

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

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MEMORANDUM

DATE: September 13, 2012

TO: Steve Poor, Planning Manager – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Hilary Dvorak, Interim Planning Manager, Community Planning & Economic Development - Planning Division, Development Services

CC: Jason Wittenberg, Interim Planning Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of August 13, 2012

The following actions were taken by the Planning Commission on August 13, 2012. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Motzenbecker, Cohen, Huynh, Kronzer, Luepke-Pier, Mammen, Schiff, Tucker and Wielinski – 9

Committee Clerk: Lisa Baldwin (612) 673-3710

10. Zoning Code Text Amendment (Ward: All) (Joe Bernard).

A. Text Amendment: Amending Title 20 of the Minneapolis Code of Ordinances related to the Zoning Code, as follows:

Amending Chapter 536 related to the Zoning Code: *Specific Development Standards*

The purpose of the amendment is to allow for an exception to the minimum window requirement for film, video and audio production uses through a specific development standard for these uses.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the zoning code text amendment, amending chapter 536 to allow for an exception to the minimum window requirement for film, video and audio production uses through a specific development standard for these uses, with the following changes:

Amending (2)a to read:

Submission of a report prepared by an acoustical engineer detailing the need for additional soundproofing that is not attainable through the use of windows or a separate interior structure and/or second internal envelope. All options, architectural and acoustic, shall have been explored with proof given.

Striking (2)c:

Exterior materials used to close any existing window openings shall be similar to and compatible with the existing materials of the building.

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff, Tucker and Wielinski.

The motion carried 7-0; Mammen not present for the vote.

Staff Bernard presented the staff report.

President Motzenbecker: We're concerned about losing windows on historic buildings or existing buildings that would be detrimental to the public realm and the pedestrian environment so we wanted to get some language in there that just ensured that whoever would be making these requests had some indication that they had made all attempts to address this before going the closing of the windows. I was looking at possibly adding some type of language in paragraph two that would will state "all options, architectural and acoustic, shall have been explored or exhausted with documentation provided to this end prior to consideration of window closure" and then followed by the sentence with the Zoning Administrator so they could still have their review of that subject. The only other pieces I had were adding to item a, the use of various thicknesses and types of sound attenuating window glass and the fact that economic consideration alone shall not be a determining factor. I want to hear from Commissioner Schiff as the author of this amendment if these are bothersome to him or if they make sense or if there are ways to get to this intent of making sure this doesn't happen. As I prefaced in my email to you earlier today, with the amount of these being so small, it shouldn't matter one way or another but I'd like to err on the side of caution just to save our historic buildings.

Commissioner Schiff: I think your concern is a good one, but if something was historically designated it would need a change of use certificate from the Heritage Preservation Commission so no windows will be removed from an actual historic building or for a building that is in a historic district without HPC approval so for the most part we're talking about non-historic buildings.

President Motzenbecker: Or just older historic buildings that aren't designated. They could have value, but may not be designated. There are some areas of the warehouse district, for instance, where some are in the district but still have the features.

Commissioner Schiff: Maybe Mr. Bernard could comment on that.

Staff Bernard: The language in 2(a) is intended to address the concern that President Motzenbecker has that we would require an acoustical engineer to come up with the basis for the need for this requirement. I think that in that report, staff is assuming that there would be a consideration that other issues would've been resolved or looked at in such a report. Having the language either way, I think staff is comfortable with that.

President Motzenbecker: I only bring up the sound attenuating glass specifically, just thinking of the tv stations on Nicollet Mall that have the windows you can look into that are doing this sound sensitive work and the fear that someone would not, because of economic consideration, perhaps not go through and make those window openings soundproof and just block them up.

Staff Bernard: I should clarify, maybe this wasn't clear enough in the staff report, but this language does not compel the Zoning Administrator to allow this to happen whenever it's requested. Context can be taken into account if there needs to be language about context.

Commissioner Schiff: I understand your question better now. Let me put it this way, if you are an affiliate of a national corporation like CBS and you can afford that type of glass on your multimillion dollar sound studio on Nicollet Mall then you put in and you've got cameras and pedestrians all over the place. However, if you are on Lowry and you are a member of a small, but growing, recording industry in Minneapolis you cannot afford that type of glass and you don't want the glass because the business that I've been working to relocate for over two years from the central corridor light rail line that got relocation money because of the vibrations that was going to make their business impossible moved up to Lowry and I said "no problem, just put up a big sign that says 'sound studio' that works over the windows area and get your variance on the windows" and they were like "are you kidding, we're not putting any signs. We're already worried about being broken into when someone sees our equipment or just knows that we are a sounds studio." We're talking about neighborhood sound studios that will have no signage and don't want glass, not just as a sound issue, but as a security issue because the equipment is so valuable and will be stolen so fast. They want to fly under the radar as much as possible and I think the language suggested under 2(a) does that.

President Motzenbecker: Part of the issue that we brought up last time was the possibility to deal with that with walls just being built like a hallway against the windows so that the sound booth was inside interior to the space so you wouldn't lose the windows but you could still have usable space there.

Commissioner Luepke-Pier: I had two thoughts on that as well. Under item A, I get that sound attenuating glass is expensive and it's not even the glass it's the wall assembly around it that will be the important part to that. I was wondering if we could add words like "or a separate interior structure and/or secondary internal envelope". You could have the exterior wall, a three foot corridor and an interior wall with no windows and you would maintain the street presence and façade of any commercial building they're going into while at the same time allowing them to have as much soundproofing as they could possibly want. Since most of them is transmitted around the glass, this would actually probably serve their purpose better. My second point is in terms of time limitations to use exemptions. If that goes out of business in two years, are we stuck with a building without windows for the next 50? If there's a change of use, is there a requirement back in place that it has to be a sound studio from now on or you have to put windows back in? If we had the separate interior structure or the secondary envelope, we wouldn't have to even worry about that because they'd still maintain the street presence and then any change of use wouldn't impact the streetscape. It's probably the best fix from a financial standpoint and for achieving soundproofness.

Commissioner Schiff: That's fine with me. I want to strike item C and rename item D as C. Imagine if it's a cinderblock building and the owner offers to do a mosaic tile mural, would that really be denied because it wasn't cinderblock? If it was a streetcar era building and it was brick, would you want all the windows filled in so nobody knew all the windows were there in the first

place or would you want them just slightly different materials different tones so people would at least get the historic context that there used to be windows there? I would just strike C for those reasons.

Commissioner Huynh: I'd like to see some wording added on about options explored. You can look at a space with having an interior room, but they're not looking at acoustical tiles or carpeting that helps with that mitigation. They can use that as an excuse to reduce the windows so I'd like to add on options explored somewhere in that 2(a) paragraph.

President Motzenbecker: So all options, architectural and acoustic, shall be explored and maybe add that in there? Any other comments? I'd take out the items I was mentioning and replace that within item 2(a), the submission of a report prepared by an acoustical engineer detailing the need for additional soundproofing that is not attainable through the use of windows or a separate interior structure and/or second internal envelope. This report should also state that all options, architectural and acoustic, have been explored or give examples of the options explored. Did we have any response to adding a condition about putting windows back in?

Staff Dvorak: We had discussed that internally and the method for which we would be able to track these operations, closing or opening, we would not have the staff to go out there and enforce it and we didn't feel that we could actually make the property owner take whatever material it is that they use out and put windows back in. We had reservations about this in general and I think we came to the conclusion that if a building was reused for this use and they closed the windows that we were then going to be left with a building that had no windows.

Commissioner Schiff: I'm wondering, when staff did their research, how many recording studios did you find in Minneapolis?

Staff Bernard: There were a handful approved in the last couple of years by this body. A conditional use permit used to be required and the zoning ordinance was changed recently. Recent applications, we weren't aware of any but there were two within the last couple of years that went in. One was in an existing space and they were able to locate somewhere that did not have windows and another was an addition to a building that went through site plan review so there was an ability to reduce the window requirement through alternative compliance.

President Motzenbecker: So the number of these that might turn the other way is actually marginal.

Commissioner Luepke-Pier: I'm not really worried about legitimate film studios. I'm thinking about West Broadway when a sound studio could go in and then ten years from now it hasn't been a sound studio for nine and a half years and all of the sudden...right now we're dealing with buildings that have stuff covering where windows had been and it's taking massive façade improvement grants to entice owners to put new windows in. I know it'd be a practical difficulty for staff but it would be nice, as a resident, if I could say that a building should restore their windows if they haven't been a studio for nine years and not have it be at the expense of the community organization. As much as it might be an enforcement issue, I think if people were called on it, it'd be nice to have a rule to enforce that they put the windows back in or shut down the business.

Commissioner Schiff: Can we grant a development standard that's in place only during the length of the lease of the building?

Staff Bernard: I'm not sure that we have a condition that exists in 536 that's worded in such a way. We would need to run it by the City Attorney's office before the item comes before the Zoning and Planning Committee.

Commissioner Schiff: I'm just curious, if this building became a pharmacy in 20 years would the window requirement kick back in?

Staff Dvorak: No. The zoning code as it reads does not allow one to reduce the amount of windows from what they currently have. If a use goes into a building that doesn't have windows, we don't have anything that requires that they put windows in other than, hopefully, someone would want windows.

Commissioner Schiff: Unless they go through site plan or any applications that capture windowless buildings? What we're trying to do is come up with development standards for one specific unique form of the local creative economy. We should be able to do this in some way. We have time before it comes to the full council to talk to the City Attorney's office.

President Motzenbecker: Maybe we don't add it into this particular issue but make that something that we explore in the larger ordinance for all land use applications. I think it is an issue and if there is nothing that could force someone to put windows back into a building when there is none, then that makes sense because that is a livability city pedestrian realm vitality piece. If that's acceptable, maybe we can move that way. I will move staff recommendation to this with the one small change to 2(a) that we mentioned and deletion of item C. That would be adding to item A: the use of windows or a separate interior structure and/or second internal envelope and that all options, architectural and acoustic, shall have been explored with proof given (Schiff seconded).

Aye: Cohen, Huynh, Kronzer, Luepke-Pier, Schiff, Tucker and Wielinski; Mammen not present for the vote.

The motion carried 7-0.

11. Zoning Code Text Amendment (Ward: All) (Brad Ellis).

A. Text Amendment: Amending Title 20, Chapter 520 of the Minneapolis Code of Ordinances related to the Zoning Code: Introductory Provisions.

Amending Title 20, Chapter 536 of the Minneapolis Code of Ordinances related to the Zoning Code: Specific Development Standards.

Amending Title 20, Chapter 541 of the Minneapolis Code of Ordinances related to the Zoning Code: Off-Street Parking and Loading.

Amending Title 20, Chapter 548 of the Minneapolis Code of Ordinances related to the Zoning Code: Commercial Districts.

Amending Title 20, Chapter 549 of the Minneapolis Code of Ordinances related to the Zoning Code: Downtown Districts.

The purpose of the amendment is to revise regulations related to currency exchanges and other payday lending institutions.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the zoning code text amendment, amending chapters 520, 536, 541, 548, and 549, pertaining to regulations regarding payday lending establishments, including currency exchanges and industrial loan and thrift operations.

Approved on consent 8-0.