Request for City Council Committee Action from the Department of Community Planning & Economic Development—Planning Division

Date: December 18, 2008
To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee
Referral to: Zoning & Planning Committee

Subject: Appeal of the decision of the City Planning Commission regarding the proposed Sydney Hall/Dinky Dome Redevelopment located at the properties of 1500-1506 4th St SE and 310-316 15th Ave SE.

Recommendation: The following action was taken by the Planning Commission on November 17, 2008 (BZZ-4183):

A. Conditional Use Permit: Application by Jim LaValle, on behalf of Doran Companies, for a conditional use permit to allow 214 dwelling units for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow 214 dwelling units for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE, 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 one year of approval.

2. At least 0.4 vehicle and 0.47 bicycle parking spaces shall be provided per bedroom. Bicycle parking spaces provided to meet this condition shall be enclosed and secured in an area protected from theft, vandalism and weather. Each bicycle parking space shall be identified on the final plans.

B. Conditional Use Permit: Application by Jim LaValle, on behalf of Doran Companies, for a conditional use permit to increase the height from 4 stories to 15 stories and from 56 feet to 156 feet for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to increase the maximum allowed height of a

building from 4 stories to 15 stories and from 56 feet to 156 feet for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE, subject to the following condition:

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 one year of approval.

2. The final plans for the Dinky Dome shall be approved before building permits for the new addition are issued. All work on the Dinky Dome must meet the Secretary of the Interiors standards for rehabilitation. In addition, the rehabilitation must be completed by November 17, 2010.

C. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to reduce the minimum lot area requirement by 30 percent for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the minimum lot area requirement by 30 percent for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

D. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to increase the maximum floor area ratio of the building for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to increase the maximum floor area ratio from 3.78 to 6.8 for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

E. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance of the PO standards to allow the first floor of the building to be set back more than 8 feet adjacent to 15th Ave and 4th St for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance of the PO overlay district standards to allow the building to be set back more than 8 feet from 4th St and 15th Ave for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

F. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to reduce the front yard requirement adjacent to 4th St to allow the building, parking and sidewalk for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the front yard requirement adjacent to 4th St from 15 feet to 0 feet to allow the building addition for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

G. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to reduce the interior side yard requirement to allow the building and parking for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the interior side yard adjacent to the southeasterly property line from 33 feet to 0 feet to allow the building and from 5 feet to 0 feet to allow parking for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

H. Site Plan Review: Application by Jim LaValle, on behalf of Doran Companies, for a site plan review for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for site plan review for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, site and landscape plans.

2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by November 17, 2009, or the permit may be revoked for non-compliance.

3. Required first floor nonresidential windows shall allow views into and out of the building at eye level as required by section 530.120 of the zoning code. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between 4 and 7 feet above the first floor level.

4. Mechanical equipment shall be screened as required by section 535.70 of the zoning code.

5. Additional architectural detail shall be incorporated on the upper floors of the east elevation, closest to 4th St SE, subject to review and approval by CPED-Planning staff.

Ward: 2

Prepared by: Janelle Widmeier, Senior Planner (612-673-3156) Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Janelle Widmeier, Senior Planner

Financial Impact
- No financial impact

Community Impact
- Neighborhood Notification: The area that the site is located in is not represented by a neighborhood group. The adjacent neighborhood, Marcy Holmes, was notified of the applications.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On December 1, 2008, staff sent a letter to the applicant extending the 60 day decision period to no later than February 21, 2009.

Supporting Information
Ryan Ahlberg, on behalf of Northwestern Chi Psi Educational Foundation, Inc., has filed an appeal of the decision of the City Planning Commission approving the conditional use

permits, variances, and site plan review for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE. At its meeting of November 17, 2008, the City Planning Commission voted 5-2 to approve the conditional use permit applications and 6-1 to approve the variance and site plan review applications. The appeal (attached) was filed on November 26, 2008.

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permits, Variances, and Site Plan Review
BZZ – 4183

Date: November 17, 2008

Applicant: Doran Companies

Address of Property: 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast

Project Name: Sydney Hall and Dinky Dome Redevelopment

Contact Person and Phone: Jim LaValle, (952) 288-2006

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: October 24, 2008

End of 60-Day Decision Period: December 23, 2008

Ward: 2 **Neighborhood Organization:** University (adjacent to Marcy Holmes)

Existing Zoning: C3A Community Activity Center District with the PO Pedestrian Oriented Overlay District

Proposed Zoning: not applicable for this application

Zoning Plate Number: 15

Legal Description: not applicable for this application

Proposed Use: Mixed use building addition with 214 dwelling units.

Concurrent Review:

Conditional use permit to allow 214 dwelling units.

Conditional use permit to increase the maximum allowed height from 4 stories to 15 stories and from 56 feet to 156 feet.

Variance to reduce the minimum lot area requirement by 30 percent.

Variance to increase the maximum floor area ratio (FAR) from 3.78 to 6.8.

Variance to reduce the front yard requirement adjacent to 4th Street from 15 feet to 0 feet to allow the building addition.

Variance to reduce the interior side yard from 33 feet to 0 feet to allow the building addition and from 5 feet to 0 feet to allow parking.

Variance of the PO overlay district standards to allow the building to be set back more than 8 feet from 15th Avenue and 4th Street.

Site plan review.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, Section 525.520 (1) "To vary the yard requirements…", (2) "To vary the lot area…requirements up to 30 percent…", (3) "To vary the…floor area ratio…requirements of a structure…", and (20) "To vary the standards of any overlay district…"; and Chapter 530, Site Plan Review.

Background: The applicant proposes to construct a mixed use, 14-floor addition with 214 dwelling units and ground floor retail adjacent to the Dinky Dome building at the properties of 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast. The site has frontage on University Avenue, 15th Avenue and 4th Street Southeast. The core of the University of Minnesota campus is located directly across University Avenue from the site. As part of the project, the applicant is proposing to rehabilitate the Dinky Dome. The addition is proposed where a single-story commercial building, an addition to the Dinky Dome and a surface parking lot exist. Below-grade parking with 192 spaces would be provided for the dwelling units. Surface parking with 23 spaces would also be provided. One of the surface spaces would be for the residents. The applicant is also proposing to provide shared access with the adjacent fraternity located at the property of 1515 University Avenue SE. As proposed the fraternity would maintain vehicle access from University Avenue. Parking is not permitted in the driveway on the west side of the fraternity's property.

The first proposal of this project was denied at the June 16, 2008 planning commission meeting. The applicant appealed that decision to the city council. At the July 25th city council meeting, the city council granted the appeal and adopted the staff recommendation including conditions of approval. The changes proposed to Sydney Hall (the addition to the Dinky Dome) from what was approved by the city council include an increase in floor area, an increase in the proposed number of units and bedrooms, an increase in the height of the addition, and setting part of the addition back further from the interior property line. These changes are major and require new applications.

A conditional use permit is required in the C3A district to allow 214 dwelling units. The building would be 15 stories and 156 feet in height. In the C3A district, the maximum height is limited to 4 stories or 56 feet, whichever is less. A conditional use permit is required to increase the height. Upon approval of the conditional use permits, the actions must be recorded with Hennepin County as required by state law.

The minimum lot area requirement in the C3A district is 400 square feet per dwelling unit, or 85,600 square feet for 214 units. The proposed lot size is 43,560 square feet. The applicant qualifies for a 20 percent density bonus for providing enclosed parking in the building. The applicant also qualifies for a 20 percent density bonus for proposing a commercial space on the ground level that occupies more than 50 percent of the gross floor area of first floor. With the density bonuses, the minimum lot size is 290.4 square feet per unit, or approximately 62,146 square feet for 214 units. The proposed lot area is 203.5 square feet per dwelling unit. A variance is required to reduce the minimum lot size by 30 percent.

The maximum FAR allowed in the C3A District is 2.7. The development qualifies for two density bonuses to increase the FAR by 20 percent by providing all required residential parking in the building and providing residential uses above the ground floor where 50 percent of the ground floor area is devoted to commercial uses. This increases the allowed FAR to 3.78. The proposed development, including the Dinky Dome building, would have a total of 296,144 square feet, which is an FAR of 6.8. A variance is required to increase the maximum FAR.

The front lot lines are adjacent to 4th Street and University Avenue. A front yard is only required in the C3A district where an adjacent property is either zoned residential or office residential or contains a residential use. Along 4th Street, the adjacent property is zoned OR3, but does not contain any structures with frontage on 4th Street. The minimum front yard requirement is equal to the lesser of the front yard required by such residence district or the established front yard of such residential structure for the first 40 feet from such residential property or residence district boundary. The minimum front yard requirement in the OR3 district is 15 feet. The building would be set back 2 feet from the front lot line. A variance is required to reduce the front yard requirement along 4th Street.

An interior side yard is required where a side lot line abuts a side lot line in a residence or office residence district. The site is adjacent to R6 and OR3 zoning. A yard equal to the minimum side yard that would be required for a conditional use on the abutting residential lot is required. The minimum interior side yard requirement is equal to 5+2x, where x is equal to the number of stories above the first floor. A 15-story building is proposed, therefore the minimum requirement is 33 feet. The building addition would be set back 0 feet along the southeasterly property line. A five foot set back is required for all other obstructions in the interior side yard. Parking would also be located adjacent to the southeasterly property line. A variance is required to reduce the interior side yard requirement.

In the PO overlay district, the first floor of the building must be located within eight feet of a lot line adjacent to a street. Portions of the first floor building walls facing 15th Avenue and 4th Street would not be within 8 feet of the lot line. A variance of the overlay district standard is required.

A site plan review is required to allow an addition to a mixed-use building that would increase its gross floor area by 1,000 square feet or more and to allow any building with more than five dwelling units.

The area that the site is located in is not represented by a neighborhood group. As of writing this staff report, staff has not received any correspondence from the adjacent neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT: to allow 214 dwelling units.

Findings as required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. **Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

   The establishment of 214 dwelling units on the site would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

2. **Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

   The proposed use would primarily provide housing for students attending the University of Minnesota. Residents would likely frequent businesses in the surrounding area. The development of this site with a residential use should have a positive effect on surrounding properties.

3. **Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

   The site is served by existing infrastructure. Vehicles would enter the site from 4th Street and exit on University Avenue. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way.

4. **Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

   The minimum parking requirement for the multifamily dwelling is 214 spaces (one per unit). The development qualifies for a transit incentive to reduce the parking requirement of a multi-family dwelling by 10 percent because it is located within 300 feet of a transit stop with midday service headways of 30 minutes or less in each direction. The parking requirement is further reduced because 4 enclosed bicycle spaces are provided in lieu of one vehicle parking space. Therefore the parking requirement is reduced to 192 spaces. For the residences, 193 spaces would be provided. A total of 501 bedrooms are proposed, which results in approximately 0.38 parking spaces per bedroom.

   The applicant submitted a Travel Demand Management Plan. A study done for the plan looked at the ratio of parking spaces to dwelling units and bedrooms for 12 multiple family residences in

Dinkytown and Stadium Village. The study showed that the average parking stall to unit ratio is 1.25 and the average parking stall to bedroom ratio is 0.38. The plan also indicates that the applicant will participate and manage involvement in a shared car program for residents use, such as HOURCAR or Zipcar. On-street parking is not allowed or is metered in the immediate area. Although on-street parking is limited, other transportation and parking options are available. The site is in close proximity to five transit route stops and the University of Minnesota. Students can apply for a semester-long parking contract with the University (typically 80 percent of those who apply receive a contract). A large University parking ramp is located across 4th Street. The plans also indicate that 225 bicycle parking spaces would be available in the enclosed parking garage for use by residents (0.45 spaces per bedroom).

The previous proposal was approved with 0.4 vehicle parking spaces and 0.47 bicycle spaces per bedroom (only the enclosed spaces were included in this calculation because the outdoor racks would be available to the public). To minimize potential traffic congestion by adding more residents, additional vehicle and bicycle parking spaces should be provided that are consistent with the previous approvals or the number of bedrooms should be reduced. To provide 0.4 vehicle parking spaces per bedroom, 8 more parking spaces are needed. More residential parking could be accommodated in the surface parking lot because only 12 spaces are required for the nonresidential uses. To provide 0.47 bicycle parking spaces per bedroom, 11 more spaces are needed. These spaces should be enclosed so they are available for use by only the residents.

5. Is consistent with the applicable policies of the comprehensive plan.

The site is adjacent to University Avenue, which is designated as a community corridor by *The Minneapolis Plan*. It is also within a designated activity center. The University of Minnesota/SEMI area is designated as a growth center. In the update of the comprehensive plan, *The Minneapolis Plan for Sustainable Growth*, University Avenue will remain designated as a community corridor. Fourth Street and 15th Avenue will become community corridors. The development will be included in the Dinkytown Activity Center as well. According to the principles and polices outlined in the plan, the following apply to this proposal:

3.3 Minneapolis has adopted a Growth Center plan for the University of Minnesota/ SEMI area which guides land use decisions and investment in the area and recognizes the contributions from existing plans and planning processes.

Applicable Implementation Step

Promote moderate to high density housing of a variety of affordability levels and supporting commercial uses adjacent to the University of Minnesota.

4.2 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Applicable Implementation Steps

Promote more intensive residential development along these corridors where appropriate.

Support the continued presence of small-scale retail sales and commercial services along Community Corridors.

4.7 Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.

Applicable Implementation Steps

Ensure that land use regulations support diverse commercial and residential development types which generate activity all day long and into the evening.

Promote the incorporation of residential uses within the same structure as other commercial uses.

4.9 Minneapolis will grow by increasing its supply of housing.

Applicable Implementation Steps

Support the development of new medium- and high-density housing in appropriate locations throughout the City.

9.5 Minneapolis will support the development of residential dwellings of appropriate form and density.

Applicable Implementation Step

Expand the understanding of the role that urban density plays in improving business markets, increasing the feasibility of urban transit systems and encouraging the development of pedestrian-oriented services and open spaces.

9.22 Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.

Applicable Implementation Step

Use both infill development and new development opportunities to increase housing in the city.

The *Master Plan for the Marcy-Holmes Neighborhood* small area plan was adopted by the City Council in December of 2003. The site is not included in the boundaries of this plan (the boundary runs through the center of 15th Avenue); however, the plan provides guidance for the majority of the Dinkytown area. The plan supports higher density residential housing along 15th Avenue and expansion of the single-family core of the neighborhood along Fifth, Sixth, Seventh and parts of Eighth Streets.

Staff comment: Because the site is located directly across the street from the core of the University of Minnesota, higher density housing is appropriate. The mixed use development would be high density, which is appropriate in an activity center and this growth center. Establishing higher density closer to the University may also provide opportunities for the reestablishment of single-family homes in the core of the Marcy-Holmes neighborhood. The site has access to five bus routes with frequent headways. Increased density should support nearby businesses. The use would be consistent with the comprehensive plan.

5. And does, in all other respects, conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

The use of the site for a mixed use building with 214 dwelling units will conform to the applicable regulations of the districts in which it is located upon the approval of the conditional use permits, variances, and site plan review.

CONDITIONAL USE PERMIT: to increase the maximum height of a principal structure from 4-stories to 15-stories and 56 feet to 156 feet.

Findings as required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.

Construction of a mixed use building of 15 stories and 156 feet in height on the site would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The increased height would be located at the northwest quadrant of the block. Residential properties are located southeast of the proposed building addition and should not be significantly affected. The addition would be separated from other properties to the north and west by streets. These other properties contain nonresidential uses. The effects of shadowing on those properties are lessened because they are separated by a street. A parking lot owned by the University is located east of the proposed addition and would be most affected by shadowing. According to the applicant, they are in discussions with the University to create a no-build easement. A no-build easement would allow for separation of future development, but would not make development on the adjacent site infeasible.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The site is served by existing infrastructure. Vehicles would enter from 4th Street and exit on University Avenue. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

In addition to the residential parking requirements and measures discussed in the conditional use permit section of this report, parking is required and would be provided for the nonresidential uses proposed. In the Dinkytown PO overlay district, nonresidential uses are not required to provide accessory off-street parking facilities, provided that existing accessory parking facilities are not reduced below the requirements for a similar new use, or if existing accessory parking facilities are less than the requirements specified in Chapter 541, Off-Street Parking and Loading, they are not reduced further. Twelve parking spaces are available for the existing uses on the site. The applicant is proposing to provide 22 vehicle parking spaces for use by the nonresidential uses. The plans also indicate that 20 at-grade bicycle parking spaces and two small loading spaces would be provided. The number of vehicle parking spaces available for the nonresidential uses may be reduced if the staff recommendation for the residential parking is adopted. The development should have little effect on congestion in the streets.

5. Is consistent with the applicable policies of the comprehensive plan.

The site is adjacent to University Avenue, which is designated as a community corridor by *The Minneapolis Plan*. It is also within a designated activity center. The University of Minnesota/SEMI area is designated as a growth center. In addition to the principles and policies discussed in the rezoning section of this staff report, the following apply:

4.7 Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.

Applicable Implementation Step

Preserve traditional urban form in buildings where it currently exists, and encourage new development to relate to traditional siting and massing, where it is already established.

9.16 Minneapolis will encourage new development to use human scale design features and incorporate sunlight, privacy, and view elements into building and site designs.

Applicable Implementation Step

Encourage the design of all new buildings to fulfill light, privacy and view requirements for the subject building as well as for adjacent buildings.

The site is not located within the boundaries of the *Master Plan for the Marcy-Holmes Neighborhood* small area plan; however, the plan contains several policy directives pertaining to building mass and height in Dinkytown. The plan states that "residential building heights should not exceed four stories in Dinkytown in order to preserve the historical character of the area." The plan also promotes preserving the small town feel of the neighborhood. Generally, "rehabilitation is strongly encouraged over demolition and rebuilding." The plan discourages "construction that is too big for a site. This means new buildings that are out of scale and proportion with existing buildings. They may be taller, have straight facades that ignore the

architectural rhythm created by existing buildings, or occupy most of the site because of underground parking."

Staff comment: The proposal would preserve a landmark building of Dinkytown, the Dinky Dome. The applicant has indicated that the following renovations would be done: rehabilitate for future national historic registration of the building, restoring the exterior façade, restoring and reglazing the dome, replacing the existing roof, improving and redesigning the exterior signage, repairing cast stone elements, improving accessibility, restoring street level entrances, relocating retail to the street level, remodeling the interior tenant spaces and installing new mechanical and electrical systems. The rehabilitation of the Dinky Dome should be done concurrently with the construction of the new addition and should follow the standards and procedures that would not be detrimental to the eligibility of the building for National Historic Registration.

A larger building can be appropriate for a site located within an activity center and growth center to accommodate more density. Although the site is not within the boundaries of the *Master Plan for the Marcy-Holmes Neighborhood* small area plan, the proposed development would affect the character of Dinkytown located within the boundaries. The new addition would be built within two feet of the property line on 4th Street. The commercial buildings along 4th Street to the west are typically built up to the front lot line. Along 15th Avenue, the building would be set back between 0 and 34 feet. The Dinky Dome building is set back 4.5 feet from 15th Avenue and 9 feet from University Avenue. The placement of the proposed addition would be consistent with the surrounding area. Most of the buildings in the immediate area are between one and four stories in height. The proposed addition with 14 floors at 156 feet in height would be larger in mass than surrounding buildings. To reflect more traditional massing, part of the upper floors would be stepped back adjacent to 15th Avenue and 4th Street. Guidance from the Marcy-Holmes plan was used as part of the justification for stepping the upper floors back.

The addition should not have a significant effect on the light, privacy and views of surrounding buildings. The site is adjacent to a parking lot owned by the U of M and a fraternity. The addition would be set back 33 feet from the fraternity property and the addition is north of the fraternity structure. Other properties that could be affected by the development are located to the north and west. They are separated from the site by streets.

The height would be consistent with the comprehensive plan.

6. And does, in all other respects, conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

The use of the site for a 15-story, 156 foot mixed use building will conform to the applicable regulations of the districts in which it is located upon the approval of the conditional use permits, variances, and site plan review.

ADDITIONAL STANDARDS TO INCREASE MAXIMUM HEIGHT

(1) Access to light and air of surrounding properties.

Residential properties are located on the southeasterly quadrant of the block. A parking lot operated by the University of Minnesota is located east of the site. Other properties are separated from the site by a street. A street intersection is directly north of the site. The building should have little effect on surrounding properties access to light and air.

(2) Shadowing of residential properties or significant public spaces.

The shadow studies submitted by the applicant indicate that residential properties would not be significantly affected. These properties are to the south and east of the proposed addition. Therefore, the shadowing effects should not be significant on residential properties. Shadowing of the adjacent streets would increase, but would not remain entirely in shadow throughout the day.

(3) The scale and character of surrounding uses.

The height of the other buildings on the block is three stories. The height of buildings on the blocks surrounding the site is between one to four stories. A residential building located at the 13th Avenue and 5th Street intersection, The Chateau, has approximately 17 floors. A mixed use building located at 1301 University Avenue SE, constructed in 2005, has 6 floors. The Sanford Hall dormitory located at 1220 University Avenue SE has 9 floors.

The placement of the proposed addition would be consistent with the surrounding area. The addition would reinforce the street wall on 4th Street and 15th Avenue. The commercial buildings along 4th Street to the west are typically built up to the front lot line. The Dinky Dome building is set back 4.5 feet from 15th Avenue and 9 feet from University Avenue. Most of the buildings in the immediate area are between one and four stories in height. The proposed addition with 14 floors at 156 feet in height is larger in mass than surrounding buildings. To reflect more traditional massing, part the upper floors would be stepped back adjacent to 4th Street and 15th Avenue.

(4) Preservation of views of landmark buildings, significant open spaces or water bodies.

The building should not significantly block views of landmark buildings, significant open spaces, or bodies of water.

VARIANCE - To reduce the minimum lot area requirement per dwelling unit from 290.4 square feet to 203.5 square feet, or 30%.

Findings Required by the Minneapolis Zoning Code for the Proposed Variance:

1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

The applicant is requesting to reduce the minimum lot size requirement per dwelling unit from 290.4 square feet to 203.5 square feet. The property is located across the street from the University of Minnesota campus. The proposed use would primarily provide housing for

students attending the University of Minnesota. Residents would likely frequent businesses in the surrounding area. To help support the University and encourage economic growth around the campus, higher residential densities are desired adjacent to the campus.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Student housing is in high demand near the University campus. The Dinky Dome is proposed to be rehabilitated. The applicant indicates that a higher density is necessary to off-set the costs related to the reuse of the building. These circumstances are unique to the property.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

The granting of the variance should not affect surrounding uses. Establishing a higher density residential development next to the University of Minnesota meets the intent of the ordinance. Also, many other high density residential projects have been approved and built in the area around the University.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

The proposed variance should not increase the danger of fire or endanger public safety. The proposed amount of parking complies with the minimum zoning code requirement. Other transportation and parking options are also available. The site is in close proximity to five transit route stops. Students can apply for a semester-long parking contract with the University (typically 80 percent of those who apply receive a contract). A large University parking ramp is located across 4th Street. The plans also indicate that 225 bicycle parking spaces would be available in the enclosed parking garage for use by residents. The applicant has also indicated that they will participate and manage involvement in a shared car program for residents use, such as HOURCAR or Zipcar. Staff is recommending that additional vehicle and bicycle parking is provided for the residents to accommodate the increase in the number of bedrooms. If additional parking is provided as recommended, the additional traffic generated by the development should not have a large impact on the public streets.

VARIANCE: To increase the maximum floor area ratio from 3.78 to 6.8.

Findings as required by the Minneapolis Zoning Code:

1. The property can not be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

The lot area is 43,560 square feet. The maximum FAR allowed in the C3A District is 2.7. The development qualifies for two density bonuses to increase the FAR by 20 percent by providing all required residential parking in the building and providing residential uses above the ground floor where 50 percent of the ground floor area is devoted to commercial uses. This increases the allowed FAR to 3.78. The proposed development, including the Dinky Dome building, would have a total of 296,144 square feet, which is an FAR of 6.8. The applicant is proposing to rehabilitate the Dinky Dome. The applicant indicates that a higher density is necessary to off-set the costs related to the reuse of the building. The higher density is resulting in a larger building. To help support the University and encourage economic growth around the campus, higher residential densities are desired adjacent to the campus. Reuse and rehabilitation of the Dinky Dome is also desired.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

   The Dinky Dome is proposed to be rehabilitated. The applicant indicates that a higher density is necessary to off-set the costs related to the reuse of the building. These circumstances are unique to the property.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

   Building bulk regulations are established in order to assure that the scale and form of new development or expansion will occur in a manner most compatible with the surrounding area. Most of the buildings in the immediate area are between one and four stories in height. The addition would reinforce the street wall on 4th Street and 15th Avenue. The commercial buildings along 4th Street to the west are typically built up to the front lot line. The Dinky Dome building is set back 4.5 feet from 15th Avenue and 9 feet from University Avenue. The placement of the proposed addition would be consistent with the surrounding area. Most of the buildings in the immediate area are between one and four stories in height. The proposed addition with 14 floors at 156 feet in height is larger in mass than surrounding buildings. To reflect more traditional massing, part of the upper floors should be stepped back adjacent to both 4th Street and 15th Avenue. The building would be consistent with the character of the area.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

   The proposed variance should not increase the danger of fire or endanger public safety. Twenty-two parking spaces are proposed for the nonresidential uses and 193 spaces are proposed for the residential uses. The minimum number of required parking spaces would be provided on-site. The plans also indicate that 225 bicycle parking spaces would be available in the enclosed

parking garage for use by residents and 20 bicycle parking spaces would be provided at ground level for use by employees, visitors and customers. The site is in close proximity to 5 bus routes. The applicant has also indicated that they will participate and manage involvement in a shared car program for residents use, such as HOURCAR or Zipcar. Staff is recommending that additional vehicle and bicycle parking is provided for the residents to accommodate the increase in the number of bedrooms. If additional parking is provided as recommended, the additional traffic generated by the development should not have a large impact on the public streets.

VARIANCES: 1) to reduce the front yard requirement adjacent to 4th Street from 15 feet to 0 feet to allow the building addition; and **2)** to reduce the interior side yard from 33 feet to 0 feet to allow the building and parking.

Findings as required by the Minneapolis Zoning Code:

1. The property can not be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

Front yard variance: A front yard is only required in the C3A district where an adjacent property is either zoned residential or office residential or contains a residential use. Along 4th Street, the adjacent property is zoned OR3, but does not contain any structures with frontage on 4th Street. The minimum front yard requirement is equal to the lesser of the front yard required by such residence district or the established front yard of such residential structure for the first 40 feet from such residential property or residence district boundary. The minimum front yard requirement in the OR3 district is 15 feet. The building would be set back 2 feet from the front lot line. Between 13th Avenue and 17th Avenue, most of the properties along 4th Street are nonresidential and not residential in character. The adjacent parking lot is paved up to 4th Street. Along 4th Street, two blocks west of the site, the commercial buildings are built up to the front lot line. Most buildings in the area are between one and four stories tall. Above the third floor in the required front yard, the building wall would be set back 11 feet from the front lot line. Setting the upper floors back is reflective of the heights of other buildings in the immediate area. A reduction in this yard requirement to allow the first through third floors to extend up to the front lot line should have little effect on surrounding properties. The request is reasonable.

Interior side yard: An interior side yard is required where a side lot line abuts a side lot line in a residence or office residence district. The site is adjacent to R6 and OR3 zoning. A yard equal to the minimum side yard that would be required for a conditional use on the abutting residential lot is required. The minimum interior side yard requirement is equal to 5+2x, where x is equal to the number of stories above the first floor. A 15-story building is proposed, therefore the minimum requirement is 33 feet. The addition would be L-shaped. The part of the building adjacent to 4th Street is the bottom of the L. The bottom of the L would be set back 0 feet along the southeasterly property line and is the only part of the addition that requires the side yard variance. Seventy feet of the addition would be set back at 0 feet. A five foot set back is required for all other obstructions in the interior side yard. Parking would also be set back 0 feet from the southeasterly property line. A parking lot operated by the University of Minnesota is located across from where the building and the majority of the parking are located in the side yard. A few of the surface spaces are adjacent to a parking lot for the adjacent fraternity

property. The proposed set backs would have little effect on the adjacent properties. The request is reasonable.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Front yard variance: Between 13th Avenue and 17th Avenue, most of the properties along 4th Street are nonresidential and not residential in character. The adjacent parking lot is paved up to 4th Street. Along 4th Street, two blocks west of the site, the commercial buildings are built up to the front lot line. These circumstances have not been created by the applicant.

Interior side yard: The building would be adjacent to a parking lot of a nonresidential property. The parking would also only be adjacent to existing parking lots. These circumstances have not been created by the applicant.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses.

Front yard variance: The building would be set back 2 feet from the front lot line. Between 13th Avenue and 17th Avenue, most of the properties along 4th Street are nonresidential and not residential in character. The adjacent parking lot is paved up to 4th Street. Along 4th Street, two blocks west of the site, the commercial buildings are built up to the front lot line. Most buildings in the area are between one and four stories tall. Above the third floor in the required front yard, the building wall would be set back 11 feet from the front lot line. Setting the upper floors back is reflective of the heights of other buildings in the immediate area. A reduction in this yard requirement to allow the first through third floors to extend up to the front lot line should have little effect on surrounding properties.

Interior side yard: A parking lot operated by the University of Minnesota is adjacent to the property line. To control access to the site, staff recommended through the site plan review that the applicant install a decorative metal fence between the parking area and the adjacent properties. A fence is a permitted obstruction. The granting of the variance should have little effect on surrounding property.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

All yard variances: The CPED Department does not expect that granting the variances would affect congestion or public safety.

VARIANCE: Variances of the PO Pedestrian Oriented Overlay District standards to allow a building wall to be set back more than eight feet from the lot lines adjacent to 4th Street and 15th Avenue.

Findings as required by the Minneapolis Zoning Code:

1. **The property can not be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

   In the PO overlay district, first floor building walls adjacent to streets are required to be located within 8 feet of the lot line, except where a greater yard is required by the zoning ordinance. Along 15th Avenue, the first floor would be set back between 0 and 34 feet. The link between the tower and the Dinky Dome is set back 34 feet to accommodate a handicap ramp. The Dinky Dome is not currently accessible. The wall adjacent to the residential entrance would be set back 14 feet to allow stairs and a sizeable, covered landing. The wall containing the commercial tenant entrances would be set back 11 feet. The grade slopes down from 4th Street to University Avenue. A level access ramp for the commercial uses is proposed between the building and the sidewalk. Setting the building back would allow for amenities to be incorporated without obstructing the sidewalk, including bike storage and landscaping. The applicant would also like a wider area to accommodate outdoor seating. Along 4th Street, the first floor building wall would be set back between 2 and 11 feet. The existing sidewalk width is 8 feet. The applicant is proposing to add boulevard trees to improve the pedestrian realm. The trees would further narrow the sidewalk. The arcade adjacent to the sidewalk would allow for a wider passageway. The request is reasonable.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

   The grade slopes down from 4th Street to University Avenue. The 4th Street sidewalk is narrow and does not have boulevard trees. These circumstances have not been created by the applicant.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

   The purpose of the PO standards is to preserve and encourage the pedestrian character of commercial areas and to promote street life and activity by regulating building orientation and design and accessory parking facilities, and by prohibiting certain high impact and automobile-oriented uses. Adjacent to 15th Avenue, the applicant is proposing a walkway, handicap access ramp, landscaping, outdoor seating and bicycle parking between the building and the street where the set back exceeds 8 feet. Adjacent to 4th Street, the arcade adjacent to the sidewalk would allow for a wider passageway and the establishment of boulevard trees in the right-of-

way. The alternatives proposed by the applicant would be an asset to the community and are in keeping with the intent of the ordinance.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

The granting of the variance should not affect public safety or increase congestion in the public streets.

SITE PLAN REVIEW

Findings as required by the Minneapolis Zoning Code for the site plan review:

A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)

B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)

Section A: Conformance with Chapter 530 of the Zoning Code

BUILDING PLACEMENT AND DESIGN:

- **Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.**
- **First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.**
- **The area between the building and the lot line shall include amenities.**
- **The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.**
- **Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.**
- **For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.**
- **In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.**
- **Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.**
- **Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.**
- **The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.**
- **The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.**
- **Entrances and windows:**

- **Residential uses:**
  Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
  a. Windows shall be vertical in proportion.
  b. Windows shall be distributed in a more or less even manner.
- **Nonresidential uses:**
  Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
  a. Windows shall be vertical in proportion.
  b. Windows shall be distributed in a more or less even manner.
  c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
  d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
  e. First floor or ground floor windows shall allow views into and out of the building at eye level. 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.
  f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.
  Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

Conformance with above requirements:

The placement of the building addition would reinforce the street wall on 15th Avenue and 4th Street. Windows would be provided at ground level to provide natural surveillance and visibility of the adjacent streets. A pedestrian walkway would connect the public sidewalk to the main building entrances along 15th Avenue.

Along 4th Street, the building would be set back between 2 and 11 feet from the property line. Along 15th Avenue, the first floor would be set back between 0 and 34 feet. The link between the tower and the Dinky Dome is set back 34 feet to accommodate a handicap ramp. The wall adjacent to the residential entrance would be set back 14 feet to allow stairs and a sizeable, covered landing. The wall containing the commercial tenant entrances would be set back 11 feet. In the PO overlay district, first floor building walls adjacent to streets are required to be located within 8 feet of the lot line. The applicant is requesting a variance of this standard. Staff is recommending approval for a number of reasons. Along 4th Street, the existing sidewalk width

is 8 feet. The applicant is proposing to add boulevard trees to improve the pedestrian realm. The trees would further narrow the sidewalk. The arcade adjacent to the sidewalk would allow for a wider passageway. The Dinky Dome is not currently accessible. The 34 foot set back from 15th Avenue will allow the Dinky Dome to become accessible. Along 15th Avenue, the grade slopes down from 4th Street to University Avenue. A level access ramp for the commercial uses is proposed between the building and the sidewalk. Setting the building back would allow for amenities to be incorporated without obstructing the sidewalk, including bike storage and landscaping. The applicant would also like a wider area to accommodate outdoor seating. Staff is recommending that alternative compliance be granted to allow the proposed setbacks of the first floor building walls.

The area between the building and 15th Avenue would have a public promenade providing access to the retail spaces. Landscaping and bike parking are also proposed. The area between the building and 4th Street would be open to pedestrian passage.

The entrances for the retail spaces would face 15th Avenue. The main residential entrance would be directly adjacent to 15th Avenue.

Most of the parking would be enclosed. Surface parking would be located at the interior of the site.

Architectural elements, including recesses and projections, windows and entries, would be emphasized on all sides of the building to divide the building into smaller identifiable sections.

On the first floor east building elevation adjacent to the property line, a blank, uninterrupted wall that does not include windows, entries, recesses or projections or other architectural elements would exceed 25 feet in length. The blank wall would be 33 feet wide. A trash room is located on the other side of the wall. A 30 foot wide blank wall is also proposed on the first floor east building elevation adjacent to the parking area. An egress stair well for the residence is located on the other side of the wall. Both walls would be brick. For these reasons staff recommends that the planning commission grant alternative compliance.

The primary exterior materials would include brick, stucco, architectural cast stone, burnished concrete masonry units, and glass. The materials would be durable. Brick would be the primary material on all walls except the courtyard elevations. Using brick as the primary exterior material for the addition promotes compatibility with the Dinky Dome, whose primary exterior material is brick. The materials in the courtyard area are limited to stucco and burnished concrete block. These materials are not used on the street-facing elevations; however, the courtyard walls face the interior of the site. The walls that are more visible from the street would have brick as the primary material. The pattern of windows on the courtyard elevations is similar to the street-facing elevations to make all of the elevations compatible. For these reasons, staff is recommending that the planning commission grant alternative compliance to allow different exterior materials on the rear walls. Please note, exterior material changes at a later date would require review by the planning commission and an amendment to the site plan review.

Plain face concrete block would not be used as a primary exterior building material.

The main entrances for the retail spaces and the accessible entrance for the residence and the Dinky Dome would face 15th Avenue. The main residential entrance would also face 15th Avenue. The entrances would be recessed and sheltered to emphasize their importance.

The walls facing 15th Avenue, University Avenue, 4th Street and the surface parking area are subject to the minimum window requirements. First floor walls of nonresidential uses facing a street are required to provide 40 percent windows. The amount of windows on all walls of all levels would greatly exceed the minimum residential and nonresidential requirements, except the first floor walls facing the parking lot and east of the commercial tenant space facing 4th Street. The majority of these walls facing the parking lot and adjacent to 4th Street would be adjacent to spaces, including the entrance to the residential garage, trash rooms, a receiving area, a mechanical room, and egress stair wells, where providing windows would be impractical. There are no windows proposed on these walls. Visibility to and from these spaces would provide little surveillance value. On the wall behind the commercial tenant spaces, windows equaling 30 percent of the wall must be provided. On this wall, 234 square feet, or 28.1 percent, of windows would be provided. The wall is adjacent to a corridor accessed by the commercial tenant spaces. The windows are more than four feet above grade, but they are only four feet above the floor level. The upper residential levels look into the parking area providing additional surveillance. On the residential floors, over 24 percent windows are proposed, which exceeds the minimum requirement by 14 percent. Staff believes that some reduction in the window requirement is reasonable and is recommending that the planning commission grant alternative compliance.

All windows would be vertical in proportion and distributed in an even manner.

The applicant has indicated that the proposed visible light transmittance ratio of the nonresidential windows would be 0.67.

A flat roof is proposed. Most of the nonresidential buildings outside of the University campus also have flat roofs.

ACCESS AND CIRCULATION:

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

Conformance with above requirements:

The building entrances would be connected to the public sidewalks and parking lot with walkways that would be four feet in width or greater. The arcade adjacent to 4th Street would

allow pedestrians to gain access to the sidewalk without having to walk through the vehicle entrance.

A transit shelter is not proposed or adjacent to the site.

All vehicles would enter from 4th Street and exit onto University Avenue. Neither curb cut would exceed 20 feet in width. The curb cut on University Avenue would be set back from the building to improve visibility for pedestrians and vehicles. The proposed access and circulation should have minimal impact on pedestrians and surrounding residential properties.

The site is not adjacent to an alley.

The site is currently all impervious. The building would cover most of the site. The applicant is proposing to install landscaping adjacent to and in the 15th Avenue right-of-way and plant boulevard trees in the 4th Street right-of-way. The rest of the proposed impervious surface is needed for parking and on-site circulation. The amount of impervious surface proposed would not be excessive.

LANDSCAPING AND SCREENING:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
  - **Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year.**
- **Screening shall be satisfied by one or a combination of the following:**
  - **A decorative fence.**
  - **A masonry wall.**
  - **A hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**
- **The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.**
- **In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.**
- **All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.**

Conformance with above requirements:

The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is approximately 43,560 square feet. The building, including the below-grade parking area, would be approximately 40,471 square feet. The lot area minus the building footprints therefore consists of approximately 3,089 square feet. At least 20 percent of the net site area (617.8 square feet) must be landscaped. Approximately 77 square feet of the site would be landscaped. That is equal to 2.5 percent of the net lot area. Loading spaces, driveways, walkways, stairs, and bike parking that are needed for efficient circulation and access are proposed in the areas that would not be landscaped. The applicant is proposing to provide additional landscaping in the 15th Avenue, University Avenue, and 4th Street right-of-ways. For these reasons, staff is recommending that the planning commission grant alternative compliance.

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 2 and 7 respectfully. The applicant would provide no trees and 7 shrubs on-site. The remainder of the on-site landscaped area would be covered with perennials. The existing Dinky Dome building and vehicle access needs limits where trees and shrubs can be provided on-site. In the right-of-way, 90 additional shrubs are proposed. The applicant is also proposing to establish boulevard trees in the 4th Street right-of-way. Staff is recommending that the planning commission grant alternative compliance.

A landscaped yard with screening that is 3 feet high and at least 60 percent opaque is required between the parking area and 4th Street and the loading area and University Avenue. A nine foot wide arcade would be located between the parking and 4th Street. The arcade allows pedestrians access to the sidewalk without walking through the driveway entrance. Staff believes that the alternative proposed by the applicant meets the intent of the ordinance. Along University Avenue, the loading area is adjacent to 10 feet of the right of way. Loading and parking currently are located in this area without any screening. The applicant is proposing to narrow the curb cut to reduce conflicts with pedestrians. Staff believes alternative compliance is warranted.

A 7-foot wide landscaped yard with screening that is 6 feet in height and not less than 95 percent opaque are required between the parking area and the properties to the east. Minimal landscaping is proposed in this location. A 3.5 foot high decorative metal fence would be located between the parking and loading areas and the property line. No additional screening would be provided for the parking, except where parking would be located under the building. A driveway for a fraternity and a University of Minnesota parking lot is located on the adjacent properties. Providing landscaping would require the elimination of loading and parking spaces. Staff believes that the alternative meets the intent of the ordinance and is recommending that the planning commission grant alternative compliance.

There would not be any corners of the parking area available for landscaping or other architectural features.

None of the surface parking spaces would be within 50 feet of an on-site deciduous tree. Four of the spaces would be covered by the building. The remaining spaces would be shadowed by the

building most of the day. Adding more trees would eliminate parking. Staff is recommending that the planning commission grant alternative compliance.

ADDITIONAL STANDARDS:

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **To the extent practical, site plans shall minimize the blocking of views of important elements of the city.**
- **To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260 related to:**
  - **Natural surveillance and visibility**
  - **Lighting levels**
  - **Territorial reinforcement and space delineation**
  - **Natural access control**
- **To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

Conformance with above requirements:

The surface parking area would be defined by 6-inch by 6-inch concrete curbing. The surface parking would be located over the below-grade parking. On-site filtration of stormwater is not practical.

The building should not impede any views of important elements of the city.

The building should not significantly shadow the adjacent streets or properties. See above analysis of the conditional use permit to increase the allowed height.

Wind currents should not be major concern because part of the upper floors of the building are stepped back and boulevard trees will be added along 4th Street.

The site design provides natural surveillance and visibility with an abundant amount of windows on all sides of the building and visibility from the street into the surface parking area. The public and nonpublic entrances are clearly defined by architectural details. The fence adjacent to the parking area would control and guide to movement on the site.

The existing structures on the site are not historic. However, the applicant is proposing to rehabilitate the Dinky Dome.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE: The site is zoned C3A with the PO overlay district. The applicant is proposing a mix of uses including 214 dwelling units, general retail sales and services uses, offices and restaurants. The proposed commercial uses are permitted. A multifamily dwelling with 5 or more units is a conditional use.

Parking and Loading: The minimum parking requirement for the multifamily dwelling is 214 spaces (one per unit). The development qualifies for a transit incentive to reduce the parking requirement of a multi-family dwelling by 10 percent because it is located within 300 feet of transit stops with midday service headways of 30 minutes or less in each direction. The parking requirement is further reduced because 4 enclosed bicycle spaces are provided in lieu of one vehicle parking space. Therefore the parking requirement is reduced to 192 spaces. For the residences, 193 spaces would be provided (192 enclosed and one surface space).

In the Dinkytown PO overlay district, nonresidential uses are not required to provide accessory off-street parking facilities, provided that existing accessory parking facilities are not reduced below the requirements for a similar new use, or if existing accessory parking facilities are less than the requirements specified in Chapter 541, Off-Street Parking and Loading, they are not reduced further. Twelve parking spaces are available for the existing uses on the site. The applicant is proposing to provide 22 parking spaces for use by the nonresidential uses.

The minimum loading requirements for the nonresidential uses in the development are as follows:

- Approximately 5,700 square feet of floor area would be devoted to food and beverage uses, such as sit down restaurants and coffee shops. The zoning code assigns a low rating to determine the loading requirement. For the amount of floor area proposed, adequate shipping and receiving facilities, accessible by motor vehicle off any adjacent alley, service drive or open space are required on the same zoning lot.

- General retail sales and services uses would occupy approximately 14,300 square feet of floor area. The zoning code assigns a medium rating to determine the loading requirement. For the amount of floor area proposed, one small loading space (10 feet wide by 25 feet deep) is required.

- Offices would occupy approximately 10,500 square feet of floor area. The zoning code assigns a medium rating to determine the loading requirement. For the amount of floor area proposed, one small loading space is required.

The total loading requirement for the development is two small spaces. Two small spaces are proposed.

Maximum Floor Area: The lot area is 43,560 square feet. The maximum FAR allowed in the C3A District is 2.7. The development qualifies for two density bonuses to increase the FAR by 20 percent by providing all required residential parking in the building and providing residential uses above the ground floor where 50 percent of the ground floor area is devoted to commercial uses. This increases the allowed FAR to 3.78. The proposed development, including the Dinky

Dome building, would have a total of 296,144 square feet, which is an FAR of 6.8. The applicant is requesting a variance.

The maximum floor area of retail sales and services uses in the C3A district is 8,000 square feet if no parking is located between the principal structure and the street and the structure is at least two-stories. Tenant spaces in the new building would not exceed 8,000 square feet. When the Dinky Dome is remodeled, the retail spaces cannot exceed 8,000 square feet.

Minimum Lot Area: The minimum lot area requirement in the C3A district is 400 square feet per dwelling unit, or 85,600 square feet for 214 units. The proposed lot size is 43,560 square feet. The applicant qualifies for a 20 percent density bonus for providing enclosed parking in the building. The applicant also qualifies for a 20 percent density bonus for proposing a commercial space on the ground level that occupies more than 50 percent of the gross floor area of first floor. With the density bonuses, the minimum lot size is 290.4 square feet per unit, or approximately 62.146 square feet for 214 units. The proposed lot area is 203.5 square feet per dwelling unit. The applicant is requesting a variance to reduce the minimum lot size by 30 percent.

Dwelling Units per Acre: The proposed density would be 214 dwelling units per acre.

Building Height: In the C3A district, the maximum height is limited to 4 stories or 56 feet, whichever is less. The height of the building would be 15 stories and 156 feet in height. Although the addition would have only 14 floors, by definition of the zoning code it is 15 stories. A story is defined as that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or 14 feet, whichever is less. The first floor would be 18 feet, therefore each is considered two stories. A conditional use permit is required to increase the height.

Yard Requirements: The front lot lines are adjacent to 4th Street and University Avenue. A front yard is only required in the C3A district where an adjacent property is either zoned residential or office residential or contains a residential use. Along 4th Street, the adjacent property is zoned OR3, but does not contain any structures with frontage on 4th Street. The minimum front yard requirement is equal to the lesser of the front yard required by such residence district or the established front yard of such residential structure for the first 40 feet from such residential property or residence district boundary. The minimum front yard requirement in the OR3 district is 15 feet. The building would be set back 2 feet from the front lot line. The applicant is requesting a variance to reduce the front yard requirement along 4th Street.

An interior side yard is required where a side lot line abuts a side lot line in a residence or office residence district. The site is adjacent to R6 and OR3 zoning. A yard equal to the minimum side yard that would be required for a conditional use on the abutting residential lot is required. The minimum interior side yard requirement is equal to 5+2x, where x is equal to the number of stories above the first floor. A 15-story building is proposed, therefore the minimum requirement is 33 feet. Part of the building addition would be set back 0 feet along the southeasterly property line. A five foot set back is required for all other obstructions in the

interior side yard. Parking would also be located adjacent to the southeasterly property line. The applicant is requesting a variance to reduce the yard requirement.

Specific Development Standards: Sit-down restaurants are subject to development standards. Where alcoholic beverages are served, not less than 60 percent of total gross sales revenue must be from the sale of food and beverages not containing alcohol, and the use must comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter. Also, restaurants are required to regularly inspect the premises, all adjacent streets, sidewalks and alleys for the purposes of removing any litter found thereon.

PO Pedestrian Oriented Overlay District Standards: General standards apply to all development located in the PO overlay.

- The first floor of the building must be located within eight feet of a lot line adjacent to a street, except where a greater yard is required by the zoning ordinance. Along 15th Avenue, the first floor building wall would be set back between 0 and 34 feet from the front lot line. Outside of the required front yard adjacent to 4th Street, the first floor wall would be set back between 2 and 11 feet. The applicant is requesting a variance.

- The first floor façade of the building that faces a public street or a sidewalk is required to have at least 40 percent clear or lightly tinted glass that allows views into and out of the building at eye level and are distributed in a more or less even manner. Therefore the walls fronting 15th Avenue and 4th Street are subject to this provision. The proposed windows would meet these requirements.

- Pole signs, back-lighted awning and canopy signs, and back-lighted insertable panel projecting signs are prohibited. This standard cannot be varied. No signs are proposed at this time.

- Accessory parking is required to be located at the rear or interior of the site, within the building, or entirely below grade. Most of the parking would be located below grade. The surface parking would be located at the interior of the site. Surface parking lots are limited to 60 feet of street frontage. The maximum amount of accessory parking spaces cannot exceed the minimum parking requirements more that 150 percent. The parking lot width would not exceed 60 feet and the proposed amount of parking does not exceed the minimum requirement by 150 percent. The driveway width for all parking facilities cannot exceed 20 feet of street frontage. The driveway access from 4th Street and University Avenue would not exceed 20 feet.

Hours of Operation: The hours of operation for the commercial tenant(s) must comply with the district requirements. In the C3A District, nonresidential uses may be open to the public during the following hours: Sunday through Saturday from 6:00 a.m. to 1:00 a.m.

Refuse screening: Refuse storage containers would be contained in the building.

Screening of mechanical equipment: All mechanical equipment is required to be arranged so as to minimize visual impact by using screening and must comply with Chapter 535 and district requirements including:

> **535.70. Screening of mechanical equipment.** (a) *In general*. All mechanical equipment installed on or adjacent to structures shall be arranged so as to minimize visual impact using one (1) of the following methods. All screening shall be kept in good repair and in a proper state of maintenance.
>
> (1) *Screened by another structure*. Mechanical equipment installed on or adjacent to a structure may be screened by a fence, wall or similar structure. Such screening structure shall comply with the following standards:
>
> a. The required screening shall be permanently attached to the structure or the ground and shall conform to all applicable building code requirements.
>
> b. The required screening shall be constructed with materials that are architecturally compatible with the structure.
>
> c. Off-premise advertising signs and billboards shall not be considered required screening.
>
> (2) *Screened by vegetation*. Mechanical equipment installed adjacent to the structure served may be screened by hedges, bushes or similar vegetation.
>
> (3) *Screened by the structure it serves*. Mechanical equipment on or adjacent to a structure may be screened by a parapet or wall of sufficient height, built as an integral part of the structure.
>
> (4) *Designed as an integral part of the structure*. If screening is impractical, mechanical equipment may be designed so that it is balanced and integrated with respect to the design of the building.

Most of the mechanical equipment would be located on the roof in an enclosed structure. A transformer would be located at ground level next to the building. The transformer must be sufficiently screened from the adjacent residential property.

Lighting: Existing and proposed lighting must comply with Chapter 535 and Chapter 541 of the zoning code including:

> **535.590. Lighting.** *(a) In general*. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.
>
> *(b) Specific standards*. All uses shall comply with the following standards except as otherwise provided in this section:
>
> (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).

(2) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.

(3) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.

(4) Lighting shall not create a hazard for vehicular or pedestrian traffic.

(5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

Signs: The applicant has indicated that no signage is proposed at this time. Any new signage will require Zoning Office review, approval, and permits.

MINNEAPOLIS PLAN: In addition to the principles and policies discussed in the rezoning and conditional use permit sections of this staff report, the following apply:

4.7 Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.

Applicable Implementation Steps

Develop parking facilities and management strategies that accommodate high customer demand, promote shared facilities and minimize visual impact and adverse effects on pedestrian and sidewalk traffic.

Require that buildings in Activity Center districts incorporate a pedestrian orientation at the street edge.

9.11 Minneapolis will support urban design standards that emphasize a traditional urban form in commercial areas.

Applicable Implementation Steps

Enhance unique characteristics of the city's commercial districts by encouraging appropriate building forms and designs, historic preservation objectives, site plans that enhance the pedestrian environment, and by maintaining high quality public spaces and infrastructure.

Orient new buildings to the street to foster safe and successful commercial nodes and corridors.

Require storefront transparency to assure both natural surveillance and an inviting pedestrian experience.

9.12 Minneapolis will promote design solutions for automobile parking facilities that reflect principles of traditional urban form.

Applicable Implementation Steps

Locate parking lots behind buildings or in the interior of a block to reduce the visual impact of the automobile in mixed-use areas.

9.15 Minneapolis will protect residential areas from the negative impact of non-residential uses by providing appropriate transitions between different land uses.

Applicable Implementation Steps

Provide appropriate physical transition and separation using green space, setbacks or orientation between residential and non-residential uses.

In the *Master Plan for the Marcy-Holmes Neighborhood* small area plan rehabilitation is strongly encouraged over demolition and rebuilding. The neighborhood also supports the beautification of boulevards along University Avenue, 4th Street SE, and 15th Avenue emphasizing that boulevard upgrades and aesthetic improvements would enhance the image of the neighborhood.

Staff comment: The applicant is proposing to rehabilitate the Dinky Dome, which is a landmark for Dinkytown. Street level retail and services uses would remain with access to University Avenue and 15th Avenue. The new addition would also contain commercial uses on the first floor that are oriented to 15th Avenue. Each use would have an individual entrance. A common entrance that is adjacent to 15th Avenue is proposed for the residential part of the project. An abundant amount of windows would be provided to create a safe, inviting pedestrian experience at the ground level. The building would be set back along 15th Avenue to allow more room for bike racks, landscaping, periodical stands, and outdoor seating. Boulevard trees are proposed in the 4th Street right-of-way. These improvements will enhance the pedestrian environment. The parking and loading for the commercial tenants would be located at the interior of the site. However, they abut a residential property and a parking lot operated by the University. It is likely that the University parking lot will be redeveloped in the future. Landscaping or screening that would provide a transition to the adjacent properties is not proposed. As an alternative, the applicant is proposing a decorative, ornamental metal fence. The proposed development would be consistent with the comprehensive plan.

ALTERNATIVE COMPLIANCE:

The Planning Commission or zoning administrator may approve alternatives to any site plan review requirement upon finding any of the following:

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Alternative compliance is requested by the applicant to meet the following standards:

- Building placement within 8 feet of the lot line adjacent to a street

Along 4th Street, the building would be set back between 2 and 11 feet from the property line. Along 15th Avenue, the first floor would be set back between 0 and 34 feet. The link between the tower and the Dinky Dome is set back 34 feet to accommodate a handicap ramp. The wall adjacent to the residential entrance would be set back 14 feet to allow stairs and a sizeable, covered landing. The wall containing the commercial tenant entrances would be set back 11 feet. In the PO overlay district, first floor building walls adjacent to streets are required to be located within 8 feet of the lot line. The applicant is requesting a variance of this standard. Staff is recommending approval for a number of reasons. Along 4th Street, the existing sidewalk width is 8 feet. The applicant is proposing to add boulevard trees to improve the pedestrian realm. The trees would further narrow the sidewalk. The arcade adjacent to the sidewalk would allow for a wider passageway. The Dinky Dome is not currently accessible. The 34 foot set back from 15th Avenue will allow the Dinky Dome to become accessible. Along 15th Avenue, the grade slopes down from 4th Street to University Avenue. A level access ramp for the commercial uses is proposed between the building and the sidewalk. Setting the building back would allow for amenities to be incorporated without obstructing the sidewalk, including bike storage and landscaping. The applicant would also like a wider area to accommodate outdoor seating. Staff is recommending that alternative compliance be granted to allow the proposed setbacks of the first floor building walls.

- Blank walls

  On the first floor east building elevation adjacent to the property line, a blank, uninterrupted wall that does not include windows, entries, recesses or projections or other architectural elements would exceed 25 feet in length. The blank wall would be 33 feet wide. A trash room is located on the other side of the wall. A 30 foot wide blank wall is also proposed on the first floor east building elevation adjacent to the parking area. An egress stair well for the residence is located on the other side of the wall. Both walls would be brick. For these reasons staff recommends that the planning commission grant alternative compliance.

- Similar exterior materials on the rear and front walls

  The primary exterior materials would include brick, stucco, architectural cast stone, burnished concrete masonry units, and glass. The materials would be durable. Brick would be the primary material on all walls except the courtyard elevations. Using brick as the primary exterior material for the addition promotes compatibility with the Dinky Dome, whose primary exterior material is brick. The materials in the courtyard area are limited to stucco and burnished concrete block. These materials are not used on the street-facing elevations; however, the courtyard walls face the interior of the site. The walls that are more visible from the street would have brick as the primary material. The pattern of windows on the courtyard elevations is similar to the street-facing elevations to make all of the elevations compatible. For these reasons, staff is recommending that the planning commission grant alternative compliance to allow different exterior materials on the rear walls. Please note, exterior material changes at a later date would require review by the planning commission and an amendment to the site plan review.

- Window requirements

The walls facing 15th Avenue, University Avenue, 4th Street and the surface parking area are subject to the minimum window requirements. The amount of windows on all walls of all levels would greatly exceed the minimum residential and nonresidential requirements, except the first floor walls facing the parking lot and east of the commercial tenant space facing 4th Street. The majority of these walls facing the parking lot and adjacent to 4th Street would be adjacent to spaces, including the entrance to the residential garage, trash rooms, a receiving area, a mechanical room, and egress stair wells, where providing windows would be impractical. There are no windows proposed on these walls. Visibility to and from these spaces would provide little surveillance value. On the wall behind the retail tenant spaces, windows equaling 30 percent of the wall must be provided. On this wall, 234 square feet, or 28.1 percent, of windows would be provided. The wall is adjacent to a corridor accessed by the commercial tenant spaces. The windows are more than four feet above grade, but they are only four feet above the floor level. The upper residential levels look into the parking area providing additional surveillance. On the residential floors, over 24 percent windows are proposed, which exceeds the minimum requirement by 14 percent. Staff believes that some reduction in the window requirement is reasonable and is recommending that the planning commission grant alternative compliance.

- Twenty percent landscaping

  The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is approximately 43,560 square feet. The building, including the below-grade parking area, would be approximately 40,471 square feet. The lot area minus the building footprints therefore consists of approximately 3,089 square feet. At least 20 percent of the net site area (617.8 square feet) must be landscaped. Approximately 77 square feet of the site would be landscaped. That is equal to 2.5 percent of the net lot area. Loading spaces, driveways, walkways, stairs, and bike parking that are needed for efficient circulation and access are proposed in the areas that would not be landscaped. The applicant is proposing to provide additional landscaping in the 15th Avenue, University Avenue, and 4th Street right-of-ways. For these reasons, staff is recommending that the planning commission grant alternative compliance.

- Tree and shrub requirements

  The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 2 and 7 respectfully. The applicant would provide no trees and 7 shrubs on-site. The remainder of the on-site landscaped area would be covered with perennials. The existing Dinky Dome building and vehicle access needs limits where trees and shrubs can be provided on-site. In the right-of-way, 90 additional shrubs are proposed. The applicant is also proposing to establish boulevard trees in the 4th Street right-of-way. Staff is recommending that the planning commission grant alternative compliance.

- Landscaping and screening of the parking and loading area

  A landscaped yard with screening that is 3 feet high and at least 60 percent opaque is required between the parking area and 4th Street and the loading area and University Avenue. A nine foot wide arcade would be located between the parking and 4th Street. The arcade

allows pedestrians access to the sidewalk without walking through the driveway entrance. Staff believes that the alternative proposed by the applicant meets the intent of the ordinance. Along University Avenue, the loading area is adjacent to 10 feet of the right of way. Loading and parking currently are located in this area without any screening. The applicant is proposing to narrow the curb cut to reduce conflicts with pedestrians. Staff believes alternative compliance is warranted.

A 7-foot wide landscaped yard with screening that is 6 feet in height and not less than 95 percent opaque are required between the parking area and the properties to the east. Minimal landscaping is proposed in this location. A 3.5 foot high decorative metal fence would be located between the parking and loading areas and the property line. No additional screening would be provided for the parking, except where parking would be located under the building. A driveway for a fraternity and a University of Minnesota parking lot is located on the adjacent properties. Providing landscaping would require the elimination of loading and parking spaces. Staff believes that the alternative meets the intent of the ordinance and is recommending that the planning commission grant alternative compliance.

- Location of all parking spaces within 50 feet of an on-site tree

  None of the surface parking spaces would be within 50 feet of an on-site deciduous tree. Four of the spaces would be covered by the building. The remaining spaces would be shadowed by the building most of the day. Adding more trees would eliminate parking. Staff is recommending that the planning commission grant alternative compliance.

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow 214 dwelling units for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast, 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 one year of approval.

2. At least 0.4 vehicle and 0.47 bicycle parking spaces shall be provided per bedroom. Bicycle parking spaces provided to meet this condition shall be enclosed and secured in an area protected from theft, vandalism and weather. Each bicycle parking space shall be identified on the final plans.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to increase the maximum allowed height of a building from 4 stories to 15 stories and from 56 feet to 156 feet for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast, subject to the following condition:

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 one year of approval.

2. The final plans for the Dinky Dome shall be approved before building permits for the new addition are issued. All work on the Dinky Dome must meet the Secretary of the Interiors standards for rehabilitation. In addition, the rehabilitation must be completed by November 17, 2010.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the minimum lot area requirement by 30 percent for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to increase the maximum floor area ratio from 3.78 to 6.8 for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the front yard requirement adjacent to 4th Street from 15 feet to 0 feet to allow the building addition for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the interior side yard adjacent to the southeasterly property line from 33 feet to 0 feet to allow the building and from 5 feet to 0 feet to allow parking for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance of the PO overlay district standards to allow the building to be set back more than 8 feet from 4th Street and 15th Avenue for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan review for the properties located at 1500-1506 4th Street Southeast and 310-316 15th Avenue Southeast, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, site and landscape plans.

2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by November 17, 2009, or the permit may be revoked for non-compliance.

3. Required first floor nonresidential windows shall allow views into and out of the building at eye level as required by section 530.120 of the zoning code. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between 4 and 7 feet above the first floor level.

4. Mechanical equipment shall be screened as required by section 535.70 of the zoning code.

Attachments:

1. Statement of use
2. Findings
3. Correspondence
4. Zoning map
5. Plans
6. Photos

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

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2526 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: December 2, 2008

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of November 17, 2008

The following actions were taken by the Planning Commission on November 17, 2008. 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 Motzenbecker, Gorecki, Huynh, LaShomb, Luepke-Pier, Nordyke, Norkus-Crampton, Schiff, Tucker and Williams – 10

Committee Clerk: Lisa Baldwin (612) 673-3710

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6. Sydney Hall and Dinky Dome Redevelopment (BZZ-4183, Ward: 2),1500-1506 4th St SE and 310-316 15th Ave SE (Janelle Widmeier).

A. Conditional Use Permit: Application by Jim LaValle, on behalf of Doran Companies, for a conditional use permit to allow 214 dwelling units for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow 214 dwelling units for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE, 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 one year of approval.

2. At least 0.4 vehicle and 0.47 bicycle parking spaces shall be provided per bedroom. Bicycle parking spaces provided to meet this condition shall be enclosed and secured in an area protected from theft, vandalism and weather. Each bicycle parking space shall be identified on the final plans.

B. Conditional Use Permit: Application by Jim LaValle, on behalf of Doran Companies, for a conditional use permit to increase the height from 4 stories to 15 stories and from 56 feet to 156 feet for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to increase the maximum allowed height of a building from 4 stories to 15 stories and from 56 feet to 156 feet for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE, subject to the following condition:

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 one year of approval.

2. The final plans for the Dinky Dome shall be approved before building permits for the new addition are issued. All work on the Dinky Dome must meet the Secretary of the Interiors standards for rehabilitation. In addition, the rehabilitation must be completed by November 17, 2010.

C. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to reduce the minimum lot area requirement by 30 percent for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the minimum lot area requirement by 30 percent for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

D. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to increase the maximum floor area ratio of the building for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to increase the maximum floor area ratio from 3.78 to 6.8 for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

E. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance of the PO standards to allow the first floor of the building to be set back more than 8 feet adjacent to 15th Ave and 4th St for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance of the PO overlay district standards to allow the building to be set back more than 8 feet from 4th St and 15th Ave for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

F. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to reduce the front yard requirement adjacent to 4th St to allow the building, parking and sidewalk for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the front yard requirement adjacent to 4th St from 15 feet to 0 feet to allow the building addition for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

G. Variance: Application by Jim LaValle, on behalf of Doran Companies, for a variance to reduce the interior side yard requirement to allow the building and parking for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the interior side yard adjacent to the southeasterly property line from 33 feet to 0 feet to allow the building and from 5 feet to 0 feet to allow parking for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

H. Site Plan Review: Application by Jim LaValle, on behalf of Doran Companies, for a site plan review for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE.

Action: The City Planning Commission adopted the findings and **approved** the application for site plan review for the properties located at 1500-1506 4th St SE and 310-316 15th Ave SE, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, site and landscape plans.

2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by November 17, 2009, or the permit may be revoked for non-compliance.

3. Required first floor nonresidential windows shall allow views into and out of the building at eye level as required by section 530.120 of the zoning code. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between 4 and 7 feet above the first floor level.

4. Mechanical equipment shall be screened as required by section 535.70 of the zoning code.

5. Additional architectural detail shall be incorporated on the upper floors of the east elevation, closest to 4th St SE, subject to review and approval by CPED-Planning staff.

Staff Widmeier presented the staff report.

President Motzenbecker opened the public hearing.

Kelly Doran (7803 Glenroy Rd, Bloomington) [not on sign-in sheet]: We have reviewed the staff report and recommendations and we concur with the recommendations and their conditions. We have provided for your review and consideration, additional findings and we would respectfully request that those be added to the findings and be part of the record. In respect for your time and because you've looked at this project before and there is an extensive amount of paperwork on this, I'm just going to ask David Graham of ESG Architects to come up for a moment and do a very brief overview of the project architecturally for you.

David Graham [not on sign-in sheets]: I will keep this brief and give you some of the highlights of the design.

President Motzenbecker: And maybe highlight the changes.

David Graham: I'd like to start by referencing the site plan. One of the key things that we did is to step the building back 34 feet from the easterly property line, which does a number of things that I will show you in the massing. It makes the building much more slender and actually steps the building massing back from north to south. We think, because of this situation, it has actually improved the design because of that massing modification. At the Committee of the Whole meeting, we had a lot of really good suggestions about material and I wanted to just make sure that we reviewed those. This particular rendering, which is looking at 15th and 4th, towards the gateway to the University, you can see at the base of the building we're going to use cast stone to create a very urban, high quality base and then a number of cast stone and brick elements along the base to animate the street level. Moving up the main facades of the building, we're committed to and want to use high quality materials including a modular face brick of different shapes and again cast stone and cast stone cornices. Really, a 50 to 100 year building depending on our outlook. A timeless, high quality piece of urban architecture that really adds to the streetscape. One other element that we'll talk about is the glazing at the corner. We wanted to light the building up so that at night these individual dwelling units, as opposed to just punched openings actually have these glowing lanterns that serve as a beacon to sort of call out the student aspect and activity within the building. Looking north from University along 15th, you can see the Dinkydome in the foreground. We have reduced the width of this façade so it has gotten more elegant. It is two stories taller but we think the proportion of the building and the materials are much improved over what was there before because of stepping this leg back from east to west. We want to highlight that all the primary facades of this, because you are going to see it, are cast stone, masonry and larger expanses of glass and transparency are some of the key architectural principals that we think are important. This particular view is coming the new stadium and we believe that over the long haul there's going to be higher density, mixed-use buildings along 4th that will hopefully continue what we're suggesting which is active streetscape transparency and streetscape activities because it's all about the activity along the street. In the meantime, what you can see here is fundamentally a brick and cast stone building. One of the things that we think was a benefit of this new approach is that the wing to the south actually steps back and opens up what was a fairly enclosed courtyard to sun and light. Stepping the massing back so that that southerly piece basically lines up or is even slightly west of the façade of the Dinkydome so we think it creates quite a bit of improvement over what we had before. The key is the street. These are the renderings that we had submitted before, which at the time of approval did have full masonry and we were committed to glass and a lot of elements along the streetscape. Those have stayed fundamentally the same from what was originally approved and they're very important to us that on your left the sidewalk along 15th really make an active pedestrian realm with the plantings, the sidewalk area and then approximately 10 to 12 feet of additional setback

for sitting areas, plantings and then this arcade that we really think will create active streetscape. That's the key thing to this project. The other sketch shows the view along 4th. Again, we're widening the sidewalk, the right-of-way from curb to right-of-ways to about eight feet, we're going to increase that by two feet so there's a 10 foot sidewalk and then an additional eight to 10 feet of arcade underneath to really open up the realm of the sidewalk. In conclusion, it's about the street and how it meets the street. We think the input that we got at the Committee of the Whole was great. We do have some stucco. We've talked about the EFIS stucco debate. There's a little bit that we happen to like because of its lightness and other characteristics, but it's simply…it's a few of the facades in the courtyard. Again, our commitment to how the building meets the street, high quality materials and I just wanted to make sure we got back and make sure you knew that we were listening to you from the Committee of the Whole.

Jim LaValle (7803 Glenroy Rd) [not on sign-in sheet]: I'm just here to see if there are any other questions about the overall project.

President Motzenbecker: I don't see any. Thank you for your attention to our comments. I appreciate that. I like the change in the materials and it looks like…and the change in the design, I think it's a nice building.

Ryan Ahlberg (333 Washington Ave N #317): I represent the adjacent property owner, Northwestern Chi Psi Educational Foundation, Inc. I am an attorney. To start things off, certainly…the one part of this new plan that addresses some of our concerns is the movement of the actual wall of the building, the actual physical wall of the building from our property line. We disagree; we think the reason you've got a second plan in front of you…and if I had the case number I would rattle it off, but it's obviously because we brought litigation in this matter. There's really no other reason why an alternate plan is being proposed. The issues that we do have…my organization has stated this before and we'll state it again, obviously we don't oppose redevelopment in any way. We certainly do support redevelopment, but we think that it has to conform with particular standards and we think that a quasi-judicial standard has to apply in this case and there are still a number of, what we feel, are legitimate issues.

President Motzenbecker: Can you please bring up the issues?

Ryan Ahlberg: I will be happy to do that. The first issue is that the calculation in the staff report of the floor area ratio is in contradiction with the city ordinances. There is a 20 percent bonus that's provided for enclosed parking. That 20 percent bonus applies to the maximum floor area ratio of multiple family dwellings. So it's not of the zoning site as a whole, it's not of the Dinkydome and the new building, it is only that part of the development that covers multiple family dwellings or that involves multiple family dwellings. A multiple family dwelling, according to the ordinances, is a building or a portion of a building. Obviously, only a portion of this building is dedicated to residential uses. Under the ordinance 548.130, we believe that, essentially, the calculation in the staff report is in violation of the ordinances. The second issue is that the minimum lot area variance is improperly calculated. Basically, what you've got working here are two things; you've got a minimum lot area per dwelling unit that's stated in square footage. You also have a bonus that increases the number of units. Those are two completely different things. What the ordinances allow is in the CA3 zone there's a minimum lot area per dwelling unit of 400 square feet. I think as a previous record, even on the old application show, you basically take the entire lot that's at issue here, which is one acre, and it's the four city lots that are now owned by Doran University, LLC and their total square footage is 43, 560. When

that's divided by 400 square feet, you arrive at 108 and the actual number is 108.9, again, previous correspondence and previous public records tend to show that the city rounds down when it comes to whole units. Janelle can perhaps help me with this, but our understanding is that the bonuses in terms of the number of units are 108 multiplied by the 20 percent factor, which is .2, which equals 21 and so the two bonuses are 42 units. Janelle, can you confirm that that's how the bonuses are calculated? I don't know if you want to have her come up and have her put it on record. We would appreciate that.

Staff Widmeier: That is correct.

Ryan Ahlberg: Essentially, you have bonuses here of 42 units. The bonuses are something that's different from a variance. It's different from the general calculation of what the minimum lot area per dwelling unit is. You really can't compare adding a unit as a bonus to changing the square footage; it's not logical to combine those two things. When you take the variance, which allows for a reduction in the minimum lot area of up to 30%, that's the maximum that the ordinance allows, it's in the top three of the variances that are allowed under 525.120, I know that's 525, it allows the 30 percent. Even if you give this development their 30 percent, that would mean that they get 280 square feet as a minimum lot area per dwelling unit, that's fine. Once that's allowed, that allows, and you can see the calculation, 43, 560 divided by 280 is 155. Once you add in the density bonuses of 42, you come to 197 allowed units, that's it. So, the maximum number of units that are acceptable for this development is 197 dwelling units. The other issue that we have, in all sorts of correspondence and in various parts of the record, both in the previous application and in the current application, everyone talks about the Dinkydome being a landmark and the Dinkydome being historic. A number of the commissioners mention that and talked about density transfers and types of historical land use and transfer of developer rights and other issues that are, according to the ordinances, they are only applicable to designated historic properties or properties that are in an interim situation. It was described at the first Planning Commission meeting on June 16 that the current property is a historic resource, that has a definition in the ordinances. What that means is that the building cannot just be torn down, the Planning Commission has to approve a demolition permit and if the Planning Commission believes, which they've already indicated that they do, it's a historic resource, then the building goes through a process in front of the Historic Preservation Commission. Our issue, we basically feel that this development project has been given what essentially is the status of a historical property, of a designated historical property. It's not a designated historic property. I can't nominate it. If I could, I would have nominated it the when I first heard about this project; I can't do it. What we want to know, is we want to know what the reasonable explanation is for why this property has not been nominated. I guess I'd like to ask that question to Ms. Widmeier again.

Staff Widmeier: I have not been involved in the discussions with the applicant and the staff that would proceed with the nomination. The applicant can pursue the nomination and they can provide more information on that if they intend to do so. As far as I know it's not on the staff's work plan to pursue this right now. It could be done in the future.

President Motzenbecker: Mr. Ahlberg, that might be a better question for the Historic Preservation Commission staff as opposed to our…because you're asking a question why it hasn't been and that's not our purview.

Ryan Ahlberg: I understand it's not your purview.

President Motzenbecker: So we can't answer your question.

Ryan Ahlberg: But the question wasn't answered. The question is, and I don't know if there is anyone from City staff…the question wasn't whether the developer's going to do it or not or the property owner, the question is, City staff says it's not, but why is it not? I mean why? The question is why? Why is it not being nominated? Why has it not been nominated? If it does have all of these historic qualities, how come it hasn't been nominated? Why are other properties nominated and this one has not been nominated? The reason the question is in front of you is because City staff…we don't go to meetings, we don't get invited to Committee of the Whole meetings, the only time I've gotten any notice of any agenda of a Committee of the Whole meeting where any of this could be brought up really is when the developer invited us. We don't get that information from the city. We need to know from the city what the reasonable explanation for the discrepancy, which is you've got a historic building, or what everyone says is a historic building, you all call it historic and yet…

President Motzenbecker: Can you help me out here one second? You want to know why it's considered historic.

Ryan Ahlberg: Right.

President Motzenbecker: Can you help me then see what that answer is going to help you with as regards to this property, as regards to these specific applications before us. Play with me like I'm five.

Ryan Ahlberg: We feel, and ultimately, even though this is a commission, this is still a City proceeding. The City is one big thing. We deserve an explanation from the City staff. Ms. Widmeier wrote the application and if you go back to the previous land use request, somebody else…there's a preliminary sheet and it says that the property is not going to be nominated.

President Motzenbecker: Why is this important to you? That's what I need to hear from you. We'll answer the question as best we can, given the expertise we have here today, but why is it important?

Ryan Ahlberg: Because we believe that it is an unreasonable action; unreasonable action for the City of Minneapolis to not put this property through Historic Preservation Commission.

President Motzenbecker: Perfect, that's what I needed to know.

Ryan Ahlberg: We need an answer.

President Motzenbecker: Jason, do you have a clarification that could Mr. Ahlberg with his question.

Staff Wittenberg: I'm afraid I can't significantly expand on Ms. Widmeier's response. We have hundreds of potential historic resources in the city. If we were to increase our staff fivefold we may be able to get to nominating each of those for preservation and study their historic merit, but that's not where we're at.

Commissioner Williams: I'm trying to understand the connection here. If I understand the connection that you're really asking, is why is this property able to propose building 214 dwelling units instead of 197 that you suggest would be the maximum. Everything else that I'm hearing you say is because it's not our role here on the Commission to nominate properties for historic, nor is it our role [tape ended]…which why they are not nominated. Our role is to address what is before us. Perhaps if you were asking the question in terms of are unreasonable exceptions being made to this property when we allow them to propose 214 units instead of 197.

Ryan Ahlberg: Thank you for the question. The 114 versus 197, our position as an organization is that that 197 units is the maximum allowable by law. That is completely aside from the historic issue. That is just a separate bullet point for the commission to consider.

Commissioner Williams: But you were asking us about why it's not on the historic register, that's not an issue that can rightfully come before us. I'm not prepared to debate that issue.

President Motzenbecker: That is correct.

Ryan Ahlberg: That's understandable, but…

President Motzenbecker: With that, I'm not going to belabor this point. I think we've made it clear that it's not our issue with Historic Preservation. We can't answer your question. Mr. Ahlberg, if you have some final points that you'd like to make, I'd like you to address those please so we can begin the deliberations or offer other people opportunities to speak.

Ryan Ahlberg: I'm happy to move off of the point. I am going to finish what the issue is though.

President Motzenbecker: Please do, quickly.

Ryan Ahlberg: It is understood. This is the public forum that's been given to my organization to bring up any point whatsoever at all.

President Motzenbecker: Absolutely.

Ryan Ahlberg: The fact that this building, and I understand that you perhaps can't have an answer on this today, but I think to the Commissioners that are sitting, there's no reason why the answer can't be provided. All you have to do is continue it, talk to a staff member who can explain why this property hasn't been designated. It should be in the staff report when you're talking about a property that is "historic." What's going on here is a roundabout of the Historic Preservation Commission, which is made up of 11 members who have significant background on historic properties. The citizens of this city and the property owners of this city, deserve to have properties that are historic treated the same. To say that there's a hundred other properties out there and we can't get to them all when you're talking about this type of property and this kind of money that's going into this project, that's ridiculous. I'll move on. Another question that we had for Ms. Widmeier is why is the new building being considered an addition to the Dinkydome? It's three or four times the size of the Dinkydome, it's not really an addition. We want to know why that's a reasonable issue.

Staff Wittenberg: Any construction that would be attached to an existing structure would be something that we would consider an addition, regardless of the size.

Ryan Ahlberg: Next issue is, I don't think that this application is properly before the Commission. Our question is, who from the City verified whether or not the applicant has legal or equitable interest in the property?

Commissioner Schiff: I would encourage us to just let the speaker finish his testimony to us and not attempt to use City staff as pawns in his churlish behavior and we can address any issues that we feel need to be addressed when he's finished.

President Motzenbecker: Sounds good to me. Thank you for that. Mr. Ahlberg, you may continue.

Ryan Ahlberg: I'm going to repeat the question. We need to know whether or not there is a legal or equitable interest in the property. It's a requirement to apply for a variance that a property that someone with a legal or equitable interest in the property…somebody has to have a legal or equitable interest in a particular property to apply for a variance. If it can be explained by the City, great, we're done with the question, if it's true. If it's not, then the application is not properly before the Commission.

President Motzenbecker: Ok, continue with your questions and we'll address them when you're done with your list.

Ryan Ahlberg: There is absolutely nothing, nothing at all, that has limited the construction on this project according to the first plan. There is nothing there. The Commission and the City and the people of this city are being gamed because this project was dense to begin with and it's obviously a lot denser now. The reason that it's denser, in our opinion, because the developer needs more money, needs to create more revenue. It's not a valid reason to grant a variance. There has been no construction halted by any court, by the City, by anybody. The application, the original application, can proceed along and they can built it, there's nothing preventing it. If you go and look at this letter that's dated November 14, what you realize is that all of this additional density and these additional variances, they are motivated solely by the cost. If there is any question, it absolutely is 100 percent on the owner of the property, which is Doran University, LLC. The fact that additional density would be granted, what's the reason? The reasons what were given for why this project is here are not valid. The reason this proposal is in front of you tonight is because we filed litigation, as is our right. Perhaps it's made it more expensive. It's been very expensive for my organization too. We're sticking up for our rights. Why do they get additional increases in density to pay for all of their costs and how do you determine if they're paying for construction costs? How do you even determine if they're paying for anything that has anything to do with the Dinkydome?

President Motzenbecker: Ok, I'm going to ask you to finalize your comments, please.

Ryan Ahlberg: So, there's no restrictions. There's no separation in their new report. There's absolutely no separation. We really haven't gotten very good separation at all of the cost of the Dinkydome versus the cost of building the building.

President Motzenbecker: Costs are not before us.

Ryan Ahlberg: Why are costs not before you?

President Motzenbecker: That is not something we decide upon.

Ryan Ahlberg: You don't decide upon cost?

President Motzenbecker: No.

Ryan Ahlberg: You don't consider economic things at all? You don't consider economic cost when deciding on a variance? Can you say that?

President Motzenbecker: We don't.

Ryan Ahlberg: You don't consider economic cost when deciding on a variance? Say it one more time, please.

President Motzenbecker: I'm going to ask you, Mr. Ahlberg, to sit. It is the rule of the president that I can limit testimony at any time and I think we've heard your point of view adequately and extensively and we would appreciate to hear from others who might have things to say on this project. Thank you very much.

Ryan Ahlberg: You're very welcome. Thank you very much for your time.

Michael Katch (111 Marquette Ave S) [not on sign-in sheet]: It's very strange for me to come up here and speak on behalf of a developer, but there is a need for student housing at the University of Minnesota. Also, this project is on a transportation corridor, which should mitigate some of the parking need. We have a need to keep Marcy Holmes less dense and keep the density on these corridors so hopefully this will alleviate that problem. Thank you.

Michael Hoenie (1500 4th St SE): We own the sub shop Erbert & Gerberts and we're all for the project and we're just excited for it to hopefully get started so construction doesn't get delayed and in the end cost small business owners money.

Bruce Malkerson (1900 US Bank Plaza): I'm the attorney for the applicant. We agree with the staff report. We agree with the conditions. We believe that the findings that were drafted by staff are supported by the record. We, however, believe that additional findings should be made, which we set forth in our letter to the Planning Commission. I believe those findings are needed because I think that Minnesota case law asks you to provide for more detailed findings. I believe the record supports each of those detailed findings and we ask that you do make those findings. Finally, I do ask that you allow Mr. Ahlberg more of an opportunity to speak if he speaks within the protocol of your Planning Commission and if he speaks to the issues. I think he has a right to make factual arguments in front of you, to ask questions, to make short legal arguments and I would ask that he be given a reasonable time period to finish any comments that he might have. If, in fact, he does still have more comments, I would like to reserve the opportunity to speak to them also. Thank you.

Commissioner Norkus-Crampton: I understand there was an attempt to move the massing of the building away from the east property line, in part to accommodate the concerns of the people next door, is that correct?

Bruce Malkerson: Yes.

Commissioner Norkus-Crampton: You're moving the massing around, but why such an increase in the FAR then? To move that around doesn't necessarily call for an increase in units or an increase in massing, it requires moving the massing around. Can you explain the hardship for the variance for that…

Bruce Malkerson: Although as a lawyer I could do that, I think it's better if one of the developer's architects is the one to do so. Thank you.

Kelly Doran: We provided that detail in some of the written analysis that we provided to you, but to summarize that, the amount of square footage that was reduced from the building in levels two through 12 from the previous proposal, in order to make that density up, it requires more than one floor addition. It doesn't make any sense whatsoever to add a partial floor. It's economically not feasible with all the cost of vertical transportation and all the other things. We did this in a good faith attempt to try to address the concerns of the fraternity next door. Obviously, we still have some work to do. We're hopeful that over time we'll be able to address those concerns.

Ryan Ahlberg: I have been working on this and I have in every single iota of my being as an attorney that's licensed in the state of Minnesota to present relevant arguments on this land use and we are being ignored. I spent hours reviewing possible arguments that are bad. I spent hours today running numbers on FAR and on minimum lot area and reviewing the ordinances so that the two arguments that we present were legitimate arguments. You said it yourself, you don't consider cost, it's a mistake. To accept the additional findings, go ahead, accept them at your peril. Obviously I haven't reviewed those additional findings because it has not been made available except for the 15 minutes I had outside of the hearing room to look at the letter. To say that we're the only ones that are playing the legal game here is preposterous. That's exactly what's going on out in that big white book, that there's only one copy of, out in the hallway. To adopt findings, most likely written by other attorneys that don't work for the city, is probably unreasonable. The reason that this project is so dense is because of cost and cost alone. Findings are insufficient to support the variances. This project has significant detrimental effect on our property, our use of it, it already has. We have to deal with the phone company moving poles from essentially off of our property on to our property, we have to deal with…traditionally we've had a driveway that's been reduced. We are trying in good faith to negotiate and come to a resolution on this, but what's going on is not fair. The other thing that I put in is if you go out and look in the book, it says something about the University supporting it and there are correspondence about support from the University. I've tried to get a hold of Susan Carlson Weinberg; she did not return my call. The information that is out publicly from the person that recently talked to someone from the University is that they don't necessarily support everything. If they did support it, someone would be here. If it was supported, perhaps a new letter would have been written instead of the letter that was written nine months ago. I don't think support of the University should be considered when the Commission considers things. The building can't be torn down. If City staff's taken at their word from the previous hearing, the Dinkydome is a historic resource, which means that it can't just be torn down. The argument that if they don't get all the density they want, the thing is going to get torn down is not a valid argument in our opinion, because it's not. We just see strong arm and that's it. We have done everything we can to work with everybody. I don't get the agenda. I don't know when you are discussing this in Committee of the Whole.

President Motzenbecker: Those are not agendas that are sent out; they are publicly posted on the City website.

Ryan Ahlberg: I looked on the City website and I couldn't find it the day I got word of it.

President Motzenbecker: The agendas aren't posted, the meetings are posted.

Ryan Ahlberg: We have no idea when the Commission is going to talk about things so this is the only opportunity we've got to discuss things.

President Motzenbecker: I think we've got that and I am thankful to Mr. Malkerson and thankful to you to come back up and offer your opinions in a kindler, gentler manner. We appreciate that.

Ryan Ahlberg: You're very welcome.

President Motzenbecker closed the public hearing.

Commissioner Nordyke: I'm going to move staff recommendation on A (LaShomb seconded). I'm assuming that the staff would be chiming in if the staff felt that there were some merit to the discussion about the FAR violations or the minimum lot area variances and these sorts of things that the attorney for Psi Chi brought up. Can we have a brief response to that please?

Staff Wittenberg: I will just say that Ms. Widmeier has done all of her calculations correctly and in a manner that is consistent dating back to the adoption of the zoning code.

Commissioner Nordyke: The applicant has said that they have come back to us with regard to a few more stories in response to their discussions with the neighbor; I assume that means the gentleman that was just up speaking so those discussions have not born fruit I take it? One wonders why you proceed with trying to placate them in the face of what we just saw tonight, but I do have a question about the historic nomination process. I recall in our discussion last time that I was trying to draw a connection between what I was being told were some accommodations we were making to the overall project in the interest of the preservation of the Dinkydome. Director Sporlein did indicate that there are processes, that the Dinkydome is under some kind of historic designation right now, whether it's the district or the building itself, is that true?

Staff Wittenberg: The building itself is not designated. I believe it's referred to as a potential historic resource, but it is not in a district or is not individually designated at this time.

Commissioner Nordyke: My question of Director Sporlein last time when we were talking about this is when we go ahead and grant these concessions, if you will, for the overall project in order to preserve the Dinkydome, what is to keep them from simply doing something with the Dinkydome in the next year or two? I remember distinctly being told that they would have to go through demolition process, etcetera, that involved Historic Preservation, now I'm beginning to hear that that is not exactly true.

Staff Wittenberg: Based on what you just said, it is true that regardless of whether it's designated, in order to demolish a potential historic resource you do have to before the Heritage Preservation Commission. That piece is accurate.

Commissioner Nordyke: If I remember correctly, we cannot require them to go ahead and nominate this for the register. I don't know if it would comply at all, I know nothing about the history of it, but we can't do that as part of any part of our conditional uses on this?

Staff Wittenberg: I would not advise that as part of the applications in front you. The preservation ordinance does list the individuals who can apply for nomination and that includes anyone with a legal or equitable interest in the property so the applicant could apply to have it designated if they chose.

Commissioner Nordyke: So you're saying our requiring the applicant to do that would, in essence, be interpreted as us doing it?

Staff Wittenberg: It seems like it would have that affect.

Commissioner LaShomb: I didn't like this project the last time it was here. Three of us voted to deny it and there were only five people voting. My major reason was, it isn't that I don't like this project, I really do like this project in a lot of ways, I just don't like where it is. I think this is not in character with the neighborhood that it's in. I think it's going to be a very tall building with fraternity row on one side and Dinkytown on the other. I wish the day after we denied it at the Planning Commission; I said to myself that I wish they had built this building over in Stadium Village where they have all the tall buildings already. The Zoning and Planning Committee decided it was going to be built and I don't agree with that, but that was their decision. It would be a little hard for me to support this because I don't think that making building bigger and adding more units and adding more bedrooms makes it less of a burden on the community that it's in so I am going to have to not support this, but I have a feeling that it's going to leave here with an approval. Maybe I'm wrong, but I would like to make an amendment and that is I would like to reduce the number of dwelling units from 214 to 198 and reduce the height of this building from 15 to 12. I'm hearing numbers about height thrown around a little bit, simply because I think we're going to send this forward again and I think we should at least try to minimize the damage that's going to be caused. I think there will be additional damage, shadow issues, I think it's an issue of character for the community. I wouldn't build it all, personally. I'd like to bring it back to where it was before.

President Motzenbecker: Can you clarify for us where you're getting your numbers.

Commissioner LaShomb: It says under the recommended motion a conditional use permit to allow 214 dwelling units and I would amend that to 198.

President Motzenbecker: But why?

Commissioner LaShomb: Because I think the additional height is even less in character with the neighborhood than 198, which was approved by City Council on the basis at that time that the people in Dinkytown thought that was an appropriate height. Maybe they didn't address it in terms of height or use of the units. I just think that what's happening here in my mind is that there's kind of a double whammy where of "well, we had to change the building to comply with some issue that we were dealing with in the neighborhood." Somehow that also allows us to make it taller and bigger. I just don't like that logic. My other comment, in my six and a half years on the Planning Commission, we've had lot of attorneys come in and say that we should add certain things to the record and that's fine, you can make all those recommendations, but I think the staff

record is complete. I'm going to hold up the road if it comes to adding conditions or findings simply because I don't think it's our task. Our job is to use what the staff tells us about this project to make a rational decision and to weigh the testimony. If you wish to submit those findings and other things into the record, that's fine with me, but I don't think we ought to get into the middle of some litigation issue by agreeing to one side or the others opinion about findings.

President Motzenbecker: Is there a second for the amendment?

Commissioner Nordyke: Would simply a denial of this application…does our action on this application nullify action on the previous application by the City Council?

Commissioner LaShomb: Well, it's a new application so, yes. Let me take that back, procedurally, no, I think that if this didn't go anywhere they still have the right to build the building.

Commission Nordyke: From the standpoint of that amendment, I don't see the difference between offering that amendment and simply voting no on the conditional use.

Commissioner LaShomb: I think the fundamental difference is that this action is going to replace the previous decision. My fear is that if this goes forward at 214, they clearly have no incentive to go back to their previous authorization and I want them to go back to their previous authorization of 198 because I think 214 and 15 stories is egregious to that community than the original decision, which I didn't agree with at the time either. Does that make sense?

President Motzenbecker: Do I have a second? Hearing none, the original motion is before us.

Commissioner Gorecki: That particular corner of 15th and 4th has had more businesses in it, different businesses over a lifetime, basically because it's an island. It has a sea of surface parking around it, it's not engaging at all. Being that close to the University with that kind of traffic you would think that any business would make it. It goes a long ways to say when you're an island, you sometimes struggle making it. My overall comment is that I really applaud the design and how it's integrating the street front all the way around the building, both on 15th and 4th. I think whenever we have an opportunity to remove a dark questionably dangerous surface parking lot; I think we should take advantage of it, especially when we're bringing good quality housing to the University area. I do like the aspect that this does become a gateway to the University of Minnesota along 15th and I applaud that design and I applaud the type of materials that are being used in the overall design. I like the Dinkydome in the front and I like how the building is stepped back as well. My last comment is the fact that the Dinkydome has been in horrible disrepair for a number of years and to see that particular building come back is a great asset to not only the city but to the development as well.

Commissioner Norkus-Crampton: I guess to bring some of the new people up to speed a little bit about some of the other issues that came up with the original proposal that are still germane to this one is that this site is surrounded by a lot of historically designated. Also, the Marcy Holmes Plan and some of the things trying to govern land use with, and Dinkytown also talk about one to four stories, trying to maintain a small town feeling within there, that type of thing. When this project first came to us as a 12 story project, my first concern was that it was hard for me to consider it infill when it really didn't seem to go with anything nor was that context going to

change, at least on fraternity row, because it's two and a half story mansions that are all historically designated. The other thing that concerns me with the height and massing, this CUP wouldn't be possible without approving the variances and the variances, increasing the height and massing even more than previously and more than would be justified just by moving the massing around to accommodate the fraternity house to the east of the property, that doesn't add up to me. I'm not really hearing a hardship besides financial hardship for that. The other is that I really don't see height and massing as just sort of a theoretical issue or a character issue. If you look at the shadowing studies and what this property is going to be shadowing from March to September, the bus stop kitty corner from this area, this is a major transit area in front of McDonalds there, that is the major transit corner. When I was in college I lived a block from there so I used this area all the time. It's completely open to downtown because it's up on that bridge so the wind patterns are really pretty harsh up there. If you really look at the shadowing studies from basically September to March, it's pretty significant shadowing, especially with the massing of this building. We have talked about that more within the updated Comprehensive plan going along with some of our Winter Cities requirements and some of the other considerations that we try to do to make these pedestrian realms more pleasant, to make transit more usable. We're not talking about increasing any sort of transit use or service in this area. We know that the light rail is going down Washington. Basically, people are going to be using what's here and I think what we should strive to do is make sure that what we're adding to the mix makes that more possible and makes that closer to our goals as far as increasing that type of use and making transit use and biking use, and just simply walking, more pleasant on the streets 12 months out of the year. It is the fall, winter and spring that students are here mostly. The other thing I would say as far as widening the sidewalks on the north side of the property, that's a nice gesture and is certainly helpful but all winter long and from September through March that's basically going to be shadowed and stuff again. If I really think about what people have liked about Dinkytown it's that it feels like a little small town, it's a walkable community, there's a lot of appeal there, there's a lot of curb appeal and there are more businesses there that are attracting not only students but people from all over. I think there are ways of accommodating reasonable amounts of density that wouldn't have the impact that this project causes and certainly asking for increase in density and increase in height as a result of trying to accommodate the neighbors which we would normally expect out of any project of this scale is a little over the top. I won't be supporting this conditional use permit.

Commissioner Luepke-Pier: I will be supporting it. I feel like when I look at the shadowing studies from March through September, the shadowing to the street to the pedestrian level would be consistent whether it was a four story building or whether it was a 12 story building or whether it was whatnot. If you look further down the street, every other building along that street front has the same shadowing effect on the sidewalk, the street and the opposing sidewalk. Making the building any shorter is not going to have any effect on the pedestrian realm whatsoever. I do, however, think that the concessions made by changing the massing, I don't really see it as an increase in massing since they shifted mass from outward to upward, I see it as an increase in height not an increase in massing. To me, the proportions of the building were greatly improved. It actually seems a lot lighter and less imposing on the site than if it was a big, clunky, big box taking up the entirety of this parcel of land. In addition, I feel that that is something that was made as a goodwill gesture to the neighbors even though they seem to not be quite as appreciative of that concession, it still having an affect on their parcel of land in a positive land, whereas if we force them to squish the building down and therefore increasing the width of the building, it would have more of a shadowing effect and more of an imposing sense on the adjacent property owner. I think this offers a lot to the community. I think it offers a lot in terms of the University

neighborhood not just the adjacent fraternity row or Marcy Holmes, but in terms of the fact that it will take density a little bit out of the more single family residential aspects of Marcy Holmes and kind of bring it closer to the University where we have about 50,000 students on campus and how many of them are they trying to have actually reside on campus to make it more pedestrian friendly. To me, this is a perfect case where more density is needed and has been handled quite appropriately. So, I will be supporting this.

Commissioner Nordyke: If we approve the applications tonight as requested and recommended by staff, does that give them two different options in hand to move forward with or does one negate the other?

Staff Wittenberg: I'd say with an approval of this project that you have in front of you today, we would say that the most recent proposal replaces the proposal that had been previously approved by the City Council. That could change if they were to withdraw their approval prior to the appeal period or through their appeal period or something like that. I think we would consider this as replacing. I don't think we would let the applicant pick or choose which approved plan they actually wanted to construct.

President Motzenbecker: I will also be supporting this. I think there's a little trying to hard to not put this here. Some of the shadowing, I agree with Commissioner Luepke-Pier, it's very inconsequential, height doesn't really make a difference on what gets shadowed along that space. I came to the same conclusion. The Marcy Holmes plan, technically, it's not in Marcy Holmes, it's across the street. While we are respecting those issues, I think a lot of the issues that are present in that plan don't necessarily relate to this particular parcel of land. I also want to say, part of our mission is to uphold and look at comprehensive planning. Comprehensive planning looks at future character as well as current character. You're setting the vision and you're pushing things towards the future. All along Washington there is high buildings, dense buildings on the University campus. The new stadium, all that end of campus, is very dense. As you drive down 4th you have a very great street feeling as you're going down there and it actually dissipates and becomes disjointed when you get to 4th because that stuff isn't there. I would think this would contribute much more strongly to creating that sense of character along 4th Street. Sixteen units, are we going to argue over 16 units? Two stories, the Chateau is 18 stories, that's two blocks away. I'm just really fascinated by why vehemently we're kind of going after this. I think it's an outstanding project, it needs to go there, it is providing great residential for the University that needs it, it's rehabilitating the Dinkydome in the process, they've listened to us kindly and looked at new materials, trying to push the pedestrian realm and so many more other comprehensive planning pieces that are going to contribute to making this a vital neighborhood. I'm going to call the question for this, CUP development for 214 dwelling units, staff recommendation that's before us to approve. All those in favor? Opposed?

The motion carried 5-2 with 2 abstentions.

Commissioner Nordyke: I would like to move staff recommendation on B (Gorecki seconded). One of the reasons I voted against this project last time is because it does fall a little bit in a gap with regard to some of the neighborhood processes and policies that we have. I thought it was appropriate to have a broader citywide discussion on it; I feel that discussion has happened. I agree with some of the discussions, but I feel even with the additional floor, this is still in context of a discuss that has happened on a citywide basis and been resolved.

President Motzenbecker: All those in favor? Opposed?

The motion carried 5-2 with 2 abstentions.

Commissioner Nordyke: I am going to move C-G as per staff recommendation (Gorecki seconded).

President Motzenbecker: All those in favor? Opposed?

The motion carried 6-1 with 2 abstentions.

Commissioner Nordyke: I will move H as per staff recommendation (Gorecki seconded).

Commissioner Schiff: I just want to recommend additional architectural detailing on the upper floors from the portion of the building looking west along 4th St SE. I think that would help break up the massing more and be more consistent with design guidelines that we've adopted in some of our small area plans to help break buildings up and call attention to the upper floors.

Commissioner Nordyke: What façade is that?

Commissioner Schiff: Eastern façade.

President Motzenbecker: All those in favor? Opposed?

The motion carried 6-1 with 2 abstentions.