

Department of Community Planning and Economic Development – Planning Division
Rezoning, Conditional Use Permit, Variances, and Site Plan Review
BZZ-2400

Date: June 27, 2005

Applicant: Master Civil & Construction Engineering, Inc.

Address Of Property: 4516 and 4556 46th Street East

Project Name: Falls Condominiums

Contact Person And Phone: Don Gerberding 612-872-9200

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

Date Application Deemed Complete: June 6, 2005

End of 60 Day Decision Period: August 5, 2005

Ward: 12 **Neighborhood Organization:** Longfellow

Existing Zoning: OR1 Neighborhood and OR2 High Density Office Residence Districts

Proposed Zoning: OR2 High Density Office Residence District

Zoning Plate Number: 34

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

Proposed Use: Twenty-seven (27) residential condominium units with underground parking.

Concurrent Review:

Rezoning: From OR1 Neighborhood Office Residence to OR2 High Density Office Residence.

Conditional Use Permit: For 27 dwelling units.

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

Variance: To reduce the required interior yard (north side) setback from 11 feet to 10 feet and to allow ground level patios, balconies, and a trash enclosure to encroach into the required interior yard setback.

Variance: To reduce the required front yard (east side) setback on 46th Avenue South from 21 feet to seven feet and to allow ground level patios, balconies, retaining walls higher than three feet, and a walkway wider than six feet in width in the required front yard setback.

Variance: To reduce the required corner yard (south side) setback on 46th Street East from 14 feet to five feet and to allow ground level patios, balconies, and retaining walls higher than three feet into the required corner yard setback.

Variance: To reduce the required drive aisle for the surface parking from 22 feet to zero feet.

Site Plan Review.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variance, specifically Section 525.520(1) “to vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.”; Article XI Variance, specifically Section 525.520(14) “to reduce the maximum required width of parking aisles...”; and Chapter 530 Site Plan Review.

Background: Master Engineering is proposing to develop the parcel at the northwest corner of 46th Street East and 46th Avenue South. The proposal will consist of a four-story multi-family building of 27 units with underground parking accessed off of the alley. The applicant is requesting a rezoning of part of the site from the OR1 Neighborhood Commercial District to the OR2 High Density Residential District. A conditional use permit is necessary for all residential developments over 5 units. Setback variances are necessary to allow the building to encroach into all yards and to allow ground level patios, balconies, and retaining walls higher than 3 feet to encroach into the front yard on 46th Avenue and the corner yard on 46th Street.

A previous proposal for a three-story building with 20 units, that did not include the house at 4516 46th Street East, was approved by the City Planning Commission on October 25, 2004. At this same meeting the Planning Commission denied a variance to reduce the front yard along 46th Avenue South from 21 feet to five feet and in lieu thereof approved a variance from 21 feet to 15 feet. The Commission also denied a variance to reduce the front yard on 46th Street East from 15 feet to five feet and in lieu thereof approved a variance to 13 feet. On appeal the City Council overturned this decision and granted a variance to seven feet on 46th Avenue South and to 5 feet on 46th Street East. The applicant now has a purchase agreement to buy the house at 4516 46th Street East. This eliminates the reverse frontage lot (by making both parcels at 4516 and 4556 one zoning lot) that made the 46th Street frontage a front yard in the previous proposal and now makes this frontage a corner yard.

As of the writing of this staff report, the Longfellow Community Council has not provided any commentary. Staff will forward comments from the neighborhood group, if any are received, at the Planning Commission meeting.

REZONING (from OR1 to OR2)

Findings As Required By The Minneapolis Zoning Code:

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

The Minneapolis Plan does not have a designation for this area and 46th Street and 46th Avenue are not designated as community or commercial corridors. The existing land use map shows this area as predominantly single and two-family residential. The part of the site to be rezoned is currently zoned OR1 Neighborhood Office Residence District. The remainder of the site was rezoned from C1 Neighborhood Commercial to OR2 High Density Office Residence in December of 2004. The site is on a busy street and there is a multi-family building across 46th Avenue. There are bus routes on 46th Avenue South and the site is approximately eight blocks east of the 46th Street LRT station, so there is access to transit.

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

4.9 Minneapolis will grow by increasing its supply of housing.

Implementation Steps

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

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

Implementation Steps

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

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

Implementation Steps

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

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

While the Minneapolis Plan provides no specific recommendation for this site, the housing policies provide guidance that the City should pursue a variety of housing options that are respectful of the surrounding neighborhood character. The rezoning of part of this site from OR1 to OR2 would make the zoning on the site uniform. The OR2 District is an appropriate district to allow housing choice, while still maintaining neighborhood character, especially on a site that is located on a busy street corner

with in range of an LRT station.

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

The rezoning will allow the applicant to build a residential development with greater bulk and density than if a portion of the site were to remain OR1. This is in the interest of the applicant. The rezoning would also allow a range of house and retail choices. This can be in the public interest.

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

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

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

The OR1 District allows limited office and residential uses that would be appropriate in this area.

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

The eastern part of site was zoned C1 and the western part (the part that is petitioned for a rezoning to OR2) was zoned OR1 in 1999 as a part of the general remapping of the City during the adoption of the current zoning code. Before this it was B2-1 and the surrounding area was still zoned R1A. There has not been a change in development or character in the adjacent area since the 1999 remapping, but the eastern half of the site was rezoned to OR2 in December of 2004. In addition, the site is in the immediate area the 46th Street LRT station that has become operational and that can support higher density residential at appropriate locations.

CONDITIONAL USE PERMIT (to allow 27 units)

Findings as required by the Minneapolis Zoning Code:

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

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

Any residential development of five units or more requires a conditional use permit. The addition of 27 residential units can be appropriate on a busy street corner with in walking distance of an LRT station. The building may have less impact than many of the commercial uses allowed under the C1 zoning that use to be at the site.

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

The surrounding area is fully developed. The redevelopment of this corner for residential use should have a positive effect on surrounding properties.

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

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

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

Twenty-four parking spaces are required (90 percent of one per unit) and 32 are provided in an underground garage. Four spaces are proposed in a surface lot at the rear of the site, but it may not be possible to provide this number of spaces due to the prohibition against parking being located within six feet of a residential structure and with the necessary drive aisle variance. Access for all of the parking will be from the public alley as is typical for residential developments in the City.

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

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

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

The development will conform to the applicable regulation of the OR2 district with the approval of the variances and site plan review.

VARIANCE (to reduce the west rear yard setback)

Findings Required by the Minneapolis Zoning Code:

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

The rear yard setback in the OR2 District is determined by the building height. It is required to meet five feet plus two additional feet for each floor over the first floor. The building is proposed to be four stories, so this requires an 11 foot setback for the rear yard. The main wall of the building is setback 10 feet from the rear property line. The applicant claims that if the setbacks are adhered to the buildable area of the site is reduced significantly and that it would not be possible to provide underground parking with the required drive aisles and stall dimensions. The foundation wall of the parking is 10 feet from the property line. Reducing the size of the building would eliminate parking, as the rear wall of the main building is an extension of the foundation wall of the parking garage. The applicant claims that this is a hardship. Staff would agree that if underground parking is to be provided, then there is hardship in meeting the setbacks for the garage (that extends above grade) and that it would be difficult and unattractive to have the garage extending above grade with the main building setback further. Staff recommends that the building be setback at least nine feet from the property line, as would be required for a three-story building. The additional two feet for the fourth floor is less necessary because the units on the fourth floor are setback further than the main wall of the rest of the building.

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

If the building were setback 11 feet, then it would be difficult to provide the required underground parking and to have an access ramp that meets City standards for slope. This is a situation that is not generally applicable to other properties in the OR2 districts.

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

enjoyment of other property in the vicinity.

The intent of rear and interior setbacks is to ensure access to light and air. Staff recommends that the building be setback at least nine feet from the property line, as would be required for a three-story building. The additional two feet for the fourth floor is less necessary because the units on the fourth floor are setback further than the main wall of the rest of the building. This variance should not circumvent the intent of the ordinance.

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

Granting the variance that the applicant requested would allow for a large underground parking garage and this would reduce congestion in the public streets. Granting the variance should not be detrimental to the public welfare or safety.

VARIANCE (to reduce the north interior yard setback)

Findings Required by the Minneapolis Zoning Code:

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

The interior yard setback in the OR2 District is determined by the building height. It is required to meet five feet plus two additional feet for each floor over the first floor. The building is proposed to be four stories, so this requires an 11 foot setback for the rear yard. The main wall of the building is setback 10 feet from the north interior property line. The applicant claims that if the setbacks are adhered to the buildable area of the site is reduced significantly and that it would not be possible to provide underground parking with the required drive aisles and stall dimensions. The foundation wall of the parking is 10 feet from the property line. While this argument does not hold as true for this part of the building, it is less necessary to move the building back to 11 feet because the units on the fourth floor are setback further than the main wall of the rest of the building. The main part of the building is three stories, which would only require a nine foot setback, so the proposed 10 feet should provide an adequate buffer if the fourth floor units are setback from the main part of the building. However, the patio, balconies, and trash enclosures should not extend into this setback.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and**

have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

The main part of the building is three stories, which would only require a nine foot setback, so the proposed 10 feet should provide an adequate buffer if the fourth floor units are setback from the main part of the building. This is a situation that is not generally applicable to other properties in the OR2 districts.

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

The intent of rear and interior setbacks is to ensure access to light and air. An eleven foot setback is less necessary because the units on the fourth floor are setback further than the main wall of the rest of the building. The trash enclosure, patios, and balconies that encroach into the setback would reduce the buffer for the residential property to the north. This variance should not circumvent the intent of the ordinance if the trash enclosure, patios, and balconies do not encroach into the setback.

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

Granting the variance that the applicant requested would allow for a large underground parking garage and this would reduce congestion in the public streets. Granting the variance should not be detrimental to the public welfare or safety.

VARIANCE (to reduce the east front yard setback)

Findings Required by the Minneapolis Zoning Code:

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

The OR2 district requires a 15 foot front yard setback. The front yard is required to be increased where the established front yard of the closest principal structure originally designed for residential purposes located on the same block face on either side of the property exceeds the front yard required by the zoning district. The house to the north of the site is 21 feet from the property line so the district minimum of 15 feet is required to be increase to 21 feet along 46th Avenue. The main wall of the building is setback 10 feet, but three “bump-outs” are seven feet from the property line. The applicant claims that if the setbacks are adhered to the buildable area of the site is reduced significantly and that it

would not be possible to provide underground parking with the required drive aisles and stall dimensions. The foundation wall of the parking is 10 feet from the property line. Reducing the size of the building would eliminate parking, as the front wall of the main building is an extension of the foundation wall of the parking garage. The applicant claims that this is a hardship. Staff would agree that if underground parking is to be provided, then there is hardship in meeting the setbacks for the garage (that extends above grade) and that it would be difficult and unattractive to have the garage extending above grade with the main building setback further. However, it is important to maintain some setback, so staff recommends that the patios and balconies not extend any closer than the parts of the façade that bump out to seven feet from the property line. In addition, the retaining walls should not exceed three feet in this part of the setback.

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

If the building were setback 21 feet, then it would be very difficult to provide the required underground parking and to have an access ramp that meets City standards for slope. This is a situation that is not generally applicable to other properties in the OR2 districts.

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

The intent of setbacks is to provide a uniform building line down a block face, to preserve views up and down the street, and to ensure access to light and air. The surrounding area is mainly single-family homes that have front yard setbacks. The reduced setback does not match the larger setbacks of the residential properties to the north, but if the balconies and patios are moved back to seven feet there should be a reasonable amount of space between the building and the sidewalk (there is a 3.5 foot interior boulevard) that will allow views down the street.

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

Granting the variance that the applicant requested would allow for a large underground parking garage and this would reduce congestion in the public streets. Granting the variance should not be detrimental to the public welfare or safety.

VARIANCE (to reduce the south corner yard setback)

Findings Required by the Minneapolis Zoning Code:

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

The OR2 district requires an eight foot corner yard setback plus two feet for each floor over the first floor. This is a four story building, so a 14 foot setback is required. The main wall of the building is setback 11 feet, but two “bump-outs” are five feet from the property line. The applicant claims that if the setbacks are adhered to the buildable area of the site is reduced significantly and that it would not be possible to provide underground parking with the required drive aisles and stall dimensions. The foundation wall of the parking is 11 feet from the property line. Reducing the size of the building would eliminate parking, as the south wall of the main building is an extension of the foundation wall of the parking garage. The applicant claims that this is a hardship. Staff would agree that if underground parking is to be provided, then there is hardship in meeting the setbacks for the garage (that extends above grade) and that it would be difficult and unattractive to have the garage extending above grade with the main building setback further. However, it is important to maintain some setback, so staff recommends that the patios and balconies not extend any closer than the parts of the façade that bump out to five feet from the property line. In addition, the retaining walls should not exceed three feet in this part of the setback.

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

If the building were setback 14 feet, then it would be very difficult to provide the required underground parking and to have an access ramp that meets City standards for slope. This is a situation that is not generally applicable to other properties in the OR2 districts.

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

The intent of setbacks is to provide a uniform building line down a block face, to preserve views up and down the street, and to ensure access to light and air. The surrounding area is mainly single-family homes that have front yard setbacks. The home to the west is required to have an eight foot corner yard, so the proposed setback should not have a significant impact on views to the east for homes to the west.

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

public safety.

Granting the variance that the applicant requested would allow for a large underground parking garage and this would reduce congestion in the public streets. Granting the variance should not be detrimental to the public welfare or safety.

VARIANCE (to reduce the required drive aisle from 22 feet to zero feet)

Findings Required by the Minneapolis Zoning Code:

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

The site plan shows a four space parking area at the rear of the site off of the alley. Parking can not be located within six feet of a residential structure, so the number of spaces will need to be reduced. In addition, it can't encroach into the right-of-way. The code requires a 22 foot wide drive aisle for 90 degree spaces when the drive aisle is two-way. The applicant is requesting a variance of the drive aisle to zero, but the spaces will back out onto a 14 foot wide public alley. Staff cannot find a hardship that would justify granting this variance. There is very little room for maneuvering and there are garages across the alley, so granting the variance may not be a reasonable use of the property.

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

The site is relatively flat and rectangular. There is not a unique circumstance that would justify the variance.

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

The intent of the ordinance is to provide adequate maneuvering areas for parking vehicles. There is very little room for maneuvering and there are garages across the alley, so granting the variance may circumvent the intent of the ordinance.

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

Granting the variance may be detrimental to the public welfare or safety.

SITE PLAN REVIEW

Required Findings for Site Plan Review

A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)

B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances and windows:
 - Residential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - Nonresidential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall

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be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

- a. Windows shall be vertical in proportion.
- b. Windows shall be distributed in a more or less even manner.
- c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
- d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
- e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
- f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.

Minimum window area shall be measured as indicated in section 530.20 of the zoning code.

- The form and pitch of roof lines shall be similar to surrounding buildings.
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

The building is located close to the property lines (and beyond the setback lines) along 46th Street East and along 46th Avenue South. The area between the building and the lot lines contains landscaping and ground level patios. The principal entrance for the structure faces 46th Avenue South; which is the front of the building. The building facades will contain architectural detail such as articulated facades and different materials including brick and metal. However, there is a blank uninterrupted facade of greater than 25 feet at the west end of the north side wall, for the first floor only, where the parking garage ramp accesses the alley. The applicant will need to provide architectural detail to interrupt the blank wall in this area.

The windows on the building meet the requirements of the site plan chapter. The 46th Street East facade (south elevation) provides 37 percent windows on the first floor, 51 percent on the second and third floors, and 45 percent on the fourth floor. The 46th Avenue South facade (east elevation) provides 40 percent windows on the first floor, 51 percent on the second and third floors, and 38 percent on the fourth floor. The structure has a flat roof. Most other structures in the area have gable or hip roof, but a flat roof is usually considered appropriate for this type of building.

ACCESS AND CIRCULATION:

- Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.
- Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.
- Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.
- Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.
- Site plans shall minimize the use of impervious surfaces.

The entrances to the building open onto the public sidewalks. Public Works and the Fire Department have reviewed the site plan for access and circulation and find them acceptable. Use of the public alley for vehicular access minimizes conflicts with pedestrians. Much of the site is covered by buildings, drives and walkways, but does not exceed the 85 percent limit on impervious surfaces (it is at 85 percent). Staff recommends that parts of the patios be removed from the front and corner yard setbacks, as detailed in the variance section of this report, and that landscaping be placed in these areas to reduce impervious surfaces.

LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
 - Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.
- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.
 - All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
 - Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.
 - The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.

The site is 19,893 square feet and the building foot print is 13,043 square feet. This leaves 6,805 square feet of site area without a building. Twenty percent of this is 1,370 square feet of required landscaping. The applicant is providing 3,084 square feet or approximately 45 percent of the site minus the building. Three trees are required and 10 are provided. Thirteen bushes are required and approximately 110 are provided. There are no open parking lots that require landscaped yards.

ADDITIONAL STANDARDS:

- All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.
- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260 related to:
 - Natural surveillance and visibility
 - Lighting levels
 - Territorial reinforcement and space delineation
 - Natural access control
- To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

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

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

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.
- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2)

footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.

(5) Lighting shall not create a hazard for vehicular or pedestrian traffic.

(6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

The City's CPTED officer has recommended that all plantings follow the 3' – 7' rule to allow visibility into the site and that lighting be provided for security purposes. Staff is recommending denial of the drive aisle variance, but if there is a parking lot it should be bounded by the required curbing and screening. The buildings should not significantly shadow neighboring properties, block significant views of the city, or generate wind currents at the ground level.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE: The proposed use is a conditional use in the OR2 District.

Off-Street Parking and Loading: The zoning code requires 24 parking spaces (the OR2 District requires .9 space per unit). Two handicapped accessible spaces are required, one of which one is required to be van accessible. Two van accessible spaces are provided. The applicant proposes 32 parking spaces in an underground garage. Four spaces are proposed in a surface lot at the rear of the site, but it may not be possible to provide this number of spaces due to the prohibition against parking being located within six feet of a residential structure and the on-site drive aisle requirement.

Maximum Floor Area: The maximum FAR in the OR2 District is 2.5 and with one density bonus of 20 percent the allowable FAR is 3.0. The zoning lot in question is 19,893 square feet in area. The applicant proposes 47,628 square feet of gross floor area, an FAR of 2.4.

Building Height: Building height in the OR2 District is limited to four stories or 56 feet, whichever is less. The building will be four stories and less than 56 feet in height.

Minimum Lot Area: The OR2 District requires not less than 700 square feet of lot area per dwelling unit. With 27 proposed dwelling units on a lot of 19,893 square feet, the applicant proposes 734 square feet of lot area per dwelling unit.

Yard Requirements: The required front yard on 46th Avenue South is 15 feet; the required corner yard on 46th Street East is 14 feet (eight feet plus two feet for each floor above the first), and the rear and north side interior setbacks are 11 feet (five feet plus two feet for each floor above the first).

Specific Development Standards: No specific development standards are applicable for this project.

Hours of Operation: Not applicable.

Signs: Signs are subject to 531 and 543 of the Zoning Code. All new signs are required to meet the requirements of Chapter 543 of the zoning code and permits are required from the Zoning Office. The preliminary sign plan appears to meet all code requirements. The final sign plan is not yet finalized, but the applicant is aware that signs require zoning office approval and permits.

Refuse storage: Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The applicant will provide a trash enclosure that meets the requirements of the code.

MINNEAPOLIS PLAN: Please see finding number 1 under the rezoning section of this report and finding number 5 under the conditional use permit section of this report.

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

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

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning application from the OR1 Neighborhood Office Residence District to the OR2 High Density Office Residence District for property located at 4516 46th Street East.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for 27 dwelling units for property located at 4516 and 4556 46th Street East.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the rear (west) setback variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **deny** the variance to reduce the required rear yard from 11 feet to 8 feet for the building and in lieu thereof **approve** the variance application to reduce the required rear yard setback from 11 feet to 9 feet for the building for property located at 4516 and 4556 46th Street East.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the interior (north) yard setback variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the variance application to reduce the required interior (north) yard setback from 11 feet to 10 feet for the main building and **deny** the variance to allow ground level patios, balconies, and the trash enclosure to encroach into the setback for property located at 4556 46th Street East.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the front (east) setback variance:

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The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the required front yard setback on 46th Avenue from 21 feet to 7 feet and **approve** a variance to allow ground level patios, balconies, retaining walls greater than 3 feet, and a walkway wider than 6 feet for property located at 4516 and 4556 46th Street East subject to the following conditions:

- 1) The balconies and patios, not including walkways to the patios, shall not be located within 7 feet of the property line along 46th Avenue.
- 2) The retaining wall shall not exceed 3 feet in height within 7 feet of the property line along 46th Avenue for at least 98 feet north of the south property line along 46th Street.
- 3) The width of the entrance walkway and stairs to the main entrance shall not exceed 10 feet.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the corner (south) setback variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the setback variance for the building from 14 feet to 5 feet and to **approve** a variance to allow ground level patios, balconies, and retaining walls greater than 3 feet for property located at 4516 and 4556 46th Street East subject to the following conditions:

- 1) The balconies and patios, not including walkways to the patios, shall not be located within 5 feet of the property line along 46th Street.
- 2) The retaining wall shall not exceed 3 feet in height within five feet of the property line on 46th Street for at least 54 feet west of the east property line along 46th Avenue.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance to reduce the minimum required width of a drive aisle from 22 feet to zero feet for property located at 4516 and 4556 46th Street East.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for property located at 4516 and 4556 46th Street East subject to the following conditions:

- 1) Staff review and approval of the final site and landscaping plans. All improvements shall be completed by June 27, 2006 (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 2) Provision of architectural detail on the north side of the first floor to eliminate the blank wall greater than 25 feet in length.

Attachments:

1. Statement and findings from the applicant.
2. Site map and aerial photo.
3. Site plan, floor plans, and elevations.
4. Photos.