

GENERAL MINUTES  
 THE BOARD OF ZONING APPEALS  
 ROOM 330 – CITY HALL  
 SAINT PAUL, MINNESOTA  
 MAY 30, 2023

BOARD MEMBERS PRESENT

Daniel Miller  
 Jerome Benner II  
 Robert Clarksen  
 Diane Trout-Oertel  
 Luis Rangel Morales

STAFF PRESENT

David Eide                      DSI  
 Yaya Diatta                    DSI (Via telephone)  
 Kelly Koski                    DSI  
 Peter Warner                    City Attorney

ABSENT BOARD MEMBERS: Marilyn Porter; Megan Dayton

APPROVAL OF MINUTES for MAY 15, 2023

Moved By: Trout-Oertel / Second By: Clarksen /Approved 4-0

APPROVAL OF RESOLUTIONS - None

**Old Business**

FILE #	NAME	MOVED	SECONDED	VOTE	ACTION
23-035043	1845 Sheridan Avenue – Saint Paul Public Schools- Rosemary Dolata, Project Mgr.	Benner	Trout-Oertel	4-0	Approved with condition

**New Business**

FILE #	NAME	MOVED	SECONDED	VOTE	ACTION
23-038786	1495 Rice Street – Saint Paul Public Schools Facilities	Benner II	Trout-Oertel	4-0	Approved with condition
23-035038	2285 Hampden Avenue – 2285 Hampden LLC (c/o Thomas Nelson, Exeter Management LLC)	Benner II	Rangel Morales	5-0	Denied

Submitted by: Maxine Linston   
Maxine Linston (Jun 16, 2023 19:38 CDT)

David Eide 

Approved by:   
Diane Trout-Oertel (Jun 16, 2023 10:57 CDT)

Diane Trout-Oertel, Secretary

## BOARD OF ZONING APPEALS HEARING MINUTES

THE BOARD OF ZONING APPEALS  
ROOM 330 – CITY HALL  
SAINT PAUL, MINNESOTA  
MAY 30 , 2023

PRESENT: Members of Board of Zoning Appeals: Mr. Clarksen, Mr. Miller, Mr. Rangel Morales, Mr. Benner II, Ms. Trout-Oertel

Department of Safety and Inspections: Mr. Eide, Mr. Diatta, Ms. Koski

Legal: City Attorney Peter Warner

ABSENT: Ms. Porter, Ms. Dayton

*The meeting was chaired by Daniel Miller and began at 3:34 p.m.*

Mr. Miller- Good afternoon and welcome to the Board of Zoning Appeals. Our purpose is to review and decide upon requests for zoning code variances, administrative reviews, and requests to modify home occupation requirements for handicapped individuals. If you intend to testify today, we ask that you start your remarks by giving your name and address. Staff will first show slides of the site, then a presentation and findings and discussion will follow. I will then call on the applicant, then those in favor, then those opposed. At that point, the board might call back the applicant in case we have additional questions. I will then close the public portion of the hearing and the board will vote to approve or deny the request. The board's vote is final unless appealed to the city council within 10 days.

I will take the cases in the order they appear on the agenda. A few words on speaker time. The board limits the total of 30 minutes for those speaking in favor and equal 30 minutes for those speaking in opposition. Individual speakers are limited to three minutes each. Please be mindful of this. If you have submitted a letter or email, a reminder that there's no need to read those documents as they are already part of the record. Please provide your key points without repeating ideas presented by previous speakers present.

Present today from the Department of Safety and Inspections are David Eide, Yaya Diatta (via telephone), our secretary, Kelly Koski, our legal counsel Peter Warner. My name is Daniel Miller. I'm Chair of the Board. Before moving on to our first order of business, I will ask the secretary to call role of those members present in attendance for today's hearing.

### **Attendance:**

Ms. Koski- Clarksen-Here. Trout-Oertel-Here. Miller-Here. Benner II-Here.

### **Approval of Minutes for May 15, 2023**

Mr. Miller- Our first order of business is the approval of the minutes from May 15th, 2023. Is there discussion or a motion?

Ms. Trout-Oertel- Move.

Mr. Clarksen- Second.

Mr. Miller- Move and seconded. Can we get a roll call for that, please?

Ms. Koski-Mr. Clarksen-yes. Ms. Trout-Oertel-yes. Mr. Benner II- yes. Mr. Miller-yes.

**Old Business:**

**1845 Sheridan Avenue:** Mr. Miller- Next order of business is the approval of old business from 1845 Sheridan Avenue, is there a discussion or a motion.

Mr. Benner II- I'd like to make a motion for approval along with conditions.

Mr. Miller- Okay. Is there a second?

Ms. Trout-Oertel- Second.

Mr. Miller- Kelly, can we get a roll call for that.

Ms. Koski- Trout-Oertel-yes. Clarksen-yes. Benner- yes. Miller-yes.

Mr. Miller- This has been approved with conditions.

**Moved by: Benner/Second by: Trout-Oertel**

**Approved with condition 4-0**

**New Business:**

**1495 Rice Street:** Mr. Miller- First new business 1495 Rice Street. The applicant is proposing to install a new wall sign on the Eastern side of Washington Technology Magnet School. The zoning code allows one identification sign not exceeding 30 square feet per street frontage for an additional, I'm sorry, for an educational institution in this zoning District; the wall sign is proposed to be 99.4 square feet, for a variance request of 69.4 square feet. Take it away, Mr. Eide.

Mr. Eide- Thank you, chair Miller and board members. David Eide from Department of Safety and Inspections. This is a 27.797-acre irregularly shaped property with Street Frontage on six streets. Washington Technology Magnet School is on the western side of the site. It's kind of unusual because they do have land ties, that actually means that they do have land that fronts Rice Street. There's actually a tie across this right-of-way, which is kind of interesting. The surrounding land uses are: There's a church to the north, residential multifamily properties to the northeast and lower density residential properties to the east, south and west. And this is a, I put in the citations what this is, a identification sign, and the section of the code that the applicant is requesting a variance from a 64.502, which states that for an educational institution, they can have one identification sign not exceeding 30 square feet per street frontage and then one bulletin board. So, I determined that the sign along Rice Street is considered a bulletin board, which just means that, you know, those can be electronic, it means that it has a display. So, I asked them for an inventory of the signs on the property, and I'll get into the findings here, that the variance is in harmony with the general purposes and intent of the zoning code. They currently have a hundred square foot bulletin board freestanding sign along Rice Street, which is what is up on the screen. They have a 22 square foot "Welcome to Washington" freestanding sign facing Marion Street, that's further into the property and a temporary sign on the windows of the school that says Washington. The applicant states that the larger than permitted sign facing Nebraska Avenue West is needed to facilitate the identification of the school on this uniquely shaped lot. Provided the temporary Washington sign in the windows is removed after the new wall sign is installed, this request is in alignment with the purposes and intent of the sign ordinance, to protect the right of information transmittal. I'll bring up the sign. So here's what they submitted, an exhibit that shows the east wall that it is proposed to be placed on and then some photos of the entrance and whatnot. That's the proposal. There are extra findings that need to be found true for sign requests under 64.207. That the variance is due to unusual conditions pertaining to sign needs for a specific building or lot. This building is on an L-shaped lot with the primary front entrance being Nebraska Avenue West which leads visitors from Rice Street. A narrow strip of land with ties connects the property to Rice Street. The building is situated close to Matilda Street with the parking lot in front of the building on the

street side. The larger than permitted sign is necessary in order to overcome the distance between the Nebraska Avenue right-of-way and the school building to ensure that visitors can read the sign while approaching. Regarding the sign not creating a hazard, it's proposed to be professionally designed and installed. So that finding is met. No objections were received from adjacent property owners. It won't be lit so that we don't predict that it will cause any glare issues and lighting issues. Regarding the sign being in keeping with the general character of the surrounding area. This is a large school building and the proposed wall identification sign is in keeping with the general character of the existing facility on this property. That finding is met. Regarding the comprehensive plan. Policy H-52 of the 2040 Plan aligns with this proposal to ensure school choice and location to further housing investment and neighborhood stability. That finding is met. Practical difficulties. I talked about the unique shape of the lot and the street that basically enters the property perpendicular. So you kind of, you enter it further away than a typical institutional lot. In order to ensure that visitors can see the sign when approaching, it's necessary to install a wall sign larger than the code allows. It's acceptable for the applicant to be permitted to install a 99.4 square foot wall sign to overcome these conditions. That finding is met. Regarding circumstances unique to the property. Like I said, the shape of the property, parking lot, and approach are circumstances not created by the landowner. Regarding uses. It's a school in an R3 zone which is permitted. And the essential character. It's appropriate and in line with the large building on the lot and won't alter the character. That finding is met.

**Correspondence:** Staff did not receive a recommendation from District 6 and no correspondence was received pertaining to this request and based on findings 1-6 staff, recommend approval of the requested variance subject to the condition that the temporary sign in the front windows above the main entrance is removed after installation of the wall sign. And the school district did state that they were planning on taking that sign down anyways, after the new sign is installed, I can bring up what that looks like. So it shouldn't be a surprise to the applicant. This is the temporary sign that was put up. So the wall sign would replace that. And then if you have any questions, I'm happy to answer.

Mr. Miller- Questions for staff?

Mr. Benner II- David, if at some point the applicant wanted to light the sign or make it backlit, what would be the bearing for that? Are they able to do that by right?

Mr. Eide- I believe that staff would look at the ordinance as far as the lighting limitations, and as long as it meets that, I don't see a huge concern with this given that it's pretty far from, you know, there's things in the way and there's a right of way in front of the nearest residential structure. So and if it, if we did get complaints about glare, we would look into it.

Mr. Miller- Any other questions for staff? Not seeing any. Is the applicant present? If you'd like to step forward. Once seated in front of the microphone just state your name and sign into that red book at some point.

Katherine Wallace- Our name and address. Sorry, my name is Katherine Wallace, address is 1282 Stanford Avenue, Saint Paul. And I represent the school district as the manager of facility planning. I don't really have anything to add. I think the staff report was excellent. If there was one thing to add, simply that the school does not have a large identity that is visible once you have left Rice Avenue and it really is a benefit to the students to see the name of their school up on that building, particularly since there was a name change to the building, albeit probably 5 years ago now from Arlington to Washington Tech.

Mr. Miller- Any questions for the applicants? I'm not seeing any questions. So you can go ahead and take a seat, we may call you back if we need to. Is there anyone here from the public to speak in support of this variance request? Anyone to speaking in favor of this variance request? Is there anyone here from the public to speak in opposition to this variance request? Anyone to speak in opposition? Seeing none, I will close the public portion of the hearing and open this up to a discussion or motion.

Mr. Benner II- I move approval with the condition that the temporary sign is removed from the front windows after the new wall sign is installed.

Mr. Miller- This is moved, is there a second?

Ms. Trout-Oertel- Second.

Mr. Miller- Moved and seconded. Roll call please.

Ms. Koski- Okay. Clarksen-Yes. Benner II-Yes. Trout-Oertel-Yes. Miller-Yes.

Mr. Miller- Your variance request has been approved and that decision is final unless appealed to the City Council within 10 days, good luck with your sign.

**Moved by: Benner II / Second by: Trout-Oertel**

**Approved 4-0 with condition**

**2285 Hampden Avenue:** Mr. Miller- The applicant is proposing to demolish the existing structures on this property and construct a new mixed residential commercial building. The following variances are requested. One: In the I1 light industrial district, residential uses are not permitted on the first floor; the applicant is proposing residential dwelling units on the first floor for a variance of this requirement. Two: At least 80% of the first floor shall be devoted to principal uses permitted in the district other than residential uses; the applicant is proposing to utilize 6.5% of this floor for commercial uses, for variance of 93.5%. Number three: A front yard setback of 25 feet is required on portions of this property across the street from land zoned RM2; 9 feet is proposed, for variance of 16 feet. Number four: surface off-street parking spaces shall not be located within the front yard; the applicant is proposing surface off-street parking spaces in the front yard for a variance of this requirement. Go ahead, Mr. Eide.

Mr. Eide- Thank you chair Miller, board members. David Eide with DSI again. This is a 1.713-acre parcel on the north side of Hampden Avenue between Bradford Street and Hersey Street. The surrounding land uses are commercial industrial uses to the west, north, east, and south and residential townhomes to the south of the western side of the property. The sections that the applicant is requesting a variance from is basically the definition of or the requirement for a mixed residential commercial use in the I1 zoning district. Two of those variances come from that section, which states that you can have residential uses in the basement of the first floor and then 80% of the first floor must be devoted to principal uses permitted in the district. The other parts are the setback for both the building and then the parking spaces that are in the required front yard—two spaces. That my cursor is over. Those are in the required front yard across from the RM2 to the South. It must be 25 feet. So this property is zoned RM2. So up until here, 25-foot setback, for both the building and then the parking off street surface. Off-street parking cannot be in the required front yard. So I put the dimensional table for both industrial districts which reference the residential districts. That's why both of those are in there. I have on my screen the proposed first floor layout that kind of gives an idea of the units on the floor and then the proposed commercial space. So I can start with the findings. Finding one that the variances are in harmony with the general purposes and intent of the zoning code. You heard the purpose statement. The intent of the mixed residential and commercial use standard not allowing principal residential uses on the first floor is to separate residential units vertically from surrounding commercial uses. It is to ensure that the first floor is used in a commercial manner in alignment with industrial district that is going to be supportive of well-paying jobs. This primarily residential building would be in conflict with the intent of the light industrial district to accommodate wholesale warehouse and industrial operations. The front yard parking and building setback requirements are to buffer industrial uses from residential uses across the street. It is reasonable to require the proper setback across the street and these requests are in conflict with Section 60.103 of the Zoning Code, which states that the intent of the code is to fix reasonable standards to which buildings, structures, and uses shall conform. That finding was not met for all requested variances. Number two, regarding the comprehensive plan. The parcel is zoned I1 light industrial. Mixed commercial residential use buildings are permitted. However, the applicant is proposing to provide so little commercial space that the result would be a primarily residential structure. A primarily residential structure conflicts with the 2040 Comprehensive Plan goal LU-46 which encourages retaining and protecting current industrial land from conversions to residential or institutional uses unless guided otherwise in a City of Saint Paul adopted plan. This land is guided industrial in the 2040 Comprehensive Plan. This proposal conflicts with PI-1 in the West Midway Industrial Area plan, which is an addendum to the comprehensive plan.

Policy PI-1, to retain and protect the current industrial land from conversions to non-industrial uses. Although the plan contemplates conversions in circumstances where development will be high density and proximate to regional transportation, this property is outside of the Raymond Avenue Green Line Station Area. The venue to discuss the conversion of land is not at the BZA, rather through a rezoning request. The applicant is instead applying to vary the standards as to what constitutes a mixed-use residential commercial use building. In addition, the area on this property across from the RM2 zoning district is specifically noted as a vulnerable land use edge in the West Midway Industrial Area plan. The applicant is proposing to construct the building and parking spaces in the required front yard, which is contrary to SD 1-20, which states that the landscaping shall be maintained infilled along both sides of this edge, specifically. This finding is not met for all variance requests. Finding three regarding practical difficulties. The applicant states that they have tried marketing this property for seven years for commercial uses, however, they have not had success. They state that lowering the amount of first level commercial space to align with market conditions is preferable and that if the required commercial space were constructed, it would be vacant. Given these statements, it appears that the practical difficulties are primarily economic in nature. The applicant states that the building has a large areas that are set back further than the code requires via the courtyards. It is not clear why the applicant cannot alter the building and the surface off street parking facility to comply with the 25-foot front yard setback in the limited portion of the lot where this requirement applies, so that finding is not met for all requests. Regarding the plight of the landowner, this request is driven primarily by the applicant's desire to construct a primarily residential structure with their desired layout rather than the circumstances unique to the property. That finding is not met for all requested variances. Regarding uses, a mixed commercial residential building is permitted in the I1 light industrial zoning district subject to the standards, so that finding is met. Finding 6 regarding the essential character. The proposed mixed residential commercial building would not significantly alter the essential character, so that finding is met for all requested variances.

**Correspondence:** Staff did not receive a recommendation from District 12 Saint Anthony Park Community Council. Staff received one letter opposed to the requests, and then based upon findings one through four staff, recommend denial of the requested variances. And if you have any questions, I'm happy to answer.

Mr. Miller- Questions for staff.?

Mr. Benner II- David, yourself, before you mentioned that this is just outside of the Raymond Avenue Green Line Station area. Do you know about how much? It seems pretty close.

Mr. Eide- Yeah. Correct. I believe it's pretty close to the edge, I'd have to look that up.

Mr. Miller- Any other questions for staff? Not seeing any. If the applicant is present, just go ahead and step forward. Once seated in front of the microphone state your names and addresses, business address is acceptable.

Herb Tousley- Yeah. Hi. My name is Herb Tousley. I'm with Exeter Management and we are the developer. I live at 5000 Interlachen Bluff in Edina. I appreciate everyone hearing us out here today. A lot to kind of unpack here. We're proposing to build 100% affordable building at this site. We think it's a great site for affordable building for a number of reasons. One, it is close to transportation, it is about a 10-minute walk down to the Raymond Avenue Station. There's also a bus routes down on University. There is a bus routes directly down the street about a block and a half on Raymond. There's also a co-op about a block and a half away, and a park, among a number of other amenities that are up on University Avenue. There is affordable housing directly across the street from this project. The border of the industrial district runs down Hampden so the RM2 directly across the street from affordable housing, it's also in a qualified census tract which makes it score well for affordable housing and we all know affordable housing is in dire need these days. A couple of additional things to add here. Those concerns. Lots of concerns here by City staff. One of concerns about lack of jobs. As staff mentioned, we have marketed this site for about seven years. We also tried to sell it to other qualified developers who've had it under contract and cannot figure this site out either as a redevelopment of the existing building or a new industrial building. We also believe there's opportunities in today's current economy that, if we build an affordable housing project and we put in a business center, those jobs could be people working remotely

in the building. One thing too, on item two as city staff mentioned the 2040 comp plan didn't include all the language because at the end of because in our application, we included at the end of that. Sorry, I'm getting my bearings here. On 2040 comp plan's appendix C has a list of goals that include economic and population growth focused around transit neighborhood nodes that support daily needs within walking distance, equitably distributed community amenities, access to employment and housing choices, strong connections to the Mississippi River, parks and trails, infrastructure for all ages and abilities, equitable, adaptable, sustainable land use and development patterns and processes, quality full-time jobs and livable wages, and people-centered urban design. We think our project will meet all these goals. And there was also a conflict that was brought up with the West Midway Industrial Area plan but in the that plan notes in the PI-1 retain and protect current industrial land from conversions to non-industrial uses. It says it is vital to, I'm kind of restating, it's vital to protect the industrial economy in a way that balances competing land uses, while preserving industrial business growth. There will be instances when market dictates conversion from industrial to other uses is optimal; such conversion should be considered carefully. The city should only convert industrial zone land to non-industrial uses in circumstances where development will be high density, either job or residential and proximate to regional transportation, which I mentioned we are close to bus lines, light rail, bike trails, among other. Todd, if you have anything to add?

Tod Elkins- Tod Elkins with UrbanWorks architecture. We're working on the project with Exeter. A couple of items. It's just, this site is just beyond a quarter-mile of the light rail line and station within, well within a half mile. And also we work a lot involving commercial on first floor in mixed-use buildings and currently, post COVID, something no one has control over. Any sort of vacant first floor uses of commercial, industrial, it's more than an, it is an economic issue, but it's also a safety security issue. First floor, lights off at night. It is not helpful to a community. So I think it goes beyond just the economics of why. We're looking at doing affordable housing here on this site, which seems to be a transitional edge location. But right now we need affordable housing and based on seven years of prior effort to find a repurpose of the existing buildings, it seems like a valid repurposing of this particular site. So that's all I have to add.

Mr. Miller- Any questions for the applicants? Mr. Benner.

Mr. Benner II- Thank you for your explanation and little bit more context about the project. Have you, during your kind of conceptual ideas about upping that square footage. I mean it's, I feel the site is meant to keep a balance of commercial residential and it's pretty lopsided, what we see here, right? And so, what have you tried to do to make it less lopsided to get a little bit closer to reduce that margin of variance?

Herb Tousley- In respect to the size of the commercial space. Yeah, you know, Todd mentioned that commercial space on first floor is very challenging. We, if you drive around the area, there's quite a bit of vacant commercial space even up on University Avenue. We actually developed C & E Lofts and Flats just up at the intersection of University and Raymond and we finished that project, the second phase of it, in 2017. There's still a vacant commercial space there on University. There have been two recent projects completed, Tod actually worked on one of them, that was completed about three years ago or four years ago. And that...

Tod Elkins- That would have been two years ago.

Herb Tousley- Two years ago. Still a vacant commercial space in there. The new...

Tod Elkins- The US Bank site at Raymond and University has a very small commercial space.

Herb Tousley- Yeah, and Platform Apartments has a vacant commercial space, Midline Apartments has a vacant commercial space. That first level commercial space is very tough. And if you build it, they don't come always. So we think it's, you know, economically it throws the project out of whack to put in more commercial space. I think you just have to underwrite it as vacant and then all sudden your cost, and I know this is you guys don't consider cost, but if you build a lot of space you can't get rent on, that can kill a deal. It will kill a deal.

Tod Elkins- I would also add it in that the specific location is somewhat unique in the sense that it is close to light rail but not right on the light rail. Its adjacent neighbors are surface areas that have chain link fence with barbed wire on top of them where they store tractor-trailers. So right now, and today, it's, nothing's happening. So you're locating a bunch of units and we're a new project and we're trying to make it appealing, you know, it's sort of reweaving that urban fabric and trying to do a workable phase that it will be successful. Everything will fill up is the goal and given a lot of those demands, economics and others, this is this is where the demand is for this type of project.

Mr. Miller- Mr. Benner?

Mr. Benner II- Thank you chair. Another question for the applicants, you know, this site seems it would be it's for what you're proposing, it's just not a good fit, right? And I think that's something that we that we're going to consider in terms of if it's... If the goal of the intent of this district is to have more of a balance of industrial uses, it's not quite there yet. So have you considered rezoning the site? Have you talked to Planning and Economic Development? I'm going to really try to see what how many options you've explored and what you've done to make, try to make this work.

Tod Elkins- We've explored the idea of rezoning to both residential to IT. For example, there's this site right next to the McDonald's on University that is IT. And they got a variance for less than, or right around 4% first floor use non-residential. Right on University, which has a different requirement for non-residential first floor use, I think goes from 80 to 50, I believe. And that was allowed. I know.

Herb Tousley- Their requirement for first floor commercial was 50%.

Tod Elkins- Yeah, you can't be residential.

Herb Tousley- And they got a reduction down to 4%.

Tod Elkins- They got a reduction down to 4%. So we looked at rezoning a couple of different ways. There was the recommendations that this might be the best path just to leave it as I1, not try to rezone this parcel, and so we followed that direction. That's why we're here.

Herb Tousley- And just a note on that commercial space, even the 4%, sits vacant today.

Ms. Trout-Oertel- Thank you chair Miller. I think you've made a good case for why you are not showing, you are not balancing the commercial in this building, commercial on the first floor. But what about the other variances you are seeking? So why does your design not address the setback issues and parking issues, screening?

Tod Elkins- So for the parking issue, the expectation was that they want to have a certain amount of surface convenient parking for any potential commercial to come on there right adjacent and also for visitor parking.

Herb Tousley- And the parking variance is really for two parking stalls. It's the two southernmost stalls on the right side. Yeah. So if we had to, you know, those stalls could go away, that's not a huge issue.

Tod Elkins- For the for the building yard setback. A couple reasons. One is, the below-grade parking, efficient parking plate there and we also, typically on our urban projects we want to have eyes on the street, CP crime prevention through environmental design. So you're a little bit closer where a 25-foot yard is traditionally more single-family housing type front yard in an urban setting. And so also if we are having commercial on the first floor, we want the windows and the eyes there, enough space where it's comfortable, and that is why. And then we also like the idea of just the urban mass of having courtyards that face the front versus sort of what you might see, as a wall building or holding back. That's different. But then holding back to 25 feet and I think the current entire, I'll call it super block, it's a long block. The existing buildings are within either 9 feet or currently built to the property line. So we're kind of trying to match that existing building that's just to the west of where that building faces. And that's sort of our...

Herb Tousley- You can actually see the roof of that building. It's right above that 9-foot-0.

Tod Elkins- Dimension.

Herb Tousley- Yeah, you can see it is kind of built up to the street there.

Tod Elkins- We kind of aligned a lot and in this case front yards typically are certain feet back or in alignment with existing building facades, a certain percentage. So that's how we ended up in 9 feet for the building.

Ms. Trout-Oertel- So, you tried to make the setback and also provide these things in a different building configuration?

Tod Elkins- Yeah, we looked at a lot of different configurations with setbacks and building mass and obviously the client gave us certain criteria of density and unit mix that we, the project, wanted to hit and we thought aligning with the existing building facade or the existing that's right adjacent was the right design move for the community. Once again, 25 feet, that's a lot of depth. It's an interesting street façade in terms of pedestrian feel and experience and we believe that, you know, aligning with the nine feet is maybe not the literal alignment of the, of the rule, but kind of with the kind of intent that it fits.

Herb Tousley- Yeah, sorry to interrupt. I was going to say 25 feet also feels a little more suburban of a setback and it is, especially if we're going to have a commercial space, it's nice to have it up closer to the street than set back.

Ms. Trout-Oertel- But there isn't much commercial space.

Herb Tousley- There isn't a lot, but there is some on there. It's in the center of the block there.

Ms. Trout-Oertel- Thank you.

Mr. Clarksen- Yeah, okay. I've been kind of trying to think this through and I wrote a bunch of stuff down so I have a few things I want to cover but we're just talking about setbacks, we'll start there. It looks like the existing building is right up to the front line, is that right?

Herb Tousley- It is, correct.

Mr. Clarksen- If you had to guess about how much of the building comes up to the front line in this, you know. The portion that's parallel to Hampden Avenue at the front of the three pieces of that E shape, what's the length across? So on the right side, it's the two apartments, the middle is the commercial space and is that a parking ramp on the left side?

Tod Elkins- Yeah, there's parking on first floor on the left side. So the width of those three pieces is roughly 180 feet, roughly 60 feet wide for each.

Mr. Clarksen- Do you know how that compares to the portion of the structure that exists?

Herb Tousley- The existing structure there?

Mr. Clarksen- Yeah. How much, how much of the existing structure covers the setback area essentially? Or, to what degree would, if you wanted to put a ratio, you know, of wall in the front setback area, what would that look like? How close is it? It looks to me, like, it might be about twice what's there but I guess my main point was, I wanted to note that the existing building is up to the front line.

Tod Elkins- Yeah, the existing building is kind of c-shaped, and there are the two legs of the c-shape and I would guess that's probably looking at it, about 100, just over 100 feet maybe.

Mr. Clarksen- That doesn't seem too far from...

Tod Elkins- And it might be maybe 120. Using this, using the scale.

Mr. Clarksen- And you said it was about 180?

Tod Elkins- Yeah. All three combined is 180 and I'm not sure the technicality of calculating the front yards, but across the street of at least the residential wing is industrial, zoned industrial, which I believe then would mean that in an I1 we

have a zero lot line for that portion. It's only the portion where we have residential across the street. We only have residential across a little less than 50% of the property.

Mr. Clarksen- That was a comment. That was another one of my questions. I was having difficult time figuring out where the setback line falls, so it covers those front two parking spaces? And does. I don't know, David, do you have a way to like draw something where the front setback line would be on that picture or, you know, sketch over it even? I guess the, my curiosity here is like, what are we really dealing with? You know. It must come across the street right into the middle of the commercial space. Is that about right?

Tod Elkins- 160 feet. So, it would be probably just before the commercial space.

Mr. Clarksen- Okay, so there's a box that covers the parking and then goes all the way over to the left. Okay. All right, so but where you have your grass there is about where it ends, okay. And then one of the other things I was trying to make note of is. So, you've got parking on the first floor on that left side of that structure. One of the curiosities that I had was, that's a non-residential use on the first floor. I guess. One, I had one thought, was what if the entire first floor E shape, it was parking. How would that? This is more of a question for staff, I guess. But I didn't develop it in time, but I guess I'm wondering how that would work if it would address or if there's a provision that prohibits that in the code as it relates to the commercial space problem, that you know, you're asking for a variance for. If the entire first floor was parking, would that, how would that play?

Mr. Eide- Chair Miller board member Clarksen. I believe that the parking would likely be accessory to the residential, so it would not count because it says 50% must be a principal or a permitted use in the zone. I can check the exact code language but that would not count.

Mr. Clarksen- It wouldn't alleviate the 80%. It wouldn't count towards the 80%.

Mr. Eide- Correct. And in this instance, like the parking on the first floor didn't help them.

Mr. Clarksen- Okay.

Mr. Eide- But because we just look at, it's basically stating a minimum of 80% uses that are permitted in the district. So we just said, it's like 6.5%.

Mr. Clarksen- And then for the applicants, how do you plan to market the commercial space you're showing here, 2,400 feet?

Herb Tousley- That's a good question. I don't think we've gotten to that point yet, as to how we market it. But if we potentially hire a broker to market it for us, maybe talk to the neighborhood group and see if there are groups in the area that are looking for space.

Mr. Benner II- How did you arrive to the 2,400? So, it seems like when you were doing your pro forma or going through your numbers, it seemed like this was like the commercial space kind of came at the end of it, right? It's like, "oh we have to do a commercial space, we have to give a number to it." It doesn't seem like there was a lot of intention in trying to make the commercial space work at the 80% and for all the reasons you mentioned, which is understandable. But to be so far on the other side of it and just based on commissioner Clarksen's question, it doesn't seem that you've given much thought as to what could work. So was it, did the 2,400 square feet kind of come after the fact like here's what we have left and let's just fill it in, right? Like can you talk through that at all?

Herb Tousley- Yeah, I mean it's, the commercial space like we mentioned before, it's very challenging to have street-level commercial space. So when we're looking at that space we're somewhat underwriting like what if it's vacant for five to ten years and you know what, what can, how can we move it, a development forward and still not have it be cratered by the lack of income from a commercial space because that space is, it's expensive to build and when we can't get revenue from it, it puts a hole in the pro forma. Especially when we're trying to build affordable housing too.

Mr. Benner II- Speaking of that, you mentioned affordable, at what income band? Just for context. I know that it is not relevant for the variances, but just curious.

Herb Tousley- So our plan of would be to do a mixed income. So it would probably be based off a 60% AMI, but we go up and down to blend the incomes. Does that make sense?

Mr. Miller- Any other questions?

Mr. Clarksen- Maybe one more because I'm struggling to put together how else to approach this but...

Mr. Miller- I have a quick one then, go ahead and formulate. Is there anything underneath the parking right there? Is there?

Tod Elkins- The parking follows the building. Just because for things like stormwater management and if this is an affordable housing project we'll have to comply with things like green communities, and things of that nature, so it's trying to be smart about it. So it's just the E-shape under the building above is where the parking is below.

Mr. Miller- Okay. So it's parking below the entire first floor. Yeah. Entire first floor and then parking below parking on that one wing. Gotcha.

Mr. Clarksen- Okay, so a couple of things. The project meets the parking requirement, I assume?

Tod Elkins- I don't think there is a parking requirement by zoning anymore.

Mr. Clarksen- Okay, so to that point then, I guess what I'm getting at is maybe that eliminates the need for those two spaces and the need for the variance there. That's hard to justify if you don't have a requirement. What's the reason for those two spaces being there?

Herb Tousley- It was kind of a last-minute thing that came up, where it got flagged that we were extending into the required front yard with those two spaces. But we were also asking for the building setbacks so we were like, let's just throw those two spaces in too.

Mr. Clarksen- I don't think you're going to shed too many tears if you don't have those two spaces, if that becomes additional green space or something?

Herb Tousley- That's accurate.

Mr. Clarksen- Okay, so then next thing is, you mentioned, I think it was the Yellow Tree project on University next to McDonald's?

Herb Tousley- Correct, yes.

Mr. Clarksen- And that was one you said had like four percent commercial on University Avenue?

Herb Tousley- That's correct, yes.

Mr. Clarksen- And that's vacant?

Herb Tousley- Correct. Yeah.

Mr. Clarksen- How long has that building been? Did they just finish that, right?

Herb Tousley- It opened about a year ago. Because we opened another project in the area at about the same time.

Mr. Rangel Morales- That one faces Raymond, right? Like the commercial space in that was tucked in in a way that it was like facing the main street.

Tod Elkins- Yeah it was right on University. Yeah, it has got parking behind it.

Herb Tousley- So, the one on Raymond is Kraus-Anderson's project. The MODA. This one is down next to McDonald's. It's the called The Midline, and it's right on University.

Mr. Clarksen- That's another one. Does the MODA. That's on the corner where the bank was?

Herb Tousley- Correct

Mr. Clarksen- And there's no commercial on that ground floor, is there?

Herb Tousley- There is, but it's vacant.

Mr. Clarksen- Do you know, if you had to guess, is it in that 4-5-7% range of comparable to the Yellow Tree project or this one?

Tod Elkins- Yes, if not.

Mr. Clarksen- So it's well below what a requirement might be.

Tod Elkins- Once again, it's a different—that wasn't an I2, I think that was T3, might have been T4.

Mr. Clarksen- I guess I don't care what the zoning is. It is on University Avenue and Raymond at a major intersection and there's no commercial in it, which tells me a lot about the market. I don't mean to cut you off. I'm just. I think there's a lot to be gained from that particular fact. There's no way commercial is ever going to succeed back here. At least not in this environment, so I can see where you're going with that.

Mr. Rangel Morales- Is the project relying on any of the additional density bonuses that you get for going higher if you build in affordable housing to it, or is it just based on your own assertions that it's going to be affordable.

Herb Tousley- Do you have the answer for that?

Tod Elkins- Sorry. We're trying to work within.... We would ask for well, we can have additional height. So it's, we're holding it at five stories, so we don't need any additional bonuses for density due to its affordability component. It's just, that's where the demand is in the market.

Mr. Miller- Luis would you mind explaining that a little bit?

Mr. Rangel Morales- Yeah so about three or four years ago in an effort to try to promote more affordability, being built into units, particularly with the RM-zoned properties, the Planning Commission with staff and the city passed an ordinance, passed a change that would allow for certain developments to go higher or be bigger in space if they build in affordability into the project and it doesn't sound like you guys need that at this time. I was just wondering if the affordability was coming out of just the financials of the project itself or were coming out of the want of taking advantage of the additional height that you could build or the additional units that you could go. And it sounds more like you guys financed it independent of any of that.

Herb Tousley- Yeah that's correct, we would not need the height, the additional height, due to the affordability.

Mr. Miller- Other questions for the applicants? Not seeing any, you guys can go ahead and take your seats. We may call you back up if we need to ask you any more questions or comments.

Herb Tousley- Thank you all.

Mr. Miller- Is there anyone here from the public to speak in favor of this variance request? Anyone to speak in favor? Anyone to speak in opposition to this variance request? You guys can go ahead and then once seated in front of the microphone, state your name and address please and then do sign in to that red book.

Paul Johnston- My name is Paul Johnston. I live at 2289 Long Avenue which is a street just south of Hampden parallel with Hampden. So basically right, this development is basically right in my backyard across the alley and across the alley

that separates the block of Hampden from Long Avenue is right behind us and then Hampden is right behind that. So it's just a stone's throw from where I live and I've lived there for 26 years.

Mr. Miller- Okay, and I think too just to keep it simple for the transcription on the on the record. Why don't we hear from you first, and then we'll just move right down the row if that's okay. Unless you're all here in a group together.

Paul Johnston- Well Charlotte is my next-door neighbor.

Charlotte Pellett- We're neighbors. Next door neighbors.

Mr. Miller- Okay.

Charlotte Pellett- Charlotte Pellet, 2295 Long Avenue.

Mr. Miller- Okay.

Thomas Kellen- Thomas Kellen, 2295 Long Avenue.

Mr. Miller- Okay. And then what would you what, would you guys like to add to this?

Paul Johnston- I would just like to add that having lived there for 26 years, I know what the character of the neighborhood is. We live on a residential area. And I know that the area that we're talking about for the development is mixed residential commercial, actually it's there's, it's commercial or industrial. So to put a 150 unit residential structure right there, it seems like an anomaly to me and we have semis going back behind us on Hampden all the time. Yeah, I don't know how that's going to work with 150 potentially 150 vehicles. I mean, potentially more than that if there are more than two people per, more than one person per unit with a vehicle. So and the, I don't know if you're familiar with the Union Flats, which is Hampden and um. Hampden and um. Huge unit on Hampden east of where we are. It's Territorial and Hampden, the same thing. They put plopped this big thing in there and semi's going by all the time there, so we're, I personally am a bit aghast at this entire thing that's gonna be right in my, basically, in my get back yard and all the variances that have been talked about seem pretty convenient for the developers but wondering where that leaves us as homeowners on the next block over.

Charlotte Pellett- One little thing about that four percent of the Yellow Tree apartments with the 4%. There's like a kiln in the window and a few tables, it looks like a lounge. There's no indication that there's any commercial there at all. I mean, there's no sign that says commercial space for lease. It's just looks like a, like, a cafeteria or a cafe for the building. I mean, I don't think they try very hard to get commercial tenants, I don't, like our neighborhood wasn't asked what we thought about, what would we like is a commercial area? It's a run, the Hampden's been Hampden Coops been there for almost 40 years, maybe over 40, very successful. I mean, there's not a bike shop in two miles of us. It's like they never ask the residents what we like, they just decided to eliminate this commercial and not to mention the buildings that they too are going to want to destroy. They kicked the artists out and they did that with the C & E building too. All the artists were kicked out, 150 artists we saw crying in the aisles. In fact, this one on Hampden. The guy Lanny who just started his gallery. He had a working artist space there with like four other guys and he ended up dying when it was bought and they kicked him out. He had a heart attack. So they can't say that nothing is viable for that space. In addition it's so many semi-trucks. In fact I was out there yesterday and some semi backed into a gigantic tree branch was still on the top of the semi and like, I heard it when the semi pulled up, and if they want kids to be around there, good luck, because it is, you can barely cross that street it's just constant and like the cement recycling place is down that street, dump trucks all day long and then that space, that they made into, like this green fantasy land of the green glade. It's like noisy all day with, you know, it's industrial, they're sawing metal all day, beep, beep of the bobcats. I mean it's a working area of industrial, it's constant. It's a working area and it just is a bad mix with 150 residential units. It just won't. I mean, their view is going to be of parking lots or like acetylene torch propane tanks. I mean, it's a dangerous land, it's not like a playground and the playground is like across Hampden which is also busy. I mean and then like three blocks further is the kids playground. So I mean, they aren't taking into account of like this part of town is not conducive to like a lot of residential and they have their MODA and the Mason that Exeter did and then the C & E building, and they're doing

another one SOS Furniture Supply. And the Carlton or the C & E building, maybe it has commercial space but it's an empty lounge, once again of like no one sitting in there and it looks like "anyone not welcome," you know, they're not really like giving it, like promoting their welcome mat. So. Do you want to say it?

Thomas Kellen- Sure. Yeah, my name is Thomas Kellen, I'm mostly concerned about the additional traffic in the neighborhood. Hampden is a major artery, as is Raymond Avenue and where they meet, Hampden, for people needing to take a left onto Raymond, almost certainly there will have to be a stoplight put in because it's difficult to take a left there right now. And then the view out the back, I don't know if you can see some of the industrial right there. That the residents view is literally going to be of a welding supply store or business and the and to the Northwest, you're essentially looking at a building adjacent to, butted up against it and then across the street on the program that they showed it made like a look like a nice green glade across from it. No, it's a industrial zone that is noisy. I think they already have a difficult time with snow removal in the winter. It's on a emergency snow route. So if parking is already almost to capacity, I don't know if anyone would, if you ever get a chance to look through there. It's difficult for two cars to even pass when semis are parked on either side, so an additional 150 units parked in that footprint is going to be very taxing, I believe, for the community. And the variances, as far as I can tell, are designed to maximize their profits. It's not. If they can alter how many units they have, it's all about the bottom line. So, if, I noticed on the front on the zoning variance application, absent was the owner. And I know Exeter is a property development company. But is there, is it a matter of public record as to who actually owns the deed to the lot? I mean, I don't know if it's investors out of the state. I mean, that's something I would drive to you?

Mr. Miller- Mr. Eide. Is that public record? I couldn't even answer that.

Mr. Eide- Chair Miller, Ramsey County has that information online for the public to look at and we just require that someone has an interest in the property. It doesn't necessarily have to be the owner. They just have to show that they have an interest or the owner.

Mr. Benner II- To answer your question, when I looked at this earlier, I too was curious. It just says 2285 Hamden LLC, so a general LLC name, which is common.

Thomas Kellen- So it doesn't matter who the owner has its they're just agents for the owner essentially. I mean you don't it could be investors from China wouldn't matter. It could be.

Mr. Warner- Absolutely, it could be anybody.

Thomas Kellen- It could be anybody. Yeah, so then if they're tasked with maximizing their profits at the expense of the community, then it just seems that it's an ill-conceived idea that benefits the few at the expense of the community.

Charlotte Pellett- If I could just also say, I've lived next door to him for almost 29 years and he's 28 but like all of a sudden these gigantic projects just get built. Like I think Mason has 220 apartments. We don't know anybody, it's like behind. There's no green space. It's all like a fortress of and they're like closed off from the community. But the MODA, how many apartments they have and then it's just like, you know, like figure out what better use of the land before they keep adding more residential to the same area that had never had residential like this before. Now it had artists and there is a steel tower that is quite a tall, like, it looks a little like, I don't know how many stories that is, but that's been there like 50 years.

Thomas Kellen- That's like right out our window, basically that's, subsidized. During a snow emergency route, I don't know where the traffic is going to be put there. They have difficult, there's oftentimes fire trucks that go to this, I call it drunk house for lack of a better way to say it, it is the Catholic Charities housing.

Charlotte Pellett- Housing for men who drink a lot, and they're wandering around all the time.

Thomas Kellen- So then the view out the back is going to be of an industrial welding supply shop. You can just see in the top of the picture. That's that is their view right there. The view across the street, it doesn't show, but that is also industrial. And then on this corner is industrial. So putting 150 units sandwiched inbetween three industrial spaces with.

Charlotte Pellett- Or the backs of some garages.

Thomas Kellen- It seems it just like. The gentleman mentioned that they tried to sell the property, there's two existing buildings on the on the site right now that were built, I believe in around 1900. It's it was the California chemical company or Minnesota Chemical Company, sorry, and as far as I know, I don't know if there's been any kind of in environmental study to see if the soil is contaminated, if they're going to be digging basement parking. Presumably a lot of what the residue of the previous business could be a safety concern as well so it would be nice if there could be some type of environmental impact study and perhaps a traffic study just to see what the flow of the traffic is right now because it's really is only going to get worse.

Mr. Miller- And just, those things may be required. That's just not something we're dealing with it at this point in the process. I just wanted to kind of try to wrap this up. We have, what we have before us is, the majority of the variances they're looking for are to not have as much commercial space and have residential space, but they're like, they are allowed to build this residential living space. Would you guys have the same feelings about this project if there were more commercial space on the first floor, because that's the majority of what this case is about.

Thomas Kellen- It is a bit of a food desert in the area there. I mean on the map you can find places closer to the University Avenue and whatnot but any, I would think, small business would be welcomed in the community as opposed to more condensed housing, but I guess that's just my own personal opinion.

Charlotte Pellett- Well that area, it's just trucks backing up, loading dock, you know? Mostly, it's just quiet warehouses that they are like storing loads in these warehouses. So I mean, we're used to it. It gets loud and the exhaust can be overwhelming at times, and to have kids in this mix. And well the commercial thing, if they could come up with, they didn't, I don't really think they tried very hard to get commercial.

Mr. Rangel Morales- So just to be clear, building it the way that it's allowed by code would actually, it sounds like, compound the issues that you guys are talking about.

Charlotte Pellett- Yes.

Mr. Rangel Morales- Because they would still get to build the residential area on top, right. Plus have the commercial space on the bottom, which would presumably call for a lot more traffic to be coming in and out.

Charlotte Pellett- This street is very; it can't take any more traffic.

Mr. Rangel Morales- Well that's what it is zoned for.

Charlotte Pellett- Well.

Mr. Rangel Morales- It is zoned to be able to have.

Charlotte Pellett- I think it's zoned light industrial. It is right across the street from the residential.

Mr. Rangel Morales- I'm just saying that the, back to what the chair was mentioning, is the variance for the main variance request appears to be to build more residential as opposed to more commercial space on the first floor. But if they weren't allowed to do that and they wanted to build it according to what's allowed by the code, a lot of the issues that you guys are talking about would actually be worse, because if the whole bottom was 80% of the bottom floor was commercial, then presumably that would be a business that would be attracting a lot of people to keep that amount of floorage space coming and going on top of the people that would living on the second, third, fourth, and fifth floor. So back to the chair's point, the question that he asks is would that still be a concern for you guys if that was the case?

Thomas Kellen- So either more traffic or much more traffic?

Charlotte Pellett- More traffic or much more traffic? Oh, well that's a.

Mr. Rangel Morales- We didn't zone it. They are just here.

Charlotte Pellett- Was the zoning changed?

Mr. Rangel Morales- I think in the 70s.

Charlotte Pellett- For this light Industrial?

Mr. Warner- '75.

Mr. Rangel Morales- 1975.

Charlotte Pellett- But it was the train that made it flourish in the idea in the minds of the developers and it is a longer, it's, if you go on the sidewalk, it's like point seven miles, but everyone's going to cut through the private property to get to that train.

Mr. Clarksen- I kind of appreciate what Luis asked. I kind of want to restate the first variance for the sake of this conversation, "in the light industrial district, residential uses are not permitted on the first floor," that doesn't mean you can't have commercial. Okay. So if you have commercial, theoretically have businesses, you have lots of traffic, if they're doing well, which in this environment, they're not, but that's another story. The point I'm trying to make is, as Luis said pretty articulately, they could have something in the neighborhood of, I don't know what that floor plate is, but I'm looking at it and trying to do the math in my head around 30,000 square feet of commercial space if they covered that first floor. That's a lot. If you had even 25 small businesses in that space... The biggest concern that I can discern is, and I've been writing things down that you said and I'm trying to imagine what is the problem is that you're that you're seeing with the project? The fact that there would be residential uses on the majority of the first floor, seems to be the furthest problem from your actual concerns. You talked about snow routes, too much traffic. Well, I'm not sure, there may be in and out on Hampden Avenue, but last I checked it is a public street and there's quite a bit of parking in the building. So I don't expect that people who are, first of all in an affordable housing situation, who are probably relying more on public transit than many of the other people within the St. Paul are going to be having a lot of parking. So I'm not sure that there's inadequate parking in the building. So I struggle to see how that, the comment you make, which I believe was your argument in opposition to the building, it doesn't add up for me. You talked about poor views. Yeah, it's an industrial area. It's not green pastures. It's not green acres. It's, you're looking out at a bunch of trucks and there's smoke in the air and dust flying around and it's not, it's not an idyllic scene.

Charlotte Pellett- So you send the affordable housing people to live in a place like this.

Mr. Clarksen- I heard you and I listened to you and I just wanted to sort of speak to what I heard you say.

Mr. Miller- All right, just to keep things going here. We've listened to the comments and we're certainly not here to cross examine your views, so I don't want to go down that route. We've heard your concerns. I think they're valid concerns and that's why we have this here. I think I'd like to call the applicants back up to give them a chance, but thank you for coming out to do this, 100%, we understand your point of view. Thank you.

Thomas Kellen- Thank you. And I would encourage anyone to actually drive by the site just to get a feel for what is, just the feel of the site. It seems that it wouldn't. It seems just an, like an ill-conceived idea for that type of development.

Mr. Benner- Did we get his address? I don't think we did.

Mr. Miller- Your address is the same as the second, for both.

Thomas Kellen- Yes.

Mr. Miller- If the applicants would like to come back up to make any comments regarding any of the things that were said?

Herb Tousley- There's a lot said there that, I don't know if you guys have additional questions for us after all that, some of the things that were stated were true, some were not. So, I don't know, even where to.

Mr. Miller- I guess just, I think one thing that would potentially be helpful would be the decision to choose this site, perhaps, I think that might help shed some light onto, you know, it might help explain a little bit about this particular site and why sure?

Herb Tousley- Yeah, initially, we purchased the building from Minnesota chemical to do an adaptive reuse of the building into a creative space. We actually office one block to the north at 2303 Wycliffe Street. We do own the building. It's not owned by a Chinese company, so we do put our buildings into LLC's but if you look at the address of the owner, it ties back to us. We, so as I mentioned, we purchased the site to do an adaptive reuse. We owned and sold a very similar building that we still currently office in one block to the north and thought the area was ready to bring in more office tenants, we struggled to get traction, kind of pre-pandemic, and then the pandemic hit, and things got much worse and post pandemic, things are still pretty bad for the office market. We looked at also tearing that building down and building an industrial building there and that also did not make sense financially. We talked to a couple of developers that were prominent developers in town, we actually had the building under contract to do a variety of either trying to do the adaptive reuse into creative office or industrial and to no avail. The developers that had to contract under contract backed out on multiple occasions. And as we continue to try to figure out what to do with the site, you know, what kept coming up is affordable housing. There's a massive shortage and the site checks a lot of boxes for affordable housing. And one of the key boxes it checks is it's in a qualified census tract, which helps us score very well for affordable housing to get the bonding. So we pivoted and thought, "let's look at affordable housing here," the city's, there's a great need for it and it would score well. We already own the site, so, we, for the reasons I mentioned before, I won't reiterate again, we think it makes a lot of sense for affordable housing in this area.

Mr. Miller- Any other questions for the applicant?

Mr. Clarksen- You mentioned 2020 and then the pandemic, I guess, I'm curious what is the current situation within the building? On your website you talk about completion of 60,000 square feet of adaptive reuse in 2020. Did that ever happen or where are you at?

Herb Tousley- Yeah, it did not. That section of our website is grossly out of date.

Mr. Clarksen- So okay, if the website is inaccurate then is it basically sitting vacant right now?

Herb Tousley- Correct.

Mr. Clarksen- What was the last use? I'm trying to figure out like, you know, how has it fluctuated for you over time since Minnesota Chemical was there? It sounds like there are artists in the building at one time.

Herb Tousley- Yeah. So Minnesota Chemical, when they owned the building, they had a small office presence in there. They had a lot of storage in the building and then in the East Building, there were a couple artists up on the second floor that were sandwiched in between chemical storage above and below, which is a little strange, but, and when we purchased the building, the artists were gone and Minnesota chemical actually stayed a little bit longer and then ended up moving to, relocating to Arden Hills and that was their intention, they wanted to sell the building and relocate.

Mr. Clarksen- When did they leave?

Herb Tousley- 2018, I believe.

Mr. Clarksen- And it has pretty much been nothing since?

Herb Tousley- Correct. We actually went through, we gutted the building out after they left in hopes that we would get some traction. And we started trying to get some positive momentum in the building. And so the building is, it's a shell of a building right now, there is no heating cooling, you know, no HVAC, no Plumbing, no sprinklers. It is just a shell building right now. And then one of the other, you know, compounding facts that made things so much worse going into the pandemic or kind of midway through the pandemic is that construction prices went through the roof so what made our problem what was already a bad problem, made it substantially worse for trying to look at trying to do a rehab in the building.

Mr. Miller- Any other questions?

Mr. Rangel Morales- I'm just looking at the layout. Is the middle building, the East building going to be reused in any way or is it all coming down?

Herb Tousley- It would all come down.

Mr. Rangel Morales- Okay. I was just trying to see in the layout and it looks like the middle portion appears to line up pretty closely to where the middle building, the east building is, but.

Herb Tousley- Yeah, I think it is close in location. But yeah, the entire complex would come down.

Mr. Clarksen- Is any of that salvageable, if it's brick and timber?

Herb Tousley- There are companies that would salvage the timber and we try to find someone that would salvage it.

Mr. Miller- Those are all of the questions that I see. You can go head and take a seat. With that, I will close the public portion of the hearing and open this up to a discussion or a motion. Mr. Benner?

Mr. Benner II- Just to get the discussion rolling. I think it's a great project. I think the layout is fine. It's nice that all the units would be affordable at some level. But, you know, we're really here today for the, you know, I think that there's two very, if we were to kind of parse these out, there's two variances that we can probably find a way to approve and I'm looking at three and four, those seem reasonable. I think for three in terms of the front yard setback. If you actually look at where the buildings are set back from the property line, it would meet that requirement. I think that would be fine then. They could also remove, you know, two of the parking spaces, which will eliminate the need for the fourth variance. But other than market conditions, I just don't see any other way that we can approve this variance unless someone else, you know, someone has an idea about that. But just based on findings 1 and 2, I won't be recommending approval.

Mr. Miller- Yeah, I mean, ideally, we'd have a bunch of grocery stores and daycares filling up the bottom of that building. That was the intent or the idea at some point.

Mr. Benner II- And I think a part of it, you know, while they say it may be difficult, I mean, limiting the square footage to 2,400 square feet doesn't leave much room for much else other than some smaller offices. So, I mean, it's, it's the size of the commercial space is limiting and also the fact that, you know, the can't meet the requirement, they can get closer to it.

Mr. Miller- I want technical question for David. It says residential uses are not permitted on the first floor, but 80% of the first floor must be devoted to commercial other than residential. How, what's the other 20% supposed to be then?

Mr. Eide- Chair Miller, the other 20% percent is supposed to be devoted to principal uses permitted in the district. So it's like items other than like, parking that are permitted and I1 zoning district. So, if we look at the table.

Mr. Miller- Yeah, it says 80% of the first floor shall be devoted to principal uses. What is the other 20%?

Mr. Eide- Oh, could be residential. Sorry.

Mr. Miller- So residential uses are permitted on the first floor?

Mr. Eide- Not in the I1 zone.

Mr. Warner- Maybe I'll jump in, chair. What the applicant is proposing here is not simply not permitted. And for you to consider allowing it would be a use variance and if there's anything that the Municipal Planning Act is clear about, it says you cannot grant use variances. So number one is a use variance. So there's a couple of ways you can dissect this. You can take the application on its face and the staff report is proper when it recommends denial and the reason for that, although staff doesn't say that it is, number one is a use variance, and you can't grant use variances. So it's just that simple. Number two, I would be the first to say that it's not, variance number two is not a model of clarity, but it's pretty clear you can't have 20% residential uses on the first floor because residential uses are not permitted on the first floor, okay? That's a use. It's not an area standard, it's a use standard. So there are two types of variances. There are, there are, there are, there are use variances, which in Minnesota are illegal, and then there are area variances which is setback, floor area, height, that sort of thing. So, to Commissioner Benner's point of view, the three and four are likely reasonable. But in the context of this application, I don't know that I would start parsing those out. And so you have before you a staff recommendation. My advice to you is that one and two are use variances and are not permitted under the law. The way to permit this would be to have the applicant rezone the property to something other than I1. And they could certainly do that. Sort of a rezoning 101 here is when the when the City Council sets a zoning classification it's reasonably presumed to be permanent. But as markets change, things change, the City Council can certainly consider rezoning property and the applicant can make their case first to the Planning Commission. The Planning Commission can review that against all the other standards in the comprehensive plan and if they recommend approval and send that the city council, it may get rezoned. But the variance application before you is not the way to accomplish what the applicant is proposing here. It's flat-out improper under the Municipal Planning Act. So I would advise you that you strongly consider what the staff has recommended for you here.

Mr. Miller- Yeah. So for me that that's exceptionally frustrating that we were asked to consider something that we can't consider and it seems like a kind of a tremendous waste of time. What would normally stop an application from getting this far?

Mr. Clarksen- I would like the answer to that question as well.

Mr. Warner- If I may, I was curious. The applicant's said at one point that we were directed to follow this route and I'm just curious, did DSI tell them to try it for variance? Yeah, I'm not sure where that came from, but I'd be very surprised if the city staff person said, "oh, just apply for this."

Mr. Clarksen- I'm sorry. The application comes into staff, it's analyzed, and it's allowed to move forward by managers at that level. That doesn't strike me that it wouldn't it rise to the occasion of somebody looking at it with a little more scrutiny.

Mr. Rangel Morales- I'll just add that we do see these at the Planning Commission and the Zoning Committee both for a rezoning with requested variances pretty frequently. So, when I was seeing this, it's felt a lot like Zoning Committee application, and what Peter then explained makes a lot of sense.

Mr. Diatta- I would also like to chime in, Yaya Diatta here.

Mr. Miller- Go ahead, Mr. Diatta.

Mr. Diatta- It appears, David correct me if I'm wrong, the applicant went to PED for rezoning and I believe they weren't going to support the rezoning. And because this is a standard, pretty much if it is a standard, you can apply for a variance of the standard. That's why they ended up in DSI. I must add to what Peter said in terms of the use variance, again, this is sort of the intricacies of the code. The I districts are intended for sort of creating jobs, they are not primarily intended for residential and what the applicant is applying for is sort of going the opposite way. And for that reason, staff couldn't find in the findings, the sort of a leg to stand on to recommend approval. But I don't think. The standard can be varied and that's what...

Mr. Miller- Alright, thank you Mr. Diatta, you were kind of breaking up a little in and out, but I think we got the gist of it.

Mr. Benner II- So, I mean, looking at the zoning code citations it looks like this is a. This is a standard of the I1-I2 industrial district. So the uses of, the residential use is, would be allowed. It is an allowed use in the I right, for multifamily? Staff, can you confirm that?

Mr. Eide- Uh, per the mixed residential commercial use, that's what, they are varying the standard of what makes a mixed...

Mr. Benner II- I guess what I was going to ask is, are residential uses allowed in this zoning district?

Mr. Warner- They are, but not on the first floor or the basement.

Mr. Benner II- So that would be considered a use variance?

Mr. Warner- Yeah.

Mr. Benner II- Not a condition or standard.

Mr. Diatta- That is correct.

Mr. Benner II- It sounds like it was a misinterpretation of staff's reading of the code.

Mr. Rangel Morales- And to Mr. Benner's point of trying to parse these out, I think keeping them together makes sense because they can put the whole application forward under the appropriate process. Asking for the rezoning with the appropriate variances, would be my thought as opposed to trying to separate it.

Mr. Benner II- I agree with Commissioner Rangel Morales. And I mean, really, that's what staff suggested in the staff report. And really, that's what. I even asked the applicants as well and it seemed to be that wasn't the case but I'm going to go ahead and present a motion. Commissioner Clarksen? I would like to make a motion to deny the variance based upon findings one through four as staff recommended.

Mr. Clarksen- Which variances? All of them?

Mr. Benner II- All four. All of the variances.

Rangel Morales- I'd second.

Mr. Miller- Okay. We have a motion and a second. Kelly, can we get a roll call please?

Ms. Koski- Trout-Oertel-Yes. Clarksen-Yes. Rangel Morales-Yes. Benner II-Yes. Miller-Yes.

Mr. Miller- Your variance request has been denied that decision is final unless appealed to the City Council within 10 days.

**Moved by: Benner II / Second by: Rangel Morales**

**Denied 5-0**

Mr. Miller- All right, David. Do I need to hurry and conclude this meeting before we start the next thing or is that a part of it?

Mr. Eide- I don't believe it's official business, so I believe that we can conclude.

Mr. Miller- Okay, I'm going to go ahead and conclude this meeting.

*Meeting concluded at 5:03 p.m.*

Submitted by: Maxine Linston   
Maxine Linston (Jun 16, 2023 19:38 CDT)

Approved by:   
Diane Trout-Oertel (Jun 16, 2023 10:57 CDT)

David Eide 

Diane Trout-Oertel, Secretary