



**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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MEMORANDUM

DATE: July 13, 2004

TO: Blake Graham, Community Planning & Economic Development - Planning Div.
Phil Schliesman, Licenses

FROM: Neil Anderson, Supervisor, Community Planning & Economic Development -
Planning Division, Development Services

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

SUBJECT: Planning Commission decisions of July 12, 2004

The following actions were taken by the Planning Commission on July 12, 2004. 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:

ATTENDANCE

President Martin, G. Johnson, Krause, Krueger, Kummer, LaShomb, MacKenzie, and Schiff – 8

CONSENT AGENDA –Committee of the Whole

None.

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

10. Matthew Knopp (BZZ-1749, Ward 10)

3150 Harriet Avenue South (Fred Neet) *This item was continued from the June 7, 2004 meeting.*

A. Rezoning

Application by Matthew Knopp to rezone 3150 Harriet Avenue South from R2B to R5.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **deny** the application to rezone 3150 Harriet Avenue South from R2B to R5

B. Variance

Application by Matthew Knopp for a variance to reduce the minimum lot area from 5000 square feet to 4000 at 3150 Harriet Avenue South.

Motion: The City Planning Commission **continued** the application to reduce the minimum lot area from 5000 to 4000 square feet for the property at 3150 Harriet Avenue South to July 26, 2004.

C. Variance

Application by Matthew Knopp for a variance to provide one parking space within 6 feet of a residence at 3150 Harriet Avenue South.

Motion: The City Planning Commission **continued** the application to allow a parking space within six feet of a residence at 3150 Harriet Avenue South to July 26, 2004.

D. Certificate of Nonconforming Use

Application by Matthew Knopp for a Nonconforming Use Certificate for four dwelling units at 3150 Harriet Avenue South.

Motion: The City Planning Commission **continued** the Nonconforming Use Certificate for four dwelling units at 3150 Harriet Avenue South to July 26, 2004.

Staff Fred Neet presented the staff report. He noted that there was an alternate address with a separate listing for this property on 32nd Street West in Polk Directory records, but that staff does not have the documentation for that.

Commission President Martin: Fred, I want you to go back and reiterate or clarify something you said at the beginning. All of the surrounding properties, which range in density from 4 to 17 units you said? Are all zoned R2B?

Staff Neet: Those are all zoned R2B if the photograph can come up, I have indicated the number of units. This is the subject property, so we've got 5, 4, 4, 4, 17 (which is within view of this property, no parking on site), and 15 down here.

Commission President Martin: Commissioners, we already had a public hearing on this and closed it, so unless there's some reason to hear from anybody about anything that's unclear, I'm not going to open the public hearing.

Staff Neet: Unless the applicant has some more information. He just got back from vacation.

President Martin opened the public hearing for the nonconforming use certificate.

Matthew Knopp (applicant): These are all my original notes. I went to the library right away after you asked me to go down there and check those Polk records and as Mr. Neet says, it's pretty inconvenient, I have to take time off of work and I've got a new hire, and I've got an issue due, so I went down there right away and did it. I didn't copy the, I checked a couple of the 500's and every time I checked it, it was 1 person, 1 person, 1 person, so I focused on the 3150 aspect of it and I have my original notes and that's how I got that table 1 that I gave you, so if you want, they were only open from like 10 to 1 today. I wanted to try to get down there earlier before the meeting and make those photocopies that show 500 West 32nd Street, but they're only open from 10 to 1 and I couldn't get off work. But I would be happy to go again; it's the Special Collections section of the library and make Xeroxes of any parts of the Polk Directory that you would like. I searched the Polk Directories for 3150 for a lot of years and it's kind of time consuming, I don't mean to complain or anything, but I'm just saying that it was and I've tried to talk to people about what they remember anything there. I don't want to be repetitive, a lot of it's already in that report that I did and I addressed you about a lot of the points last time we met and a lot of these points and the Planning Department's points seem to support, again it's not important to me, I'm not a developer or anything like that, it's my only building, it's a good portion of my net worth and it doesn't make any difference to me whether it's an R5 or a nonconforming use or whatever else. I'm just looking to resolve it. I have not had one neighbor express any concern about it. Every neighbor has been supportive and a lot of the other ones are R2B and they have 4, 5, 17 as Mr. Neet said from my front yard, so I guess I'm being repetitive. I just ask for your support too. Thanks.

Commission President Martin closed the public hearing.

Commissioner Schiff: I have a question for Mr. Knopp. I remember we were hoping to get some more information here by giving you time to find the nonconforming use data and it's not looking real good. Basically, your charge is to find since 1963 at least 4 units have continuously been used. We don't even have proof since 1963 that there have been 3 units continuously used. Is time going to help you at the library to find proof of those extra units?

Matthew Knopp: I think my research is complete on the 3150. The 500, I didn't give you evidence of the 500 because that was 1, 1, 1, 1 every time, so on that table 1 that I provided, it would be plus 1 to each one of those, so that would demonstrate a triplex, triplex. When there's 2, that would demonstrate fourplex, fourplex and as I said, I would be happy to go and get those and you can compare the names-there were no telephone numbers in that Polk Directory but I'd be happy, again, to pull the 500 so that we could get that plus 1.

Commissioner Schiff: Right. Because even if you've applied for 4 units, if you can't find it but you can prove 3, then we can grant 3 for the nonconforming use certificate.

Fred Neet: Three is permitted; it was legally converted to a triplex.

Commissioner Schiff: Three is permitted, so four is the only issue here. I'm going to move to deny the rezoning because that's not going to come alive as an option for us, it would be a spot zoning inconsistent with the neighborhood, but we could consider keeping the nonconforming use alive for another cycle to give him time to do more research (G. Johnson seconded).

The motion carried 7 – 0.

Commissioner moved to continue one cycle the nonconforming use certificate and variances to allow the applicant to do more research regarding the two different addresses (MacKenzie seconded).

Matthew Knopp: I think what remains is for me to take the information that I have now on the address 3150 and add a column for 500 West 32nd Street, is that what you would like me to do?

Commissioner Schiff: Right, and include your supporting data.

The motion carried 7 – 0.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES
June 7, 2004**

MEMORANDUM

DATE: June 9, 2004

TO: Blake Graham, Manager, Community Planning & Economic Development - Planning Division; Phil Schliesman, Licenses

FROM: Neil Anderson, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

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

SUBJECT: Planning Commission decisions of June 7, 2004

The following actions were taken by the Planning Commission on June 7, 2004. 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:

ATTENDANCE

Acting President Hohmann, G. Johnson, Krause, LaShomb, MacKenzie, and Schiff - 6

15. Matthew Knopp (BZZ-1749, Ward 10)

3150 Harriet Avenue South (Fred Neet)

A. Rezoning

Application by Matthew Knopp to rezone 3150 Harriet Avenue South from R2B to R5.

Motion: The City Planning Commission **continued** the application to rezone 3150 Harriet Avenue South from R2B to R5 to July 12, 2004, with the instruction to staff to work with the applicant to apply the fee paid for the rezoning application towards a non-conforming use certificate application.

B. Variance

Application by Matthew Knopp for a variance to reduce the minimum lot area from 5000 square feet to 4000 at 3150 Harriet Avenue South.

Motion: The City Planning Commission **continued** the applications to reduce the minimum lot area from 5000 to 4000 square feet at 3150 Harriet Avenue South to July 12, 2004.

C. Variance

Application by Matthew Knopp for a variance to provide one parking space within 6 feet of a residence at 3150 Harriet Avenue South.

Motion: The City Planning Commission **continued** the applications to allow a parking space within six feet of a residence at 3150 Harriet Avenue South to July 12, 2004.

Staff Fred Neet presented the staff report. He noted a map of nonconforming properties in the area zoned R2B that have more than 2 units and also that the property is a reverse corner lot, and that it was the City that divided two lots into three lots.

Acting Commission President Hohmann: I read in the staff report that the owner didn't feel confident that he could prove the ownership to prove the nonconforming, is that correct?

Staff Neet: He doesn't know when that fourth unit was placed in there. We've talked about that.

President Hohmann: And there aren't public records available to get at that?

Staff Neet: No, it was presumably done by a previous owner illegally. That's all we could find about that. There are two units on the first floor, there's one unit on the second floor and one unit on the third floor, actually a half floor. Even the units on the first floor, one is entered wrong as on 32nd Street, has a 32nd Street address, and the other is entered from Harriet Avenue.

President Hohmann opened the public hearing.

Staff Neet presented two letters that were received the day of the meeting, and also noted other letters in packet of support from neighbors.

Matthew Knopp (applicant, 3150 Harriet Avenue South): I know you have the document that I wrote up and gave to you. So I'll try not to duplicate what's in there. Briefly, this was the first

house I ever bought. I bought it in 1993. When I bought it, it was 4-units. When I bought it on the rental records it showed that there were two few units there. I contacted the people who administer the rental housing license and let them know that there were actually more units than they had on the books there and I changed that and I paid more money and I thought I was taken care of. Then, everything was fine. Then I had a routine rental license inspection, Inspector Joy Parizek. She gave me an order for raising handrails, some painting, some other minor things, I had a lock. But the one thing that of course stuck out and the purpose of my application was that she said that I had to immediately vacate the third floor where I had a tenant who I still had an agreement to provide a living space on the third floor. The order was to tear out the bathroom, tear out the kitchen (and I needed a permit for that). Then she said she would not enforce that order so long as I tried to pursue getting everything legal and right with the City on this property and that's what I'm doing. I called the neighborhood association and asked Norma Pietz and asked if she knew about this and if they had similar things. She had worked with a man named Jason Wittenberg who I called and explained the situation. He suggested that a re-zone was the only way to preserve what was existing there. I made the point to go to the counter and talk with Robb Clarkson, that's all in there; I won't go through it all. We talked about the different options, and again this R5 came up, which I know looks... the conclusion on the report, it does look like a big jump up the zoning food chain, I agree. I don't care, to me the R5 is just what the chart said, and it was a means available to me. If there had been another means that I could preserve my building the way it is then I would have gone for it. The R5 doesn't matter to me – if there was some way you could put a covenant on it, say if it burns down, then it goes back to R2B, I wouldn't have a problem with any of that. I'm not planning on developing, I don't want to sell, and I don't want to do anything with it. There's no concern from my neighbors, in fact, I've gotten along really well with Becky, my next door neighbor, you have letters of support from Becky, then Terri Bennett, Chris Scroggin, Ben Chirslit three doors down, Randy, my next door neighbor on the other side didn't get my notice because I put it in the wrong mailbox and he wasn't able to give me support but he says he has no problem with it. And then with me today is John Irwin, a tenant of mine. He wrote an e-mail to me and he can talk more about the building and I have letters in there from two more tenants saying the building is not a parking problem. Well, I understand the parking requirement given the zoning, but there's no congestion, there's no loud noise. Since I've owned the building, there have been no complaints, police visits or anything else. So I'm asking you support my application. It preserves just what's there, it doesn't add to the structure or expand use in any way from what's there. This is my principal residence – I don't live there right now, I moved out when I got married. It still shows homestead there, I contacted them twice to change the homestead, and I don't know why they haven't as they keep saying they will. The R5, I know that seems to be the problem is the R5 designation. I can stand in my front yard and a half block there is a 17-unit building right there, all along Garfield, those are multi-units and those are zoned R2B just like mine is so I don't know if that inconsistency, if there is an inconsistency there I guess. And then Mr. Neet provided you with some other buildings in the area because I understand that it is a concern being an R5 and sort of isolated, so it wouldn't be that isolated as there is quite a bit around there that should be R5 technically speaking. And then on May 24th, I've been contacting my neighborhood and talking to them and a lot of them know me, I'm completely open about what's going on, I have everything posted on the building – May 24th, the neighborhood association voted unanimously with one abstention to approve my application. I've had no negative comments about pursuing what I'm pursuing as of yet. I've given people my telephone number [and] e-mail address. Other points, I'd be happy to answer any questions you might have about me, about my building, or about anything in my application that might be of concern.

John Irvin (3150 Harriet Avenue, 1st floor, apartment A tenant): It's a big house and there's plenty of room for all of us who live there. For the four years that I have lived there, there has been no problems in the neighborhood. As Matt said, you can look out from my front deck and see a big monster, red brick building, so it doesn't feel uncomfortable to live in a big house that there are three other dwellings. On a personal note, what I'm afraid of, if it doesn't get rezoned, and Matt can't keep the house the way it is and continue to make money off of it the way he is, I'm afraid that he will sell it to someone who won't take as good of care of it, then I'll have to find someplace else to live and the neighbors will have to find someone else to get used to. As it is now, as Matt said, all the neighbors know Matt because he lived there. All the tenants know Matt because they live there too and they pay him a check once a month. My fear is that if he is not rezoned that my life will change drastically. I'll have to find someplace else to live. I do like Matt as a landlord and as a person. He makes live easy for me; I try to do the same for him. In the neighborhood we're in, I feel that the way the house is now fits in pretty well. It does not stand out.

Commissioner MacKenzie: Are there no other options here but R5, there's no lesser zoning with a variance to lot area or anything?

Staff Neet: No. Remember the City did create a condition by creating a 4,000 square foot lot. So you have to go all the way up to R5, which still requires 900 square feet, 1,500 square feet, so then you have to get an additional variance for minimum lot side from 5,000 to 4,000.

Commissioner MacKenzie: I'm just very troubled by this because it's very uncomfortable to do a rezoning of this nature, but this is clearly an existing condition that works well in terms of the shape of the existing structure, it can accommodate the number of units, but it's very difficult policy-wise to approve the rezoning, so that's why I asked the question.

Commissioner Schiff: I think there is another option with the nonconforming use certificate. You spoke with staff, and I think I'm reading from your statement that you have occupied the building since 1993, therefore, wouldn't be able to prove that the third floor dwelling unit has been occupied continuously since 1963. We have documents called the Polk directories that go back in history that list and help property owners like yourself when you're caught in this situation. I totally empathize with what you're going through, but as you may have heard, we've got problems with illegal units, and in several neighborhoods serious issues with public safety when students are dying in fires at the University of Minnesota and our licensing and out inspections department is looking very closely at what's a legal unit, what's not an illegal unit and we're finding horror stories where students are getting kicked out of basements that they never should have been living in. There are terrible conditions that we're able to remedy, but we're also finding situations like yours where it's a quality apartment and we don't need to take it out of the housing stock necessarily. So I would suggest that you give it a go at the nonconforming use certificate and try the application. I would propose that we postpone this two cycles and give you the opportunity and I'll even suggest that we waive the fees and allow the fee that you've paid towards it although staff may not like that idea. And just give you an opportunity to try the nonconforming use certificate. That goes to the Zoning Board of Adjustments and I think you'd have a pretty good chance of having that approved.

[Comment, off microphone]: That could come here.

Commissioner Schiff: OK. Can we waive the fee or is that tons of paperwork.

Staff Anderson: I don't know what the fee is at this point, but basically we could suggest a fee, I don't think that would be an issue.

Commissioner MacKenzie seconded.

The motion carried 5-0.

15. Marcos Bekuto Restaurant (BZZ-1808, Ward 1)

2401, 2403 and 2405 Central Avenue NE (Becca Farrar)

A. Rezoning

Application by Marcos Bekuto to rezone the properties located at 2401, 2403 and 2405 Central Avenue NE from the C1 (Neighborhood Commercial) district to the C2 (Neighborhood Corridor Commercial) district to allow for general entertainment.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning application from the C1 district to the C2 district for properties located at 2401, 2403 and 2405 Central Avenue NE.

Staff Becca Farrar presented the staff report. She noted that staff's original recommendation to deny the application was primarily due to the applicant's neglect in submitting an application to upgrade his liquor license. Staff had made it clear from the original submission that the applicant must submit an application to modify his liquor licensing to the Licensing department before staff would support the rezoning application. On Friday, July 9, the applicant submitted his application to the Licensing department, and as such, the reasons that staff recommended denial are no longer appropriate or applicable.

President Martin: So you're now recommending approval, or, you're just not recommending denial?

Staff Farrar: We're not necessarily recommending denial. The main reasons and the premise in the report as to why we were recommending denial are no longer appropriate because he did move forward and follow staff's direction on Friday and it was too late to change the staff report by that point and the staff report is more or less a soft denial anyway to try to get him moving toward doing what he needed to do in the first place.

President Martin: OK, then Becca tell us, what is your staff recommendation?

Staff Farrar: I guess staff will move forward with a recommendation to approve the rezoning application.

President Martin: So it was just that one technicality that was a hold up.

Commissioner LaShomb: Well I'm a little confused. What happens if the additional liquor license requirement is not approved by the City, then are we doing this conditional upon upgrading of the liquor license?

Staff Farrar: No, that's not a condition of the staff report, but typically, Planning staff's recommendations for rezoning of a property is that we can't necessarily recommend approval on these applications in sort of like a carte blanche blanket manner. The applicant has to be actually moving toward trying to get the approvals necessary to allow for the general entertainment or those uses that are allowed under the C2 zoning.

Commissioner LaShomb: Well I'm having a little trouble understanding which end of this wagon the horse is being put on. Wouldn't it be more appropriate to wait until the liquor license is upgraded before we approve the zoning, or is the City going to say, well, you don't have the zoning, so therefore we're not going to upgrade the liquor... I mean, what am I missing in this?

Staff Neil Anderson: Just a couple of things Commissioner LaShomb. Number one, we can't condition rezoning. It's either up or down on that. The other thing is my understanding from the Licensing Department is that they will not issue a license until the zoning is in place, is that correct, Becca?

Staff Farrar: That's correct.

Staff Neil Anderson: So, it's like a catch-22 here. The reason for the denial is no longer appropriate because the applicant has made application for a liquor license and that is why our recommendation has changed.

Commissioner Krause: I had a question for staff. Is there any concern about the parking situation? We've got grandfather rights, but we only have 7 spaces. Also, the other concern that I noted in reading the staff report is that there are 12 apartments upstairs. Now they're not requesting extended hours, so they have to close at 10:00, 11 on the weekends. It's also a multi-tenant building, so there may be other activities there and now with presumably with the liquor license approval, we'd have amplified music.

Staff Farrar: That's true. The owner of the building has supported the application, so he's full aware there is going to be general entertainment, he's full aware there will be patron dancing. In terms of the actual parking issues, Zoning staff determined that those rights are grandfathered, and yes, there are the 12 spaces and it's probably inadequate for what exists now, but there is on-street parking along Central Avenue and we really don't have a basis to require any kind of variance for that. It's currently a restaurant. As far as I'm aware, they don't have the liquor license in place to even have the limited entertainment at this point. But, it's still operating much as the applicant would expect it to, even with the upgrade.

Commissioner MacKenzie: Is this area included in the Central Avenue Corridor Plan?

Staff Farrar: It is.

Commissioner MacKenzie: What does the Plan say about this area?

Staff Farrar: There are no specific recommendations for this particular parcel. It's more up the street toward 26th is more where the plan actually focuses, but there are no specific recommendations for these parcels.

Commissioner Schiff: I'm a little confused by staff's reticence to embrace rezoning to C2, because there is C2 immediately to the south and it is a commercial corridor, not a community

corridor and if this property were to be built today, wouldn't we all pat ourselves on the back? Because there would be housing up above a commercial use on a commercial corridor, isn't this what we want? It basically takes the existing building and makes it conforming, and takes the zoning back to how the building is being used, whereas today it's nonconforming.

Staff Farrar: True, I mean we don't have necessarily as much of an issue, and that's why I said the report is more or less a soft denial, it's a practical matter – they hadn't processed the paperwork that needed to be done. In terms of us being concerned with the compatibility of the uses to C2, that's not the issue that we're dealing with here, that's not the attempt.

Commission President Martin opened the public hearing.

No one requested to speak to the item.

Commission President Martin closed the public hearing.

Commissioner Schiff moved approval of the rezoning (G. Johnson seconded).

The motion carried 7 – 0.

22. Text Amendment (Title 20, Chapter 551, Ward: Citywide) (Jim Voll)

- A. Text Amendment**
Amending Title 20, Chapter 551, Overlay Districts, Pedestrian Oriented Overlay District. The purpose of this amendment is to allow replacement of existing drive-through facilities for banks or financial institutions in the Pedestrian Oriented Overlay district for the Central and Lowry area.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the text amendment.

Staff Jim Voll presented the staff report.

Commissioner Krause: First of all, I think it's interesting that there is so much activity on this stretch of Central Avenue, right here in just a couple blocks, we've had two projects just tonight. Jim, my question is what is our ability to waive a condition of the Pedestrian Oriented Overlay? Do we have that ability?

Staff Voll: There are variances to various standards of the Pedestrian Overlay district but you can't vary a standard where the use is expressly prohibited – that's like a use variance, so we would have to have some sort of an amendment to do that.

Commissioner Krause: Which is why we're doing this as an amendment as opposed to just dealing with it as a waiver on a case by case basis.

Staff Voll: That's correct.

Commissioner Krause: And it does seem to me, this is a good project, I'm just trying to think about since we're amending the code, I'm trying to think about it in broader application. It does

seem like we would want some ability to leverage a situation like this to maybe put a drive-through in a better location – that might have less of an impact on a Pedestrian Oriented district.

Staff Voll: Well when we worked on writing this, we actually thought about putting some of those conditions in but Blake and I had extensive discussions about that and one of the things is there are the standards in the Pedestrian Overlay district that require the buildings to be up to the street so we felt that we really have the standards in there already that would require the buildings to be at the front and the drive-through to be behind.

Commissioner Krause: I mean, I'm just thinking if a building is on a corner, there's often a street that is more of a commercial corridor or community corridor versus a side street and you might be able to move the drive-through from the principal street to the secondary street, that's just an example, but I guess we can do some of this through the site plans.

Commissioner MacKenzie: I'll be brief because that was really my question. Does staff feel that there's sufficient tools in site plan to really direct placement or siting of these drive-through's so that we don't end up kind of shooting ourselves in the foot by cutting off our major pedestrian corridor by having a drive-through every fifth parcel.

Staff Voll: I think it's a concern but I do believe that with site plan review and the pedestrian overlay we have enough language in there that we could make a very strong case that the location of the drive-through is a very important issue that has to be considered, so yes, I do think we have that language.

Commission President Martin opened the public hearing.

Council President Ostrow, Ward 1: I do encourage you to support this tonight. There actually were a couple of different approaches we could have taken. Of course, I guess, one approach would have been not to address this at all and I would suggest that [it's] not realistic to think that a bank is going to work with a redevelopment and eliminate a drive-through. Banks want drive-through's. That's just a commercial reality. So, that would frankly have killed the project that meets, as I think the Chair has already suggested, some very important goals of the City. This will be a very pedestrian-oriented development, but for I guess perhaps at least to some extent the fact that there's a drive-through, 48 affordable units of housing, 40 at 50 percent, 8 units at 30 percent, so that I would suggest would not have been a good option. We could have, I suppose, gone with some kind of a special Council permit which I cringe just as much as the Chair and my colleague Council Member Schiff does, that was not going to be an option I was going to support tonight. And frankly, the other option would have been to simply carve out this piece from the Pedestrian Overlay district, which I also would suggest is not the right thing to do. I would suggest that this project is absolutely within the spirit of the Pedestrian Overlay district and that this will be a much more pedestrian oriented site once this project is completed than it is today. This is a narrow exception, it's not going to create concerns citywide and again, we don't have a lot of opportunities where we have an existing property owner, an existing business, a very under-utilized site that we can work with and redevelop this for the kind of mixed unit development with the affordable housing as we have here and that's what this accommodates and I think it does it in a way that's reasonable and consistent with the intent of the district. Thank you.

Commission President Martin closed the public hearing.

Commissioner MacKenzie: While I appreciate that this specific project and this specific location has tremendous benefit, and in this case it would be a reasonable trade-off to look at the housing you would be gaining from allowing a drive-through, but I'm just struggling with making amendment to the code citywide. If I think about some other examples we could get situations where single-story buildings in pedestrian overlay districts could rebuild as a single-story building with more drive-through's. So I appreciate staff's lack of recommendation given the two sides of the story and right now I'm sort of struggling to find the rationale to support it, so I just wanted to share that with my colleagues.

Staff Voll: I just wanted to clarify one thing. It wouldn't be a citywide amendment, it would be just specifically for the Central Lowry PO, it wouldn't apply in any of the other PO's at all.

President Martin: So does the language then Jim say that?

Staff Voll: Yes, if you look on the third page of your staff report, section 551.170, you see there's already current language that's specific to the Central Lowry area and then we've just added language in.

President Martin: So you're amending that particular pedestrian overlay.

Staff Voll: So it's the 551.170 Central and Lowry area and it says the following additional regulations shall govern development within the PO Overlay district in and around the intersection of Central Avenue Northeast and Lowry.

President Martin: OK, so it's a citywide ordinance that happens to be applicable in one intersection.

Staff Voll: We do that on our reports saying that text amendments are always noticed citywide.

Commissioner Schiff: I'll move approval and also note that this is written specifically for banking facilities. I think it is a commercial reality that banks will build and expand and invest where they have the ability to build drive-through's, so while we may see MacDonald's and Taco John's and other drive-through fast-food restaurants proliferating up and down our commercial corridors, if we were going to allow drive-through fast-food restaurants, I don't think we're getting to the point in time where we will see banks proliferating up and down our commercial corridors any time soon. As much as I wish that the market was there for that. So we're looking at a very small market that has been challenged and a market that I think will pack up and move to the suburbs if we don't supply the facilities that they need. And we define the pedestrian overlay district as whatever we want and I think in this case we wrote it based on our ideals and those ideals are just a little too strict for market reality so I think this is a good correction to that original ordinance as it was written. (G. Johnson seconded).

Commissioner Krause: Madame Chair, I'm going to vote for the text amendment, but I have a little bit of unease with this as well. I think the bank facility drive through's are often multiple lanes and fast food, in my experience, is usually just one. And I'm having a hard time understanding exactly why we do banks and not fast food or drive through's the pedestrian impacts are similar, and then why do Central and not do some of our pedestrian oriented development districts, so I'm having a little trouble trying to justify this one and then try to apply it citywide. We may find ourselves feeling somewhat inconsistent in the future but this is a good project and if this is the only tool we have today, I wish we had a tool to waive this requirement,

that would be a better way to do it, because then we could look at this and say there's a density here that warrants this, it's not a single-story like we had just a little while ago where it may not be warranted and we're saying the drive through is justified because we're getting this fabulous mixed use project, so maybe we should think about doing something like that in the future.

President Martin: Maybe this is a subject for a Committee of the Whole discussion in coming months about why this sort of tool is the only kind of tool we have available to us and whether there might be other ways of doing some of this. Director Sporlein, does that make sense?

Staff Sporlein: President Martin, he did mention other options, we just don't like those other options either, so there are other options, those also weren't favorable, but that is a good discussion item as we did at the Executive Committee.

President Martin: The motion is to approve the text amendment, all those in favor.

The motion carried 7-0.

23. CVS Pharmacy (BZZ-1781, Ward 2)

2500 University Avenue SE (Jennifer Bever)

A. Rezoning

Application by Paula Merrigan, DJR Architecture, on behalf of Bear Creek Capital to rezone the property at 2500 University Avenue SE from C3A to C2 for development of a CVS pharmacy and general retail store with drive-through service.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **deny** the application for rezoning from C3A to C2 for property located at 2500 University Avenue SE.

B. Conditional Use Permit

Application by Paula Merrigan, DJR Architecture, on behalf of Bear Creek Capital for a conditional use permit for 24-hour operation at 2500 University Avenue SE.

Motion: The City Planning Commission adopted the findings and **denied** the application for a conditional use permit for 24-hour operation of a neighborhood pharmacy and general retail store at 2500 University Avenue SE.

C. Variance

Application by Paula Merrigan, DJR Architecture, on behalf of Bear Creek Capital for a variance to exceed maximum square footage of signage allowed on building frontages for the property at 2500 University Avenue SE.

Motion: The City Planning Commission adopted the findings and **denied** the application for a variance to exceed maximum square footage signage allowed on Building Frontage #1 from 91 square feet to 184 square feet, and **denied** the application for a variance to exceed maximum square footage signage allowed on

Building Frontage #2 from 131 square feet to 200 square feet at 2500 University Avenue SE.

D. Variance

Application by Paula Merrigan, DJR Architecture, on behalf of Bear Creek Capital for a variance to allow two freestanding signs per zoning lot for the property at 2500 University Avenue SE.

Motion: The City Planning Commission adopted the findings and **denied** the application for a variance to allow two freestanding signs on one zoning lot at 2500 University Avenue SE.

E. Variance

Application by Paula Merrigan, DJR Architecture, on behalf of Bear Creek Capital for a variance to exceed maximum square footage of signage allowed on one freestanding sign for the property at 2500 University Avenue SE.

Motion: The City Planning Commission adopted the findings and **denied** the application for a variance to exceed maximum square footage allowed on one freestanding sign from 80 square feet to 115 square feet at 2500 University Avenue SE.

F. Variance

Application by Paula Merrigan, DJR Architecture, on behalf of Bear Creek Capital for a variance to allow the site to be landscaped less than the 20% requirement for the property at 2500 University Avenue SE.

Motion: The City Planning Commission adopted the findings and **returned** the application for a variance to allow the site to be landscaped at less than the 20% requirement at 2500 University Avenue SE.

G. Major Site Plan Review

Application by Paula Merrigan, DJR Architecture, on behalf of Bear Creek Capital for major site plan review for the property at 2500 University Avenue SE.

Motion: The City Planning Commission adopted the findings and **denied** the application for site plan review for a neighborhood pharmacy and general retail store at 2500 University Avenue SE.

Staff Jennifer Bever presented the staff report.

Commission President Martin opened the public hearing.

Bill Tipman (Vice President, Bear Creek Capital, Cincinnati, Ohio): I would like to make a case for the rezoning of the property from C3A to C2. As you are no doubt aware, the reasoning for the request for the rezoning is simply to allow for two things: one, the construction of a 13,000 square foot pharmacy that is the CVS chain's current prototype for this market. They intend to construct only 13,000 square feet and I've been before this body for a number of projects involving that specific store size and it's a size that works for them and it frankly works for their competitors as well. The other reasoning would be certainly the drive through pharmacy. Much

as Council Member Ostrow had mentioned that in the banking industry a drive through is an economic reality, much is the same in the pharmaceutical industry as well. The only products that can be picked up at that window are pharmaceuticals, not over the counter medications, not any of the general merchandise that appears in the store. Therefore it is a very low traffic generator. We have modified the plan with staff to accommodate certain requests, one of which was to orient the pharmacy toward the interior of the site to where it really has minimal or negligible effect on any of the surrounding properties. It is also oriented close to the drive through bank facility next door that our architect, in fact Dean Davolis did design that as well. And third, we've added windows to the exterior of the building on University and on 25th to accommodate the City's code with respect to vision glass. There are staff comments requesting that some windows be added in this vicinity to accommodate surveillance and security in the parking area. We are certainly receptive to doing that. We have worked with staff, in fact we've worked with Jennifer on another project at 12th and Hennepin to do just exactly that and the area of the pharmacy. With that again I'd like to appeal to your judgment with respect to the rezoning.

President Martin: Mr. Tipman, I think there's a question.

Commissioner LaShomb: We had another CVS Pharmacy on the other side of the University of Minnesota a couple of months ago which the Planning Commission approved. I guess my question is in terms of design, is this facility pretty much like that facility?

Bill Tipman: Very, very similar.

Commissioner LaShomb: So there's nothing about this design that is inconsistent with what the Planning Commission approved for the, I forget the address.

Bill Tipman: 10th and University.

Commissioner LaShomb: I'm sure President Martin is going to get to see it every day as she traverses to work.

President Martin: They haven't started building it yet.

Commissioner LaShomb: Is it fundamentally the same?

Bill Tipman: It's fundamentally the same store and major elements are the same.

Commissioner LaShomb: And the service provided is the same? And the service provided would be the same? [response, off microphone of yes]. There isn't really any difference between this one and that one. I mean there is a fundamental difference between this one and the one I recall that we allowed on Hennepin Avenue, I guess it was 12th and Hennepin.

Florence Littman (76 Clarence Avenue SE): I'm the co-chair of the Zoning Committee of the Prospect Park and East River Road Improvement Association. I'm here to ask you in the strongest possible terms to deny this rezoning because the whole issue is the zoning. It's the zoning, it's the zoning, it's the zoning. Now, we've worked very hard, as you all know, there was rezoning done in 2000, that's not really very long ago. And we worked very hard on this because University is changing and thankfully it's changing for the better. We're getting more housing there. We're getting some wonderful things. We have a wonderful thing called Art in Architecture that has just come in. Some great things. And we are getting more pedestrians.

University is a highly trafficked area, but there also was a place for pedestrians. C2 is the worst possible zoning to have and we wanted as little of that as possible because you get fast food and the heavy order related uses. This is not consistent with the area. So it's really going backward. There are five conditions that one is supposed to fulfill for a rezoning. Well this is great-it doesn't fulfill any of them. Not a single one. It's inconsistent with the zoning. It's inconsistent with the comprehensive plan. It's definitely in the interest of CVS because they want to put their drugstore there. Well, they have a lot of other options and they want to put their prototype there. Now, we also know, maybe that's their prototype of the moment, but we know they've done other things in other cities. I've seen their drug stores in New York City, in already existing buildings, they're doing one here in an already existing building. We told them, in fact it was Mr. Tipman who came, we told them to take that plan and put it back in his briefcase and that we didn't want to see it again and we said why don't you do what's allowed in the zoning. I mean, there's something you can do. Why don't you do a nice, multi-use building that fits in that zoning. You don't want to do that, find a place where you fit. We also mentioned across the street. It's probably not 13,000, but there's a very large empty space across the street in University Village. They've always had trouble renting. So they'd have a great space, all ready, that they could move into. The property is not particularly blighted, it's not like the case of 10th and University. It has many other uses, so there's just actually no reason to do this. I won't even get into design and over-parking and the fact that it's architecturally deprived. It's a box in the middle of a sea of parking. The important thing is the zoning and we're just asking you please to deny this and send a message that you don't come in from someplace and say, 'This is my prototype and I'm going to do this'. I mean this has flaunted everything aside from the fact that it's in conflict with the zoning and with the comprehensive plan. Signs, they want double the amount of signs, they want two freestanding signs when you're allowed one? They want twice as much signage on the building and they don't even want to comply with our landscape plan. I mean, what else do they want? Maybe they want my firstborn, I don't know. It's ridiculous. And I hope in the strongest terms you will tell people, maybe they consider us the boonies, I don't know, but they can conform, or go find a place where they belong.

Clay Lambert (110 1st Avenue NE #707): I own the Citgo gas station on 27th and University. My wife and I bought it about a year and a half ago and we're doing everything we possibly can under the debt load to improve the property. I don't have the bank account that CVS has, so we're doing what we can and going forward like that. This came to my attention about three days ago. I had seen the CVS project at 10th and University and I thought that was a good spot for it, it was blight there. But I just don't understand why they are trying to cram another one in 10 blocks away. I don't know if the density supports that. I sell pop and smokes and that kind of stuff there, so I'm biased. They would really hurt my business by doing that. And I kind of live in the neighborhood. I live downtown, but I'm only 27 blocks from there. And I feel that this neighborhood, Prospect Park, that I've come to know is an area where I put up with some stuff by living downtown, but also I gain a lot of stuff by living downtown. So I just feel that the people who are coming in like CVS, they're not participating in the effect of what we're trying to do here in the city. That's why I'm here today. I want to say my point and what I wanted to say here is to add some color. You folks are all cross the T's and dot the I's, I'm not. I'm the guy living on the street and trying to make a dollar. And so that's what's going along Prospect Park is a lot of small businesses are being developed, and we're all putting our own money and hard work into that place. We're not bringing money from outside and putting in these box stores. This is my Wal-Mart. CVS is not welcome here at all. They're going to cost down the price, run me out of business, and then the prices will go up. Some of the other things that will also affect this is the kids in the neighborhood, I mean students. They don't need 24-hours. They don't need an excuse to be out later than what they normally are. Especially that far over. With the new

Melrose there. My friend at U-Liquors had his store totally vandalized during the hockey thing. I was joking with him if they had any trouble and I was thinking that could possibly come my way perhaps. So my concern there is also the kids having access to 24-hours and also be low income neighborhood back there. What we need is more restaurants. We don't need more pop and cigarettes. I heard at the neighborhood meeting that CVS said that we're not really a drug store, we're a grocery store and a convenience store, not a drug store and I think they alluded to it here-- all you can get through the drive through is drugs. Well, go inside. My thing is with all due respect is that it's ok to say no here. They're going to have one at University and Snelling, and also one at 10th and University and just leave that little stretch there for the small business folks.

Commission President Martin closed the public hearing.

Commissioner Krause: Madame Chair, I just want to make one comment before we start voting on these issues and that is that this is not necessarily like the other CVS projects that we've dealt with. It's similar to the one in St. Paul at Snelling and that is the fact that University Avenue is imminent as a transit corridor, so this is going to have transit service in it and that should influence the way we think about the pattern of land use that's developing there in the zoning. That doesn't necessarily speak to this proposal. It actually is another reason why this doesn't work today.

Commissioner LaShomb: Well, I voted against the CVS proposal on the other side of University and my colleagues told me I was wrong. They told me it was OK to change a corridor and put the CVS on the site. I guess I don't see the difference between these two, so I'm going to move the rezoning and if we don't have the votes, then I guess we'll have an inconsistency.

President Martin: I asked Neil to remind us, I think I'm correct in remembering that the CVS at 10th and University did not require a rezoning because it was already an auto oriented.

Staff Bever: It was rezoned from R5 to C2.

The motion failed for lack of a second.

Commissioner MacKenzie moved staff recommendation [denial] for the rezoning (G. Johnson seconded).

Commissioner Schiff: It's hard to disagree with much of what's been said by Ms. Littman -- she's so concise and sharp in her analysis. The only thing that makes me hesitate was her analysis that the site is not blighted and that's where I get a little cautious on this, although I don't think this would pass anyway today. In five years there's been 218 police calls to this motel.

President Martin: The motel is gone.

Commissioner Schiff: Is the motel gone already? [response off microphone]. It's still there. So although I agree with much of what Miss Littman said, I think this may pass many peoples definition of blighted and certainly is taking a lot of police energy at this point in time from all the police calls. It's a horror story when you read the list of reasons that police are called to this motel. It's about as bad as it gets. But that of course is on the management to clean it up. But this as I think Mr. Krause said, this is zoned appropriately for the light rail that we want to see down the road and down-zoning it for something less than that is going to be difficult I know for my colleagues to do, so I respect that.

Commissioner MacKenzie: A couple of things. I personally do not have a problem in terms of even a community corridor with the idea of such a use, a pharmacy use that has some multi-purpose and at a smaller size, but I really do object to the rezoning and that's really the primary reason that I support the staff recommendation.

President Martin: The motion on the floor is to approve the staff recommendation to deny the rezoning.

The motion carried 7-0.

Commissioner MacKenzie moved staff recommendations for B, C, D, E, F (return) and G (Kummer seconded).

The motion carried 7-0.

24. Karmel Plaza (BZZ-1796, Ward 6)

206 Elroy Street, 2920 through 2928 Pillsbury Avenue (Fred Neet)

A. Rezoning

Application by Basim Sabri to place 206 Elroy Street and 2920 through 2928 Pillsbury Avenue South in an Industrial Living Overlay [zoning] District.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to include 206 Elroy Street in the Industrial Living Overlay District.

B. Conditional Use Permit

Application by Basim Sabri for a conditional use permit to allow 69 dwelling units and a farmer's market for property at 206 Elroy Street and 2920 through 2928 Pillsbury Avenue South.

Motion: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow 69 dwelling units, and notwithstanding staff recommendation, **denied** the application for a conditional use permit to allow a farmer's market at 206 Elroy Street.

C. Site Plan Review

Application by Basim Sabri for site plan review to allow a structure exceeding 20,000 square feet including 69 dwelling units at the same locations for property located at 206 Elroy Street and 2920 through 2928 Pillsbury Avenue South.

Motion: The City Planning Commission **continued** the site plan review application to allow construction of a structure exceeding 20,000 square feet and including 69 dwelling units at 206 Elroy Street to July 26, 2004.

Staff Fred Neet presented the staff report.

Commissioner Schiff: Two questions. The conditional use permit is needed because there are more than 6 residential units, is a CUP needed for any of the commercial, industrial or retail uses on the site?

Staff Neet: No, it's in the staff report, but it's basically for the...

Commissioner Schiff: And there's a letter from the Midtown Greenway Coalition, what is the height limit in their proposed overlay district?

Staff Neet: The ILOD?

Commissioner Schiff: No, the height limit in the proposed Midtown Greenway Overlay District that they submitted a while ago for staff analysis that hasn't been acted on.

Staff Neet: I do not have that information. [comment off microphone: 52 feet].

Commissioner Schiff: It changes, so, but, you don't have that? OK, thanks.

President Martin opened the public hearing.

Basim Sabri (applicant and primary owner of project): Madame Chair and members of the committee, thank you for hearing this issue today, and I want to thank the staff for their extensive work on this project. Today, I want to address a few issues before you. One is that if some of you are familiar with the site, across the street is the Karmel Square which is the Somali bazaar. The Somali bazaar literally has very little parking for many years and the lot across the street has been fenced for a long time because it was owned by the MCDA. We recently bought the land just a little less than two months ago and made traffic a little bit better in the area, but it's not complete or perfect. This project would solve the current situation of parking that we have in the area because several people who maybe opposed the project don't know, and I ran into somebody from across the street just recently who didn't know, that we have an underground parking that can accommodate approximately 106 parking spaces. Like staff just mentioned, this project has over 40 parking spaces over and above the required parking spaces. In addition, it's over and way above the requirement of green. To address Mr. Schiff's concern a little bit, that's why the building went 16 feet further to the south, to accommodate the people of the Midtown Greenway concerns about shadow and having buildings not being there. So right now we are setting a model for a lot of developers to go back a ways to the south side of the Greenway to allow more greenery and more sun to hit the south area of the Greenway. This development is focused on live-work situations. A lot of the clients, we did a survey and study, many of the people who are interested in owning those units are people who are either: Wanted to rent in the future building, or already across the street at Karmel Square. So, in a way it was not calculated in the parking, it's even going to help the situation a lot because it's going to be a live-work situation. The size of the units are 1, 2, 3 and 4 bedrooms. A lot of the people who have submitted applications for having a condo in that area are looking for 3 to 4 bedrooms. If we did one bedroom or two, we could probably have close to 90 maybe units, at least in that development. But we wanted to house families and we wanted to have a bigger space. Another reason we backed off to the south on the Greenway going back is to allow a park for the kids and the families to play. So there's a big green, play area to the north of the building that will be available for those residents to have their kids playing so you're not packing them in as sardines and kids have no where to go. So there's a big area to go and to play. I have a child myself, she's sitting in the front row. I know how much she likes to move and how much they like to play so that is a very important thing.

This building will create approximately 60 jobs in the City of Minneapolis so it is a great opportunity for a lot of the immigrants and many people in South Minneapolis to have an opportunity to be part of this thing. A very important factor is that if you look at the building, it is U-shaped and if we don't have eyes on the building and on the area, we are calling for a big opening for crime activity if you will at night in that area. So this housing is really going help a lot in reducing the crime in the area. If you're familiar with the area, it's to the north – the Greenway, to the south – Karmel Square, to the west there is a house and a landscaping and a garbage pick-up place, and to the east is the Park Square condominium so somebody could go in the U-shape in that area and vandalize the whole area literally and you won't even know about it. Housing is another reason why this is a very important issue to have. The last thing that is very important for you to also know is that there have been zero public funds sought for this project. This is all privately funded and privately built. So we are meeting every requirement the City is asking us for, green parking and so forth. I'm asking that you would support this project and I hope you will. Thank you so much for your time.

Dean Davolis (DJR Architecture, 333 Washington Avenue North): A little more clarifying information on the project. It's 69 units, family housing, it's actually moved off the Greenway 36 feet in total. It was moved an additional 6 feet when we were able to massage the parking to make it work, tighter development, more greenspace of the building incorporated down to it. The main floor uses are going to be a farmer's market on the east end of the building, a restaurant and a bakery – these are kind of the major retail functions on the lower level of the building. The parking, to be exact, we're 40 spaces over. There's 141 required, we've provided 180, so we have an excess of 39 spaces. Basically, that was both an accommodation to alleviate the parking problems that have occurred in the area. The last key point is that we've worked in all the entries and the use so that the activity is confined in an area. This is a case where a neighborhood wants to keep street activity more within the building as opposed to the outside. So unlike your standard urban requirements, we want to get all the activity around the whole middle periphery. This one has been designed so it's more concentrated from the center of the building along those lines. Outside of that [indicates overhead] simple exterior, kept it low to again, work the shadow effect, and it's essentially a stucco and masonry building and this applies to all elevations. Thank you.

President Martin: Mr. Davolis, where's the entrance to the parking ramp?

Dean Davolis: The entrance to the parking ramp, you can see right here, that cut there and then on the site plan, right here, see where this is, that's grade going down.

Commissioner Schiff: How many spaces below grade will be available for people who are there just for the commercial uses?

Dean Davolis: There's 103 total. And under the ordinance of the parking, it's one for 169, so 130 less 69 is the overage of parking spaces below grade.

Commissioner Schiff: And how are you going to encourage shoppers to park underground. It's a common concept in California, but we haven't seen it yet here in Minneapolis.

Basim Sabri: The underground parking is going to be designated for the residents and for the shopkeepers. Because you have a better control [as] to who goes downstairs if they are all tenants and all residents and owners of condos versus just keeping it open for any shopper. So the

surface area will be designated for shoppers – the area below will be for the shop owners and probably different condo owners.

Commissioner Schiff: So no parking below ground for customers.

Basim Sabri: Zero.

Dean Davolis: It's 77 surface for the public. It would be assigned in the basement, resident and the shopkeepers or key employees.

Commissioner Krause: This is not that far from the Urban Village phases that we've already approved and one of my concerns that there be some consistency between these projects and the Greenway, and I see there's a sidewalk running across there, I guess my question is what's that going to look like compared to all those other sidewalks? I think what's happening is we have sidewalks that are jumping all over the place as you move down the Greenway. Whether this is being addressed or not in the Greenway plan or not, I'm not sure, but there needs to be a more or less continuous sidewalk area across there, so these designs have got to be coordinated between parcels, because I think we're getting a mish-mash.

Basim Sabri: We met with Hennepin County and looked at this project and they're very much looking forward to this project taking place. There's no defined policies or plans that they have that they really want us to follow. But I do know that the Greenway people would like to have that, I cannot pronounce it, it's a French name, to come back and to the south end and allow certain footage for the future development light rail or anything else. We, again, backed up way to the south to allow that to happen and allow for any future plans that they have to be met if you will. And now you're talking about the south side and right here, Mike, this area right here? This is not a sidewalk in that area. If you look to the right, in this area here Mike, it will be like a playground area for the residents and so forth. Midtown Greenway folks would like to have eyes on the Greenway, that's why we had that fountain area and seating area around it. There will also be a seating area for that already been approved restaurant area in here. So there's plenty of eyes on the street and the Greenway.

Dean Davolis: Let me jump in. You're thinking of the continuous promenade that you want to establish along there and the idea, and here's where the issues jump around and probably there's two ways to look at it. If you develop the continuous promenade, probably what I'd recommend is to run that along the crest of the embankment because that's the most logical spot where you can see into the Greenway and then see the development along the side, so in terms of consistency, they say there's no rules, but what would be my recommendation is that this walk be incorporated at what I call the crest of the hill so it serves both purposes and is a conducted promenade sidewalk that runs across. That's the one change I would make on this is allow that through connection so it's consistent, but in terms of what I think is the best location, at the top of the hill is your best – you can see into the Greenway and you can see the bluff on your left. So that would be my recommendation in terms of placing the promenade or sidewalk.

President Martin: And you're saying that you specifically set this building back so that could happen.

Dean Davolis: Correct. That's why we're back 36 feet on this to give the leeway.

Commissioner Krause: Can you remind me too, what is the nearest direct access point to the Greenway from the south side?

Basim Sabri: The future to be will be Pleasant going west along the side of the Midwest Machinery, the existing one right now would be 4th Avenue and there's another one in Uptown as well.

Commissioner Krause: At Pleasant.

Basim Sabri: Correct. There's a proposed one to be immediately right to this area which is the Machinery Lofts, the southeast corner of their building. So there will be a ramp proposed to go in that area which is kitty-corner to this project.

Dean Davolis: Right now we're proposing access within ours.

President Martin: So you are proposing that?

Dean Davolis: Yes. That's where you see these steps here, now provided, Hennepin County goes along with it and jurisdictions.

Basim Sabri: We want to try to set an example if you will for future development to take place in that area.

Tom Reynolds (Executive Director, Whittier Community Development Corporation, 2845 Harriet, Minneapolis): We will be probably the largest single tenant of this development. Our purpose is to develop the industrial and commercial use of the west wing of the facility on the first and second floors and we wholly recommend that this project be adopted in its entirety. We feel that it's a real blessing and economic development for the area as well as preserving housing opportunities, shopping opportunities and also addressing some of the parking issues that currently are very devastating to some of the residents along Pillsbury and Pleasant. To the contrary of that, some of our neighborhood folks feel that will be a detriment and create more traffic, but with the plans we've been working on over the last 6 years, we really believe that this will improve the condition of that area. Thank you.

President Martin: We have a lot of paper here from Marian Biehn and a variety of other people who've signed off on stuff, discussions that have gone on in your neighborhood, the Elroy site task force and they're kind of opposed to most of this.

Tom Reynolds: That is correct.

President Martin: So some of you are for, and some of you are against, is that kind of the way that...?

Tom Reynolds: Well, we're actually separate entities. They're the Whittier Alliance Neighborhood Group and we are a development group. We also have participated and do participate with the neighborhood groups and do participate in both the business association with the Whittier Alliance as well as their livable communities.

Commissioner Krause: Tom, I had a question. I can't find site plans for floors 2 and 3 – are they in other peoples' packets? I saw the one for one, and the one for four. You said there's going to

be some commercial industrial on the second floor too? [off microphone, Dean Davolis: 2, 3 and 4 is residential].

Shukrey Adnan (spelling unknown, not on sign in sheet; has business in Karmel Square): We'd like to live in Whittier. We've been to their meetings there and part of the condition of being a member is to be a resident. This is a way for us to be residents so we can have a voice and participate in the community. I would like to live close to where I work, which is what a lot of people would like to do. The way I knew Lake Street before, I never drove after 6 o'clock in that neighborhood. I now operate a business there and I'm encouraging people to move in so that we can develop the neighborhood together. I really want to live in this building and I think the way Mr. Sabri has planned it, it's encouraged us to move in. It's going to be affordable housing for us. There's a building two blocks down on Lake Street that I went into, I'm planning to buy a home, this would be my first time to buy a home, and it was way out of my league because it's considered a luxury condo. It's two blocks from where I work. This is going to be in the price range that I can afford to pay as I'm self-employed and we want to live there. We have a problem where we're stuck between a rock and a hard place. There's issues going on between the board and Mr. Basim Sabri. We're caught in between. We want to live there, we want to work there, we want to make it a safer neighborhood. We want to raise our kids there, we want to pay taxes there, we want to put our kids in Minneapolis schools. This is development that's good for our community and it's going to be a drug free neighborhood. It's going to be a crime free neighborhood, hopefully, if better people move in there. And nobody would touch it before, now that Mr. Basim wants it, all of a sudden it's become a big issue. I'm not concerned about Mr. Basim getting that place as a business. I want to live on that property. My store is across the street from there. If it's broken into and the police come there, 5 minutes later I could be there. That's the point, that's why I want to live there. And it's affordable for us and we want to live close by to our stores and to be part of a community there. It's a good development, we've talked to Basim Sabri about how it's going to be operated, it's going to create jobs. It's going to create traffic for people to come into my store and buy things and the way the economy is right now, I need those people to come in so I'm able to pay my rent and operate my business, so I hope that you support it on our behalf so that we're able to find affordable housing. There's a huge waiting list for public housing. If we are empowering ourselves economically to get out of public housing and buy homes, we should be given a chance. Thank you.

Jerry Johnston (2930 Blaisdell, Park Square): I'm one of the first owners there (Park Square). We've had a long term relationship with these gentlemen. It's not been a very positive relationship. This piece that he's proposing to you now – it started out as a 2-story issue, now it's a 4-story issue. I'm here only as a basic history about our building and our relationship. Over the years, we've tried to set up relationships as far as negotiations and even an official to handle our disagreements – it hasn't worked out, they didn't show up. There are three other members from my building here, but there's another presentation that we're very concerned about the traffic issues. They're terrible now. Karmel was a bad idea to begin with. It's turned into even a worse idea. It was going to be a coffee shop as far as I know, and now the traffic is unbelievable. So we will be here for historical references and relationships, but I think the procedure should be that you hear from the traffic issue. Thank you.

Abdul Mohammed (uncle owns a business in Karmel Square): This project is a very good project, especially if people have a business in that area including other people, they never owned a house and they want to own a house with the community. It's very important to our community, especially Somalian to have a house. Most of the majority, they don't own a house, they don't own an apartment, they are in a metro housing building. People work hard, they're not on

welfare, they raise money and this is a very good affordable for the people. Some of the people from neighborhood, they might not like Basim, but this is not an issue for Basim, this is a very good opportunity for the Somalian who would like to ask you to uplift this project.

[tape end]...

Raymond Hoffman (2930 Blaisdell) Was filled with cars and still, there was not enough room. I don't know if you have the grasp of how much traffic really is there. Now I'm hearing that there's going to be a 3-4 bedroom apartments. If you take the number of units and talk about how many cars are needed for residents, I would start to add up, and very quickly, I'm not positive that this was very carefully thought out. So actually I was first hopeful when I saw all the cars parking there, but now the ground is being dug up, no cars are allowed to park inside. Understand it's not only on Pillsbury. If you just go on Elroy, there's traffic jams of people going in and out. There is no control. This, I must admit, is a frustrating point. So here I am, I hear about this petition, and I hear that they're going to have a block party on Lake and Pillsbury. I thought, about time, public relations. Was it better? Worse. People were even parking on the ramp to my garage. Now the ramp is on the north part at Pillsbury, not the south as it has been described. If you look at the map, you'll see that there is a ramp to an underground garage. They were parking there, barring me to get out. I indicated to them that they should not be parked there. This lack of control actually causes me to now request one thing of you: Please deny this application until they resolve the parking issue beforehand, not after. And also the education of their patrons. They're being too casual and not respecting the request to please move on, so I ask then, simply that their parking at facilities be first prepared with education for the patrons if we're requesting their petition.

Jim Graham (2101 10th Avenue South): I'm here in an unusual situation. I've been here many times supporting housing, in fact, about four years ago, Jim Niland took a thing through the City Council, a resolution supporting a live-work facility for the [tape unclear] Somali community that I had helped write and brought forward for them to assist them, but in this situation I'm here to ask you to turn this down because I think that the process is flawed. I read, very carefully, the deed and the conditions that were part of that deed. The conditions that were part of that deed would be covered by the existing zoning. That deed says that the property will revert to the City of Minneapolis if those conditions are not met. I think it's inappropriate to be considering zoning changes until that is resolved by the City Council of Minneapolis and that it may be that the property will need to revert to the City of Minneapolis and a new RFP, [comment off microphone] that is true, it's in the conditions and I read it very specifically, and if the specific project that was a 2-story building was not built, then the property would revert to the City of Minneapolis. And those zoning issues that are here before you are inappropriate I think until that is resolved. The other thing is the matter of bait and switch. About \$650,000.00 was put into this project. About \$150,000.00 in NRP money specifying a particular project. Then an RFP supposedly was done, but I'm not sure one was ever done, that required certain things to occur and that went out. Now we have a situation where a totally different project is going to be built and I think that the new RFP should go out and it should be open for other people to answer that RFP and preferably a housing project, a live-work project for the Somali people. But I think that it should be open for other people, otherwise I think this is an entirely flawed system. There's a conditional deed that specifies things to happen and if those specific conditions are not met, the property reverts to the City of Minneapolis. It is improper again, let me tell you, to be considering a zoning change until the City of Minneapolis resolves that issue. Thank you.

President Martin: Director Sporlein, can you enlighten us about what's going on here?

Director Sporlein: Mr. Neet does have some documentation from our fellow colleagues about this sale.

Staff Neet: CPED Economic Development, it's on your first page of the staff report, redevelopment contract was executed and the land conveyed to Mr. Sabri on May 14, 2004. He is the property owner. I have been in contact by telephone with the CPED Economic Development people, they were aware that the project had been changed and was not the previous project that you approved in September and that it included 3 floors of residential.

President Martin: And they were OK with that?

Staff Neet: They conveyed the property after we had that discussion.

Commissioner Schiff: And just to clarify, Mr. Neet, I went searching for information, a lot of this stuff happened before I got here, Mr. Lutz couldn't bring me up to speed on it, the Chair of CD Committee couldn't bring me up to speed on it. Finally talked to an attorney who said if any of these changes go through, the City Council wearing a hat as Community Development will have to approve them as well. And that approvals today doesn't close the City's options down the road. Which sounds a little different from what you just said. You just said the City was fine with it, but what I heard from the City Attorney's office was this could be approved today, but these changes as a change to the development contract could be denied down the road.

Staff Neet: All I can say is that I made CPED Economic Development aware that the second floor was no longer going to be commercial, that there would be two other floors proposed and those three floors be residential, that the industrial component was shrunk slightly, but that the other elements were basically the same. I made them aware of that prior to the land conveyance. I've never seen the contract, I haven't been provided that.

Commissioner Schiff: Who did you speak with?

Staff Neet: Erik.

Commissioner Schiff: Hanson.

Staff Neet: Hansen.

Commissioner Schiff: So Erik told you he was fine with it personally, but he didn't mention that it would need Council approval.

Staff Neet: Not personally, he indicated to me that they were looking into it and he then confirmed that they had decided to convey the property. I don't know of any conditions on the contract.

Commissioner Schiff: But he didn't tell you if subsequent approvals would need to be taken.

Staff Neet: He did not say that.

Commissioner Schiff: OK. Alright.

Director Sporlein: I just want to add that Mr. Neet made that phone call in order to make the determination that the application was complete. Did we have the ownership issue cleared up? And so we were waiting for that to even deem the application complete.

Basim Sabri: The City approved the site, and I know there's people who've tried to confuse the issue a little more and I commend Commissioner Graham for confusing the issue. The City approved and bought that property about 12 years ago and assembled it to create a light industrial. They want to create, the number was kind of ambiguous, anywhere between 25 to 40 jobs. I came in and I said, here's the plan that would create that many jobs to fulfill your requirement. Now I want to frost the cake by adding on top of it 50 stories of housing if permitted, if I could meet the requirement of the city, parking and green and all so and so. The MCDA responded OK, if you get the approvals of the City, and you bring it back to us, and then we have to put you through requirement 1 and 2 and 3 and 4 that you have to fulfill as a developer in order for us to amend the contract. So what Mr. Neet is telling you is extremely accurate. It was not a secret. The MCDA all along knows that I wanted to amend the project by adding housing. If it's denied or if I can't meet the requirement, well that's tough luck. But if I could meet the requirement of the City to create housing, well that's why you have that department to examine those papers, they have legal department to examine it and make sure that it does fulfill your needs and requirements. Thank you.

President Martin: Others wishing to speak to item 24 and at this point, I'm going to ask that you speak directly to the issues before us and tell us something that we haven't already heard.

Abdi (spelling unknown, not on sign in sheet; Karmel Square): Some of the Somali community living there and having a store is just opposite the building. Like me actually, I never look for parking and I believe that will ease the confusion for that current parking problem around Karmel Square. Of course, if I park my car down underground construction, then I will no longer need to park outside and make a confusion or mess. Likewise, that's actually what I believe is good for the Somali community in particular and I support this project as much as possible.

President Martin: I'm going to tell you that I don't want to hear more testimony about who it's good for, I want to hear testimony that has to do with the rezoning, the CUP, the site plan, very specific issues.

Michael Nelson (2445 Aldrich #5, Midtown Greenway Coalition, Zoning & Planning Committee): We had forwarded a resolution [he read resolution included in Commissioner packets]. He noted that the resolution was passed by the Zoning and Planning Committee, not the coalition board. The ZOD is currently under review by the City Planning Department, it's on the City's work order for 2004, it has received support at various times from various Council members. Based on the question about the height limit at that location, I brought the ZOD with me and at that location along the Midtown Greenway the maximum height 40 feet back from the southern property line could be 30 feet tall. The main reason for this is because of the lack of 29th Street that usually runs across there, otherwise it could be taller. We have done other site studies for this just in developing the ZOD, and found we could put a 6-story building on that site with steppings kind of tiering...

President Martin: Setback.

Michael Nelson: We also feel the current plan could be utilized if flipped. Having the large bar of the building along the south side of the street, I'm not sure how that would work, probably not very well, but that's one option, but anyway, thank you very much.

Commissioner Schiff: Thanks for being here, Mr. Nelson. You mentioned one of the options at 40 foot setback, the building could be 30 feet tall, so at the building proposed height here, what would the setback have to be in the opposite way of asking that question?

Michael Nelson: I think the current one would be, since it's 4 stories, and I think it was just over 50 feet tall, I think the edge of the roof would have to be approximately 60 to 65 feet back from the southern Greenway property line. This is at the top of the trench and doesn't include the extra 20 feet to the floor.

Commissioner Schiff: Then Mr. Neet, how far back is the building set?

Staff Neet: 36 feet.

Commissioner Schiff: 36 feet. OK.

Abdul Khadir Hash (2940 Pilsbury Avenue, Board of Whittier Alliance). I'm a member of the Somali Chamber of Commerce, and also I'm a president of Somali Business association at Karmel Square. I don't think anybody else knows what I know as far as Somali and the Whittier Neighborhood board. My issue I would like to address [with] the Commissioner is about the parking. One of the gentlemen, what he said here was right because now the square, the 120,000 square feet is the lot and then if you go there Saturday's and Sunday's especially, you will see full of parking. You will not even get place to park your car. And that's right. That's totally right. I know it's about building not to be built to housing, but what I know about is that Karmel Square has zero parking at this moment. We're not talking about that's been passed. But we need, as business owners at Karmel Square and whoever is going to be owner or a business owner at Elroy site, we need parking. The reason why I'm speaking is that Basim or somebody told me before, he would provide enough parking, but now when I hear about it, 141 parking, that's how much is going to be the parking available for the residents who's going to be there, it has been approved or the customers, but right now, 120,000 square feet, Saturday's and Sunday's, is full. And that's true also sometimes you'll see people parking by Pleasant Avenue, so what we want is the truth today. We want enough parking to have Karmel or whatever been built. If it's been built about housing, that's ok, but the issue we have is we don't want some people to see that when it behaving because this place is not even a business place, it's a gathering place. We Somalis, we love to hang around to have a cafeteria to chat. So I'm speaking on behalf of business people who are sitting around here, own a business at Karmel, we need enough parking before it has been considered how many residential or housing or whatever. Right now has been digging out the place, and there is no place to park, and we have a shortage of customers right now because the whole place has been dug out and there isn't any place to park. So we have to park, as one of the gentlemen said, in front of the houses. And that shows we are not behaving, but we are not, we are forced to do that because we will have to come over there, so Sabri, I would like to request him to provide enough parking and also to be truth, because what has been told and what has been written here is totally different. I request you to consider this as a gathering place and to consider about 10 years from now, what's going to be, and also I would like to address my fellow Somalis – don't throw an arrow that will come back to you. Thank you so much.

Tim Olin (spelling unknown, not on sign in sheet; 2930 Blaisdell Avenue #331): I feel I have a unique perspective and hope that you'll hear me. The zoning proposals before you. My unit faces, the only thing I really can see apart from the trees along the Greenway to the west is the proposed site and its changes. What we have there now is a dustbowl. It's been that way for 4

years, there's been a great deal of input from a lot of different angles, nothing has happened. Two things, I'll be as brief as I possibly can, please allow this man to build on and landscape that dustbowl and please allow him to build his parking lot. Thank you.

Marian Biehn (Whittier Alliance, Neighborhood Development Manager): I'm the Neighborhood Development Manager for the Whittier Alliance, the recognized neighborhood organization in the neighborhood.

President Martin: You sent us this.

Marian Biehn: Yes. And so you have most of my comments, however, I do want to point out that there is a question if you are looking at the loading dock, they're commenting that there's 181 parking spots – that's including the south side of Elroy and Karmel Square, so we have to make the distinction that there really isn't 181 parking spots. With the loading dock access, I am not certain how this would work, but I would think that we would lose some of the parking along the south side of Elroy in order to accommodate the turning radius, so we lose parking there. I also commented in my staff report that the square footage of Karmel Square is larger than the commercial retail space that's being proposed. Your formulas for parking are inadequate – they don't allow adequate parking for Karmel Square and so that Karmel Square parking is going to fall over into Karmel Plaza. Comment also on the housing: There's a 50 percent grade drop off and that's 20 feet out from the lot line. The housing that's being proposed is for larger families. The playground looks incredibly small and incredibly close to that drop off and I think besides the traffic being a safety issue, the playground and that drop off will be a safety issue. But beyond that, the Whittier Alliance Neighborhood board does not and has not supported the current proposal. The Planning Division staff report kind of throws some vague notions with the word current regarding the 2003 and the 2004 reports. The 2003 does not reflect housing. The 2004 does. And the word current proposal is kind of mixed up there, so I think that reading the staff report, there needs to be some clarification and chronological look at the motions that came before the Whittier Alliance board. Historically, the Whittier Alliance board has not supported anything other than the 2-story, commercial-industrial office space. We do not support the housing. Further, the contract for 206 Elroy between Karmel Properties and CPED does not allow for housing. Housing was not a condition of the contract or part of the original land sale agreement or the land sale conveyance back in May, and therefore should not be allowed. I do have a copy of the deed if you're interested in taking a look at that or making copies of it. For several reasons, if you can refer to the motion list, it does chronologically report the Whittier Alliance's position on the Elroy Development. We do not support housing because of the parking and traffic and safety issues as well as the emergency services issues in that area. I also submitted to you, and I think you have them in your information, the recommendations and requests as brought forward from the Elroy site task force and the Whittier Alliance. Number 7 can be modified to deny the housing overlay based on the condition of the contract when the land was conveyed and to allow only the contracted proposal which is a 2-story commercial industrial building with underground parking. I have other comments, but I think you can read them, or if you haven't read them, please do. They are important in making this important decision based on how the neighborhood will develop. We are an emerging neighborhood. Our safety issues are improving. The Karmel Square and the ethnic market is something that the neighborhood is very proud of and we want to maintain that infusion of immigrant entrepreneurship, but we do feel that the housing overlay of 69 units, which is now according to an ad that we just saw 102 units, which is in an ad that is in the newspaper, is going to over-stress that area particularly and not be a contributing factor to the neighborhood. We do encourage the 2-story, commercial industrial. Thank you.

Commissioner MacKenzie: In our packets, we have packets from the staff and then we have more paper and in this letter, and it's written by a citizen, there's a comment made that there was an open meeting regarding the project in May of this year. I'll just read it to you: 'The meeting was attended by Councilman Zimmermann along with 75 other individuals at that meeting. 71 people voted in favor of the project while only 4 voted against it. It went to the Whittier Alliance board and did not receive the support.'. And I can see the copy here of the motion made at the May 27th board meeting. Do you have any sense of what transpired between the open meeting and the solicitation of opinion from people attending that meeting and how things changed by the time it got to the board?

Marian Biehn: That gets to be kind of difficult to comment on in a politically correct way. We have had a series of public meetings and people attend those meetings and you register to attend those meetings. I have been part of the registration. When we ask people to register, we ask for their name and information. Frequently, the people who have attended do not speak enough English to give me their name and address, or in that case, at that meeting I should say specifically. When they attend the meeting, I am concerned that they really do not understand what's being discussed because they are asked to attend and they are being given incentives to attend according to the reports that we get from others in the Somali community. We have voting cards. When the voting cards are raised by one particular group of people, all the cards go up. So although it reflects a vote that is community based, we frequently don't see those people coming to another meeting to involve in community process. So the board, which is very diverse, re-debates all the motions that come out of committee and then does the final vote that is forwarded to the downtown and the different organizations downtown.

President Martin: [responding to comment off microphone] No, we're not going to have a debate about who was at the meeting or what was spoken, or what languages, or anything like that. I want new information about the project.

Mani Tuzi (spelling unknown, not on sign in sheet; businessman 500 East Lake and 3718 Chicago Avenue South): The main point for me as a businessman is safety and work and hiring. It is very important to make a neighborhood safe. By making them safer, to work with task force, I'm bringing new job and new development. One time I talked with Mr. Schiff and thanked him to make the neighborhood, on Chicago especially, there was a shooting every second. Now we have a beautiful neighborhood and much more safer and I came to his office and thanked him. Especially him and Robert. [On] Behalf of myself, I've worked in South Minneapolis about 13 years. I start with taxi, then I got mechanic shop, then car lot, then body shop, then starting to move and I now own some businesses. The way that I understand, the way that we grow in South Minneapolis and very important to bring the people together to bring the job. The way to bring the jobs to South Minneapolis, I think impossible. The only way for new development is to bring it bigger, bring it safer for neighborhood, maybe neighborhood write their Council about the parking, about lots of things, but by bringing new eyes, new development will bring the safeness and economy. The only way we can work with task force to bring the people to work, otherwise we cannot control [tape unclear], drugs, prostitution, especially on Lake Street. Right now, I'm working on a small project on the 500 East Lake Street and I got all approval from the Commissioner. It is very important for us on Lake and around the neighborhood to bring a new development, to bring the jobs. The way that we bring the job for neighborhood, lots of people can relax. The only way against the drug, to bring the new jobs, the only way, especially private money to come and put money and invest it and build it. Housing we have very shortage. If we look at the old, on 37th, 36th, 35th, 34th Street, we need new things to be rezoned.

President Martin: Mr. Tuzi, I'm going to ask you to talk about if you have something to say about the rezoning, the conditional use permit, or the site plan review for this project.

Mr. Tuzi: Exactly! That I want to say it. We lost lots of housing in South Minneapolis. If you look at everything, we need a new housing. Lots of people are moving to Richfield. There are lots moving far away. How could I fill my work with the neighborhood? If you look at it, on 37th, two blocks we got it for flooding. On 36th, 38th, we need affordable housing in South Minneapolis. For sure we need that. We have to deal with it because bring lots of things, especially with new development. Thank you much.

Tom Bissen (spelling unknown, not on sign in sheet; 2427 Clinton Avenue South and owns a rental property; on Whittier Alliance Board of Directors): I am here speaking on behalf of myself this evening. The Whittier Alliance did commission a traffic study specific to Karmel Square at the Elroy site. For the sake of time, I'm not going to go into that except for a few of the highlights. Marian Biehn, our neighborhood development person will have it available to you if you need it. Farmers market versus a bazaar ethnic market. They're two total different things. If you haven't been to Karmel Square, I recommend you go-it's wonderful, it's quite fascinating. Councilman Zimmermann quite recently counted 250 vehicles on the Elroy site alone. Packed. That's without Elroy Street, that's without off-street parking. 250 packed in there. Karmel Square has approximately 75 shops on the first floor. Here we're looking at adding a whole another development, 69 living units up to 4 bedrooms each so it's going to have more than one vehicle, up to 100 shops and only 141 more parking spots. So we're losing over 100 parking spots when we're already using 250, but adding a lot more. I encourage you to read some of the information Whittier Alliance put in the packet. I'll go into that a little more fully. Plus Park Square, the county units across, there are a lot of them that are non-owner occupied which hurts. The Whittier neighborhood has very low individual home ownership. That condo association is going to further go down. 24th and Blaisdell, a mistake was made. Karmel Square, a mistake was made. I urge you not to do it to us for the third time. Now it's interesting, there's 69 housing units proposed now. 102 parking spots below ground. That was the latest bait and switch, early June. Here's a full page ad taken out in the Somali newspaper by Mr. Sabri, saying he's going to have 102 living units. I think this is your latest bait and switch. Thank you.

Dan Vercruysse (121 west 29th Street): I just wanted to speak to the sort of quality on the building for this project. Earlier tonight, I heard about a couple of other projects and it seems like there was some discussion about the aesthetics and the sort of quality of the building, particularly the one with the exterior stairs and that kind of bit. And you know, I live on the block adjacent to this property, just around the corner. The back of my property looks out over this property. I guess you know with the change in the zoning or at least the request for that, the scale and scope of this project has increased dramatically. And what I'm seeing by the renderings here. I'm seeing something that's not really present in that neighborhood right now. I know for me that buying a property in this neighborhood, and I am owner-occupied property. Part of me wanting to live in this really urban condition and there's a certain fabric and context that goes with that and I think this project denies that in a few different ways, when the scale seems to be just totally non-present. Also, the quality of the materials, the stucco system [tape unclear]. What we're seeing here is primarily a suburban development, you know? I think there's a real lack of design, there's a lack of consideration to the street life and the quality of the exchange with the street. For example, the statement that there's actually no doors on Pillsbury or Pleasant. Everything's turned within in this U-shaped design. I really feel like this project robs the street of the quality of life that a certain urban environment can have. And I know right now on the block that I live

on, I know all my neighbors and I talk to them and we're walking down the street and there's an exchange on the streetway that I just really feel that this project denies. So in terms of, and really, let's talk about the landscape plan too. Which is another big issue – it seems to me that they should put the landscape. Right now, I really feel like there's just a lot of plans about what's going to be made, and maybe this is an issue of compliance and not something that really needs to be brought up here, and I've actually called the compliance officer because he's part of the neighborhood to ask about this property and this property owner quite honestly. And while I feel bad that there's a community that says let's not get caught up in the person behind the project, the reality is that there [are] a lot of other properties in this neighborhood owned by the same individual. And I feel like there's a lack of care and a lack of management of those properties and I got a list of all those properties and I went by and looked at all of them. I felt like I should be informed before I made these kinds of comments and I know that Karmel Square has a lot of benefits to it. I don't really feel that the impetus of that project is bad. I know that the maintenance of that building isn't so great. And I know that there is no landscaping to speak of and I realize that these are plans and things that people talk about what's going to happen in the future and maybe it's an issue of compliance but I feel like there's a record here. This is a man who owns a lot of properties in this neighborhood and has a record with this City and how he's run projects and I think that's something to be considered. And I don't know if that's a Planning Commission's job to do that or maybe more the City Council, but I know that I'm concerned about this project and I own a property around the corner and I just want to speak to that. Thank you for your time.

President Martin closed the public hearing.

Commissioner Schiff: I have lots of questions for staff. Fred, can you review the math for us on the parking calculations in the code and that you used. The point made by some that half of the surface parking is on the vacated Elroy Street adjacent to the building to the south.

Staff Neet: I discounted that.

Commissioner Schiff: You didn't count that.

Staff Neet: I did not count that. So the site plan is difficult for you to read because it's such a small scale, but...

Commissioner Schiff: So how much spaces are necessary for the 30,000 square feet of commercial space.

Staff Neet: All the uses combined?

Commissioner Schiff: No, I want to break it down, we need to break it down at this point. 33,000 square feet of commercial.

President Martin: Depends on what the commercial is.

Staff Neet: The retail is 35 it looks like.

Commissioner Schiff: 35 spaces for the retail only. Now when you say retail, were you counting the industrial?

Staff Neet: No. Industrial is 12. They have it listed as 11, but it's actually 12. The restaurant is 26. Dean, do you have that stuff? For a total of 73 plus the 69 residential for a grand total of 142 which is then reduced by 1 for the bike spaces which leaves 141 which is the exact amount provided.

Commissioner Schiff: So 73 total commercial. So all the surface parking, including the stuff on the south, needs to be available for the surface commercial.

Staff Neet: I'm sorry, repeat?

Commissioner Schiff: All the surface parking, including the stuff on the south on the vacated Elroy, needs to be available.

Staff Neet: I discounted that. There's 38 surface parking spots on their lot. I did not count the south of Elroy.

Commissioner Schiff: Why didn't you count that?

Staff Neet: That's a different lot.

Commissioner Schiff: OK, so you only count the 38. So he has to allow access below grade for the commercial people, which he earlier said he wasn't going to do.

Staff Neet: He's going to allow it for employees, owners and shopkeepers.

Commissioner Schiff: OK, for 33,000 square feet of commercial space, there's only 38 spaces for patrons.

Staff Neet: Correct.

Commissioner Schiff: What's wrong with our math? That sounds ridiculous.

Staff Neet: He's only required to have the total amount whether it's below grade or surface.

Commissioner Schiff: OK, next question I've got. On the site plan, it looks like as you access the underground parking, you're going past the strip where people are backing out of other parking spaces. If you can track where a car would come. On the west side. Track where a car will come in from the west. Right there. Now you've just driven the car past a row of surface stalls where people need to back into the drive aisle. They need to back into the drive aisle for the parking ramp in order to get into their spaces.

Staff Neet: That's correct.

[comment off microphone]

Commissioner Schiff: So how's that all right?

Staff Neet: These cars on the south of Elroy will have to back out into a legal drive aisle. It's a legal drive aisle, it's minimum of 22 feet I'm sure, it might be 25. 24 feet he says and 22 is required for that whole thing. I would also point out that the Department of Public Works,

including its Transportation Division has reviewed the whole site plan including all the parking and given preliminary approval.

Commissioner Schiff: OK, I got an e-mail from Janine Ryan saying all the parking needs to be rearranged to allow for new traffic flows.

Staff Neet: I am not aware of that.

Commissioner Schiff: OK.

President Martin: A different part of Public Works?

Commissioner Schiff: No, she's the one who approves that kind of stuff.

[Comment off microphone]: The parking configuration we're showing on the application form was rearranged slightly from the color one we've had for some time based on the comments that we got at the Wednesday round table meeting. They wanted it arranged this way with an access aisle on each end.

Staff Neet: Yes, that wasn't done that way on the original, but it was now. That is the circulation can come around here. The other change that was made was that they didn't have the proper loading docks and they do have now and they all work.

Commissioner Schiff: So for Planning's perspective, have we approved this before where there are on-surface parking spaces that need to back up into the area where people are headed to get to the underground parking. That's fine for our City standards?

Staff Neet: They have to back up to do what?

Commissioner Schiff: Someone else try to explain this. It's simple to me, but I'm apparently not explaining this well.

[Comment off microphone]: This is legal because we're on grade, we're not starting to go down until we're outside of the drive lane.

[Comment off microphone-Dean Davolis]: Yes, cars do back up, so you're right on that.

Commissioner Schiff: And yet we approve this all the time [comment off microphone: Yes]. OK.

Staff Neet: This would be the same way as a double-loaded parking corridor, just like this one is here. They have to back out and then come around.

Commissioner Krause: I think the difference is it's one thing to back up into a drive aisle that's accommodating those few parking spaces around it. It's another thing to back it up into a drive aisle that's accommodating a fairly significant amount of traffic that's using the drive aisle to access the underground. In other words, if you're just backing up into a drive aisle that's just for that series of parking spaces right around it, it's a little bit different than if you're trying, in this case, I live with this in my building and it's kind of a hassle where we've got all this shared parking and you're going to be backing into the drive aisle – it's going to be a lot busier because it's going to have 102 spaces underground that's the only point of access.

Commissioner Schiff: Right, that's my point exactly.

President Martin: More, Commissioner Schiff?

Commissioner Schiff: No, that's all the questions I had for staff.

President Martin: Others?

Commissioner MacKenzie: In terms of the merits of the proposal, [tape unclear]... effectively, we're dealing with some cumulative impacts here with the adjacent development, the uses that are going on and it sounds like from some of the testimony we heard that the uses in that building, though they're great and they're really a fantastic gathering place for the Somali community, they can't be accommodated in terms of the automobiles that bring the people to the location. So, you know I'm not really sure that there isn't truth to the fact that adding this much additional activity doesn't resolve any of those first problems and in fact, maybe we're just incrementally making the problem worse. So I'm stricken between merits of the proposal, I have some concerns about height, I have some concerns about access and egress and then what it does to the overall fabric given what's going on next door. So I'm just throwing that out there for my colleagues to chew on.

Commissioner Schiff: I think of the Midtown Greenway and what our plans are for it, I'm actually a lot more comfortable with the housing on this than I am with a 2-story commercial industrial building. The City started assembling this 12 years ago as the testimony said while in 1999 we finally got around to approving some framework for the Midtown Greenway and it seemed like the City was moving toward industrial with the idea that the Greenway is for industrial, well then we got this other idea. Hey, it could be used for a pedestrian and a bikeway and now we think it could be a transit corridor with a streetcar. So with that in mind as the goal, the housing makes a lot of sense to me. We've approved housing to the left and right of this in the past 6 months, so I don't know how we not approve the Industrial Living Overlay district and how we not approve housing, but it's all the commercial that causes me concern because we want commercial in our commercial corridors, I don't think we've designated the Midtown Greenway a commercial corridor yet, and that's where I'm hitting a wall here. Because I'm looking up to 35,000 square feet of a new commercial space and 38 surface parking spaces. We know that's not right. And I don't know if this site has an interim use permit to be used as a surface parking lot, it may not, but it sounds like it is being used as such, so I think the math is interesting that 250 cars have been counted on that lot recently and certainly this proposal is a higher use and a loss of parking. So I could make some decisions and start making motions, Madame Chair.

President Martin: One of the things I'm just going to remind everyone, one of the things we heard is that there are a lot of people who are hoping that this project solves the parking problem for the building across the street, which it's not going to do.

Commissioner Schiff: Can't. That dog won't hunt.

President Martin: Yeah, exactly.

Commissioner Krause: This may be just a question for staff, but I don't recall us ever... The purpose of the Industrial Living Overlay was to allow residential uses in some of our older, traditional industrial areas, specifically warehouse districts. Have we ever done this where we've

had a bare site, new construction where we're going to build new industrial and then allow the Living over it, or is this...?

President Martin: Stone Arch Apartments.

Staff Neet: I think we have, and I think there's some more in the pipeline as well. It's also been described that the ILOD is for areas in transition.

Commissioner Krause: And then just one other point. I don't disagree with Commissioner Schiff although I don't think Mr. Reynolds is here anymore, but I know a little about the work Whittier is trying to do and he has a real concern about a very steady erosion in the amount of industrial space. Now maybe this isn't the right place for it, right on the Greenway, but I know one of his issues in trying to... business development and business incubation is that there just isn't any space left in South Minneapolis for these businesses to go, so they are leaving and they're taking with them some fairly decent paying jobs and jobs that are trainable and accessible to an inner city workforce so we have to try to balance that.

Commissioner Schiff: I think those are really good points Commissioner Krause, but I've worked on a lot of industrial development in my ward, representing the Seward Industrial park and I've never met an industrial developer who didn't want to own their own site. And I've never met an industrial developer that wanted housing up above them as much as I love that with my new urbanist Utopia – reality has hit me again and again and I can't sell vacant land with the idea of a mixed use to any industrial developers in my ward. So I think it's a good ideal, but I don't know if we're going to accomplish it. And it think for the neighbors concerned about parking, I think residential brings less parking and traffic than commercial. With residential, it sounds hard to believe, because they're there 24 hours a day, they come in the morning and they leave in the evening and the traffic caused by 69 units is far less than 8 hours of commercial activity for 30,000 square feet of retail. That's people coming and going for 10, 20 minutes at a time and you're getting thousands of vehicles versus 69, so we've got the traffic studies showing that traffic uses are just less for residential than they are for the commercial activities. I'm going to, and I know the City is wearing two hats here, we are regulating land use, we're also making economic development contract decisions.

President Martin: We aren't.

Commissioner Schiff: We're not. I am on the City's hat and the City has two arms and Planning Commission is one of them so any of this could be undone by the City Council that decides they don't want to in turn to this kind of economic development, but I'm going to move the Industrial Living Overlay District, again, because I think it's consistent with the policies of the Midtown Greenway Overlay District framework plan that was passed in 1999 and we've done it consistently for other housing in the area.

President Martin: OK, so you're moving approval for the rezoning.

Commissioner G. Johnson seconded.

The motion carried 7 – 0.

Commissioner Schiff: Madame Chair, I'm going to try to make this consistent with the Midtown Greenway Overlay proposal that's awaiting some master planning work in the corridor for

adoption, so I have a question for the architect. The proposal has a staircase on the second floor on the southern part of the eastern wing and western wing. How much footage is it from those stairwells to the edge of the building from the south?

[Comment off microphone]: A little less than 100 feet. The building is 60 feet wide. It's probably, actually Gary, from the south end to the door it's probably about 60, 65 feet.

Commissioner Schiff: I don't know how many units to do this for then. To my colleagues, I was going to suggest less units so the building could be set back in accordance with the Overlay District and that would not be possible with the units at the size they are today, but perhaps we just address it in the site plan.

Commissioner Krause: I was going to suggest that one option would be eliminating a floor, I mean that eliminates units. So you'd be able to get a certain number of units or a certain height and you could actually have some flexibility on how you got to that number.

Director Sporlein: I just want to add that the overlay district that Commissioner Schiff is talking about has been presented to the staff. We have not analyzed it yet because we're moving forward with the land use planning effort. We do take it into account, but it doesn't have official status. And so we are moving forward with a master land use planning effort as our work plan and also, I know you've already acted on the rezoning, but just to follow up to at least the Zoning and Planning Committee members, we will follow up on the covenants of the land sale to make sure that we have the final result on that, at least for the City Council.

Commissioner Schiff: I think we'll address them in the site plan as Mr. Krause suggested so I'll move approval of the CUP, but deny the CUP for the farmer's market. So you approve the CUP for the dwelling units, but deny the CUP for the farmer's market (Kummer seconded).

President Martin: So you're recommending, approving that the application for a CUP to allow 69 dwelling units, strike out the farmer's market, is that what you're suggesting.

Commissioner Schiff: Right, or a separate sentence that says and deny the conditional use permit necessary for a farmer's market at 206 Elroy Street.

President Martin: OK, you got that Neil. And that's been seconded.

Commissioner MacKenzie: Question for Commissioner Schiff. If we in fact approve a CUP for 69 units and then we take a floor out. Is that a conflict, is that alright?

Commissioner Schiff: I think it's the best way to solve it. Obviously he can't build that many or they're micro-units, so he just ends up with less units. We could take a guess at the number, but we think it could be, but I think that'll be a little difficult.

President Martin: OK, so everybody understands the motion? [Comment off microphone] This is us, not you. You had your turn. Everybody understand? All those in favor.

The motion carried 7 – 0.

Commissioner Schiff: The landscaping is already sufficient on the site plan issue. So we've got the height issue and, can the site plan limit uses as well, I guess a question for Mr. Anderson.

Staff Anderson: I'm not sure what you mean Commissioner Schiff.

Commissioner Schiff: We denied a CUP for a farmer's market, but if there's other commercial uses allowed in the commercial district, can we restrict their uses in the site plan?

Staff Anderson: If they're allowed, then they're allowed.

Commissioner Schiff: I'll request that the building has an additional setback of, it's 36 feet back today, so the building be set back 40 feet if it is 30 feet tall or the building be set back 65 feet if it is 50 feet tall (G Johnson seconded).

Staff Anderson: Again?

Commissioner Schiff: 40 feet setback would equal 30 feet height limit, 60 feet setback would equal 50 feet height limit.

Dean Davolis: One issue that you do lose parking as the building goes back or encourage parking across on the other side. We could flip the parking all on the Greenway side, which would honor their site commitment, but take the eyes off the Greenway, so there's a trade-off with that to sunlight, but you lose the eyes on the Greenway. A compromise would be 40 feet, 4 stories is what I think because it gives enough green but preserves a height that can keep the parking on the side of the building it wants to stay. Because if you flip it, the further you go back, you would have the right to throw the parking on the other side and that's the last thing you want to have happen.

Commissioner Schiff: Unless we put in a condition that requiring the parking to be on the south side of the building.

[Dean Davolis - comment off microphone]: 40 feet tall, and 40 feet back, 4 stories high.

Commissioner Schiff: I appreciate that suggestion.

Commissioner LaShomb: Well, I think this going to be one of the messiest projects that went anywhere. I hope to gosh sakes that we don't allow parking next to the Midway Corridor. If we do that, then God help us, if you believe in God, he'll get you for that one. So moving this building back farther and farther, in theory, sounds wonderful, but I think what's happening... I think we've kind of crossed a line where basically we ought just vote against all of this and we ought to just say this project doesn't work on this site. Because if you keep moving it around and now you've taken a floor off the bottom of it, I don't think it's going to be financially viable to start with. I think it's probably a violation of the CPED agreement. My understanding was they wanted some commercial industrial on this site. They might still be able to slip some in because it won't be a farmer's market. And now we want to move it back off the Greenway, so we're going to have a massive space there but there won't be any parking on the site when parking is one of the major problems. I think we've crossed a point where - I'm going to move we lay this over for a cycle.

President Martin: We still have a motion.

Commissioner Schiff: I'll withdraw my motion Madame Chair.

Commissioner LaShomb: I'm going to move that we lay this over until we have a clarification on the agreement from CPED that was originally concurred. I think we ought to have a CPED person here rather than get everything secondhand. I think that's really a very poor way for that department to work. And then secondly, people got to look at this parking issue. This project isn't the problem, it's something that's there now and I don't, God willing there won't be a fire and it will still be there, but this project needs to be looked at on its own merits and I think what we're doing is nickel-diming this and cutting it in 10 different directions and it's never going to happen, so I think we need a cycle to kind of cool it and get some information from CPED about the agreement, talk to the people about parking to see whether there are some parking solutions. Maybe Council Member Zimmermann needs to come, if we can invite him. I'm getting the feeling that we're going a little crazy, just a little (MacKenzie seconded).

President Martin: And the specific question then is to delay the site plan review for a cycle to get a lot of questions answered particularly where the parking, how much parking, where it's going to be, how far back from the Greenway, anybody might actually want this building, including the Greenway Coalition, although that's not yet an adopted plan, and to maybe have somebody, maybe it's Neil, maybe it's Director Sporlein, have a conversation with the other folks in CPED about what was actually imagined here and how the parking... Everybody's right, the parking problem isn't being caused by this building. It's being caused by something across the street that doesn't have an appropriate amount of parking and this isn't going to solve it, so I'm not sure, but there needs to be more information. Does that make sense?

Director Sporlein: Yes, and I think we can get that information. I would like Mr. Anderson or Mr. Neet to comment on the 60 day rule as it applies to holding it over for a cycle. I think we're ok, but I just want to make sure.

President Martin: We've got August 7th on here.

Staff Anderson: The 60 days are up on August 7th, the 120 days are up on October 6th. We have plenty of time for that.

Commissioner MacKenzie: I just wanted to quickly add another question maybe to be explored with return to site plan is adjusting the building height, so a greater setback from the Greenway, a change in the building height, what does that mean in terms of the amount of parking that can be provided and then again, how does it concur with Midtown Greenway's hopes for building height next to the Greenway?

Commissioner Krause: I was going to suggest, if I heard Mr. Nelson correctly, I think there's 20 feet already between the property line and the start of the trench. And the standard would be 65 feet back from the edge, so I think the right number we're looking for is maybe 45 feet. 20 feet plus 45 feet which would be 65, which would allow 50 feet in height. Maybe I'm not right, but we'll get that figured out.

President Martin: Since we're giving it two weeks, everyone will get to have a conversation about this. Further things people want to know about before this comes back in two weeks?

Director Sporlein: Well, I'd like to have this cleared up with Public Works too in terms of the parking arrangements and the drive aisles and other related parking issues, so we'll have Janine Ryan weigh in on that.

Commissioner Schiff: I welcome Commissioner LaShomb's comments. I wish he had spoken up on the rezoning or the conditional use permit. He raised the question of is this use appropriate, or should it just be industrial and we've already voted now on a rezoning and on a conditional use permit, so if Mr. LaShomb and my fellow commissioners want to reopen the question of what is the use on this site...

President Martin: Except the ILOD is an overlay. It doesn't mean that it can't be industrial.

Commissioner Schiff: Right. But the conditional use permit.

President Martin: The basic zoning stays the same, it simply allows...

Commissioner Schiff: Right, a conditional use permit expressly adds housing to the mix. Do we want to grant that today or do we want to stay everything so that we get these issues addressed?

[end of tape]

Commissioner LaShomb: Madame President, Commissioner Schiff, I support the housing, I think the housing is a great deal, what I'm afraid of is we're going to make this project such a mess that there won't be any housing on the site and then we'll have a parking lot there for God only knows how long. In fact, I even have... I do have a pharmacy that was sitting over on University Avenue. Seriously, I think when a developer comes in here and, they shouldn't get everything they want and I've had a lot of people talk to me about this project and what it really comes down to is that if a project is such an onerous problem, rather than try and squeeze it, turn it upside down, do everything else, I think we should just make a good faith effort and just say, sorry guys, it just doesn't work on this site. That's point number one. Point number two is we're not two cities, we're one city. We have a City department that spent a lot of time and effort putting this project together so I just have a feeling that we're at cross purposes with an agency of our own City government and if that's the case, then I think we've really got some really fundamental problems, which I thought were going to be addressed in the Mayor's reorganization, so I don't want to get preachy about this, I just think we need a little time to sort this out, but the rezoning to me is appropriate because the housing ought to be on this site and the conditional use permit, maybe I just don't get that piece of this, but let's just lay it over for a little bit and see how it melds.

President Martin: So the motion is to continue the site plan review for one cycle with particular attention and questions around parking, building height, conformance with the emerging Greenway plans and some discussion with CPED about what's actually been agreed to here.

The motion carried 7 – 0.

COMMISSION BUSINESS

None.

ADJOURNMENT

The meeting was adjourned at 7:42 p.m.