

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

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MEMORANDUM

DATE: February 4, 2016

TO: Zoning and Planning Committee

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

SUBJECT: Planning Commission decisions of January 11, 2016

The following actions were taken by the Planning Commission on January 11, 2016. 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
Lisa Bender | Rebecca Gagnon | Ben Gisselman | Ryan Kronzer | Nick Magrino | Sam Rockwell

Commissioners absent

Alissa Luepke Pier, Secretary

4. The Amp House, 3255 Garfield Ave S, Ward 8

Staff report by [Lisa Steiner](#), BZZ-7486.

The City Planning Commission adopted staff findings for the applications by B. Aaron Parker & Karen M. Parker.

A. Rezoning from the R2B Two-Family District to the ORI Neighborhood Office Residence District.

Action: The City Planning Commission recommended that the City Council **approve** the application for a rezoning from the R2B Two-Family District to the ORI Office Residence District.

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier

B. Conditional use permit to increase the maximum permitted height.

Not Approved by the Commission

Action: **Approved** the application for a conditional use permit, 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 years of approval.
2. The rooftop addition shall be limited to 33 feet 9 inches in height and 500 square feet in area as shown on the submitted plans.

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier

C. Variance to reduce the required front yard setback along Garfield Ave S.

Action: Notwithstanding staff recommendation, the City Planning Commission **approved** the application for a variance, based on the following findings:

1. The project is reusing the existing structure, an industrial building. The floor level is about two feet above grade. There is a grade change that the applicant did not produce themselves.
2. Regarding the design and character of the general vicinity, the stairs are clearly oriented towards the park and would support the ORI use inside the building. There is a large separation between the end of the designed stair and the first house to the north. It orients the building back to the corner and towards the park. Having some of the frontage towards the park helps orient the building towards Lyndale Avenue and the park.

And subject to the following condition:

1. The applicant shall work with staff to provide planters or other means of greening on the landing.

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier

D. Variance to reduce the required front yard setback along W 33rd St.

Action: Notwithstanding staff recommendation, the City Planning Commission **approved** the application for a variance, based on the following findings:

1. With additional landscaping the patios feel like front porches.
2. Given the fact that there is an alley and then a house with no outdoor space, any impact is fairly minimal.
3. The project is reusing the existing structure, an industrial building. The floor level is about two feet above grade. There is a grade change that the applicant did not produce themselves.
4. Having some of the frontage towards the park helps orient the building towards Lyndale Avenue and the park.
5. The proposal adds eyes on the street and activity, where right now there is a blank wall with no activity, which helps with CPTED policies.

And subject to the following condition:

1. The two patios should be limited to 60 square feet each. The applicant shall work with staff to create a landscape plan in the remaining areas that are soil, including the area between the eastern patio and the alley.

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier

Staff Steiner presented the staff report.

Not Approved by the Commission

Commissioner Gisselman: You mentioned that it's been R2B since the mid-70s, it's prior use was an electrical substation, I'm curious how it got to be R2B with that kind of use there.

Staff Steiner: I believe it was kind of a wide swath of R2B there in the 70s.

Commissioner Kronzer: The CUP for height is based on the number of stories and not the number of feet?

Staff Steiner: Correct.

Commissioner Kronzer: Is this a historic building that's on a national register or eligible?

Staff Steiner: This building has been identified in previous historic surveys as a potential historic resource, but it's not designated locally or nationally. One survey did note that it could be eligible for both.

Commissioner Kronzer: The area well, that comes up to the property line or the back of the sidewalk?

Staff Steiner: The property line.

Commissioner Kronzer: That's two feet in height.

Staff Steiner: Correct.

Commissioner Kronzer: The proposed continuation of that for the patio, that's at the same height and location?

Staff Steiner: Correct.

Commissioner Kronzer: The patio themselves, it's a two foot retaining wall and then is there any landscaping and hard space or is it all just hard space?

Staff Steiner: As far as I understand it, it's essentially a metal grate over the areaway and no fences or landscaping.

Commissioner Kronzer: What about the area to the east?

Staff Steiner: To the east, it actually extends all the way to the rear property line so the alley is just right there.

Commissioner Kronzer: I have a question about the house across the alley, it appears there's no front porch, there's a stoop and an enclosed little portion so what appears to be a porch is actually part of the house, is that true?

Staff Steiner: I believe it's an enclosed porch.

President Brown opened the public hearing.

Aaron Parker (451 I Lyndale Ave S): This building has been identified as a historic resource. To make the project viable, we'd have to pursue national register designation for this building. We are requesting four

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units in a small coworking space that we will operate. We want to make this a public place. Its location on the park makes that a little easier. One of the things we're trying to do with this project is demonstrate that there are types of housing between the single family house and the large apartment blocks that you see developing on the north side of the Midtown Greenway. The reason we requested the ORI is specifically because the massing and the intensity of use are in keeping with the neighborhood. This block is a block off of Lyndale Ave and the building is in the viewshed as well. Although it's in an urban neighborhood based on the comp plan, it participates in the community corridor. One of the reasons I think that's important is because the Met Council says, in their 2040 plan, that we are expecting 825,000 new people to be here. That's 400,000 new households. In terms of patios, the patios are 55 square feet of paved area. They are 6'4" by 8'8" each. One has grating so you can actually let light into the basement. The rest of that terrace area will be landscaped. The setbacks on the building is seven feet from the property line to the base of the building. Those patios are south facing, which is a benefit. We would like to have south facing patios like all the residences on the same block of 34th St. This was a public well where people would come with jugs and bring water home. We like the idea of having a public space for community gathering.

Commissioner Kronzer: What is north of the stairs? Green space or a sloping hill? It looks like a handicap ramp and additional green space to the north property line. The existing area well, that is entirely covered in a metal grate?

Aaron Parker: There are two area wells, one next to the other and they're relatively small. They are the ones hidden behind the bushes. Those are relatively small. There are masonry openings in the basement that are egress size. We will be putting another one in a little further down so there would be grating over both of those. It's about 25' of grating. The patio park would be less than that.

Commissioner Kronzer: That's the patio for unit number two? The patio for apartment one is 55 square feet plus landscaping around it and there's no fencing.

Aaron Parker: We would use hedging.

Commissioner Kronzer: What about bike parking?

Aaron Parker: There are a dozen bicycle stalls in the three garages.

Commissioner Slack: The last time we saw this proposal it was very different. At the time I thought you didn't own the property. Do you own the property now?

Aaron Parker: Because the property is essential of no use without a zoning change, we didn't want to run rashly into this and buy the property and not be able to do anything with it. You can only do a duplex on this property and it's a very expensive renovation.

Commissioner Slack: I appreciate the gesture of the civic space out at the street edge, did you look at alternatives that would fit within the setback variance to create that civic space without having to require a variance?

Aaron Parker: I did, but the notion of reaching out towards the park...the argument was made that it's not consistent with the Garfield frontage, which is entirely residential. A corner lot has significantly different urbanistic obligations than a standard midblock lot has. It has to turn the corner properly, it has to hold the corner of the park. You can see how the ensemble of buildings there really defines the corner of the park. To have a standard single family house in that location really erodes that special definition and really takes away from the definition of the park space itself. The whole thing about having that plaza there is we're really

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reaching out towards the park in a certain way and I wanted to go up to the back of the sidewalk with these stairs so that you really have that connection. There are other things that could be done in terms of architecture and landscape notions, but we think this is good.

President Brown: It was mentioned in the staff report that the steps and plaza would require an encroachment permit because not only does it go up to the property line, but it extends into public right of way, do you have a sense of any utilities that are in that area or do you have a concern about the steps? It'd be a pretty substantial investment being disrupted if there was a need to get in there for whatever reason?

Aaron Parker: We're asking permission to do this. It may well turn out that cooler heads prevail and we roll that back, but we're asking for those permissions. This is also going to be a lot more expensive than just doing it the way we normally would, but this is the sort of thing that we think is better urbanism. That's why we're asking for this, because we want to demonstrate that it's important to be responsible.

Devin Hogan (31 W 35th St): I was attracted to this neighborhood because of its urban feel. This is a reasonable proposal to turn a decrepit, decaying industrial property into a place where people want to live. I support the variances for the side yard. That kind of variance will bring the urban character that's been missing from there all along.

Jon Loer (3213 Garfield Ave): I wrote a letter. The zoning change isn't consistent with the rest of the street, it's creating an island in the middle of a residential zoning area. Parking on our block is really at a premium. Past 6pm, you're lucky if you can find a place to park. All the people that live on the east side of the street have garages and are utilizing them, but we have so many units on this block already so there's no place to park. If you looked at the pictures that were shown, those were taken during the day and you see cars around the building, cars around the park and it's very difficult if any of us want to have visitors over they have to walk several blocks to get to our homes. In the latest iteration of this plan there are three parking spots and it doesn't seem like enough. The version of this plan you're seeing tonight is not the version that the neighborhood was presented. We were presented with a plan where there were 17 units on this site. We were adamantly opposed to that. It'd be great for Mr. Parker to come back to the neighborhood and present this plan so we can get a good look at it and then maybe go forward. I think we need to talk about it as a neighborhood. This is really the first time we're seeing this. One of the things Aaron originally told us at the meeting was that he needed a million dollars to get the building back into shape, to get it livable, so that's why he needed those 17 units to provide income so he could get the million dollars. I'm not sure where that money is coming from now and maybe it's none of our business but it's something to think about. Thank you.

Michael Nelson (3418 Harriet Ave): I'm in support of the project and zoning change. Changing the zoning will give the projected added flexibility and be a more successful project. Rehabbing a project of this vintage and of this use will be appreciated. The zoning change, while it's not fully consistent with everyone directly around it, there are like uses about a block away. I ask you support the variance. The public plaza on the corner would allow them to keep a better eye on the park. Aaron and Karen have been involved in an extensive process with the neighborhood since last summer. There have been a lot of changes and they have been very forthcoming in their presentation of all the plans. I would agree that it has changed extensively from the very beginning and there has been extensive public engagement. Regarding parking, I walk from Lake St to my house on Harriet most weeknights. When there is a kickball game going on at the park, parking is at a premium. While parking is tight in our neighborhood, I would say it's not impossible. I encourage you to approve these applications.

Sten Severson (3233 Garfield Ave): I agree with staff that the variances are out of character. No one believes that the steps to residences are public space. I don't believe stoops are a public space. I wonder why

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this zoning needs to change to business. Seems like what he's looking for is more residents to further the need for density in the city. Seems like rezoning to a higher density residence would be more appropriate use for this space. Thank you.

Frank Alarcon (3455 Blaisdell Ave): I'm in favor of the project. It brings opportunity for more young people to live in the neighborhood. It's turning a derelict property into some nice housing for young people or young couples. Thank you.

Steve McHenry (3220 Harriet Ave): I've heard this presentation about four times, 17 units, office space, public community space that might have a membership fee. I've heard they don't need more than three parking spaces because everyone bikes. I have two cars. I have a garage where I put my cars. This would be good as a residential building, not as office space or something else that could transition into some sort of commercial space. We have a strong community. The people who are in favor of this do not live within a couple blocks of where we are. I looked at where people lived and who is talking and the people that are for this don't live near Garfield and 33rd. The people against this live on Harriet and Garfield and 32nd and 33rd and 34th. Thank you.

John Meegan (3228 Harriet Ave S): As it has been presented, this is a good idea, a nice plan, but what we worry about in the neighborhood is that once the zoning changes what conditions are there that the other components of this plan will actually be what's executed? I would say that I'm suspicious of the push for an ORI designation because what little I know about commercial real estate or home values, the one work space that's part of this plan should not significantly change the financial proforma for this building. I think the arguments making a community space or a community resource for copy machines is weak at best. This is what makes me suspicious. If Mr. Parker has not purchased this property yet, does this open the door for a developer's fee to acquire the property, give up on these plans and then sell it to someone else for a higher price and then the neighborhood starts over with someone who has an ORI designation that can push to the max what's being presented so that what we end up with is not the plan that we see here today, but the plan of the next developer who actually has the deep pockets to make this happen. We know this building can't be just a two unit duplex, it has to be changed. I understand the Comprehensive Plan, I think the recommendations are spot on, but somebody should be able to protect the neighborhood that what we are supporting in this package is what we receive as a package and that we don't just turn over the designation to somebody who then changes everything that's been presented in front of us. Thank you.

Collen Coy (3315 Garfield Ave): The neighborhood has said no to this. We did it at a standing room only neighborhood meeting, mostly because of the zoning. We don't need it to be rezoned to commercial. We are off of Grand and Lyndale, both commercial areas. Our neighborhood is residential. We have commercial space that we preserve for commercial uses. To throw commercial in the middle of our very small residential space jeopardizes the commercial corridors and our residential space. We voted to say no to this because of the zoning change. We have public space, we don't need a privately held public space. We have a park, we have a park house and many public spaces. We love the building and would love it to be residential. We've done a lot to create our neighborhood. We want zoning to protect us.

Bryce Pier (3224 Harriet Ave): Lyndale has no lack of affordable housing units, either rental or for ownership. Although the currently submitted development plan is reasonable for the lot and structure that already exists, he has publicly and privately shared at least six different iterations of his plan. These plans have varied from four to 17 units in two large structures which he proposed to the neighborhood association this fall and they voted not to support. In every conversation about his plan in the past year, Mr. Parker has stated that there's no possible way to make the project work financially without additional units over the four proposed now. He has frequently referred to creating four to six units in the existing structure as phase one and an additional building of more units as phase two. If Mr. Parker is granted the ORI zoning change,

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there's little to nothing the neighbors or neighborhood would be able to do to prevent the second phase of development from happening. The working space in this plan is actually designed as a 900 square foot residential unit. Mr. Parker has stated in the past that if the coworking concept doesn't work out, they will rent the unit out as such. This shows that an R3 rezoning, which would limit the future development of the lot to seven units as a viable alternative to the requested ORI. In addition, a change of zoning is permanent. Mr. Parker does not yet own this property. If the ORI zoning is granted and the sale falls through, Excel Energy would have an 11,000 square foot lot that would become much more valuable to them and attractive to other developers who could build the exact type of development that the neighborhood opposed this fall. Thank you.

Bob Weidman (3233 Harriet Ave): This is not the plan presented to the neighborhood group. Compared to this plan, Mr. Parker might as well have presented a ham sandwich. This is not what we discussed. If there is any kind of a process here that involves neighborhood involvement, this is not what we talked about. This is basically a bait and switch. You're seeing a four unit development. He presented 17 units with three parking spaces. Once the zoning is changed, there is nothing to keep him from building phase two. Phase two is building the second building which basically takes up the entire second lot, there's no green space, no open area, no community space. He said there's no way he can do this, that the numbers don't work without 17 units.

President Brown closed the public hearing.

Commissioner Bender: This rezoning is just for one parcel, not for both, correct?

Staff Steiner: It is just one parcel. It's the size of two typical lots, but it's just one parcel that's 11,000 square feet.

Commissioner Bender: So the rezoning does include the site that is a vacant space?

Staff Steiner: Correct.

Commissioner Bender: You helped me understand the differences between R2, R3 and ORI, my understanding is that the building would be allowed, there are no real bulk differences or setback variance differences between the two zoning classifications and that if this was rezoned to R3 instead of ORI, for example, that the difference would be the working space would not be allowed, is that correct?

Staff Steiner: The main difference for buildings between R3 and ORI is the use difference. The main form differences are if you had a multi-family dwelling in ORI, that would have a maximum floor area ratio of 1.5 whereas in R3 it would have a maximum floor area ratio of one. The difference between the setbacks, they are identical between the sideyards and rear yards, however the front yard requirement is 20' in R3 and 15' in ORI. Those are the only differences for form. For minimum lot area requirements, R3 would have a minimum lot area requirement of 1500 square feet per dwelling unit which would mean that this site could only have a maximum of seven units without a lot area variance, however ORI does not have that similar restriction of minimum lot area.

Commissioner Bender: If it was zoned R3, is there an opportunity to use that space as a home office or for that space to be available to the residents of the building? I understand it wouldn't be able to be used as a coworking space, but is there any flexibility within the R3 classification to still have some kind of business there or not?

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Staff Steiner: The City does have regulations for home occupations so there are certain restrictions for how many people are coming and going and other regulations. People can also run businesses out of their homes, subject to certain restrictions.

Commissioner Rockwell: The coworking office space would not be allowed even under a variance, correct?

Staff Steiner: Correct. An office is a prohibited use in residential districts. There wouldn't even be an option for a conditional use permit.

Commissioner Bender: In 900 square feet, how many office spaces can one fit in that space?

Staff Steiner: In that space, it's a typical one bedroom apartment, the floor plans were not extremely detailed but it looked like one conference room and maybe a couple different office spaces and a copier. Because it's under 1000 square feet, it has no parking requirement.

Commissioner Bender: I want to ask the applicant, how would you use the space if we rezoned to R3 instead of OR?

Aaron Parker: We think the OR is appropriate because...in order to make this property viable at all, we have to have historic designation. If we don't, it doesn't work. We think that sort of co-office space is something that's very appropriate for that location because there are lots of other small commercial properties all the way along that street. We've heard a lot from the neighborhood about how they would use this co-office or coworking space. Because of the monumental character of that entrance, it really demands more of a public kind of expression, which commercial provides. The houses are accessed by going up the ramp on the back. This is the entrance to the coworking space. We see that as important. The OR I recognizes that. It's important to what we want to do.

Staff Wittenberg: There is a table in the attachments that makes it clear there are a very limited number of commercial uses allowed in OR1. You can't open a general neighborhood serving retail sales and service use so nobody will be selling music or clothing or hardware or anything from a retail store in OR1, you'd need an OR2 in a mixed-use building to do that. Be cautious in thinking of OR1 as a commercial district since there are very few nonresidential uses actually allowed in the district.

Aaron Parker: We presented six or seven times to the neighborhood. The reason is because we wanted to engage the neighborhood in this. We thought we'd have partners in doing this. We shared financials with a small task force. The people that understood real estate supported the project. The people who didn't, didn't support the project. We've come back several times asking if they liked the changes. The bottom line is that they don't. The housing committee voted in favor of this project.

Commissioner Magrino: The things that we presented at the neighborhood meetings a year ago really have no bearing on the applications that we're looking at right now. We have an application before us, it's legally binding and enforceable so I wouldn't worry too much about that part. I'm looking at the corner with this big plaza area. I'm wondering what all is going to be there. I see it as being windswept and empty a lot of the time.

Aaron Parker: That's an excellent point. It needs to be designed. It hasn't really been designed yet except for the stairs. Where we are at this point is gestural and I didn't want to put the time into doing the design until we were sure we were going to move forward with the project. It needs to be programmed properly, it

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needs to be designed properly to have the sorts of amenities that people after a ballgame might come across and hang out and watch from behind the backstop or whatever.

Commissioner Magrino: The applicant said they're working on some of the design details before going ahead with site plan review, but isn't it sort of odd we're not doing that concurrently? It's hard to put conditions on variances without seeing ultimately what this is going to look like when it gets built.

Staff Steiner: The project doesn't require site plan review because it's only four units. Correct, the plans are not fully developed. Any significant changes would require coming back. These are more conceptual drawings than we typically see.

Commissioner Kronzer: I'll move staff recommendation for the rezoning (Magrino seconded). This is a unique project. It's a neighborhood landmark, officially or unofficially. This is a very public building next to a park. It's visible from Lyndale Ave. This building anchors the corner of that large full block public space. As staff laid out, the policy in the Comprehensive Plan clearly supports small businesses, business incubators and a whole slew of historic preservation goals as well so I think this project has lived up to that policy guidance.

Commissioner Rockwell: I support the motion. ORI really doesn't allow for businesses. Childhood learning center, community garden, some live performance space or office. I live in Lyndale so this is my neighborhood and this is my park. This building feels like part of the park. The small retail around the park is all part of that. This isn't a large development and it can't be a large development under the code. This is proposed within two feet of the maximum height in ORI. I would not vote for it if there were a possibility of some wildly out of character uses allowed, but I just looked at what's allowed and it's not much different than what's allowed in residential.

Commissioner Bender: I often hear complaints that all new residential projects look the same. I think that happens when we have only bigger developers developing in the city. I want to thank you and commend you for taking on a challenging project. Maybe you don't have the same lawyers, PR team that some of the bigger developers have when they go to the neighborhood meetings and the Planning Commission, but that kind of goes along with the benefits of having folks who have unique perspectives, who have different talents who can bring forward more creative projects developing in the city. I think that's a good thing. I think if we have more of that we'll see neighborhoods be happier with the development we do overall in the city. I'm hearing some concern from the neighborhood. There will be time before the project comes before City Council for approval to work out some of those final details with the neighborhood. I'm able to support the rezoning at this time.

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier

Commissioner Kronzer: I'll move staff recommendation for the CUP (Magrino seconded).

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier

Commissioner Kronzer: I'd like to move approval of variance C and I'd like to add a condition to work with staff to provide planters or other means of greening on the landing (Rockwell seconded). The practical difficulty I see here is reusing an existing structure. It's not even really a building, it's basically an industrial screen. It has a roof and windows, the floor level is about two feet above grade. Most apartment buildings are built with floors very close to the sidewalk. There is a grade change here that the applicant did not

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produce himself. As far as design and character, the stairs are oriented towards the park and it'd support the OR I use. It's orienting the building back to the corner towards the park.

Commissioner Rockwell: I see the practical difficulty being really about the park orientation. This does help orient the building towards the park.

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier

Commissioner Kronzer: I'll move to approve the variance D (Gisselman seconded). I'd like to add a condition that the two patios should be limited to 60 square feet each and to work with staff to create a landscape plan in the remaining areas that are soil, including the landscape area between the eastern patio and the alley. I think with additional landscaping those patios almost feel like front porches.

Commissioner Rockwell: I think we need to establish the practical difficult, which I see as the same as the prior variance.

Commissioner Kronzer: I also think this adds eyes on the street.

Aye: Bender, Gisselman, Kronzer, Magrino, Rockwell and Slack

Absent: Gagnon and Luepke-Pier