at 43rd and Upton Ave S in the Linden Hills neighborhood.

This project was approved to be a three story unit in keeping with current zoning restrictions and I believe it should stay that way. As a resident who lives two blocks away from that intersection, it is my strong opinion that a larger building would negatively affect the overall Linden Hills atmosphere, charm and culture.

Additionally, I'd like to also point out that the neighborhood at large has already spoken out with a fair amount of vigor against having a larger building built on this corner than what it is currently zoned for - three stories. Please respect the sentiment of the neighborhood at large and do not support/approve this proposed expansion. Please let me know if you have any questions or concerns, particularly if I should be contacting someone else. Thank you so much for your time.

Sincerely,

--

~ Dona Clark

**Anderson, Mei-Ling C.**

---

**From:** cement91672@mypacks.net  
**Sent:** Wednesday, June 25, 2014 7:27 PM  
**To:** Anderson, Mei-Ling C.  
**Subject:** Keep 'Linden Crossing' THREE stories

Ms. Anderson,

Residents of Linden Hills do NOT want to go down this path again. The corner of 43rd and Upton is zoned C1. Please do not grant the developer a CUP to expand his project beyond three stories. This community has been fully engaged in a legal, fair, time-consuming, expensive and passionate campaign to hold Mr. Dwyer et al accountable to current zoning standards.

Let's not start considering making special exceptions at this point. Let's not let greed interfere with what is right in this situation.

Thank you!

**Anderson, Mei-Ling C.**

---

**From:** epact90076@mypacks.net  
**Sent:** Wednesday, June 25, 2014 7:32 PM  
**To:** Anderson, Mei-Ling C.  
**Subject:** NO MORE LINDEN CORNER

Ms. Anderson,

The corner of 43rd and Upton is zoned C1. Please do not grant the developer a CUP to expand his project beyond three stories. This community has been fully engaged in a legal, fair, time-consuming, expensive and passionate campaign to hold Mr. Dwyer et al accountable to current zoning standards.

Let's not start considering making special exceptions at this point. Let's not let greed interfere with what is right in this situation.

Thank you!

**Anderson, Mei-Ling C.**

---

**From:** ichors97923@mypacks.net  
**Sent:** Wednesday, June 25, 2014 7:38 PM  
**To:** Anderson, Mei-Ling C.  
**Subject:** 43RD & UPTON DEVELOPMENT - KEEP IT SMALL!!!!!!!

DO NOT GRANT THE DEVELOPERS OF THE LINDEN CROSSING A CONDITIONAL USE PERMIT. DO NOT ALLOW THEM TO BUILD A C2 BUILDING IN A C1 ZONE. HOW CAN THIS BE HAPPENING AGAIN? AFTER A LONG BATTLE THE CITY SAID NO TO THE DEVELOPER - UPHOLDING CURRENT ZONING REGULATIONS. THE PEOPLE IN LINDEN HILLS SPOKE LOUD AND CLEAR. WE DO NOT WANT A FOUR OR FIVE STORY BUILDING IN THIS NEIGHBORHOOD. HOW IS THIS BEING REVISITED, YET AGAIN.

DO THE RIGHT THING MINNEAPOLIS!

**Anderson, Mei-Ling C.**

---

**From:** pinned62971@mypacks.net  
**Sent:** Wednesday, June 25, 2014 7:45 PM  
**To:** Anderson, Mei-Ling C.  
**Subject:** NO CUP FOR LINDEN CROSSING

Dear Mei-ling Anderson,

Please understand that a vast majority of the community members in Linden Hills do not want the proposed development to expand. No re-zoning, no condition use permits, no extra stories.

We are willing to do what it takes to fight this again. Calling the press. Hiring lawyers. Demonstrating. Organizing. Campaigning.

The developers should frankly take this project somewhere else. What a complete and utter slap in the face.

J, M & B Cavanaugh

**Anderson, Mei-Ling C.**

---

**From:** JENNIFER RUSSELL <jenrussell@earthlink.net>  
**Sent:** Wednesday, June 25, 2014 7:10 PM  
**To:** Anderson, Mei-Ling C.  
**Subject:** linden crossing condos

Ms. Anderson,

Hello, as a life long resident of Linden Hills, and a very dedicated and involved member of my community, I write to express my great concern and confusion about Mr. Dwyer and his backers applying for a 'conditional use permit' to expand his proposed condo development, once again. How is this even possible at this point? The city rejected Mr. Dwyer's 4 + story plan. C2 building in C1 zones should require rezoning, right? The city has said no. The residents of Linden Hills have said no. The community overwhelming expressed a desire to hold the developer accountable to current zoning regulations. We DO NOT WANT a four story / 56 foot building on that corner. It is too big for the corner. It is too big for the community, and we don't want it here. Many, many people have put in countless hours of their time, their energy and their money into standing up for what we feel is right in this community.

Please, do not allow greed to take the place of integrity.

Sincerely yours,

Jennifer Russell  
4349 Beard Ave  
612-226-2164

**Anderson, Mei-Ling C.**

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**From:** Jon de Vaal <jcaal@earthlink.net>  
**Sent:** Wednesday, June 25, 2014 9:58 PM  
**To:** Anderson, Mei-Ling C.  
**Subject:** Corner of 43rd & Upton

Ms Anderson:

How is it possible that the developers are revisiting zoning issues for their proposed development at 43rd & Upton Ave, again? Please, understand that a vast majority of the community members in Linden Hills worked long and hard to express to the city and to Mr. Dwyer, that we do NOT want the proposed development to expand beyond three stories or 42 feet. Please, do not sanction re-zoning, conditional use permits, or any special "revisions" which will allow extra stories or feet to be added to this development. Please adhere to your original findings. No C2 developments in a C1 Zones. No "Conditional Use Permits." Not four stories or five stories. No special exceptions, or favors for this developer.

If said developers are unwilling with work within the zoning regulations, perhaps they should be encouraged to take their project elsewhere. We don't want it here.

Sincerely, Jon de Vaal

**Anderson, Mei-Ling C.**

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**From:** veeps20018@mypacks.net  
**Sent:** Wednesday, June 25, 2014 10:10 PM  
**To:** Anderson, Mei-Ling C.  
**Subject:** LINDEN HILLS - business district development

Hello,

It has come to our attention that Mr. Dywer and his team are submitting a revision to their Linden Corner plans to make it a 4 story building? And this time he is simply sidestepping the neighborhood zoning committee?

Please, do not grant this developer any special exceptions or permits or favors. We do not want anything larger than current zoning regulations allow for that space. Nothing over 3 stories! This issue has come up numerous times, and the neighborhood community have made it very clear that we do not want a large building in that space. We also expect the city will uphold it's decision to limit what the developers can build there according to the zoning laws.

We are watching what the developer and his business partners are doing very closely. There has been enough controversy associate with this project, and it seems the backers have controversy around other projects they've been involved with in the city of Minneapolis.

We will be looking to our city officials to listen to the Linden Hills community members, again, and act with integrity on this matter.

Thank you.

**Anderson, Mei-Ling C.**

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**From:** Grant Hawthorne <rghawthorne6468@gmail.com>  
**Sent:** Wednesday, June 25, 2014 1:48 PM  
**To:** Anderson, Mei-Ling C.  
**Cc:** Larry LaVercombe; mark dwyer; Ziring, Emily; Dahler, Ken; Palmisano, Linea; Constance Pepin  
**Subject:** Re: Linden Crossing - New Application  
**Attachments:** Z&P FINDINGS OF FACT AND RECOMMENDATION hl.pdf; ATT00001.txt

Dear Mei-Ling,

Thank you for your email and the included link.

In March 2012 the City Council Zoning & Planning Committee reversed the Planning Commission's recommendation to approve Mr. Dwyer's "Linden Corner" land use application, in large part because of "Linden Corner's" C2 building height. The Zoning & Planning Committee further objected to idea that a C2 height building was to be permitted on C1 parcels by means of a conditional use permit, instead of by a rezoning application. I have attached below the Zoning & Planning Committee's full "Findings of Fact and Recommendation" for reference. In part, it says:

In order to preserve this small, neighborhood commercial scale, the properties in the heart of the Node are zoned C1. . . . The C1 zoning district that predominates on the development site is the only commercial zoning classification in the Zoning Code that does not allow a maximum height of 56 feet as-of-right (without a CUP) (C1 is 2.5 stories/35 feet). The applicant's request for a maximum height of 59 feet for a mixed-use building might arguably be consistent with a more intensive commercial zoning district; however, it would be unprecedented in the C1 zoning district. In light of the lack of a rezoning application, the Committee voiced a concern that the developer is attempting an "end around" applicable zoning for the proposed project via the CUP application for increased height.

If CPED again recommends a C2 height building on the subject site to be allowed by means of a conditional use permit, as Planner Hillary Dvorak has recently said will be the case, it will be useful and respectful to the Linden Hills neighborhood and the public process to follow to understand the basis of the recommendation in specific view of the Zoning & Planning Committee's action on this question and the 13-0 City Council vote that accepted and ratified the Committee's recommendation.

Thank you.

Sincerely,

Grant Hawthorne

**From:** [Rosemary Murphy](#)  
**To:** [Anderson, Mei-Ling C.](#)  
**Subject:** Fwd: Linden Corners project  
**Date:** Wednesday, July 02, 2014 9:28:04 AM

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Dear Ms. Anderson

As owners of a condo at 4236 Upton Ave S. we are opposed to the conditional use permit and variances being requested for the Linden Corner project of Mark Dwyer.

As you know these issues, or variations of the same, were addressed a couple of years ago and were ultimately denied.

We suppose the present three story construction package is not financially viable, however, this seems to be a poor reason to override the ultimate findings of the previous hearings. We support the construction of the planned three story project but oppose the four story project.

Thank you

Philip & Rosemary Murphy

**From:** [Sheryl Grassie](#)  
**To:** [Anderson, Mei-Ling C.](#)  
**Subject:** Building Project at 43rd and Upton Ave. Mpls.  
**Date:** Wednesday, July 02, 2014 5:49:24 PM

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Please say no to a fourth story variance. We as a community worked very hard to get the larger building defeated and now Dr. Dwyer is pushing the limits once again. We don't want our neighborhood to be overly commercialized and this project, at the size the variance suggests is completely unnecessary and unacceptable to residents.

Thank you for your consideration,

Sheryl Grassie

*Dr. Sheryl R. Grassie*  
*3610 W. 40<sup>th</sup> Street*  
*Minneapolis, Mn 55410*  
*612-922-2200*  
*sgrassie@comcast.net*

**From:** [Palmisano, Linea](#)  
**To:** [Aaron Tag](#); [Anderson, Mei-Ling C.](#)  
**Cc:** [Ziring, Emily](#)  
**Subject:** RE: Linden Hills SAP, and Linden Crossing development  
**Date:** Thursday, July 03, 2014 3:18:20 PM

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Thanks, Aaron, for your input.

By forward of this to Mei-Ling, it will be shared as part of the public record and also with the Planning Commission documents for this project.

Kindly,  
Linea

**Linea Palmisano** | 13<sup>th</sup> Ward Council Member | City of Minneapolis

350 South 5th Street – Room 307 | Minneapolis, MN 55415  
612.673.2213 | [linea.palmisano@minneapolismn.gov](mailto:linea.palmisano@minneapolismn.gov)

Subscribe to 13<sup>th</sup> ward newsletters & updates [here](#).

**From:** Aaron Tag [<mailto:aaron.tag@gmail.com>]  
**Sent:** Thursday, July 03, 2014 8:40 AM  
**To:** Palmisano, Linea  
**Cc:** Ziring, Emily  
**Subject:** Re: Linden Hills SAP, and Linden Crossing development

Linea

Thank you for the recap of the Planning Commission COW meeting.

I wanted to make a few comments on my review of the plans I have seen compared to the published SAP. These aren't my personal opinion of the proposal, but rather my interpretation of the proposal compared to the final approved SAP. I also won't rehash the development of the SAP as you have heard that before and I imagine you will get plenty of comments on that from others.

1. SAP Page 46: "Encourage overall building heights and floor-to-floor heights that reflect the adjacent architectural context and encourage buildings that are shorter than the current Zoning Code maximums for 3 and 4 story buildings (42 feet and 56 feet respectively)."
  1. The current proposal is for a 56' tall building which is the maximum for a 4 story building and does not represent an attempt to minimize the height. The developer should be asked if they looked at shorter floor to floor heights to minimize the height of the building. The previous design had a height of 42', so the additional floor is 14' high, much higher than it needs to be.
  2. The set back of the 4th floor does lessen the visual impact of the height, but I see the requirement to minimize height as additional to the requirement to provide a 10' set back of the fourth floor.

3. The third floor or at least the visual impact of the 3rd floor is now 44' high. This is higher than the 3 floor maximum of 42'.
2. SAP Page 40: "The Neighborhood Commercial Nodes and Community Corridors are valued for their eclectic diversity of buildings and their scale. New development should reflect the character of the area through articulation, such as massing intervals and varied setbacks. This should be achieved through more than just a change in building materials."

1. I do not believe the current design reflects this requirement. There are varied storefronts, but it looks like all storefronts are at the same setback from the street. If the proposal is allowed as proposed without any discussion of minimizing heights I think it will set a bad precedence and effectively render a portion of the small area plan that was very important to the neighborhood and received months of discussion ineffective. This would be unfortunate for the first proposal out of the gate after release of the final SAP.

Thank you for giving me the opportunity to comment and let me know if you would like to discuss further.

Thanks, Aaron

**From:** [dave luger](#)  
**To:** [Anderson, Mei-Ling C.](#)  
**Cc:** [Linea Palmisano](#)  
**Subject:** variance for 4250 and 4264 Upton ave So.  
**Date:** Monday, July 07, 2014 7:54:02 PM

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I am the property owner to the west of the proposed complex by Mark Dwyer, 2812 & 2814 West 43rd. St.

I strongly request that the setbacks to Mark's property remain without a variance. The proposed balconies will be a mere 4 feet from my building, I feel that 12 feet is more appropriate and that the setback rules are there for a reason, particularly if I were to add a second floor to my present structure.

**\* I do not support this request for the west side setback variance.**

Also in regard to the request for 4 stories / 56 feet, The neighborhood clearly voiced almost three years ago that 3 stories / 42 feet better reflects the surrounding present architecture and massing in the area. Having been involved in this community for 30 some years, in both LHINC and LHBA, I've never seen such an outpouring of opinion on a matter affecting our neighborhood such as this particular issue. This enormous public outpouring was also the catalyst for the SAP.

As a (past) member of the Small Area Plan committee, I saw that it was clearly evident that the majority of input by the community was in favor of a three story limit for the 43rd & Upton node. The resulting language in the plan that suggests otherwise was an unfortunate last minute addition to the plan in its 11th hour and does not accurately reflect the community preference.

This last minute insertion foisted upon the committee by certain positions in the City, of said language caused a great deal of distress and turbulence with the SAP committee.

**\*I am supportive of a development on this site but do not support 4 stories.**

On a final note, the City may not be getting full benefit of input by the community on this issue as the orange 'Notice Of Public Hearing' signs required to be posted at the corners of the property are simply posted on the (Famous Dave's) building, which is vacant and set back 50 to 60 feet from the property lines and sidewalks and obscured from view by trees and arborvitae surrounding the building. I believe this could be viewed by some as violation of proper posting regulations for these requests.

Best regards,

Dave Luger

612-759-7815

\*FYI to all, Please use Bcc when adding my address to a group mail, thank you.