

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

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MEMORANDUM

DATE: March 3, 2016

TO: Zoning and Planning Committee

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

SUBJECT: Planning Commission decisions of February 8, 2016

The following actions were taken by the Planning Commission on February 8, 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 | Alissa Luepke Pier, Secretary
Lisa Bender | Rebecca Gagnon | Ryan Kronzer | Nick Magrino | Sam Rockwell | Scott Vreeland

Commissioners absent

Ben Gisselman

3. Linden Hills Zoning Map and Zoning Code Text Amendment, Ward 13

Staff report by [Brian Schaffer](#).

The City Planning Commission adopted staff findings.

A. Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances Relating to Zoning Code: Zoning Districts and Maps. Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances Relating to Zoning Code: Overlay Districts.

Actions:

The City Planning Commission recommended that the City Council **approve** the zoning text amendments removing the Linden Hills Overlay District and adding the Linden Hills area to the Pedestrian Oriented Overlay District, recommending the following change to the ordinance text recommended by staff in the proposed section 551.175(a)(3)(a):

Not Approved by the Commission

The top floor of a building of three or more stories shall be set back not less than 10 feet from the wall below it abutting R1, R1A, R2, and R2B zoned properties.

The City Planning Commission recommended that the City Council **approve** the zoning map amendment and zoning text amendments for the rezoning of parcels as listed in the staff report attachment and find that obtaining consent signatures for the rezoning of properties from residential to commercial in the Linden Hills Rezoning Study is impractical .

Aye: Bender, Kronzer, Luepke-Pier, Magrino, Rockwell, Slack and Vreeland

Nay: Gagnon

Absent: Gisselman

Staff Schaffer presented the staff report.

Commissioner Kronzer: I don't recall the Linden Hills Small Area Plan when it was recommended by the Planning Commission that included the terms three or four stories. I thought it just said four stories. Can you refresh my memory?

Staff Schaffer: On November 19, 2013, it said to remove reference to foot height maximums within the plan. It didn't say to change to three or four. When we brought it to the Planning Commission, it stated three or four stories was allowed and the actual recommendation was to just remove foot height recommendations so we removed the 44 foot height recommendation so it left saying three or four stories.

Commissioner Kronzer: On the recommendation about the fourth story of any commercial or multi-family dwelling be stepped back 10 feet, doesn't that apply to every building?

Staff Schaffer: You could argue that that could be a clarification or simplification.

Commissioner Magrino: Is there a reason why you wouldn't just want to connect the two pedestrian oriented overlay districts?

Staff Schaffer: Staff made that recommendation based on the policy that talks about building design controls, the setbacks and setbacks if you will, being applied to areas that are currently identified as medium and high density in the future land use map. These two areas are not identified for medium or high density on a future land use map so we just didn't apply them to those.

Commissioner Luepke-Pier: Is there a reason on the same street why we don't have the same thing going on on both sides of the road?

Staff Schaffer: This part right here? This is city right of way, it's used as a park. It's commonly referred to as the Christmas tree lot. It's the old trolley turnaround. In the future land use map we call it open space and park. You could choose to apply it over there.

Commissioner Luepke-Pier: That helps clarify, thank you.

President Brown opened the public hearing.

Not Approved by the Commission

David Fried (2821 W 44th St): It's my understanding that the change of zoning along W 44th St is only on the north side, on the St. Thomas side. I had a question about the Christmas tree lot, about why that zoning doesn't hold across both sides of W 44th St. About two and a half or three years ago, I approached the city with the option of converting my duplex as well as the neighbor next door to a piece of commercial property and what I was told was that the city has no interest in changing any of the zonings in Linden Hills. They said the zonings in Linden Hills stand the way they are and that's the way the city wants them. All of this discussion about the small area plan, the path, all of it is actually tied to the development that is planned for what was the old Famous Dave's site. This is sort of spillover if I understand correctly. Those were very heated discussions and that's what drove the whole small area plan. I'm kind of interested in the fact that none of that's been discussed yet. Your job, as I understand it, is to apply consistency, to keep things consistent.

Staff Schaffer: During the course of the development of the small area plan, let's look at the future land use map, there was not a strong conversation or desire about changing land use recommendations south of 44th St based on some of the development character that was there and the opportunities that came up through the process so we did not propose to look down the other side of 44th St during that point in the process.

David Fried: It's really unfair. It's giving an unfair advantage to St. Thomas and all the potential development and putting the property owners...

Commissioner Luepke-Pier: [off mic]

Staff Schaffer: Churches are allowed in all different zoning districts. At some time this was permitted as an RIA in a single family home district and we didn't see any reason to change that at this time. The plan was adopted two years ago so we can't change that now. What we see on the future land use map has been adopted in the Comprehensive Plan and been amended by the Met Council. We have what we have at this point.

Sally Mars (3015 W 43rd St): I'm talking about the node at Xerxes and 44th St. Brian mentioned there was a lot of opposition to R4 zoning in that node as opposed to R3. It was my understanding that part of the impetus for the rezone in that node is to conform the multi-family homes that are already there which have about R3 density and a very residential scale. It has residential setbacks, residential sized back yards, a lot of trees and green space. It is also residential height in all the buildings which surround it. It's all single family homes surrounding this node. R3 zoning feels more appropriate than R4. I don't think it's appropriate to have a discussion about zoning without a discussion of scale as well. The density is already R3, the scale of those buildings is close to R3 and not quite. The footprint of any building that replaces it could be much larger on R3, but nonetheless, we're talking about setbacks that are of residential scale that already exist there and would be in the flavor and character of the neighborhood as it already exists. Another consideration is that 44th St is on the top of the hill and is naturally elevated over 43rd St and the areas that surround it. The buildings that are there... if you're on the first floor of a building on 44th St in the node in question, you are looking at the rooftops of buildings on 43rd St below it. If you're talking about an additional potential 20 feet of height, you're talking about buildings towering over the ones below. It's also one of the most affordable nodes in the neighborhood. Residents who live in the node expressed a lot of opposition to R4 zoning. That's not an opposition to progress, R3 would be acceptable to most in the area, but R4 is just too large and I believe the photos will support that. Thank you.

Walt Pitt (3804 Upton Ave S): I want to make sure that you understand that this is the resolution that the Zoning Committee put forward. It primarily differentiates between what it says in the small area

Not Approved by the Commission

plan in regards to refining and applying the Linden Hills Overlay Zoning District to the areas of our neighborhood and keeping it. The Linden Hills Small Area Plan does not talk about removing or retiring or eliminating or moving Linden Hills into a pedestrian overlay. I'll read from the plan on page 39. This was written by Brian Schaffer. It says, "The following are specific recommendations on Land Use & Intensity. See the Building & Site Design section for related guidance. • Study and refine the existing Linden Hills Overlay Zoning District to reflect the guidance in this Small Area Plan, including the amount and location of parking and allowed uses. The study should also consider applying the overlay district to the 44th & France Neighborhood Commercial Node to further encourage more pedestrian oriented development patterns." The pedestrian overlay that they're talking about moving Linden Hills to is not mentioned in the Linden Hills Small Area Plan at all. Pedestrian overlays are mentioned once, the actual pedestrian overlay is not mentioned at all. I hope you consider the small area plan in your decision.

Constance Pepin (403 I Zenith Ave S): Please do not approve the motion to find that obtaining consent signatures for the rezoning of properties from residential to commercial is impractical. How could it be impractical to contact 50 property owners? Those neighbors have not been informed about this change so they could not possibly be said to approve it. They don't know that the language was changed in the small area plan. They weren't informed after the city council changed it. We tabulated the results that CPED didn't want to take the time to do and what we did with the really confusing ones was just not count those. From the ones that very clearly had a position, 82% are opposed to R4 zoning of parcels along 44th and 76% are opposed to the elimination of the Linden Hills Overlay District. To hear the history of the Linden Hills Small Area Plan is frustrating to say the least. Mr. Schaffer actually quotes statements in there that were changed after the public saw it. The public never saw the change due to existing conditions three or four stories...it didn't say that, it said three stories. Now when you make these changes going up to R4, people don't realize what that means. They thought the plan that they participated in was the plan that was going to guide development. Please go with R3. We all know that you can get a conditional use permit to go higher so you could get your four stories with a conditional use permit instead of giving them R4 to start with and then having them try to get five or six stories. You have the power tonight to keep it R3 and save us a lot of grief. You can achieve the goal of medium density without ripping people off and pushing up over the four story limit.

President Brown closed the public hearing.

Commissioner Magrino: Mr. Pitt brought up in the list of different overlay districts we have, one of them was the Broadway overlay district...I understand we're kind of rolling the Linden Hills one into the PO district because they're pretty similar. Does the West Broadway Overlay District accomplish things that are different from the pedestrian overlay district?

Staff Schaffer: I don't know off the top of my head, maybe Mr. Wittenberg can answer that.

Staff Wittenberg: My recollection is that the West Broadway Overlay District includes a couple of differences from the standard pedestrian oriented overlay district in that it includes a minimum floor area ration and actually allows some additional flexibility for drive-throughs for a couple of uses, specifically banks and pharmacies. Perhaps you'll recall that part of West Broadway is zoned with the West Broadway Overlay District and other parts have the Pedestrian Oriented Overlay District but also have a minimum floor area ration as well.

Commissioner Kronzer: How will the nuances proposed for the Linden Hills Overlay District be codified in the code? Will it not still be the Linden Hills Overlay District?

Not Approved by the Commission

Staff Schaffer: In your packets there is the draft text language and it creates a Linden Hills area portion of the PO. It's going to be part of the PO. The Linden Hills Overlay will cease to exist in the zoning code as an item. The Linden Hills area portion of the pedestrian oriented overlay is where those four points I presented earlier will show up.

Commissioner Bender: In looking at the zoning classifications, some of the main considerations are what's there now and are we creating conformity or nonconformity and then where we're going in the future. As I look through R3 vs R4, there's a slight difference in the dwelling units per acre allowed. In most of our other zoning districts we have moved away from regulating the inside of buildings. The height piece, we have this issue of either applying for a CUP, which is allowed with conditions, or the extra height being allowed as of right. People come to oppose the CUPs and it creates a lot of confusion about rules, so sometimes it seems like it creates confusion when we rely on CUPs to allow for a height that we expect to see or want to see for the plan. There's a slight difference in the FAR allowed and then the front yard setback is different so the R3 is more of a front yard heavy district. Can you talk through why staff is recommending R4?

Staff Schaffer: You pointed out many differences so I'll focus on the height. Because the policies of the Comprehensive Plan and small area plan both call for medium density at 20-50 dwelling units per acre, we feel that 35 is right in the middle of that. We were trying to meet in the middle. Regarding height, the plan did call for three or four stories being appropriate and reasonable and talking about the provisions within the building design elements of what we're proposing with the pedestrian oriented overlay. We felt that that combined with the R4 met the policies of the plan because the third or fourth story would be modified on a setback and the fourth story would be stepped back from the public street. The two and half stories of R3 doesn't achieve the three or four stories. It allowed height of two stories or 35 feet. To achieve the third story, which is what the plan calls for, you'd need a conditional use permit. We do call for three or four stories and we have pockets zoned CI which have more requirements, but also allow to go to 35 feet and three stories as of right. With PO modifications, we feel that that meets the intent of the plan.

Commissioner Bender: One of my concerns is when we go with a more restrictive zoning classification then we end up with a lot of land use applications including rezonings, conditional use permits and variances. When we underzone then we force people to come in with a lot of a land use applications and people get upset that there are so many land use applications. I understand why, but this is a dynamic we see over and over. I want to make sure we're not doing something out of scale. Are there types of development or examples nearby that lead you to choose the R4 to recommend over the R3? What kind of building would be allowed in R4 that is not allowed in R3?

Staff Schaffer: The intent was to try fulfill the policy. During the process of developing the small plan, we looked at a bunch of different prototypes. There are examples of four story buildings and stepbacks. We also looked at some examples in St. Paul where they were a cluster development of two or three stories up front and deeper developments in the back. The height is appropriate. Our zoning code has changed to allow different densities over time.

Commissioner Kronzer: Is a half story defined?

Staff Wittenberg: It is defined and we have an online graphic that helps people interpret that.

Commissioner Kronzer: So it's behind a sloped roof? So a three story building with a flat roof will not be allowed in R3?

Not Approved by the Commission

Staff Wittenberg: A three story building with a flat roof would not be allowed, that's correct. The third floor has to be enveloped within that half story and the rafter has to be within a certain distance.

Commissioner Kronzer: The amendment to the pedestrian overlay district that talks about the 10 foot setback from the required side yard or rear yard... if a building's first two stories were allowed a side yard setback of a couple of feet, this would require that building to be set back 10 feet even more based on whatever that allowed variance in that setback...so you could have a building set back 10 feet on the street side, 12 feet on one side, 15 feet on the other based on if the project got variances. I find that very confusing. I'd like that part of the code to match the bullet right in front of it, simply meaning a 10 foot difference between the floor below it and the floor above it.

Staff Schaffer: The idea was that as you go up, a taller building may have a larger impact on adjacent properties, but instead of just stating that that building has to have... instead of stating that additional stepback or "wedding cake" style, we gave the option that the building could just be stepped back an additional 10 feet.

Commissioner Kronzer: It says "top floor". It's encouraging the behavior of the top floor, not the behavior of the ground and second floor? That's why I'm confused.

Commissioner Slack: Do you have any insights regarding the negative feedback about the removal of the pedestrian overlay district in Linden Hills? Looking at the language of the overlay district and the standard PO, it seems so much more auto-centric, which is counterintuitive to the small plan and what the neighborhood is really about. I didn't see a lot of clarification as to why that's desired not to stay in place. Can you give any additional insights?

Staff Schaffer: There are a few concerns about it being removed, specifically some of those concerns go back to control, something about the character of the neighborhood. Changes can be made to the pedestrian oriented overlay by staff under a text amendment that would impact those properties. The same can be done with the Linden Hills Overlay but it requires opening up that chapter. There's just that the plan didn't specifically call it out, some of it was mentioned in the staff report. I think there are still concerns about parking in the community. It's not really clear what people want in place of the Linden Hills Overlay.

Commissioner Slack: I will make a motion to approve staff recommendation for the text amendment, removing the Linden Hills Overlay District and adding the Linden Hills area to the Pedestrian Oriented Overlay District and approve the zoning code map amendment and text amendment (Kronzer seconded).

Commissioner Kronzer: I recommend that we recommend to City Council that we clarify that language to talk about 10 feet set back from the floor below it. So the top floor of a building of three or more stories shall be set back not less than 10 feet from the wall below it, abutting R1, R1A, R2 and R2B.

Aye: Bender, Kronzer, Luepke-Pier, Magrino, Rockwell, Slack and Vreeland

Nay: Gagnon

Absent: Gisselman