Excerpt from the
CITY PLANNING COMMISSION
MINUTES

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MEMORANDUM

DATE: March 23, 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 March 22, 2004

The following actions were taken by the Planning Commission on March 22, 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, Vice President Hohmann, Krause*, Kummer, LaShomb, MacKenzie, and Schiff – 7.

CONSENT AGENDA – Committee of the Whole
None.

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

*Note: Commissioner Krause recused himself and took no part in discussion or voting regarding agenda item number 8, Machinery Lofts, BZZ-1605, Vac-1430, 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

8. Machinery Lofts (BZZ-1605, Vac-1430, Ward 6)

2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South (Hilary Watson).

A. Rezoning

Application by Wayne Olson, on behalf of The Cornerstone Group, for a rezoning petition to change the zoning classification for the properties located at 2848 Pleasant Avenue South and 2825 Pleasant Avenue South from I2 to R5.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to change the zoning classification for the properties located at 2848 Pleasant Avenue South and 2825 Grand Avenue South from I2 to R5.

B. Conditional Use Permit

Application by Wayne Olson, on behalf of The Cornerstone Group, for a conditional use permit for a 58 unit condominium development located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **approved** the conditional use permit application to allow a 58-unit condominium development located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South subject to the following conditions:

1. There shall be no more than 58 dwelling units within the building.

C. Variance

Application by Wayne Olson, on behalf of The Cornerstone Group, for a variance to reduce the front yard setbacks along Pleasant Avenue South and Grand Avenue South from the required 15 feet to zero feet to allow for the existing building to remain at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **approved** the variance to reduce the front yard setbacks along Pleasant Avenue South and Grand Avenue South from the required 15 feet to zero feet to allow for the existing building to remain for the property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

D. **Variance**

Application by Wayne Olson, on behalf of The Cornerstone Group, for a variance to reduce the south interior side yard setback from the required 9 feet to zero feet to allow for the existing building to remain at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **approved** the variance to reduce the south interior side yard setback from the required 9 feet to zero feet to allow for the existing building to remain for the property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

E. **Variance**

Application by Wayne Olson, on behalf of The Cornerstone Group, for a variance to reduce the front yard setback along Pleasant Avenue South from the required 15 feet to zero feet to allow a trash enclosure and a parking area at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **approved** the variance to reduce the front yard setback along Pleasant Avenue South from the required 15 feet to zero feet to allow a trash enclosure and a parking area for the property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

F. **Variance**

Application by Wayne Olson, on behalf of The Cornerstone Group, for a variance to increase the height of a fence located in the front yard along Pleasant Avenue South from the permitted 4 feet to 13 feet 6 inches (fence) and 5 feet 6 inches (gate) for property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **approved** the variance to increase the height of a fence located in the front yard along Pleasant Avenue South from the permitted 4 feet to 13 feet 6 inches (fence) and **denied** the variance to increase the height of a gate located in the front yard along Pleasant Avenue South from 4 feet to 5 feet 6 inches for the property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

G. **Variance**

Application by Wayne Olson, on behalf of The Cornerstone Group, for a variance to increase the height of a fence located in the front yard along

Grand Avenue South from the permitted 4 feet to 5 feet 6 inches for property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **denied** the variance to increase the height of a fence located in the front yard along Grand Avenue South from the permitted 4 feet to 5 feet 6 inches for the property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

H. Variance

Application by Wayne Olson, on behalf of The Cornerstone Group, for a variance to increase the width of a sidewalk located in the front yard setback along Pleasant Avenue South and Grand Avenue South from the permitted 6 feet to 14 feet for property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **denied** the variance to increase the width of a walkway located in the front yard setback along Pleasant Avenue South and Grand Avenue South from the permitted 6 feet to 14 feet for the property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

I. Major Site Plan Review

Application by Wayne Olson, on behalf of The Cornerstone Group, for major site plan review for property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: The City Planning Commission adopted the findings and **approved** the site plan review for a 58-unit condominium development located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South subject to the following conditions:

1. There shall be no gates installed as part of the construction of the fence.

2. The Community Planning and Economic Development Department – Planning Division shall approve the final site, landscaping and elevation plans.

3. The applicant shall obtain an encroachment permit from the Public Works Department for any work done in the right-of-way.

4. All site improvements shall be completed by March 22, 2005, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

5. If estimated site improvement costs exceed $2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before exterior building permits are issued.

6. Doors and patios facing the Greenway are encouraged but are left to the decision of Hennepin County.

J. Vacation

Application by Wayne Olson, on behalf of The Cornerstone Group, for an alley vacation for property located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South.

Motion: City Planning Commission recommended that the City Council adopt the findings and **approve** the vacation for the Machinery Lofts project located at 2848 Pleasant Avenue South, 2825 Pleasant Avenue South and 2821 Pleasant Avenue South subject to retention of easements by Qwest as follows:

Part of the "L" shaped alley in Block 1 & 4, Excelsior Addition to Minneapolis.

Staff Hilary Watson presented the staff report. Additionally, Ms. Watson noted that staff's opinion is that they do not want gates because it would give the appearance of being a gated community.

Commissioner LaShomb: I'm not tracking why we need a fence along here in relation to the vacation. What are we protecting along the alley?

Staff Watson: Right now we're protecting the adjacent homeowner as there is a fence there now and if the fence comes down he's concerned that he'll have people walking into the yard.

Commissioner LaShomb: So how high is this fence going to be?

Staff Watson: Staff is suggesting a four-foot high, vinyl-coated, chain link fence.

Commissioner MacKenzie: Do we have any records on the ornamental fence, the brick wall on Pleasant Ave, about incidence of graffiti that might have occurred in the past?

Staff Watson: I don't know about that. When I was out there, there was not graffiti on it, maybe Mr. Olson can talk to that a little.

Commission President Martin opened the public hearing.

Wayne Olson: (Project manager, regarding the graffiti question) That's a question we're asking ourselves with our marketing team. We don't have any quantitative data recording the incidence of graffiti-that's certainly something we're concerned about while we are in pre-sales. We have agreed to contract with a graffiti removal system, Sparkle Wash, so if graffiti occurs we can provide clean up for that.

Commissioner MacKenzie: Just a follow up, have you considered any material to coat the brick? Basically so the graffiti doesn't take.

Wayne Olson: That is an excellent suggestion.

President Martin: Talk to us about gates.

Wayne Olson: Currently we have designed rolling fences that would open with a garage door opener type remote control for any of the residents that choose to have a parking spot. We feel that for a couple of reasons, the first being that right now there is no access from Pleasant to Grand on either the alley or 29th. You have to go through the alley and north again to 28th and back down. If there is a perception, based on no gates, that there is an ability to pass through on Grand to Pleasant, we feel there would be a lot of cross-through traffic. The second issue is that it's an easy way for us to add value to the property for folks that are buying units in the 190,000 to 300,000 dollar range. So it's a marketing issue as well as a traffic control issue.

President Martin: Do you have a visual of what these gates would look like?

Wayne Olson: The west elevation indicates a general idea of what the rolling gate would be. It would operate on a sliding wheel and pulley system as opposed to swinging in and out of the property. We're planning on some artist proposals to either create the fence or decorate whatever fence it is we put up.

President Martin: But the general sense is a fence that is more open than closed? You can see through it?

Wayne Olson: That's exactly correct.

Commission President Martin closed the public hearing.

Commissioner LaShomb: I will move staff recommendation for rezoning on item 8 (MacKenzie seconded).

The motion passed 5-0.

Commissioner LaShomb: I will move the conditional use permit (MacKenzie seconded).

The motion passed 5-0.

Commissioner LaShomb: I will move the staff recommendations for variances C through H (MacKenzie seconded).

Commissioner LaShomb: I think most of the variances speak for themselves. There is a rather nice housing project off of 3rd Avenue near La Rive and the project had a fence, but it also had an open gate process. I don't think from a marketing standpoint having a gate made any difference. I think the more gates you have in a city, the more suburban they start to look and I'm not in favor of suburban projects in Minneapolis.

Commissioner MacKenzie: I appreciate the applicant's interest in making sure there is no cut-through traffic. I think if you look at the site plan and elevations, particularly the courtyard elevations that are in our packet, there is no way anyone in a vehicle, on Pleasant in particular, would look through to the west and think they could get through because there's a building in front of them. So I don't think the gates are really needed. They are 6 foot tall aluminum gates. You can see through them, but 6 feet is fairly substantial, so I am not comfortable approving.

The motion passed 5-0.

Commissioner LaShomb: I will move the major site plan review, staff approval (MacKenzie seconded).

Commissioner Schiff: I would like to make two amendments. I think the presence of the gates are fine where they are proposed on Pleasant Avenue.

President Martin: We just overturned that.

Commissioner Schiff: Well it's in two places. The variance pretty much is about height and presence of the gate. So adding [a condition] that doors and patios should be encouraged but left to the discretion of Hennepin County.

Commissioner LaShomb approved of the amended condition.

The motion passed 5-0.

Commissioner LaShomb moved the vacation, stating: I am a little concerned about the letter that is in the packets from Robert and Patricia Moss relating to an individual who apparently is disabled and might have some difficulty as a result of the vacation, so I hope Mr. Olson will try to work that issue out (Hohmann seconded).

The motion passed 5-0.

9. Super America (BZZ-1550, Vac-1429, and MS – 110, Ward 9)

4306, 4308, 4320 E. Lake Street (Jason Wittenberg)

A. Rezoning

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for rezoning from the C1 (Neighborhood Commercial) District to the C2 (Neighborhood Corridor Commercial) District at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to rezone the properties at 4306, 4308, & 4320 E. Lake St. from the C1 District and to the C2 District.

B. Conditional Use Permit

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for a conditional use permit for an automobile convenience facility at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow an automobile convenience facility at 4306, 4308, & 4320 E. Lake Street subject to the alley easements being in place and the east-west alley alignment shall be constructed prior to vacation of the southern segment of the existing alley.

C. Conditional Use Permit

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for a conditional use permit to extend the maximum hours open to the public to allow 24-hour per day operation at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **denied** the application to increase the maximum hours open to the public to allow 24-hour per day operation of an automobile convenience facility at 4306, 4308, & 4320 E. Lake St.

D. Variance

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for a variance to increase the maximum permitted sign area on the pump island canopy to allow 53 square feet of sign area on each side that faces a street rather than 25 square feet of sign area on each side that faces a street at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **denied** the variance to increase the maximum permitted sign area on the pump island canopy to allow 53 square feet of sign area on each side that faces a street rather than 25 square feet of sign area on each side that faces a street at 4306, 4308, & 4320 E. Lake St.

E. Variance

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for a variance to eliminate the minimum vehicle stacking space requirement at the end of the pump islands at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **approved** the variance to eliminate the minimum vehicle stacking space requirement at the end of the pump islands at 4306, 4308, & 4320 E. Lake St.

F. Variance

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for variance to increase the maximum height of a fence along the north lot line from six feet to eight feet at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **approved** the variance to increase the maximum height of a fence along the north lot line from six feet to eight feet at 4320 E. Lake St with the condition that:

1. The fence shall be constructed of masonry materials.

G. Variance

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for a variance to reduce the required front yard along 44th Avenue to allow a portion of the vehicle maneuvering area in the setback area at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **approved** the variance to reduce the required front yard along 44th Avenue to allow a portion of the vehicle maneuvering area in the setback area at 4320 E. Lake St.

H. Site Plan Review

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for site plan review at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **approve** the site plan review application for an automobile convenience

facility at 4306, 4308, & 4320 E. Lake St., subject to the following conditions:

1. The project is subject to approval of the proposed alley vacation. The alley easements shall be in place and that the east-west alley alignment shall be constructed prior to vacation of the southern segment of the existing alley.

2. The applicant shall place additional mass at the corner of Lake Street and 44th Avenue by, at a minimum, incorporating brick at the base of the freestanding sign and increasing the amount of brick in the proposed fence. Not less than twenty five (25) percent of fence along the south and east property lines shall be brick. The freestanding sign shall be no taller than 12 feet.

3. The facia of the service area canopy shall match the roofing materials of the principal structure and the canopy shall be 60 feet or less in length.

4. The public right of way located between the south property line and the public sidewalk shall include interim amenities to be reviewed by staff. CPED staff shall review and approve long-term amenities following a city and county decision about the use of the reconstructed Lake Street right of way. Such long term amenities shall be installed within six months of completion of the reconstruction of the block.

5. Walkways between the building and the parking spaces shall be kept free of obstructions (e.g., pillars, ice machines, etc.) in a manner that allows four (4) foot wide clearance. A four-foot sidewalk will be added on the north side of the property from 44th to the building. Such walkway(s) shall be protected from encroachment of vehicles by curbing, wheel stops, bollards, or similar barriers.

6. The location and width of curb cuts shall be reviewed and approved by the Public Works Department.

7. A “No Left Turn” sign not exceeding four (4) square feet in area shall be installed near the exit onto 44th Avenue South.

8. The site shall comply with the minimum number of canopy trees and shrubs required by section 530.150 of the zoning code. One canopy tree shall be planted for every twenty five (25) linear feet of parking/maneuvering frontage.

9. The applicant shall ensure lighted canopies on the property will not exceed 60 initial raw lamp lumens per square foot. Furthermore, the

lighting in the canopy shall be recessed with flat lenses to prevent glare and trespass. This will be documented in a photometric of the site congruent with Minneapolis Code 530.240 prior to approval. The applicant shall submit a final lighting diagram verifying compliance with the City's lighting standards and to determine the effect of lighting on surrounding uses.

10. The air service machine shall not be located in a required yard.

11. The project shall comply with the Specific Development Standards for automobile convenience facilities found in section 536.20 of the zoning code.

12. The Planning Department shall review and approve the final site plan, landscape plan, building elevations, and all fence and refuse enclosure elevations.

13. If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs prior to obtaining a building permit for exterior improvements.

14. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by April 30, 2005, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

15. Speaker use shall be discontinued if significant noise complaints due to speaker use are received by Zoning Enforcement.

16. The developer will continue to work with the neighborhood to incorporate the good neighborhood agreement.

I. **<u>Vacation</u>**

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for a vacation of the southern portion of the public alley (a new alley easement would be created to connect to 43rd Avenue South) at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission recommended that the City Council **<u>approve</u>** the vacation application at 4306, 4308, and 4320 E. Lake Street subject to retention of easements by Qwest and Xcel Energy.
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J. **<u>Minor Subdivision</u>**

Application by Derek Knight, on behalf of Speedway SuperAmerica LLC for a minor subdivision at 4306, 4308, and 4320 E. Lake St.

Motion: The City Planning Commission adopted the findings and **approved** the minor subdivision at 4306, 4308, and 4320 E. Lake St.

Staff Jason Wittenberg presented the staff report. Additionally, staff Wittenberg presented a letter received on the way to the Planning Commission from Public Works. Staff Wittenberg noted that due to recent discussions with Public Works that the recommendation for item I, the vacation, had changed from continue to approve subject to easements from Xcel and Qwest.

Commissioner Schiff: Just to clarify, there are four pumps existing on the site.

Staff Wittenberg: There would be two more fueling points than the existing facility. I believe the existing is six fueling points, and now they would have eight.

Commissioner Schiff: Can you clarify the canopy? I see quite a large canopy extending all the way to the store. Do we have standards stating how big the canopy can be?

Staff Wittenberg: I am afraid we don't have precise standards. My perception is that the applicant would like to have weather protection that would extend all the way to the store.

Commissioner Schiff: On the denial on the staff report of the signage variance, can you show on the elevations what the effect would be of that denial?

Staff Wittenberg: The effect would be that SuperAmerica had proposed to spell out in relatively large letters the entire SuperAmerica name on the facia of the canopy facing east and facing toward Lake Street. Either they would have to substantially reduce the size of the lettering, or perhaps they would just go to the SA logo.

Commissioner Krause: The elevation of the south view shows what looks to be two windows that appear to be bricked in-is that how they are going to be built?

Staff Wittenberg: That is correct. They have a proposed contiguous amount of window area, but the other arches are simply decorative brick elements.

Commissioner Krause: The only other 24-hour use in this area is the White Castle?

Staff Wittenberg: That is the only that I can think of.

The public hearing was opened.

DeWayne Townsend (3222 29th Ave S): I am the President of the Longfellow Community Council. I am here to say that the LCC did approve the current site plan and we would like you to go forward with it. We went through a two-year process to develop

a corridor plan for this area. The consolidation of the two gas stations was a high priority and we feel that the company has followed through on that. The good neighbor agreement has been approved by everybody, and apparently is what will be signed.

Michael Cronin (on behalf of Speedway SuperAmerica): I am joined by John Cernzak who is responsible for the operation of all the SuperAmerica stores in Minneapolis, and Derek Knight, who is responsible for building it. To run through the issues that were brought up: One on the pumps-there are eight pumps now. Four pumps, so you could serve eight now, but you'd really have to be good at parallel parking and they are in a line now, so it's practical to say six. We are closing down four fueling points on 39th, so there will be a net reduction of stores and pumps on Lake Street. Secondly, on the issue of the canopy, on the connection through. It is optional for us. We would like to do it. We have talked about connecting the store to the canopy, but it adds another element that's along the street. On the signage question, we would change them back to the SA logo which is permitted. On the windows, we had proposed two different schemes. One are these blue diamonds which might add some color to that edge of Lake Street, we might put gooseneck lamps over them or something like that to add some animation. The other is brick corbels that reflect the window. Our manager's office that we count the money are behind those, so we don't want windows in that area. And we meet the minimum, it is just a proposal to decorate the wall.
Our request is that you adopt the staff recommendation with three comments and one exception. We would ask that on the site plan, item 3 with the issue of the canopy, Mr. Wittenberg talked about bringing the shingles out, but just recognize that might not be the solution.

President Martin: Is that in the good neighbor agreement?

Michael Cronin: No. But that's in the agreement with staff. The second issue is the trees. Specifically on site plan condition number eight. It also talks about the idea of the sidewalk. We can put a sidewalk through here if that is the request of the Planning Commission. We would like to note that we are cleaning up the driveways, so there are only two driveways. We're providing a way so if a person wanted to walk on the sidewalk, they could walk all around on a sidewalk and enter the store. The reason we are concerned about this, is that there is a lot of frustration with the traffic on 44th Avenue and our goal was to use the existing trees that are there and over-plant Black Hills Spruce, recognizing that 10 years from now, we'll probably have to thin those tress out. But we think it is really important to get a 6 to 8 foot green screen as soon as possible. The four-foot walk would pierce that screen. The next issue is the 24-hour operation and we would ask you to approve. It was a surprise to me that we found virtually no problems with the 24-hour operations when talking with the block clubs and neighbors. It's the issue of people knowing they can go someplace that is always open. The third issue is the conditional use permit with the sign. What we want to do is transfer some of our unused sign area from the building to the canopies and we accept the wisdom of the staff recommendation.
If I could speak quickly to the broader issues. One is numbers and concern about traffic. We sell gas at our store on 44th to the people who use Lake Street. Currently we capture

1 per cent of the traffic. We sell a lot of other stuff. If we captured all the business from 39th, we're going to 3 per cent of the trips on Lake Street and I think it's not going to be an explosion or a difficult thing. We recognize four issues. We see that separating us from the alley is the major benefit of this project. Our customers will no longer be using the alley. As we stated in our good neighbor agreement, we will install a no left turn sign at the area to try to discourage people from turning left on 44th. Third, we have committed that if the neighbors want speed bumps along 44th Avenue, SuperAmerica will pay for it. We would ask that you recognize that this is a good project.

Commissioner Hohmann: You are going to a smaller speaker system?

Michael Cronin: Yes. We now have a speaker system that, rather than one speaker serving the whole canopy, the microphones of the speaker are in each pump. We have recommended not to use the speaker for any use other than their purpose and not in the overnight hours.

Commissioner Krause: What are the current hours of operation for the facility on 39th?

Michael Cronin: 6 to 11.

Commissioner LaShomb: There are other SuperAmerica's in Minneapolis that are 24 hours, correct?

Michael Cronin: Absolutely.

Cathy McMahon (2928 44th Ave South): Spoke in opposition to variances due to concerns about doubling traffic with the consolidation of the two gas station sites. As far as the site plan, she stated LCC did not work with the residents for preserving a sound buffer. Ms. McMahon stated additional concerns about pedestrian traffic including children to the Dairy Queen store across the street.

Bob Aldrich (2937 44th Avenue South): Spoke in opposition to the project and noted a circulated petition. He addressed the issues of more noise, traffic and pollution. SuperAmerica will expand by 33 per cent. A total of 17 of 21 homeowners on 44th are opposed to this project due to increased noise. When the building is moved to the west, this removes the buffer provided by the building. Lastly, if you approve the plan, we need better noise reduction – the fence proposed is not enough.

Julia Nerbonne (2924 43rd Avenue South): Spoke in support of the project: I am the block club leader on 43rd Avenue, directly west of this proposed site. I am also by profession an environmental sustainability program director. And that's relevant only because I spend most of my working life to oppose major oil companies. I have hosted three block club meetings at my house over the last three months. I felt that people were excited about having the opportunity to respond to SuperAmerica with the plan. We think that the good neighbor agreement is a good document.

Brian Nerbonne (2924 43rd Avenue South): Spoke in support of the development. Stated he felt that the neighborhood as a whole would be improved as a result of this project.

Mike Newell (2932 43rd Avenue South): Spoke in support of the development as a new resident of the neighborhood. Mr. Newell noted that the SuperAmerica had been in the neighborhood a long time and the development is an improvement.

Cheryl Hunstock (2908 44th Avenue South): Spoke in opposition to redesign. Ms. Hunstock spoke to concerns about the alley vacation. She asked if a fire truck, trash truck or ambulance is going to be able to get down the alley. She also spoke about the decrease from 10 to 8 pumps in the neighborhood in regards to the redesign on Lake Street and an increase in traffic at the remaining SuperAmerica. Ms. Hunstock also spoke to a possible decrease in property values in the neighborhood.

Tom McDonald (2836 44th Avenue South and civil engineer by profession): Spoke to concern about redesign with regards to pedestrian access from 44th Avenue South on the north side of the lot. Mr. McDonald spoke about the alternative of children taking the shortcut across the site where there are cars. He also stated he thought the canopy is oversized and out of scale. Additional comments included a recommendation to restrict the hours of operation to mitigate the increased traffic from closing the other location; support of the good neighbor agreement; and asked that reference to the good neighbor agreement be enforcement of litter control in the area.

Brian Miller (Silver Design, a community development company that works for the Longfellow Community): Spoke in support of the project and addressed the fence on the north side of the project as a sound barrier. He said due to traffic to the existing store, traffic is already an issue. Regarding traffic at gas stations, he said it is important to remember that gas stations are not destinations and that part of the responsibility of the neighborhood is to determine the balance of the needs of the neighborhood with the greater good.

Kelly Baily (2821 32nd Avenue South and member of the Longfellow Community Council board of directors): Spoke in support of the development because of the votes by the neighborhood in favor of the project being in a majority, and stated that the project would be an improvement to East Lake Street.

Rick Johnson (2940 44th Avenue South): Spoke in opposition to 24-hour use due to noise issues. Mr. Johnson also addressed the stacking of vehicles and concerns about the design's ability to have more cars present than are accommodated at the pumps, in other words, that cars waiting for pumps will have to be on the streets blocking traffic.

The public hearing was closed.
Commissioner Schiff: On the site plan, can you explain why the building being on the corner wouldn't work?

Derek Knight: If we're going to keep the same size building, there isn't enough space between out neighbors to keep the landscaping and trucks need a wider turn.

Commissioner Schiff: If the trees weren't an issue, would it be possible to make that turn?

Derek Knight: It would be very, very difficult. It is our desire to mitigate the noise.

Commissioner MacKenzie: Regarding noise impacts and the height of the fence, I noticed from the noise report that a 10 foot height would reduce the decibel measure down another 4 decibels and I noticed in your field notes that a 10 foot fence is not acceptable.

Michael Cronin: The eight foot fence gets the current amount of mitigation that the building currently provides. We had proposed a 10 foot fence, but you get a wall-like, dark look to it, and we understood that the Johnson's were opposed to a 10 foot fence.

President Martin: Jason, one of the neighbors made a strong statement about the alley vacation. This has been reviewed by public works and the fire department and everybody?

Staff Wittenberg: Alley vacations are reviewed by every division of public works as well as the fire department. One thing of note is while SA proposed a 14 foot wide alley, Public Works will require a 16 foot wide alley as well as a 10 by 10 radius triangle at the corner. Provided that is done, there were no safety concerns expressed. Noting also that in comparison to the existing alley, which is 12 foot width.

Commissioner Schiff: Just to clarify, that's reviewed by everyone in Public Works?

Staff Wittenberg: To virtually every Public Works division, and Fire does review that as well.

Commissioner Schiff: Starting with the alley vacation. I have attended many neighborhood meetings with people opposed to the project, so I am going to move to deny the alley vacation.

The motion failed for lack of a second.

Commissioner LaShomb: I am going to move the alley vacation with the language that Jason proposed in the letter of March 19th (MacKenzie seconded).

Commissioner LaShomb: I received e-mail on this project, so I drove down there to see what was down there on the alley and it was difficult to get through, so my opinion was that there was no way this alley should be vacated. The other part is that this alley currently opens out to Lake Street. Clearly some work has been done on this, and a

decision has been made not to close off the end of the alley, but to turn the alley, so that makes me feel better about this and it's not really an issue anymore.

The motion carried 5-1, Schiff opposed.

[Tape unclear with question from an audience member not at a microphone]

Commissioner LaShomb moved staff recommendation for the rezoning (Hohmann seconded).

Commissioner LaShomb: As I said, I did go over and look at this site and I have also bought gas at both service stations, and I have a problem with two stations within a few blocks. I realize there are worse situations, but I think there is better use at the corner of 39th that could be used more effectively. I think consolidating SuperAmerica on this site is better.

Commissioner Schiff: I don't disagree with Commissioner LaShomb regarding the sites, but one of the speakers earlier spoke to how there is only one gas station between Hiawatha and the river. Actually, you have to go another 7 blocks to the west of Hiawatha to hit another gas station.

The motion passed 5-1, Schiff opposed.

Commissioner LaShomb moved the conditional use permit, item B (MacKenzie seconded) with the condition related to alley easement and construction.

The motion passed 5-1, Schiff opposed.

Commissioner Schiff moved the staff recommendation for item C to deny (Hohmann seconded).

The motion passed 6-0.

Commissioner Schiff moved the staff recommendation for item D to deny (Hohmann seconded).

The motion passed 6-0.

Commissioner LaShomb moved staff recommendation for item E (MacKenzie seconded).

The motion passed 5-1, Schiff opposed.

Commissioner Schiff asked staff to explain regarding the materials of the fence.

Staff Wittenberg: It's essentially a board on board fence, two sides, 8 feet in height, from the front yard setback point all the way to the rear.

Commissioner Schiff: And board on board, are you familiar with other techniques people use to mitigate sound?

Staff Wittenberg: Unless you move to something that's sort of a masonry construction, you have probably done what you can do.

Commissioner Schiff: And the board on board, does that require going down and potentially damaging the tree roots?

Staff Wittenberg: I wouldn't anticipate that would interfere with the trees.

Commissioner Schiff: I think a masonry fence would do better for sound insulation and would disrupt the trees less – you wouldn't need to go down so far. So I am going to condition the height, moving approval of the variance from 6 feet to 8 feet but require a [conditional] masonry or equivalent structure to result in more sound mitigation (Krause seconded).

Commissioner MacKenzie: Just a suggestion for consideration, perhaps we would like to suggest planting vines at the base.

Commissioner Schiff: I know that we are underneath a tree canopy so you're not getting a lot of sunlight at this point.

Commissioner Kummer: I am just curious what the masonry fence will look like. When I think of masonry I think a whole lot heavier and therefore requiring deeper footings, and probably any fence would require a 3 to 4 foot footing to get below the frost barrier. Could you clarify that?

Staff Wittenberg: I am certainly not an expert on underground fence construction, I am guessing it would be similar between the two fence styles.

The motion passed 5-1, Hohmann opposed.

Commissioner LaShomb moved item G (Schiff seconded).

Commissioner Krause: I do want to make sure we add a condition about including a connecting sidewalk from 44th to the store, either here or the site plan, ok we will add it to the site plan.

The motion passed 5-1, Schiff opposed.

Commissioner LaShomb moved item H, the site plan (Schiff seconded) with additional language regarding the easement in item 1; 5 adding language that a four-foot sidewalk on the north from 44th; the rest appear ok.

Commissioner Krause: I think we did hear some comment from the neighborhood about the size of the canopy. It does seem like the canopy is too big.

Commissioner Schiff: I would suggest adding language that the canopy shall be 60 feet or shorter in length as noted on the site plan.

Commissioner Krause: I will move that as an amendment to the site plan conditions (approved by LaShomb).

Commissioner Krause: Jason, I have one other question – are the new vapor recovery systems mandatory with these projects.

Staff Wittenberg: That's my understanding. Certainly we require the best management practices.

Commissioner Schiff: I don't know if there was a second on the motion, but I will do so with some changes: Speaker use shall be used only in emergency. (this change was not approved by Commissioner LaShomb).

Commissioner LaShomb: I think that most people plug in credit cards at pumps, and I think you are making a major inconvenience for customers that don't have credit cards so he or she is going to have to go into the store and ask them to turn on the pump. I think there are lots of individuals who don't want to make that trip, possibly in conflict with the Americans with Disability Act.

Commissioner Schiff: Most modern pumps that I know of require pre-pay. Additionally, every time I go to Bobby & Steve's auto world, there is a squawking teenager welcoming me to Bobby & Steve's at a loud decibel. Are you going to have people welcoming?

Michael Cronin: One of our goals is to welcome people. As Mr. Anderson said, who lives next door, the new technology does work. If this goes forward, can we try the new technology a number of months with the good neighbor agreement?

Commissioner Schiff: I will try this: speaker use shall be discontinued if significant noise complaints are received by the Inspections department (LaShomb seconded).

President Martin: I think this might also be a place to incorporate the good neighbor agreement.

Commissioner Schiff [handout distributed by Commissioner Schiff's aide Noah Schuchman regarding lighting]: In talking to SuperAmerica I have been looking into the amount of light they will be using. My office hired a researcher to drive around and take lumens readings from gas stations across the Twin Cities and I don't think the Cities' standards are reflective of the national standards that are being written into code by progressive cities like Albuquerque.

Commissioner Schiff displayed a number of SuperAmerica's across the Twin Cities, including measurements of 33 foot candle; 45-65 foot candle; 62-80 foot candle; 25 foot candle; and finally, a transit center on Hennepin, which Commissioner Schiff said is the model that he wants to try to achieve with this station (showing 12 to 14 foot candle). So my motion, in front of you, should read: "The applicant shall ensure lighted canopies on the property will not exceed 60 initial raw lamp lumens per square foot. Furthermore, the lighting in the canopy shall be recessed with flat lenses to prevent glare and trespass. This will be documented in a photometric of the site congruent with Minneapolis Code 530.240 prior to approval." Commissioner Schiff stated this is more restrictive than the Cities current lighting standards (Krause seconded).

Commissioner LaShomb: Commissioner Schiff, are we just going to impose this on this SuperAmerica site, or is this going into the code?

Commissioner Schiff: I was just going to say, this research came out of my office budget knowing that gas stations around the city are not up to this standard, and I do intend to make this part of our City code standard.

Commissioner LaShomb: Would it be more appropriate to hold off until a City code is passed that affects everybody?

Commissioner Schiff: Well it wouldn't be retroactive. We don't build many new gas stations in town, so this is the opportunity to catch this one and then moving forward it could take me 120 days for me to successfully amend the code.

Commissioner LaShomb: I'll support this, but I have two concerns – one is I don't like singling out one business at a site when others may not have to do this and two, is there going to be sufficient light to perform the function necessary under the canopy to pump gas and was windows? But I agree that a lot of the stations I have been to the light does nothing more than attract mosquitoes and flies.

Commissioner Hohmann: I have concerns and would rather see this come back as an amendment to the code after it's been reviewed by the appropriate engineering staff.

President Martin called the vote without condition 9 (regarding lighting) to be voted on separately.

Commissioner Schiff: I also want to request that the monument sign on the corner be no taller than 12 feet tall, an additional requirement on the site plan (LaShomb approved).

The motion passed 6-0.

President Martin: Now for condition 9.

Commissioner Krause seconded condition 9. Madame Chair, I am sensitive to the comments made by the other Commissioners that we are doing this with this project, but I

think the clear intent is to carry this forward and you do have to start somewhere, so this is the opportunity to create a new standard in the City. I think it's an appropriate standard.

Commissioner Schiff: I will also point out the one example I think did meet the standards that are promoted by anti-light pollution groups is one done by Metro Transit. If there's one place people are concerned about safety is a bus stop and that Metro Transit stop in Uptown was designed with much neighborhood input. So you are not finding the light pollution, but you are finding a sufficient degree of safety, so if people are concerned about safety, I encourage you to go visit that bus stop. Again, we are not talking about the light underneath the canopy, we're talking about how that light effects people who are across the street, down the block, and are receiving the effects of the glow that is achieved here when you have too much light under a gas station canopy.

The motion passed 5-1, Hohmann opposed.

President Martin: I am going to go back and note that I may have forgotten, but I said it as we were talking about it earlier that we were going to incorporate the good neighbor agreement into the site plan.

Commissioner LaShomb moved item J (Krause seconded).

The motion passed 6-0.

12. Intelligent Nutrients (BZZ-1604, Ward 1)

321 Lincoln Street Northeast, 983 East Hennepin Avenue and 304 Johnson Street Northeast (Hilary Watson)

A. Rezoning

Application by Mike Leary, on behalf of Lip to Lip Inc., for a rezoning petition to add the IL (Industrial Living) Overlay District to the existing I1 District for the properties located at 321 Lincoln Street Northeast, 983 East Hennepin Avenue and 304 Johnson Street Northeast.

Motion: City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to add the IL (Industrial Living) Overlay District to the existing I1 District for the properties located at 321 Lincoln Street Northeast and 983 East Hennepin Avenue.

B. Variance

Application by Mike Leary, on behalf of Lip to Lip Inc., for a variance to reduce the required number of off-street parking spaces for a restaurant and a retail store from 81 to 47 for the properties located at 321 Lincoln

Street Northeast, 983 East Hennepin Avenue and 304 Johnson Street Northeast.

Motion: The City Planning Commission adopted the findings and **approved** the variance to reduce the required number of off-street parking spaces for a restaurant and a retail store from 81 to 47 for the property located at 321 Lincoln Street Northeast, 983 East Hennepin Avenue and 304 Johnson Street Northeast.

C. Major Site Plan Review

Application by Mike Leary, on behalf of Lip to Lip Inc., for a major site plan review for the properties located at 321 Lincoln Street Northeast, 983 East Hennepin Avenue and 304 Johnson Street Northeast.

Motion: The City Planning Commission adopted the findings and **approved** the site plan review for a restaurant and a retail store located at 321 Lincoln Street Northeast, 983 East Hennepin Avenue and 304 Johnson Street Northeast subject to the following conditions:

1. There shall be at least 30 percent windows on the side of the building that faces East Hennepin Avenue.

2. The walkway along the north edge of the main parking area shall connect to the public sidewalk along Lincoln Street Northeast.

3. Any unused curb cuts on the site shall be closed. The final site plan shall be marked to reflect this.

4. The applicant shall work with the Public Works Sidewalk department to determine what type of boulevard would be preferred along Lincoln Street Northeast.

5. Additional trees and shrubs shall be added to the site in order to be in compliance with the zoning code requirement.

6. A decorative fence shall be located between the parking spaces on the west side of the building and the boulevard along Lincoln Street in order to be in compliance with the zoning code requirements. Staff shall review and approve the final fence design.

7. The dumpster shall be enclosed. Staff shall review and approve the design of the dumpster enclosure.

8. The applicant shall submit a lighting plan that shows footcandles and elevations of the light fixtures.

9. The Community Planning and Economic Development Department – Planning Division shall approve the final site, landscaping and elevation plans.

10. The applicant shall obtain an encroachment permit from the Public Works Department for any work done in the right-of-way.

11. All site improvements shall be completed by March 22, 2005, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

12. If estimated site improvement costs exceed $2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before exterior building permits are issued.

13. There shall be a connection from the parking area on the east side to the public sidewalk.

14. The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

Staff Hilary Watson presented the staff report.

The public hearing was opened.

Theresa Starkey (334 Lincoln St. NE): I live across the street from the property. As you can see, it's a very short street. Currently, there is not a lot of traffic back there, but when you talk about a variance to cut the proposed parking from 81 to 47 spots for a restaurant, where are all of those people going to park? So I have definite concerns about them cutting down the parking. Another issue, during rush hour, as you turn from Lincoln to go east on Hennepin, at times it is quite difficult to get out and head that way because the interstate is half a block from that junction and my concern is that this would be a high accident area and you need to look at whether it would be appropriate to put a stoplight into that area. I have questions also about the hours of operation as nothing in the area except the gas station is open past eight o'clock.

Commission President Martin: That's standard for most businesses.

Theresa Starkey: I would want to know what the lighting issues will be. Currently it's kind of dark and that's ok. Another issue is at this time, at the back of the cul-de-sac, my yard is all fenced, and the sidewalk extends to the end of my lot, then there is a red and white barrier. Right now, wind blows trash and it collects at my lot, so I would have concerns that this will increase the trash in the area. What kind of provisions are they going to ensure that this area is policed, because right now, I have to pick that up—the

City doesn't come out and pick that up. My neighbor and I have to police that area myself. Finally, in terms of snow removal, there is a line in here that says they will plow and keep the snow on their own property during winter months. Right now what happens is that the City comes and plows the cul-de-sac, and they pile all the snow in front of my entrance to my walkway.

Commission President Martin: Sounds like a discussion with your council member.

Theresa Starkey: In conclusion, I would not agree to the proposal as planned. I don't necessarily think that a restaurant is a bad idea, I just think that there needs to be some adjustments made to the proposal.

The public hearing was closed.

Commissioner MacKenzie: When I look at the site plan, I'm not really clear on why the site plan shows parking lot treatment on the east side of the alley. The alley seems to separate the two pieces of the parking lot, but I don't see a sidewalk connecting the east side of the parking.

Staff Watson: There isn't. The public alley can't be closed or vacated because we have the radiator shop in the middle of the block on the east that needs to maintain access. So the parking lot is allowed on that parcel of land, but because it's a public alley, we wouldn't stripe a pedestrian walk through the middle.

Commissioner MacKenzie: But we haven't made any accounting for a sidewalk. So it's a free-for-all mix once you get out of your car, you get across the alley and then there's a sidewalk for you?

Staff Watson: Once you get into the other parking lot, yes, you have to cross the alley.

Commissioner MacKenzie: Because people parking on that side will be entering the retail restaurant space theoretically, is that correct?

Staff Watson: Yes, the parking lot is for this business.

Commissioner MacKenzie: What I am getting at then is to look at some condition that provides a sidewalk somewhere that can at least get you to the edge of the alley and I understand we're not going to stripe an alley, but there doesn't seem to be any safe place to walk that's not in the middle of car maneuvering area.

Staff Watson: There's not a lot of room in here, we're at our maximum as far as we have a foot here and then a building. They've maximized the amount of parking to try to meet their parking requirements. We have some landscaping here. It's really hard to tell what's out in the boulevard, it was difficult as it was all snowy. I don't think we have a sidewalk there.

Theresa Stark: There's a sidewalk in front of Hennepin.

President Martin: Yes, there is a sidewalk there.

Staff Watson: Looking at our survey, it's just weird. It's hard to tell what's between the property line and the curb. We can make it so there is a walkway here. I can work with the applicant, but maybe we could add a condition that there be a connection to the public sidewalk from this parking lot.

Commissioner LaShomb moved the rezoning (Hohmann seconded).

The motion passed 5-0 (Schiff not present for vote).

Commissioner LaShomb moved item B, the variance (Hohmann seconded).

Commissioner LaShomb: Looking at the site, I don't see any way you could get more than 47 spaces, is that correct?

Staff Watson: Yes.

Commissioner LaShomb: I guess if you don't approve the variance, he won't get his business.

Theresa Starkey: Across the street is the Hennepin Business Center.

The motion passed 5-0 (Schiff not present for vote).

Commissioner LaShomb moved the major site plan review (Hohmann seconded) with an additional condition regarding trash cleanup within 100 feet daily.

Commissioner MacKenzie added a condition regarding connecting the parking on the east side of the alley to the public sidewalk (Commissioner LaShomb approved).

The motion passed 5-0 (Schiff not present for vote).

15. 1010 Park Avenue, LLC. (BZZ-1616, Ward 7)

609 10th Street South (Fred Neet)

A. Rezoning

Application by Gabrielle Clark, 1010 Park Avenue, LLC., to rezone 609 10th Street South from OR2 to C1 to permit an art gallery,

Motion: Notwithstanding staff recommendation, the City Planning Commission recommended that the City Council adopt the findings and **approve** the application to rezone 609 10th Street South from OR2 to C1.

Staff Fred Neet presented the staff report.

Commissioner Schiff: What confused me was an article in the staff report from the usually reliable resource of the Southwest Journal or maybe this is the Skyway News, talked about a competing plan earmarking space for commercial tenants including the cultural commons. What is that competing plan? Does that have anything to do with this property, or do we just ignore that?

Staff Fred Neet: I understand it does-we asked that question. The applicant will be able to address that. I understand that as of several weeks ago it was very speculative at this point.

Commissioner Schiff: Is that competing for this site, or for this street?

Staff Fred Neet: For the whole parking area.

The public hearing was opened.

Gabrielle Clark (representative for 1010 Park Ave LLC): There is a new owner for this property who now owns seven parcels on this block which contains ten parcels, so it includes the 609 building, the Henkle Murphy mansion and the Enger building as well as all the parking surfaces there. Her plan is to do things like Elliot Park has in their master plan which is make this a cultural commons for gathering, space for people to commune. Therefore the coffee house and the art gallery would supply part of that and get us rolling. In response to your direct question, there is a person out there who would like to redevelop this entire site and has talked to people and presented a preliminary "here's something I'd like to do to Elliot Park", but is has gone no further than that. So the charge before us here is to talk about the rezoning.

Commissioner Schiff: So this person has a competing plan for your site, but you're not working with them?

Gabrielle Clark: I'm not working with that person. I did also want to point out on this zoning issue that we are here to ask for approval. This is the C-1 zoning, and Mr. Neet is right, there is OR-2 and R-6, but we've got a C-2 here, we've got C-1 over here, and there are other plans in the works immediately across the street for restaurant/coffee shop that would supercede that OR-2 zoning.

Mike Lazaretti (625 South 9th Street): I live in the block that faces this property and I am also a board member of the Elliot Park neighborhood. I would like to say that the neighborhood has strongly supported these businesses going into this property for the

reasons that Gabrielle said and also for the fact that these are going into existing buildings that will be rehabbed. At the March 8th Elliot Park board meeting there was a unanimous motion passed to support both of these applications. Further, in February, we had a community meeting where approximately 60 people showed up and the proposal received unanimous support. It is the neighborhood's hope that these applications are approved.

Richard White (2706 Fremont Ave. S., proprietor of gallery): I have signed a 5-year lease with the owner subject to the rezoning. There are a lot of reasons why people are excited about this gallery going in, but I realize that is not the primary issue. I am also a mortgage broker, and I became familiar with this property after about a year and a half of trying to get one of the owners, who may be this other person you're talking about, a financing commitment to buy out his former wife and was unable to do that. Then within a matter of weeks was able to get a financing commitment for the current owner to do that. I am also a former member of the Board of Adjustments. So I am aware both of the trends and also the commercial viability of adaptive re-use of properties in this location because it's my business. I understand there is a bias against spot rezoning, although I think it's fairly clear that the findings could support this rezoning. The property, as indicated, is surrounded by some very high-density residential development, particularly the proposed one across the street will have a strong commercial component attached to it as well. I think that the kinds of uses allowed in C-1 are very supportive of the kind of lifestyle amenities that need to be provided for this kind of development and this kind of location, such as a sit-down restaurant that serves alcohol and has entertainment. The zoning will support the owner's desire to do economically feasible adaptive re-use of these buildings in a way that honors the desires of the community and the master plan. I think by the logic of the staff report that I could suggest that it get changed to R-6, because it is surrounded by R-6, but that is the last thing the community wants, and the plan calls for more high-density development here. As this is proposed as a cultural commons, I think that zoning that prevents an art gallery from existing with a cultural mission, de facto restricts reasonable use of the property , so I believe you have grounds to grant this.

Kirk Moorhead (609 S 9th Street, employed by Central Community Housing Trust, a property owner which shares a zero-lot line with this building): I am here to speak in support of this building. I think it's going to make a great amenity for this neighborhood. The neighborhood is in strong support of this proposal. In addition to that, they are going through the process—they have the neighborhood support, there's a neighborhood will to have this use at the site. In order to accomplish that goal, they do need to change the zoning.

Commissioner Schiff: One question, how many seats are you proposing in the coffee shop? I read in the space report that you have space for 49, are you trying to max that out, are you going to put in 49 chairs [response nodded from audience]. I was going to say one of the issues should be if the City really wants to limit art galleries and restrict them from the OR-2 district, because we could really look at that.

Commissioner Schiff moved approval of the zoning (Krause seconded).

Commissioner MacKenzie: Just to add to the findings that I'm in support, but maybe we could supplement our findings by saying that clearly the community plan speaks to a guiding use for this area as a cultural commons that would help us make a decision that would depart from what might typically look like a spot rezoning.

President Martin: I think one of the other things, is the type of things we normally worry about in a rezoning from an OR-2 to a C-1 is that intensification of use, and this is such a small property that the normal C-1 uses literally could not fit in here.

Commissioner Krause: I think another part of the finding is that the significant amount of high-density residential development that has come to Elliot Park is going to require some neighborhood retail service types of uses.

The motion carried 6-0.

Commissioner Schiff moved the variance, item B (Hohmann seconded).

The motion carried 6-0.

20. Charles Cox – Contractor's Office (BZZ-1407, Ward 6)

2605 2nd Avenue South (Lonnie Nichols) *This item was continued from the October 7, 2003, November 3, 2003, and February 23, 2004 meetings.*

A. Rezoning

Application by Charles Cox, Jr. to rezone the site at 2605 2nd Avenue South from R2B to C1.

Motion: The City Planning Commission forwarded the petition to rezone the site at 2605 2nd Avenue South from R2B to C1 to the City Council **without recommendation**.

B. Conditional Use Permit

Application by Charles Cox, Jr. for a conditional use permit for a contractor's office at 2605 2nd Avenue South.

Motion: Notwithstanding staff recommendation, the City Planning Commission **approved** the Conditional Use Permit (CUP) application for a Contractor's Office at 2605 2nd Avenue South subject to approval of the rezoning petition by the City Council, based on the findings:

1. That there are other commercial uses in the vicinity; and
2. The use would be an appropriate transition to residential.

C. <u>Variance</u>

Application by Charles Cox, Jr. for a parking variance application for 2605 2nd Ave. S

Motion: Notwithstanding staff recommendation, the City Planning Commission **<u>approved</u>** the parking variance from 6 to 3 parking stalls for 2605 2nd Avenue South subject to approval of the rezoning petition by the City Council, based on the findings:

1. That there are other commercial uses in the vicinity; and
2. The use would be an appropriate transition to residential.

D. <u>Variance</u>

Application by Charles Cox, Jr. for a rear yard variance for 2605 2nd Ave. South.

Motion: The City Planning Commission adopted the findings and **<u>approved</u>** the rear yard variance from 7 to 0 feet for parking and maneuvering at 2605 2nd Avenue South.

Staff Lonnie Nichols presented the staff report. As part of the staff report, Staff Nichols stated that he did not have the opportunity to meet or speak with the applicant until minutes before the application went to public hearing.

The public hearing was opened.

Charles Cox (1111 McKnight Road S, St. Paul): When I began this process, now over a year ago, I began with a different person from staff and it was then transferred over to Lonnie Nichols. I think in his report, in the lack of some very key components omitted in the report, puts me in a precarious position, as well as some things not mentioned by staff recommendation. I want to start by giving a better illustration than the one Lonnie was able to provide you. To the right is the subject property. As you can see, the building adjacent to it (the Jimmy Jingle building) is very large in comparison to 2605 2nd Avenue. I want to note how the property looks like a residential property, it's got a brick façade with some shutters that give the front elevation a residential look. I think it's a really nice transition into a commercial zoning. One of the first things in the staff report that is not mentioned is that every application I submitted made mention that I was asking for the building to be rezoned to house both a real estate company as well as a construction company. Nowhere in the staff report does it mention the real estate company and I think it's very important that you guys understand that more of the office space is for the real estate company and most of our agents never report to the office. In the construction office, there's four desks, three of which are used and one vacant. I am one of the people that has a desk there, though I may come there only twice a month. I've got two other people that report there. One that reports every day and one that reports once a week, he spends most of his time in the field. We don't own any heavy equipment whatsoever, nor

are we considering any. All of the subcontractors we use for work that requires heavier equipment are subcontractors, none of the guys in my organization are tradesmen.

President Martin: Mr. Cox, are you currently using this building in this way?

Charles Cox: Yes. Let me explain to you that I purchased the building in 1998 and in the staff report it says the building was vacant and boarded. I was in no way aware of that, when I first viewed the building there were no boards on the building and no placards on the building. After owning the building over two years, I found a placard on the front of the building that said they were re-posting a 1998 placard. That was in 2001. So I had owned the building for three years before knowing it was on the vacant and boarded building list. Once I saw that placard, I immediately called that posted the placard, a female, I'm sorry that I don't remember her name, and she and another representative from the City came out, and I gave them a tour of the building. I wanted to discuss with them what I was unaware of. Once they left…

President Martin: I'm not asking about the boarded and vacant, I'm asking about the fact that you're running a business in this building, and have been for five years.

Charles Cox: For two years and the City has been aware of that. But I think it's important I give you a clear picture of this. So once becoming aware of this, I immediately got the City involved and that's how we've gotten to this point, and through this application process. I want to note that we have been in there two years and there have been no documented complaints from the neighborhood. In fact, we got the necessary amount of signatures on our petition, and overwhelming support from the Whittier Alliance. Here, under number 4, it notes that this is the best use for the building, and I couldn't disagree more. If you go to the floor plan of the building in your report, the building was a parish originally that was converted in the 1950's into a nursing home. Its use prior to me acquiring the building was an alcohol rehabilitation center. The building has a dormitory style set-up with two long hallways and rooms off to each side. Bathrooms are on each floor. None of the rooms or offices have bathrooms. For that reason I don't agree with staff that it could be used as a residence. It actually could not. If I am not able to get the zoning approved, the building will just be sitting vacant, because to renovate it into any kind of residential use would be extremely expensive. We would still be faced with several of the same problems, i.e. parking so I must say I strongly disagree with staff when they say it is best suited for residential use. It's been a long road. I have had to retain an attorney to help me with this process because it started to take its toll on my pocket book. Every time I thought I had gotten the City everything they asked for, they came back with something else they needed from me. With the fact that I have just met Lonnie for the first time and we agreed that there were some things he was unaware of when he prepared the report. Before you vote, I would ask that if you are going to support staff recommendation, that you give another 30 days for me to paint a picture for Lonnie, because this is the first time we had a chance to meet.

Commissioner LaShomb: This is pretty basic spot zoning. We had a situation a block off of Hennepin Avenue a couple of months ago where someone wanted to start a business in

their front porch. When I look at this, I see apartment buildings on the other side of the street and I just think that rezoning to allow this is really basic. So I am going to move staff recommendation.
The motion failed for lack of a second.

Commissioner Schiff: I move to pass the item along with no opinion to the Council because I think there are other issues for the neighborhood that the Council Member needs to get involved with. It has been a boarded, vacant building for a while and I don't know if we prohibit this use if it is economically viable for it to be converted back into residential. It's lacking some bathrooms from what I can tell of the plan that's here and I'm not feeling confident one way or another. It has to go before the Council anyway as Planning Commission decisions on rezonings are just advisory, so I think we should just pass this one forward.

Commissioner Kummer (seconded): I'm not sure this ever did operate as a residence. I am trying to figure out where the kitchen would have been.

Charles Cox: At the very rear of the second floor is a commercial kitchen.

Commissioner Kummer: It's just the strangest residential use I have ever seen, so I would support it going to the Council.

Commissioner Krause: I don't agree with Commissioner LaShomb that this is spot zoning. The 26th and Nicollet area has quite a bit of commercial. The dilemma is that it is not only the use you want to put into it today by zoning C-1, but we open the door to everything that's allowed in C-1 and that might be fine for what you intend today, but it might not be so fine when someone else proposes something else consistent with the C-1 zoning that we've granted. I'm torn on this one too. I read the minutes of the neighborhood group and they say let's make it commercial because otherwise it might end up as supportive housing and that's a somewhat suspect motive for their support of the project. Then I look at the floor plans and it doesn't look like this could easily become a residential use and maybe a commercial use that looks like a residential use on the outside isn't necessarily a bad kind of transition to make. I don't think we know what's going to happen with Jimmy Jingle, I haven't heard anything recently.

Commissioner Schiff: As the maker of the motion, I realize I am just giving myself more work to do.

Staff Neil Anderson: I just want to remind the commissioners that only one of these four applications go to the City Council and the rest do not go forward unless appealed.

Commissioner Schiff: So the other items would need to be continued.

President Martin: If we approve the CUP and the parking variance.

The motion carried 4-2, LaShomb and Hohmann opposed.

Commission Krause: I will move approval of the conditional use permit, subject to approval of the rezoning petition by the City Council (Kummer seconded).

Commissioner LaShomb: I think Schiff and the applicant were on the same track when he suggested maybe we should lay this over until the City Council makes a decision, maybe this would create a sense of urgency on the part of the City Council members to move it along.

Commissioner Krause: If the Council approves the rezoning, isn't the conditional use permit pretty much a given? So why take up time on our future agenda?

The motion carried 5-1.

Commissioner Krause stated the following findings:
1. That there are other commercial uses in the vicinity; and
2. The use would be an appropriate transition to residential.

Commissioner Schiff: I would note that this business has been operating a while with no complaints.

Commissioner Krause moved parking variance C from 6 to 3 parking stalls and variance D [rear yard variance] for 2605 2nd Avenue South subject to approval of the rezoning petition by the City Council, based on the findings:
1. That there are other commercial uses in the vicinity; and
2. The use would be an appropriate transition to residential.

The motion carried 6-0.

22. Molina Triplex (BZZ-1467, Ward 9)

3200 15th Avenue South (Fred Neet)

A. Rezoning

Application by Nelson Molina to rezone 3200 15th Avenue South from R2B to R5 to allow 4 dwelling units in an existing triplex.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **deny** the application to rezone 3200 15th Avenue South from R2B to R5.

Staff Fred Neet presented the staff report.

The public hearing was opened.

No one was present to speak to the item.

Commissioner Schiff moved staff recommendation of denial (Krause seconded).

The motion carried 6-0.

23. Lander Residence (BZZ-1595, Ward 13)

4251 Vincent Avenue South (Fred Neet)

A. Rezoning

Application by Michael Lander to rezone the property at 4251 Vincent Avenue South from R1 to R3.

Motion: Notwithstanding staff recommendation, the City Planning Commission recommended that the City Council adopt the findings and **approve** the application to rezone 4251 Vincent Avenue South from R1 to R3.

B. Conditional Use Permit

Application by Michael Lander for a conditional use permit to allow 3 dwelling units at 4251 Vincent Avenue South.

Motion: The City Planning Commission **continued** the application for a cluster development at 4251 Vincent Avenue South to the April 8, 2004 meeting.

C. Variance

Application by Michael Lander for a variance of the south side yard of the proposed carriage house from 15 feet to 5 feet at 4251 Vincent Avenue South.

Motion: The City Planning Commission **continued** the application to reduce the south side yard from 15 feet to 5 feet to allow a principal residential entrance at 4251 Vincent Avenue South to the April 8, 2004 meeting.

D. Variance

Application by Michael Lander for a variance to allow an 8-foot trellis at 4251 Vincent Avenue South.

Motion: The City Planning Commission **continued** the application to allow an 8-foot high trellis within the south

side yard for property at 4251 Vincent Avenue South to the April 8, 2004 meeting.

Staff Fred Neet presented the staff report.

The public hearing was opened.

Linda Koutsky (4247 Vincent Avenue S): I have a few reasons I oppose this project. One is the housing is just too dense for the neighborhood of Linden Hills. Linden Hills is mostly single family homes. We do have a few duplexes and there are apartments around the commercial district, but it just isn't that high of density. Lander's position is that the housing will be affordable, but there is no commitment to that issue. Changing this to R-3 also means this could be changed to a public building or an institution. The neighborhood fought against the two residences on 43rd Street being turned into commercial a few years ago. I also have three more pages of petitions. My quality of life will go down due to this project. We will lose trees in the neighborhood and the area will be walled in.

Mike Sexton (4226 Upton Avenue S): I also own a duplex at 4332 Xerxes Ave S. There's a lot at 3005 West 43rd that wanted to do the same thing but was denied to do this. So they rezoned the neighborhood for rental properties and re-zoned my property on 43rd and Xerxes to an R-1.

Neil Ritchie (4221 Vincent Avenue S): We have a number of concerns about the project, issues about parking, particularly with the commercial property that's abutting, there's a lot of traffic that spills over. [tape unclear].

Carol White (4217 Vincent Ave S): I am wondering if they will need an additional variance for parking. The garage will hold two, and my understanding is that there will be one more spot on-site. How much impervious surface [will there be]? We live four blocks from two lakes, in addition to the three buildings that will be on the lot, there will also be concrete or asphalt. I don't know if the present home on that lot is non-conforming being close to the lot line, but is building another house that close to the lot line another non-conforming use? Are there any additional rules or setbacks for R-3 abutting R-1?

Staff Neil Anderson: There are no additional rules for R-3 abutting R-1 as far as setbacks. The setbacks are basically the same, residential areas you need five feet from the property line if it's taller than two stories, it's two feet for every story that's above that that you have to add on.

Dick Bone (4214 Vincent Ave S): We have lived in the neighborhood over 32 years. We were inattentive when we permitted some of the changes at 43rd and Vincent. We rue some of those changes now. Then Mr. Luger bought the property that the co-op was on which is on 44th across from the intersection and he required that employees not park in

the lot, which put all that parking on to Vincent Avenue which impacts almost to the corner of 42nd. I think that the traffic circle that is there has worsened our traffic situation, it has exacerbated the thing. We should have a stop sign at the corner of 43rd and Vincent. Big semis, which are required to exit that area from the routes they came in on, don't. They come down Vincent, mostly going toward 42nd. Occasionally some semi will come down Vincent toward 43rd. Some of us call to report these. I feel if this thing goes through, that Mr. Lander is proposing, that we're going to have a worse traffic situation. It's already a dense neighborhood. Why would someone want greater density? Thank you.

Orville Hannem (4243 Vincent Ave S): When these buildings go up, I will be seeing a blank wall. Some nice shrubbery that my neighbor has will die because of that wall going up.

Michael Lander (applicant, 3136 Humboldt Ave.): I wanted to walk through our rationale. I did bring a three-dimensional model to help understand. We have two agendas. One is to create a personal residence for ourselves in the Linden Hills neighborhood with our eight-year-old daughter. We actually like multi-family and denser housing living and we are interested in the opportunity to build a new house to pursue green building techniques in this house. Our second agenda, although our motives have been questioned in doing this, we are suggesting in doing this project that we can provide two units in the form of the existing house that's there now retaining its size of 1,200 square feet and the creation of a new carriage house, both which we will rent, that will be available to people who currently can't get into Linden Hills now. We have targeted those rents at $500 a month for the studio and $1000 a month for the house that's currently being rented as we speak for that amount. Those dollar amounts become affordable to households at 16 per cent of area median and 30 percent of area median. It's been challenged that there are no protections about the long-term affordability there and what we would like you to consider is that if this lot was zoned for three units it would be very difficult or unlikely that people would be proposing what we're proposing, which is sort of a small, medium and large version of housing, particularly using up a whole zoning unit, which in Linden Hills would probably cost about $150,000 to buy since it doesn't exist without your powers. So simply by having a small, medium and large construction on that site, creates affordability beyond our tenure there. Why did we think there was some merit to this idea? First of all, we looked at the Linden Hills area and thought "Where does this make sense to add housing stock?". The Linden Hills neighborhood is predominantly a single-family neighborhood in the outlying areas, but yet it has a very compact commercial node. We suggest that if you look at the larger Linden Hills map if one was going to add any housing that the existing node is the first place to look, so our site, as you know, is immediately adjacent to the commercial node. Why there? The first thing that comes to anybody's mind is traffic. Anytime you add housing units there is additional traffic. We work very hard to try to add housing in Minneapolis on transit lines, close to services, so there is at least a hope to minimize or reduce the amount of vehicle use. Linden Hills in a survey of the whole neighborhood rated the lack of affordable housing options as one of the biggest issues in the neighborhood. One of the things we think is good about this project is the ability to

provide more affordable housing options with totally private investment, there's no public money involved other than the zoning authority that you have. The other thing about this rental housing is that it would be owner supervised. We are going to live on the property and assure some of the concerns that people have about affordable housing are properly supervised. This next set of diagrams is really the heart of the matter in my mind. This is the existing house. This is what's completely legal, the "McMansion", also known as the completely expanded single-family house. You could build 3,400 square feet on that lot with a three-car garage, completely shade your neighbor, completely rob the privacy from your neighbor, and it would be legal under the zoning. What we're simply saying is that this is a different approach to 3,400 square feet. It's the same amount of square footage under construction, same amount of garages, slightly more occupants possibly, but it is really talking about housing options. One of the letters in your packet from supporter Robert Gerloff talks about the need to provide more options. We encourage you to think about provision for alternatives. There's a lot of talk about what it takes to preserve the neighborhood. One of the reasons we took the approach that we did was because we believe it preserves the scale of the neighborhood. There's a tradition of back lot development in Linden Hills and South Minneapolis. There is, if you look at the model, it is virtually unchanged, so the sense of massing that you get, the impact as you come and go on that street is virtually unchanged. The charming, historic cottage there will not suffer an overbuilding expansion, but will be retained in its current configuration. So we think, while there is disagreement, this is our approach at preserving history. Multiple small buildings rather than one very large one, and to actually preserve the house that is on this site. There have been comments about the relationship to the commercial district. Again our southern and eastern border are C-1 and we don't like to think in terms of buffers because that suggests something you don't want to be around, but we think this project creates an even better seam between that commercial district and the single family that exist there no and in fact creates an even more attractive thing than exists there now. There's lots of talk about the erosion of property values, and that is actually the main argument that has no basis based on any of our practices in the City. Everyone always worries about the reduction of property values, and what they should be worried about is their property values going up too much. I think the thing that is also important in a small commercial node like that is just everybody there on the same night that we were at the neighborhood receiving a 9-4 (you can't get approval in Linden Hills, the best you can get is a 'we don't oppose'), but we got a 9-4 positive vote. Right before us on the agenda was the librarian talking about how they are not going to be able to keep the library open but for a couple of hours a day. And we need more people in our nodes, in our corridors, people who pay taxes who support the neighborhood, who keep the libraries and other things open, support the neighborhood businesses. We need more people to utilize the transportation options. So all of the amenities that neighborhood has are attractive to us, that's why we want to move there. We also think we will contribute. We project that we will be adding about $500,000 of tax base in this project, all at private cost. This sketch is in your packet, I want to clarify a couple of issues. The variance, is to set this structure, instead of 15 feet, 5 feet. That 15 foot setback is triggered by it having a front door. Five foot is the required setback if you do not have a front door. We thought it was most appropriate to enter this carriage house along this side and the nice little walk, but that is the front door,

facing the side yard, which triggers the variance. Second, we do want to have a trellis along this side, we've done that at both our previous residences and think it's a nice scene between commercial and our property. We have four more letters of support and would be happy to take any questions.

President Martin: Mr. Lander, there was a question raised that I couldn't answer. How much impervious surface is there?

Michael Lander: The lot is maybe 200 feet. Impervious surface is 4,000 square feet, a little under half the lot, under the allowed standard.

Commissioner Krause: Why an eight-foot trellis?

Michael Lander: We used to share a lot line with Saw-wat-dee and the trellis at that property disguised the lot behind us well. We could certainly live with a lower trellis if that was deemed objectionable.

Margaret Hannem (4243 Vincent Ave S): Two things that I don't think have been mentioned. The one is that this apartment above the garage which will be used as affordable housing. Usually you think of affordable housing as families. Well, what family is going to want to live above a garage, and how safe will their children be if they have to have cars coming from every direction and have no place in their yard to play. Someone mentioned if the zoning is changed to R-3, it will mean in the future that businesses could move into that area.

President Martin: That is not correct.

Nile Zumberge (4228 Vincent Ave S): I have been here since 1954. I don't think this is going to improve the neighborhood one bit. What happens if there is a domino effect? He says he is going to be a live-in landlord. Is there anything signed as a contract for that?

Commissioner LaShomb: I think it's a rather unfortunate situation when people in areas of the City say they don't want more density, as if the rest of us should have it and you don't. I think Linden Hills is a beautiful area. The fact of the matter is that all areas of the City have to accept density – that's the only way the City is going to grow. There are a lot of apartment buildings. Every time we talk about density, everyone always says that density is a nice thing as long as it is stuck in someone else's ward. I frankly think it's about time that density is something they have to deal with. The other issue is affordability. People come in and say that families won't want to live over this garage, well no, but I might want to live over the garage. I'm going to move to approve the rezoning (Hohmann seconded).

Commissioner Hohmann: I live in Linden Hills, over 30 years. I've read a lot of comments from people, and there is a lot of concern about affordability. We tend to equate affordability with subsidized housing way too often. Affordability doesn't

necessarily have anything to do with affordable housing. Affordability, you can have a neighborhood with $500,000 homes and build a home that addresses a $200,000 market and that's affordable housing at any range. I pulled out a larger zoning map. You all know how busy it is in the business district. I started looking on the zoning map, and as I go from the intersection of 43rd and Upton, where everything is basically C-1. As you see, the large C-1 at the area, any direction you go from there, you see the zoning transitioning to lower areas. If you go to the east, it's all R-4 and R-5. If you go up to the north, it transitions into the R-4, there are some condominiums up there. If you go to the south, you can see that across 43rd Street from the C you have a C-2 which is the co-op. If you move west from there, you see R2-B before you get into the R-1 again. If you continue south on Upton, you come up on the R-5, you get to a large apartment building. Further down on the west side… What I am trying to point out is the transition into the neighborhood from the business district. Mr. Lander pointed out that 50 per cent of the periphery of his property is adjacent to C-1. The zoning is not that big of a concern to me. Mr. Lander already talked about the side yard from 15 to 5 foot and traditional R-1 setback would be 5 foot just because the door is there. It was also mentioned that the frontage on Vincent not change and I would venture to say if you marched a dozen people down the street, when they got to the other end, I don't think more than one or two of them would notice that anything had changed. I've spent a lot of time working with the neighborhood group in Linden Hills and as was mentioned, one of the top priorities in the neighborhood is to get access to more affordable housing. Just the fact that these additions that Mr. Lander is talking about, for instance a small 400 and some carriage house on top of a garage, it doesn't have to be any assurance that is going to be affordable to low income families. The fact that it's 400 square feet on top of a garage is going to make it affordable. The same with all three properties on the lot. The lot is not as spacious with three on it, and de facto they will be affordable into the future. I don't think there needs to be concern over that issue. The existing C-2 adjoins 50 per cent of the periphery of the property. If those houses that are C-2 were to be burned or torn down, some of the potential uses that could go in there you could build an art gallery, child care, self-service laundry, vet clinic, mixed use commercial and residential. So the transition that he is presenting would indeed be a transition if some of these other uses came in and these houses were no longer there. It's a block from the bus. Given all of that, I support the direction that Commissioner LaShomb has moved here and I hope the neighborhood will look at it and realize it's not the drastic change that a lot are viewing it as.

Commissioner Krause: I think this is a really creative proposal for this piece of land. If it was a commercial rezoning, I wouldn't support it. As a transition piece, I think it is well designed and seems a very appropriate use in this neighborhood and I'm glad Mr. Lander stuck with it and brought it here and stimulated this discussion. It's interesting to think of this in the context of discussions we have had with other neighborhoods that came to us and said, "We want flexibility in the code to have carriage houses, we want to figure out ways to build some density in to our neighborhoods in ways that work and where we can increase the ability of people who might be in some of our older, grander homes in the central part of the city and they are finding it hard to maintain the financial viability to

stay there and keep investing in those properties". I appreciate this project and am somewhat sad there hasn't been more understanding of it going into it.

President Martin: I think one of the things that is interesting when you get into these discussions about affordable housing is that everybody jumps to housing for poor families, but I suspect that Commissioner Hohmann, in your neighborhood, a lot of your children and friends of your children could not literally afford to live in your neighborhood if they weren't living in your house. So I think the whole issue of understanding that affordable housing is for a whole lot of people, some of whom might even be related to some of us is an important piece of this discussion.

Commissioner Krause: Well, and people who work at the bakery, people who work at Famous Dave's, the people who work at the Linden Hills Co-op, are people who can't afford to live in this neighborhood for the most part.

Commissioner Kummer: When I was on the Metropolitan Council, I used to like to make the comment that I do my bit for density and I do that because I have a small house at the back of my lot that has been there since the 20's as far as anyone can tell. I don't have a garage. If the little house ever burned down, I probably couldn't replace it under the current law and I think that is terribly wrong and I hope that as we go on here, that we start thinking in terms of doing those carriage houses and I can tell you that I have never had to advertise, it goes by word of mouth. It's family members, it's neighbors' kids. I just heartily support something like this. In fact, Mr. Ritchie, who testified before, used to live down the street from me, so he knows what I am talking about.

Commissioner Schiff: I like the rezoning because clearly there is a hodgepodge of higher density uses at this corner. 43rd and Upton is a business zone, so R-3 zoning is consistent. And I like the concept because it accomplishes several goals. Rather than somebody buying up every home on this block and tearing them down and putting in condominiums or high rises, here's an option to preserve the character of the home on the front of the lot, but find some way to add a little bit of density in the neighborhood in two more units. Reading the comments of the people reacting to this you would think two more units in the neighborhood is the tipping point into just a destruction of people crawling all over each other. Really, the rhetoric is way over the top for two units being added. That said, I am familiar with Ms. Kummer's situation, and I am familiar with a lot of carriage houses in my neighborhood of Corcoran, we have a lot of deep lots, and in none of those situations can I think of the house on the back being bigger than the house on the front of the lot, so I'm inclined to approve everything except the conditional use permit for the cluster development because I think the house on the back is too big and it tips the balance a little too much. If we're going to set an example, I would rather see us set an example that really sets the way for where we want to go. I actually think the garage on the middle of the lot is totally bizarre. That I just can't get around, it just looks strange. Not to mention that the person in this house looking out their front door is looking at a side of a garage wall. So I'm inclined to vote for the rezoning, but the conditional use permit I'd rather that we hang on to that and ask for a reworking because I think the house on the back is too big and the site plan is a little too awkward. Crucial to this is

that there is no alley access and I think that is crucial in making carriage houses work sometimes.

The motion carried 6-0.

Commissioner MacKenzie: I would like to support Commissioner Schiff's suggestion that we look again at the site planning. Reason being that I think this is an important transition to happen, but because the edges are always the places that bear the most impact, by having that larger building at the rear of the lot, it creates a very significant change. If we could even get some more information about all the possible options, the ideal would be to see some reduction of the mass in that rear of the lot.

Commissioner Schiff moved to continue the conditional use permit one cycle (MacKenzie seconded).

Commissioner Krause: I am comfortable with the mass. Only because this is not a lot in the middle of the block, because it is adjacent to these commercial uses, and frankly, these large structures are adjacent to surface commercial parking lots and I think that is different. From what I understand here, we have an attempt to create three housing units of very different sizes and as the existing structure is going to fall in the middle, one is going to have to be bigger. Could you move the footprints around a little? Maybe. But I like the design and am not uncomfortable. If it's the desire of the Commission to lay it over for a while and see if it improves somewhat, that's alright, but I would be ready to approve tonight.

Commissioner Schiff: I was also going to encourage the applicant to take another look at the north elevation. The elevations from the east and south are very good, they're very embracive of the streets, particularly the south is made with the home user in mind, but the wall of the building to the north is inconsistent with neighborhood character.

The motion carried 4-2, LaShomb and Krause opposed.

Commissioner LaShomb moved continuance of the variances one cycle (Kummer seconded).

The motion carried 6-0.