

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

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MEMORANDUM

DATE: August 27, 2015

TO: Zoning and Planning Committee

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

SUBJECT: Planning Commission decisions of August 3, 2015

The following actions were taken by the Planning Commission on August 3, 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
Meg Forney | Ben Gisselman | Ryan Kronzer

Not present

Lisa Bender | Rebecca Gagnon | Theodore Tucker

7. Handicraft Building City Apartments, 89-91 10th St S and 1016 Marquette Ave, Ward 7

Staff report by [Hilary Dvorak](#), BZZ-7170 and Vac-1643

The City Planning Commission adopted staff findings for the applications by Gretchen Camp with BKV Group, on behalf of Village Green Companies.

A. Variance to reduce the width of the drive aisle.

Action: **Approved** the variance application to reduce the width of the drive aisle from 22 feet to 0 feet, subject to the following condition:

- I. A series of bollards shall be installed along the south and southeast sides of the Handicraft Guild Building in order to protect it from being damaged by maneuvering vehicles.

Aye: Forney, Gisselman, Kronzer, Luepke-Pier and Slack

Absent: Bender, Gagnon and Tucker

B. Variance to reduce the south interior side yard setback.

Not Approved by the Commission

Action: **Approved** the variance application to reduce the south interior side yard setback from 15 feet to one foot for the building wall and to two inches for the balcony facing the property line.

Aye: Forney, Gisselman, Kronzer, Luepke-Pier and Slack

Absent: Bender, Gagnon and Tucker

C. Site plan review for an 18-story, 293 unit residential building with ground floor commercial space.

Action: **Approved** the application for a 20-story, 293 unit residential building with ground floor commercial space, subject to the following conditions:

2. Approval of the final site plan, landscaping plan, elevations and lighting plan by the Department of Community Planning and Economic Development.
3. All site improvements shall be completed by September 11, 2017, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. The generators, transformer and any other proposed mechanical equipment shall be screened per the requirements of Chapter 535, Regulations of General Applicability.
5. The primary material on the lower two stories of the proposed building shall be brick on all four sides.
6. There shall be at least four bicycle parking spaces provided along South 10th Street.
7. There shall be at least two bicycle parking spaces provided in the building for the office uses.
8. The top floor on the west elevation shall be designed so there aren't any blank walls over 25 feet in length as required by section 530.120 of the zoning code.
9. The EFIS panelized system shall include the weep system and shall include the protective coating for self-cleaning purposes.

Aye: Gisselman, Kronzer and Slack

Nay: Forney and Luepke-Pier

Absent: Bender, Gagnon and Tucker

D. Vacation of air rights over the public alley.

Action: The City Planning Commission recommended that the City Council **approve** the application to vacate the air rights over part of the alley in Block 13 of Snyder & Company's Addition.

Aye: Forney, Gisselman, Kronzer, Luepke-Pier and Slack

Absent: Bender, Gagnon and Tucker

Staff Dvorak presented the staff report.

President Brown opened the public hearing.

Shawn Zimny: I'm here on behalf of Village Green who is the developer and future owner of this project. We are in discussions with WCCO and Target for a few things we're working through with logistics. I'm here to respond to questions. I will let the rest of the team present.

Mike Krych: I'm with the BKV Group. We're the architects on the project. We're in agreement with most of the items on the report. There are three items I want to discuss in a bit more detail. One is the south side variance. The second item is the brick being added on the courtyard side. I'll start with the south side variance. We had mistakenly shown the balcony on this side. We showed it over our property line, but we are pulling it back so it's within our property line. We are looking to have that within two inches of the property line. The balconies are prefabricated aluminum, maintenance free. Related to the brick being

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added, I'll start with the south elevation. Where it makes sense relating to what Hilary brings up, it mainly has to do with the south elevation where this two story level is visible to the public eye. On the north and east sides there is brick on the entire two story elevation. On the south side we brought it to this midpoint. The remaining part is still visible from the WCCO plaza so we agree we can add brick there. On the courtyard side, it's not visible to the public. The design is different in a number of different ways. Since it's not visible to the public, we feel it's compatible with the other sides, but different. We think this is the best approach. We'd like that façade to stay as it is. Lastly, I'd like to get into a discussion on the EIFS. We wrote a memo regarding the key points of the EIFS material. We went over this at CoW. One of the items on the building materials list says "the list of authorized materials is subject to further review as industry standards evolve." I think we went to great lengths to show how this specific product we're using is an evolved product from the EIFS panels of yesteryear. Today's EIFS systems for highrise buildings consist of shop fabricated components instead of site built systems typically used for single family and small commercial projects. This allows for the highest level of quality of the system with 95% of the project completed in a controlled shop environment. That's essential for this type of product and the durability. Queen City Panel has been in the industry since 1958. They have been producing and utilizing the EIFS system since the 1980s and they haven't had a single litigation against their specific company because they're a commercial grade manufacturer and supplier and installer which is very different than some of the issues that have come up in the industry. The proposed EIFS system consists of encapsulated panels that prevent any water intrusion through the building. There are two barriers as part of this system. There's the steel studs, the sheeting and the air barrier continuous sheeting again so it's doubly protected. The EIFS system for this project has all the quality and water tightness controlled through a single source. We're not relying on multiple trades. They manufacture and install and seal it as well. It's a single source in every aspect of construction. This system has been used over 30 years in a variety of climates, successfully holding strong through winter storms as well as hurricanes. This product has weathered multiple different climates and major weather related events and it has been used in the Minnesota climate. This company has been utilizing this product in this region for a long time here. These panels are multi-story in height as well so that limits the joints. Again, it is related to high-rise construction, it's related to this specific type of project. Another consideration as to why we're using this product, we think this is compatible with the urban environment. Stucco is listed here, but from an aesthetic point of view, we see this as being very compatible. We feel it will be hard to distinguish this project from other projects that different materials in the urban environment. We're using this product for its durability and method of constructability in terms of the prefabrication, the speed of erection, the precision and design aesthetics. Related to the design, the panels allow us to create clean lines and crisp canvas that allows for proper execution of our design concept. We are using high contrasting colors of white and charcoal that are not traditionally used to create a distinction for this project as a fresh, contemporary and timeless design solution. We think we're elevating this to a much different quality than what may have been seen around town. We are going to add the Weep systems at the bottoms of the panels. It's just belts and suspenders related to the quality of the product. We would also be open to a self-cleaning system if you want to add that as a condition. It'd be a maintenance free exterior. There was an article put in your packets that Hilary provided. It was related to EIFS issues and we have the author with us. His name is Pat O'Connor.

Patrick O'Connor: I'm with Faegre, Baker and Daniels. The problem with EIFS is really suitability more than an inherent defect in the product itself. When you apply it to wood framed construction, that's when it really becomes a problem. Otherwise, it really doesn't have too much difference in performance than curtain wall in commercial structures. I don't know much about this particular EIFS product. While I appreciate that the article was mentioned, it really doesn't apply to this since it's a commercial structure and not a wood frame structure.

Peter Coyle: I'm with Parker Hoffman. I'm here on behalf of CBS and WCCO. I have specific concerns with the southern setback that's being sought. I need to reserve our opposition to that setback variance for

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a couple of reasons. We have unresolved concerns about how construction will be accomplished on the south wall and what the impacts of that construction will be on an existing fiber optic line that's really the brain center for the media distribution for the WCCO building and how that will be protected from damages during construction. We are also concerned about the impact of construction technique on the parking ramp that accesses the WCCO building from the east side. Also, with the parking deck itself. We've had conversations with the applicant about ideas that they're pursuing and we respect that they're pursuing those in good faith, but we don't yet have answers to the questions we've been posing to them about how construction of this project will potentially adversely affect existing operations and structural integrity of the fiber line as well as the parking structure itself. The third issue that came up today when the balcony overhang issue surfaced, it's a practical liability question. The placement of the overhang for the balconies will essentially be on the property line, which means there will be people sitting out on those balconies and what happens when an accident occurs? A drink falls, a person falls, something gets dropped, that will be on CBS's property. We want no responsibility whatsoever for any liability that could be associated with that. While the city can accommodate that on the public right of ways because you have statutory immunities that protect your exposure, CBS doesn't have that. We can try to address it through contract, through easements and the like, but we still have a fundamental exposure to a claimant or damaged property. We don't know how this will play out in one year or five years or ten years. We will continue conversations, but we respectfully object the variance until we can resolve those questions that are very serious to us. Relating to the alley use, we're not objecting to the vacation of the air rights associated with the alley, but we still have unresolved questions with regards to the access and use of the alley, primarily during construction. We have regular deliveries that need access through the back end of the building and we do not yet understand how those are going to be managed by the contractor once the project is underway. More important is emergency circumstances. We have to have the ability for people in the rear of the building to escape the building and get out to a safe area in the event of an accident. If the alley is obstructed for whatever reason due to construction activity and emergency vehicles can't access the back of the building or people can't escape the building, that's a big problem. Those conversations are ongoing, but they aren't resolved. We ask that you note those concerns as items that have to be resolved before building permits are issued.

Commissioner Gisselman: I have a question for staff regarding statements this gentleman just made regarding the overhang of the balconies and the liability that stems from that. I feel like this isn't something I've heard on this commission before so I'm curious from a staff perspective if that's been a concern raised on past projects and how do we normally address something like that?

Staff Wittenberg: I think this is the first time I've heard that specific concern in regards to a setback variance or the proximity of one building to another building. We aren't able to answer specific scenarios here about what might happen and who bears responsibility for some sort of accident, but ultimately you have to decide whether evidence has been presented to you that speaks one way or another to the variance findings related to having an injurious effect on the neighboring property when it comes to this specific variance request. Just note for variance number two, also that the agenda references the one foot and you're now being asked to vary beyond that so during your motion you will want to consider that as well.

President Brown: Jason or Hilary, just to clarify, the variance for the south side yard setback, what would be the required setback if there weren't residential windows on the wall?

Staff Dvorak: Zero.

Commissioner Luepke-Pier: Does the one foot limit the neighboring property from developing up to a certain point given the fire code setback for windows?

Staff Dvorak: There aren't building code issues that would prevent WCCO or any future property owner

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from building up to their property line. There's a recent example at Hennepin and 4th. Another recent example is the Sexton building and the building next door that is under construction currently and how close those two buildings are to their interior property line, but because they're sprinkled, I believe that's how you can build closer under the building code.

Commissioner Luepke-Pier: If they decided in the future to build right up against the property line, we're not going to hear from neighbors that their window is blocked by a wall that's two inches away or is that something that would affect whether or not we'd allow them to build up to their property line?

Staff Dvorak: I think the building code would allow it. I think you'd probably hear from people that it'd be blocking their light, but if that arose we'd have to evaluate it based on the facts at the time.

Commissioner Gisselman: With conditions four and five, if we approved the use of EIFS would that affect staff recommendation regarding the primary material having to be brick on all four sides?

Staff Dvorak: From a staff perspective, we felt it should be brick regardless of what the commission did with condition number four to make that ground level or the base of the building consistent on all four sides.

Commissioner Gisselman: I will move staff recommendation for items A and B (Forney seconded).

Staff Wittenberg: If we could clarify what you're varying down to and also if you want to clarify a building wall or balcony wall.

Gretchen Camp: The recommendation should say to approve the variance application to reduce the south interior yard setback from 15 feet to one foot for the building wall and to two inches for the balcony facing the property line. I think you would get rid of the "residential windows". I think the word "wall" for one foot and "balcony" for two inches.

Commissioner Gisselman: I guess I would modify variance B to specifically include that the setback is reduced from 15 feet to one foot for the building wall and to two inches for the balcony edge.

Aye: Forney, Gisselman, Kronzer, Luepke-Pier and Slack

Absent: Bender, Gagnon and Tucker

Commissioner Gisselman: I will move the site plan review as recommended by staff with the exception of eliminating condition number four to allow the use of EIFS. The reason for my support of the use is that as Hilary mentioned, we had a CoW meeting on July 9 and I think there was a mostly compelling presentation made about the durability and the water intrusion aspects of EIFS as a material to be used in this case. The impression that I got at that meeting is that staff was looking for a more concrete position from this group and I'm not sure that we took the time or had the time at that lengthy meeting to give a position from our standpoint in that regard, but what I was gathering from my fellow commissioners is that I felt like we were moving towards the idea that perhaps if there was a time to support the use of this product, this project may be it. I think some of the presentation and some of the remarks we heard that day were echoed here today by the applicant. We have other examples here in Minnesota, one is a 10 year old project. I'm not sure what the benchmark is as far as when enough years have gone by on an existing project using this material for us to decide that's enough time now and we can base our decision to move forward with it in that regard. It seems 10 years would at least be some appropriate window to look at. Without having any suggestion that a proper benchmark is 15-20 years, it's just as arbitrary to decide not to move forward with it on that basis. For those reasons, I think it's been shown that the product is durable and does have the ability to at least deal with the water intrusion to the extent that it can be used on this project. I would add, then, an

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additional condition and I would say if the applicant is going to use EIFS that they would add the weep system that the applicant talked about today and described to us at the CoW meeting and that the product would be the self-cleaning variety as described.

Commissioner Kronzer: I'm interested in seeing a pilot project with this happen. To me, the differences between this product and the old EIFS product and the old EIFS systems is that it's shop fabricated, brought out finished on a truck and it's fundamentally different than a five gallon bucket and a guy up on scaffolding.

Commissioner Luepke-Pier: I echo part of Commissioner Kronzer's sentiment in that I'd hate to see this set a precedent without seeing what this means for the larger urban context. I will not be supporting this though because I believe our requirements that it has to be not only durable but compatible with the urban context. I think the statement that stucco is compatible with EIFS and it's hard to distinguish the two is completely false. I think anybody can take a look at two buildings and tell instantly what is EIFS and what is stucco, if anything in the details and the way it's finished. I think it has a distinctly different vocabulary and feel to it than stucco. I think of it as a very suburban material and the very antithesis of urban. In addition, I feel as though how it has evolved...the speaker that was at CoW specifically stated that this material hasn't evolved and it's the same as it's been for 25 years. Today we heard that it's typically used in single family and small commercial. To me, the things I'm hearing aren't lining up with the statements being made. I don't believe it's a durable building material yet. I was in Rochester and did look at two of the sites in question and was underwhelmed. I would hate to see the whole city of Minneapolis built with EIFS and lack character.

Aye: Gisselman, Kronzer and Slack

Nay: Forney and Luepke-Pier

Absent: Bender, Gagnon and Tucker

Commissioner Gisselman: I will move staff recommendation for the vacation (Luepke-Pier seconded).

Aye: Forney, Gisselman, Kronzer, Luepke-Pier and Slack

Absent: Bender, Gagnon and Tucker