

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

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MEMORANDUM

DATE: May 2, 2013

TO: Zoning and Planning Committee

FROM: Jason Wittenberg, Manager, Community Planning & Economic Development – Land Use, Design and Preservation

SUBJECT: Planning Commission decisions of April 8, 2013

The following actions were taken by the Planning Commission on April 8, 2013. 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 Tucker, Gagnon, Huynh, Kronzer, Luepke-Pier and Wielinski – 6

Not present: Cohen (excused) and Schiff

Committee Clerk: Lisa Baldwin (612) 673-3710

4. 6th Street Northeast Redevelopment (BZZ-5964, Ward: 3), 514 1st Ave NE/519-523 Central Ave NE (Aaron Hanauer).

A. Rezoning: Application by Maureen Michalski on behalf of Farrington Properties, Inc. for a petition to rezone the property located at 514 1st Ave NE/519-523 Central Ave NE from the C2 Neighborhood Commercial District to the C3A Community Activity Center District. The Pedestrian-Oriented Overlay District will be maintained.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the petition to rezone the property of 519 Central Ave NE and 514 1st Ave NE from C2 Neighborhood Corridor Commercial District to C3A Community Activity Center District.

Aye: Gagnon, Huynh, Kronzer, Luepke-Pier and Wielinski

Absent: Cohen and Schiff

B. Conditional Use Permit: Application by Maureen Michalski on behalf of Farrington Properties, Inc. for a conditional use permit to increase the maximum permitted height of a mixed-use building from 4 stories or 56 feet to approximately 7 stories or 81 feet at the tallest point for the property located at 514 1st Ave NE/519-523 Central Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow an increase in height from four stories or 56 feet to approximately seven stories or 81 feet at the tallest point for the properties located at 519 Central Ave NE and 514 1st Ave NE subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within two year of approval.
2. Only the southeast and southwest portions of the building shown on the submitted plans for this review are allowed to be seven stories in height.

Aye: Gagnon, Huynh, Kronzer and Luepke-Pier

Nay: Wielinski

Absent: Cohen and Schiff

C. Variance: Application by Maureen Michalski on behalf of Farrington Properties, Inc. for a variance to reduce the setback along the southeast interior side yard from 15 feet to 0 feet at the closest point for the property located at 514 1st Ave NE/519-523 Central Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the interior side yard from 15 feet to 5 feet at the closest point for the properties located at 519 Central Ave NE and 514 1st Ave NE subject to the following condition of approval:

1. The setback reductions delineated on the final plans shall match the submitted plans.
2. The applicant shall conduct a structural survey by an agreed to qualified third party on all buildings on this block, following the industry standard process and techniques for such survey.

Aye: Gagnon, Huynh, Kronzer and Luepke-Pier

Nay: Wielinski

Absent: Cohen and Schiff

D. Variance: Application by Maureen Michalski on behalf of Farrington Properties, Inc. for a variance to reduce the minimum lot area requirement from 287 square feet per dwelling unit to 282 square feet per dwelling unit for the property located at 514 1st Ave NE/519-523 Central Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to allow the reduction in minimum lot area requirement from 287 square feet per dwelling unit to 282 square feet per dwelling unit (1.7 percent lot area variance) for the properties located at 519 Central Ave NE and 514 1st Ave NE.

Aye: Gagnon, Huynh, Kronzer and Luepke-Pier

Nay: Wielinski

Absent: Cohen and Schiff

E. Site Plan Review: Application by Maureen Michalski on behalf of Farrington Properties, Inc. for a variance to reduce the minimum lot area requirement from 287 square feet per dwelling unit to 282 square feet per dwelling unit for the property located at 514 1st Ave NE/519-523 Central Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the site plan review application for the property located at 519 Central Ave NE and 514 1st Ave NE subject to the following conditions:

1. Approval of the final site, elevation, landscaping and lighting plans by the Department of Community Planning and Economic Development.
2. All site improvements shall be completed by May 10, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

3. Lighting levels shall meet the requirements outlined in Section 535.590 of the zoning code.
4. The animal run shall be fenced or otherwise enclosed to keep the animals confined to the designated area.
5. The applicant shall provide a total of 21 bicycle parking spaces for the commercial establishment and at least half 50 percent shall meet the standards for short term parking outlined in Section 541.180(a)(1).
6. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of six-tenths (0.6) or higher.
7. For the first floor commercial establishments, 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.
8. Decorative metal grills shall be installed within the parking garage window openings on 1st Avenue Northeast that allow for clear views in and out.
9. The applicant shall work with staff to assure there are durable materials, which may include Nichiha or stucco, on all upper floors of the building street facing façade. Cement board siding facing the interior of the site is not to exceed 50% of the interior façade.

Aye: Gagnon, Huynh, Kronzer, Luepke-Pier and Wielinski

Absent: Cohen and Schiff

Staff Hanauer presented the staff report.

Commissioner Wielinski: I'm looking at your drawing, where that white dotted line is that you put on the picture, how far is that between the buildings currently?

Staff Hanauer: Less than a foot.

Commissioner Wielinski: With the new building, where the purple awnings are and you get down to that wall, that wall at the end there, how far is that going to be from the 509 building?

Staff Hanauer: I think it will be less than a foot.

Commissioner Wielinski: When you're getting up to the level where there are windows, is that five feet from the edge of the building or the edge of the balcony?

Staff Hanauer: At the closest point, the windows would be five feet from the property line.

Commissioner Wielinski: So it's basically going from a foot to five feet for most of that area except for that lowest point.

Commissioner Kronzer: The neighboring building owner mentioned some dwelling units in those neighboring buildings; can you point those out on a site plan for me, please?

Staff Hanauer: We're looking at the neighboring building and the dwelling units in the 509 Hennepin building. It's my assumption that it'd be on the second and third floors where that would be residential units. Looking at 5th St, the lower pictures are the Melrose Flats. I will flip to an aerial to see those.

Commissioner Kronzer: What's the ground floor use?

Staff Hanauer: That is commercial.

President Tucker opened the public hearing.

Staff Hanauer: With the materials, as you saw in the site plan and elevations, it said nichiha or architectural panel and Maureen and I have been talking back and forth and so some of that fault in this material change could lie with us in looking at option one in the nichiha but that's what we wrote up in the staff report.

President Tucker: Are we going to end up with options to choose or have you decided which way you're going right now?

Maureen Michalski (901N 3rd St) [not on sign in sheet]: I'm the Senior Project Manager at Schafer Richardson. We're excited to present this development that we're calling Red 20. It transforms a surface parking lot and a vacant blighted building that we have HPC approval to demolish into a vibrant mixed use development. As Aaron mentioned in the staff report, this is in the East Hennepin activity center and also along the Central Ave commercial corridor which calls for higher density and a mix of uses. Our development, although requiring a rezoning and a conditional use permit and a minor lot size variances addresses the goals of multiple established city plans and comes in at 100 units per acre whereas the higher density is recommended at 120 units per acre. We believe the building is keeping in with neighborhood character through its size and architectural features.

Aaron Roseth (500 Washington Ave): I'm with ESG Architects. We have a very quick presentation. One highlight that I wanted to talk about is what this project is doing for this area. We believe that it's improving and expanding a district further to the south that has a lot of energy and great activity from a pedestrian experience, a commercial retail experience and an activity center. I think this project is great to move that momentum further north along Central and 1st Ave. Some of the things that the project is specifically doing in terms of the public right of way and creating a better pedestrian experiences; on 6th St the building has been set back from...it already has a really good right of way but it is at 12 feet and we're pushing it to 16 at the recessed area. The sidewalk right now if you walk past Totino's feels very close and not very safe. In term of traffic that's going down Central, which is over 20,000 cars per day... the property line right now is at nine feet and we're moving the building back to over 13 feet and then on 1st Ave it's ten feet and we're moving it to 14 feet. What that has allowed us to do is put street trees in. We're looking at working with Public Works to do the Swedish system underground which allows trees to survive in this environment. We're excited about that. The other great thing that we believe that it does is from a retail perspective, it allows those tenants on the first floor to have breathing room and potentially entice things like coffee shops and good residential retailers to that ground level. We went from three curb cuts that are existing on the property right now to two. I think we talked about how the ins and outs happened and the desire to have an exit on to 6th so traffic can exit on to either Central or 1st. Parking on the first level, which would be open for commercial we hope and the underground would be 100% committed to residential at this point. Second level, we have an amenity deck above the parking and it faces south. The existing three story building that we're adjacent to at its closest distance away from the building...basically there's a one story portion of the building that butts up against the property line; I believe we're about a foot off of that. The second story is pushed back five feet and that's where windows would be where my cursor is showing right now. These recessed balconies are at 10 feet. Quickly going through the site plan, this is a rendering that we're working on that we have right now for the building. Off of 6th you see the primary entrance in a white stucco color. We're really excited about this project in many different ways but there's a simplicity in the architecture that we think is a clear statement of classic proportions and a good fabric building. Along the base we're looking at rock face block. On the wall facing the parking lot, that material is good. It faces south and it's good for a green wall, which we are going

to do. Floors two through five, we're not asking for you to decide whether it is nichiha or stucco. Right now, we're asking our contractor to price both because we believe both of them are very good quality materials and we ask that if you approve the project that it could be either one of those. We're asking for that support for a little bit of slack with working out pricing. We're confident that both of them would result in good high quality materials. The outline that Aaron showed was essentially where we're putting that. There's one extra area that I'll show you how we're doing that in a second. The one area where we did bump up facing south is the...there's four units facing south and we'd like to do a mezzanine in those units and that's what the bump out is. On the back side, we are breaking up the elevation. Currently, we're just over three feet in that area and the concept is that we'd do green plantings that'd be climbers along the rock face block in that area. During the Committee of the Whole meeting there was a little bit of conversation about what the material was in the dog park. Kit Richardson is actually on the advisory council for the dog parks and they have researched that the right material for that is rock. You don't want a permeable material or an organic that would take the smells. The elevations are here for reference. I'm here for questions. Thank you.

Commissioner Kronzer: The color of the material of that middle section that's shown as red, is the color independent of what material it will finally be?

Aaron Roseth: It's not in our viewpoint. We hope that if it is stucco that we can get a pungent color...or a strong, bold color in stucco. We just branded the building, it's Red 20. It's in our best interest to have a strong, bold color.

Commissioner Kronzer: The green wall along the south side, is there a metal structure as well?

Aaron Roseth: We believe, because of the rock face block we're going to be able to get climbers to go up there. We're working with our landscape architect to make sure that happens.

Commissioner Kronzer: Has your applicant discussed with the neighboring buildings a building survey prior to work on the property? A survey of existing building conditions prior to construction.

Aaron Roseth: We have not gone into the adjacent buildings structures. We believe there is a basement and we are working with a contractor to make sure that construction monitoring happens in terms of vibration and everything else which will all be part of their contract.

Commissioner Kronzer: So the plan is to survey those buildings prior to any work being done?

Aaron Roseth: The plan is to make sure there isn't any impact to their building during construction.

Commissioner Wielinski: The part that would face the neighboring building, are those windows offset so nobody is looking at each other through the five foot gap?

Aaron Roseth: The adjacent building is actually on the property line so those windows aren't in compliance. My response to that is that these current window patternings follow the interior of the building.

Commissioner Wielinski: So they could be looking across right into the neighbors windows?

Aaron Roseth: I don't know; we didn't survey it that way.

Commissioner Wielinski: If you were to choose the nichiha over the stucco are you looking at having a very basic, straight, ordinary checkerboard type of pattern or are you looking to get the different sized panels that give it a little more texture or feel to it?

Aaron Roseth: We are looking at using a smaller nichiha panel which would demonstrate the reveals that we have on the rendering. These aren't 4x8 sheets that are tacked on to the side of building. We like the idea of simplicity and expressing the horizontal nature of those four floors.

Commissioner Gagnon: This building, it seems to me that it's intended for people with no children. This area, you're not too far from Holmes Park and it has a lot of amenities that families would enjoy and I think there is growing popularity for families to live in this area in apartment style housing.

Maureen Michalski: We do when we're looking at the internal layout; we have a range of sizes of units from studios to three bedrooms. We do have some large units that can accommodate families to answer your questions. Twenty percent of the units are two bedrooms and then three percent of the units are three bedrooms so we do have some larger units in comparison with some other projects that have been built in this area. We don't have something like a playground for families but we have outdoor amenity space and a dog run and there are a lot of...

Commissioner Gagnon: That's for dogs.

Maureen Michalski: We do have an outdoor amenity space on the second level and there are nearby parks and the Marcy School and things like that.

Commissioner Luepke-Pier: Aaron, what's the top material above the red?

Aaron Roseth: It's metal panel. One other main thing I should have talked about in terms of the public realm is that on Central...one of the key features here is that we're concealing that level of parking as much as we can. We faced a parking lot on the south. All of the primary elevations whether it's First, Central or 6th are to activate the street from a pedestrian experience. What you're seeing right here, and I believe we talked about this at Committee of the Whole, is an access point where retail would also be within that tunnel or connection into the parking in the back where windows from that retail would face that and it's a covered walkway to the parking on the other side.

William Krueger (888 County Road D W, New Brighton): I'm an attorney for the property owner of Melrose Flats and the other buildings directly affected on the block. When the Totino's building was bought by Hillcrest, I stood in front of the HPC because I knew Mrs. Totino personally. Scott and Charlie can tell you that I testified for Mr. Christoforides who was then in Greece on a family matter that we did not oppose their tearing down the building. The building was approved to be torn down with the approval of the new plan. We opposed this plan. We do not oppose the redevelopment of the property, but we believe you have been provided some inaccuracies in the staff report, some of which are significantly defective engineering-wise that if they are, in fact, resulting in the concerns we care about, you could bring about a catastrophe. This Melrose Flats building has been there 123 years; the other buildings have been there 113. We have, for over 22 years, my client has been restoring those buildings. We have found people to make us brick for the façade that matches, we have sculptors working on the argyles and character and nature of the building that have been damaged, we have remodeled the insides and have complied with all city codes and inspections. We will have 38 livable modern units that will separate the apartments who used to share apartments to modern apartments and still be within the existing code and we will have increased density. When my property owner bought this property, this was basically a giant crack house. He has been there long enough that there have been 22 new

restaurants within a quarter mile, partly because of his efforts. We are not opposed to this development, but we have significant concerns. On the southeast corner of that building, they do not yet know whether our building and the Totino building has a combined footing. We won't know that until we get down there. If there is a combined footing and we dig that out, we can damage our building. If that building gets damaged, giving me a great lawsuit against Hillcrest doesn't help the buildings screwed up. That building has an eight foot basement. We don't agree that the ordinance set back the way it is ok. We ask for the 15 foot easement and we especially object to the wall. The wall is 21 feet high from my property. My tenants who will look out and have the right to look out the back of their apartments get to look at the Berlin wall. That doesn't have to be that way. The two ladies that there here earlier whose names I didn't get, I felt I should have hired because they made some points I want to make. One of you asked about practical difficulties and what the definition is; the statute makes that definition such that you have to show engineering architectural difficulties. Your ordinances say that the variances can't be requested for economic reasons. There is no practical difficulty shown. There is a practical difficulty declared and the plan and staff report accept the declaration as a fact without any evidence as such. We have engaged architects and structural engineers who are licensed in Minnesota and they tell me there are no practical difficulties. We believe the proposed development and density can be accomplished without the variance. On the plans, the additional partial underground parking level could be added. You have bedrock on the northeast corner at eight feet going down to 20 feet at the southwest corner from soil samples that we know of. We don't know what the soil is because the environmental study identifies that but didn't identify the soil. My understanding from Mr. Richardson...they were doing more borings and as of our last conversation they don't have those results back to me. I think you need to think about getting more information before you proceed with this. On the plan, if you look at the difference between P1 and P2, there is an absence of parking on the northeast corner in P2 that could be parking and you could persuade our concerns with this wall because this wall could go five feet that way and you could still have the parking on P1 with subcompact parking because you only need 16 feet on the plan and you wouldn't even have to take parking spaces away. We object to the height. The height on our side is essentially a seven story building. Calling it a mezzanine doesn't change anything. Our structural people tell us that you will impose a snow load on the Hellenic Union Building which is the building immediate in the southeast corner of this project that it was not designed to build for. The roof won't carry the load of the increased snow load. I know there is going to be a sprinkler. I know it may never catch fire, but I've been around lots of buildings that weren't supposed to catch fire that caught fire. If that building caught fire, the fire danger to the Hellenic Union Building is serious and it's not set up for that either. When they built this building 113 years ago none of this was thought of. When the Totino building got built, they actually screwed up. The Totino building is crooked on the premises. It's about 10 inches at the central location and goes crooked along the property line to the back to where it's about this far apart. When our building was built, it had windows and we've been there 113 years. This proposal doesn't allow us to restore the building on that face of our building to the way it used to be. We cannot get windows there. I appreciate your window question because if we shove that whole building back 15 feet, including the first 20 feet on the first story, then we've got no problem with that. Then we could build safely, probably, so that the Hellenic Union Building could be built, contrary to the staff report. If you move the wall you could build that safely in a way that may not...although there are still risks to our building, but as proposed, there's no way of building that wall on the lot line without there being tiebacks or something going to our property on a permanent basis. If the code requires a one foot drop for a one foot linear length, you need a 45 foot slope on the banking to build that and to build that right on the property line and go down 20-25 feet, you have to come on our property more than we own. The property driveway from the Hellenic Union building...the corner of that property that's not our driveway is owned by the bank. We've tried for years to get them to sell it to us and they won't. That slope at this end of the building is going to have to be on our property. The problem with the setback on this piece is if that's right on the property line, you can't get it there without impinging on our property and you need an easement and an easement even further than we can give you on this portion because that portion we don't own.

President Tucker: That sounds like a problem that the applicant will have to work out and is beyond our purview.

William Krueger: Yes, but he's asking for variances so he can do all these things. I'm saying they shouldn't be granted because there is some real danger from that project as proposed to our property which shouldn't be inflicted on us. I have a problem with the massiveness of it as opposed to the design. It's huge. It will be the biggest thing around for a long ways on those three fronts. It is massive. Cobalt is bigger and built differently and it doesn't create the same overbearing presence on those streets. This is a proposed historic district. We have our Melrose Flats building already identified. It was our anticipation that the other two buildings we're restoring were going to be designated historic and we've been remodeling them as if they're going to be already. We're in the process of doing that. The Melrose Flats has living units and there are some more being finished. We will have 38 living units above the commercial spaces when we get done. This triples the traffic density. The historic preservation study you guys did with all these overlays that said you wanted to designate our buildings in that block as historic was only done in 2011. We're going to ignore that? This building swallows my buildings. It doesn't need to be. That sight can be developed for multi-use, which we would welcome. It cannot be that size and not be 81 feet tall. We ask that those concerns be taken into effect. Other than Cobalt, there's nothing even close that has this massiveness to it. When I go across the street to the block that the Red Stag's on and you go around the corner and west on 5th, you've got Calumet there; that's an old, redone, beautiful building and it's shorter. There's nothing there that's anywhere as comparable to this. We also object to the dog park where it is. Why is it at the end of property? Because it's least offensive to the tenants in that site so it's in something we get to have the pleasure of. Our buildings don't have dogs and cats but we're going to have the dog run...

President Tucker: You said that in your letter so let's not repeat, please.

William Krueger: There's a real danger that this will get damaged and even if you require the person who wants to build here to do a site plan, we're going to be doing that. I don't want to get down the road and something happens and my northeast wall falls and saying it wasn't our fault. I also don't want to wait three years waiting for a judge and Hennepin County to say who is right because someone has insurance for it.

Commissioner Kronzer: I have a suggestion for you and your client. There is a construction project going on right now at 520 2nd St SE, which is a very similar condition to this proposal. It's in a historic district, there's a very tight or zero lot line building construction going on. They're using modern techniques where they're not disrupting foundations. Their excavation is actually about 20 feet below the footing of the neighboring building; I would suggest you go take a look at that and it might help relieve some of your concerns about this project.

John Eckley (507 1st Ave NE): I own 507-509 1st Ave NE, Red Stag, City Salvage. I'm the other side of this man's development project. We've spent millions of dollars developing that part of the street. From 5th St to 6th St, there's almost 11 businesses. There's not one mention of our side of the street. He's putting this wonderful building facing a gas station and a fast food restaurant and turning his back, basically, on the development on 1st Ave. The building is massive. That whole area has a low feel. There should be an environmental study. I'm going to lose sunlight in my building. I'm a two story building with businesses. This is just one of these things that go on. Neighborhoods get to be considered for this but building owners are never... people who pay taxes don't get to be involved in any of the insight of doing this. I have to come to a meeting and express my concerns. The traffic effect is huge. There's a parking issue on that street already and you're going to add 130 units and one car per unit but two people in each unit and there are going to be more

cars and more issues. I think anyone that throws around a lot of money, the city of Minneapolis developing planning table seems to get a free ride on this and it bothers me. We're not listened to.

John Chaffee (163 Nicollet St): I've lived in the neighborhood for about 40 years and seen a good many changes, more positive than not. This one I'm not so sure about. I'd like to address a paragraph in the staff report that falls on page eight, paragraph two. This is one of the findings that needs to be made in order to justify the granting of the conditional use permit for the additional height; in other words, that there should not be any shadowing. This paragraph as it stands is quite hard to follow and a person reading it could easily get the wrong impression. First of all, it says "there will not be a shadowing effect on the primary elevations of existing residential properties" and it has the addresses on Hennepin and Central and also 13 5th St NE which is the Melrose Flats. Then, logically, it should say there will be shadowing on the rear elevations of those properties and it doesn't say that. It just says the greatest impact to these building rear elevations will happen in the winter and spring, which is true. Then it says that shadows will be cast on nonresidential building, which is 605 Central which is across 6th St. It will be shadowed being a one story building. Looking at these shadow maps does not really give a complete idea of the shadowing effect that is going to take place, especially on the east façade of the Melrose Flats. It is possible to work from these shadow drawings and show the shadows that would be cast on the east façade of the Melrose Flats by buildings of different heights. This is the plan view of the shadowing on a morning in June. This one is the elevation view; you're looking at the Melrose Flats from the east and it's about 111 feet long and 40 feet high. The lower line shows the shadows that would be cast by a 56 foot high building located as the proposed building is located. The upper line shows the shadows that would be cast by the proposed building as it now is proposed. Between those two, there is between 16-25 feet so that is a considerable additional shadowing effect on the historic Melrose Flats on a residential building because it is that from the first floor upward. The final sentence of that paragraph could easily be taken to mean that there is no significant difference between the shadowing effects of the 56 foot and an 81 foot building with respect to the surrounding residential property. That is simply not true.

Commissioner Huynh: I appreciate your chart. Part of my expertise is also looking at daylighting. I'm trying to get more information from your chart here. As far as the premise of how you drew the lines, what was the angle? Were you looking at summer angles in June? Morning angles for March and September or morning angles for December? The percentage as far as the verticality of the sun [tape ended]...

John Chaffee: ...information here about the angle of the shadows and the slope of the shadows is scaled directly off this drawing prepared by the architects. This is the June morning. They use a pretty sophisticated computer program to generate these and I don't own the program, but there is enough information there to project the shadows on the wall. I'm a land surveyor, though I'm mostly retired, and it's not a very complicated calculation.

Commissioner Huynh: The angle of the sun can vary so much from December. The sun in December at noon can be 12-22 degrees and in the summer sometimes it can be 68 degrees so I guess I'm just curious what the exact measurements and percentages were because the sun shadow studies that we have in front of us do potentially show that there is shadowing on the Melrose Flats but that's only in place of the morning but not necessarily in the afternoon or during the noon hour. I'm assuming that your shadow study, the chart you provided, is just for the morning only.

John Chaffee: That is a June morning and I have another one there. This is a March or September morning.

President Tucker: If I understand correctly, this is the back of the Melrose?

John Chaffee: Correct.

President Tucker: How many of these shadow drawings do you have?

John Chaffee: I have only this other one. In this one you're looking at the east façade of the Melrose building from the direction of the proposed building. The lower line is a 56 foot building shadow; the upper one, which mostly covers the façade is the 81 or 73 foot shadow depending on what part of the proposed building you're talking about. There's a substantial difference. My initial point was the difference between the 56 building allowed by code and the 81 foot sought by the CUP makes a substantial difference in the shadowing here and that is a reason for rejecting the CUP request.

President Tucker: Thank you and thank you for preparing the diagrams.

Charlie Nestor (2424 Kennedy St NE): I'm with Hillcrest Development. We are the current owners of the Totino's site. We are a 65 year old, third generation business and our specialty is bringing old buildings back to life, primarily in the city of Minneapolis. We've been in front of this commission many times over the years. We were approached by the former owner, the Totino's family, in 2011 after approximately four to seven viable or a wild cat developer approached them and tried to get something going on this site. We worked with the family and closed on the property in 2011. Our commitment to them was to find and help shepherd the right and proper development through his process. Needless to say, in 2011 and years before, it was a difficult time in the marketplace. We committed to the family and neighborhood that we would work hard to find the best project and we believe after the last two years that the right developer, which is Schafer Richardson is in front of you today. We've worked hard with the neighborhood both with the HPC process as well as working through the neighborhood and developer to get to this plan and we ask that you move forward and approve this plan. Thank you.

President Tucker closed the public hearing.

Commissioner Huynh: I'll start the discussion off by moving staff recommendation for the rezoning (Luepke-Pier seconded).

Commissioner Kronzer: I'd like to note that this is an activity center. There is good transit service, it's very much in scale with some of the newer buildings in the neighborhood, including the Cobalt, so I'd be supporting this.

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

Commissioner Huynh: I will move staff recommendation for the CUP from four stories to seven stories or 81 feet and item C which is the variance from 15 feet to zero feet. I will save the discussion for site plan review with the elevation discussion in a few minutes. And item D. (Luepke-Pier seconded).

Commissioner Kronzer: I'd like to add a condition to variance C that the applicant shall conduct a building survey by an agreed to qualified third party on all buildings on this block following the industry standard process and techniques for such a survey. A structural survey.

Commissioner Gagnon: I understand that there are buildings in the area that are 7-10 stories, but they're more on the outline, this is right smack in the middle of this area that is very pedestrian. I think this building is significantly different than the buildings within the blocks around it. I'm wondering why seven instead of four.

Commissioner Huynh: I think for the reasons that the project site is on a major corridor within northeast Minneapolis so it allows for more density than what you would typically have in a single family neighborhood or a neighborhood that's abutting a single family neighborhood. Along major corridors you do have transit and it does accommodate more density in there for the height. I've seen the comp plan encourage higher density and development like this along major corridors so for that reason I support this.

Commissioner Gagnon: This is almost twice as much. It just seems significant. It's zoned for four stories and we've moved to seven; it just seems like a significant difference to me.

Commissioner Wielinski: I believe this commission approved a building that's across Central and up two blocks that's going to be more than 8-10 stories. The density and height has already moved passed this building as far as that commercial corridor is concerned.

Aye: Huynh, Kronzer, Luepke-Pier

Nay: Gagnon and Wielinski

Absent: Cohen and Schiff

Commissioner Huynh: I'd like to move staff recommendation to approve the site plan review with the eight conditions and I'd like to add a ninth condition based on some of the new information we have with the stucco. I'm a little reluctant to allow for either option of nichiha or stucco and so I'd prefer to add a condition that allows for staff to determine what the appropriate balance between stucco and nichiha would be on the elevation.

Staff Wittenberg: I think that would be fine. Just a reminder though that the applicant is also requesting some flexibility for additional materials on the upper floors facing the interior that were not specifically addressed in the staff report that we'd want to address if you're looking to grant that flexibility.

Commissioner Huynh: I'd like to include that portion in the condition number nine.

President Tucker: I'm thinking this condition is that the applicant will work with staff to assure appropriate balance of durable materials on all upper floors.

Staff Wittenberg: Perhaps we'd want to specify that cement board siding may exceed the 30% limitation that we would typically place on individual elevations facing the interior of the site. Within the "u" of the u-shaped building, staff would be authorized to allow cement board siding other than nichiha.

Commissioner Luepke-Pier: Our intent would be that they could use a different product? It was my understanding that Commissioner Huynh's motion that all facades should be uniform.

Commissioner Huynh: I'm open for discussion. I guess what I was proposing was that on the public facing exterior elevations that there could be some negotiations on the nichiha and stucco. My understanding was that on the interior elevations there would be some cement board siding and there could be some interpretation as far as increasing that percentage to allow for a little more flexibility for just the interior facing elevations.

President Tucker: But not to exceed 30%.

Commissioner Huynh: Perhaps not to exceed 50%.

Commissioner Luepke-Pier: On the siding, I'm reluctant to say the whole envelope could be nichiha because it's a fancier cement board siding. At the same time, because it is red and I know from personal experience that when working with stucco you have to use an acrylic and I don't know if you can find a company to warranty your red because everyone I talked to won't warranty the color because it will fade in the sun. I think you guys have to find a solution that balances those two needs but make it so it's not just one big thing. In regard to condition four under the site plan review, in regard to the dog run, I have lots of friends with dogs and I know gravel sounds awesome but I think it looks atrocious and I'd prefer to see a faux grass similar to what they have at International Market Square. If that won't work, I need to know why because it's working there and it's been there for a few years now.

President Tucker: Could we hold off on that until we figure out these materials? I think where we are is the street facades the applicant is to work with staff on appropriate durable exterior material of nichiha or stucco. On the interior ones, the courtyard ones, the applicant is to work with staff to assure durable exterior materials and the cement board is to not exceed 50%. So it wouldn't be 50% of the whole building, it would be 50% of that interior part. Let's go back to Commissioner Luepke-Pier's comment.

Commissioner Luepke-Pier: I want to ask why not fake grass.

Kit Richardson (Schafer Richardson): I am a member of Dog Grounds. We are a nonprofit organization that established off leash dog runs in the city. We have spent a lot of time on that issue. I don't consider myself an expert, but the experts in the group state categorically that the material should not be organic, it holds the urine smell. It should not be impervious for the obvious reasons. What the board has come to, using the experts on the board who are dog care professionals, is a very small gravel. We've been removing grass from other parks. We've gone through a number of kinds and sizes of gravel. The Dog Grounds board will not allow any other material except gravel in our parks.

Commissioner Luepke-Pier: When you say you're removing grass, you're removing real grass or artificial turf?

Kit Richardson: Nobody considered artificial grass because it is a plastic and it holds everything that the dogs do in the park. That'd be like building a rubber tub.

Commissioner Luepke-Pier: I was under the impression it was more of a permeable mesh underneath that had a substrate.

Kit Richardson: It holds the urine smells and is difficult to clean up any feces.

Commissioner Luepke-Pier: I've just known from observation that it has not appeared to be the case, but I will defer to the experts. I just wanted it to be more aesthetically pleasing.

Commissioner Kronzer: I'm sorry we have to go here, but having designed and oversaw construction of a boutique animal hotel, there is an artificial turf product that is explicitly designed for pets and to deal with the waste. It's perforated and there are several companies that make it. So there is an artificial turf that handles pet waste.

Kit Richardson: If that's the case and the professionals on the Dog Grounds board approve it then we'll certainly look at it.

Aye: Huynh, Kronzer, Luepke-Pier and Wielinski

Excerpt from the City
Planning Commission Minutes
Not Approved by the Commission

April 8, 2013

Nay: Gagnon
Absent: Cohen and Schiff