

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

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MEMORANDUM

DATE: July 16, 2015

TO: Zoning and Planning Committee

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

SUBJECT: Planning Commission decisions of June 15, 2015

The following actions were taken by the Planning Commission on June 15, 2015. 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.

Committee Clerk

Lisa Kusz - 612.673.3710

Commissioners present

Matthew Brown, President | John Slack, Vice President | Alissa Luepke Pier, Secretary
Lisa Bender | Meg Forney | Rebecca Gagnon | Ben Gisselman | Ryan Kronzer

Not present

Theodore Tucker

2. 3414 25th St E, Ward 2. This item was continued from the June 1, 2015 meeting.

Staff report by [Aaron Hanauer](#), BZZ-7157

Application by Bryan Walters, on behalf of WhiteTree LLC.

A. Rezoning.

Action: Notwithstanding staff recommendation, the City Planning Commission recommended that the City Council **deny** the application for rezoning the property from the R1A/Single-Family District to the CI/Neighborhood Commercial District, based on the following findings:

1. Uses within the closest proximity to the address are zoned residential.
2. This site is not located on a commercial corridor, community corridor, or neighborhood commercial node.
3. The change of nonconforming use application process is available to the applicant so it is premature to rezone the property to a commercial district.

Not Approved by the Commission

4. If there is interest in adding more commercial properties to this area, a rezoning study would be a more appropriate policy approach.
5. This rezoning is solely for the interest of a single property owner.
6. There are reasonable uses for this property through the change of nonconforming use process.

Aye: Bender, Gagnon, Gisselman, Kronzer, Luepke-Pier and Slack

Nay: Forney

Absent: Tucker

Staff Hanauer presented the staff report.

President Brown opened the public hearing.

Bryan Walters (4557 Park Ave): I'm one of the owners of WhiteTree. We purchased the property at public option. We were going to utilize a portion of the building for ourselves and lease out the office spaces. What we've run up against is the fact that the nonconforming use process requires this two to three months for this process for any type of use that would go in the building at this point. We've been marketing it for over six months now and we have not found a tenant that's willing to go through that process just to find out if they would be allowed to apply for a business permit and then begin the buildout process. There's a significant amount of renovation that we'd have to do inside as well. That's the problem with competing with other C I spaces nearby that an applicant can go in and apply for a business license right away. Once we came to the conclusion we weren't going to be able to find businesses willing to go through this process, we met with the neighbors and started the application for the rezoning. We obtained more than the required two-thirds of the signatures of the neighbors within 100 feet. People thought it would help bring in business, revitalize this building and bring it back to life. We'd like to revitalize this and add to the community.

Jill Sabaka (2444 35th Ave S): I'm opposed to this rezoning because it would take any power from the neighborhood to be part of the process of deciding what business could go in there and also because if it's residential they are required to put green space in the back that would fit much better into the residential area there than an eight car parking lot, which a commercial use like this could have. I don't think it's right to have that next to other back yards, play areas and gardens. It would bring extra traffic, pollution, noise and so on. I think this is a strong neighborhood, we love our neighborhood very much. We're a quiet neighborhood and we'd like to have a say in just what kind of business is going to go there. There are houses all around it. This wouldn't be a benefit to the neighborhood.

Elise Werger (3512 E 25th St): A lot of neighbors I speak to say they signed this petition thinking they were signing for a daycare to go in or thinking they understood what was happening and they now feel that they don't. My other concern is that I'm opposed to the zoning change as I understand it. I don't see, as a homeowner, what I'd get from the rezoning. The property owners will gain something, but not the neighbors. People come in, rezone and then be able to sell at a higher profit. I haven't understood the clear neighborhood commitment to this rezoning.

Prudence Lake (3514 E25th St): I moved here three years ago. There's going to be more traffic around. There's no parking. My neighbor doesn't have a garage. There's a stop sign where I live and people go through it all the time. I think there's something that's not quite right. Anyone who really wants to move into a building and they like the neighborhood and think they've got a good business, they would be willing to wait for three months. I don't understand this. I think it's going to be a flip.

Robb Lubenow (3432 24th Ave S): We did meet with neighbors and answered questions about the property and what type of businesses could go into a CI zoning. There were questions on the parking.

Not Approved by the Commission

There is an existing parking lot behind the building. There's a garage accessible from the back. We've informed people as best we could as to what our intent was. We met with neighborhood groups. We held open houses at the property to let people know what we're doing and answer questions.

President Brown closed the public hearing.

Commissioner Bender: I'm going to move to deny this application (Luepke-Pier seconded).

Commissioner Luepke-Pier: It's zoned a residential zoning so the only use that would be authorized is a residential because it lost its nonconforming rights, is that correct?

Staff Hanauer: That is not correct. They do retain their nonconforming rights until the end of the year.

Commissioner Luepke-Pier: So they're able to use it for some limited range of commercial uses as it exists?

Staff Hanauer: They would likely have to go through a change of nonconforming use application to bring in a new commercial tenant.

Commissioner Bender: Generally I am very supportive of these local commercial nodes within neighborhoods, but here I think we have a situation where nearly everything nearby is residential. I think because we have the nonconforming application process available to this property owner, I think it is premature to rezone this property commercial. I've heard from the council office that they've received a number of calls who signed the rezoning petition who later didn't quite understand. Legally it still stands as their signature, but I think it raises questions about making sure that the process we have in place is something they go through. I would suggest that if there is interest in adding more commercial properties to this part of town that a rezoning study would be a more appropriate policy approach to take rather than rezoning a property one by one from residential to commercial.

Aye: Bender, Gagnon, Gisselman, Kronzer, Luepke-Pier and Slack

Nay: Forney

Absent: Tucker

Commissioner Bender: For the findings, the fact that this area is largely residential and there hasn't been a rezoning study to identify places where we want to rezone for commercial is significant here. I think the nonconforming use process provides the opportunity to meet the Comprehensive Plan's goals of supporting local neighborhood businesses. On the question of public interest, this rezoning could be seen as solely for the interest of a single property owner because a rezoning study hasn't been done to comprehensively look at the zoning of residential versus commercial in this area. This is focused on one property rather than the larger area. There are other reasonable uses permitted.