

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

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MEMORANDUM

DATE: April 16, 2008

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

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

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

SUBJECT: Planning Commission decisions of April 14, 2008

The following actions were taken by the Planning Commission on April 14, 2008. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners present: President Motzenbecker, Huynh, LaShomb, Nordyke, Norkus-Crampton, Schiff, Tucker and Williams – 8

Committee Clerk: Lisa Baldwin (612) 673-3710

5. John Bell (BZZ-3971, PL-224 and Vac-1542, Ward: 9), 3725-3729 29th Ave S ([Janelle Widmeier](#)).

A. Rezoning: Application by John Bell, on behalf of KK Corporation, for a petition to rezone from R1A to R5 for the properties located at 3725-3729 29th Ave S to allow a multiple-family dwelling.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the petition to rezone the properties of 3725-3729 29th Ave S from the R1A district to the R5 district.

B. Conditional Use Permit: Application by John Bell, on behalf of KK Corporation, for a conditional use permit to allow 64 dwelling units for the properties located at 3725-3729 29th Ave S.

Action: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow 64 dwelling units for the properties located at 3725-3729 29th Ave S, subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. The applicant shall work with staff to reduce the building height and mass facing 29th Avenue.

C. Variance: Application by John Bell, on behalf of KK Corporation, for a variance to reduce the minimum lot size requirement for the properties located at 3725-3729 29th Ave S.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to reduce the minimum lot area requirement by 15.6 percent for the properties located at 3725-3729 29th Ave S.

D. Variance: Application by John Bell, on behalf of KK Corporation, for a variance to allow parking within 6 feet of a dwelling for the properties located at 3725-3729 29th Ave S.

Action: The City Planning Commission adopted the findings and **approved** the application for a variance to allow parking within 6 feet of a dwelling for the properties located at 3725-3729 29th Ave S.

E. Site Plan Review: Application by John Bell, on behalf of KK Corporation, for a site plan review for the properties located at 3725-3729 29th Ave S.

Action: The City Planning Commission adopted the findings and **approved** the application for site plan review to allow a multi-family dwelling with 64 units for the properties located at 3725-3729 29th Ave S, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, site and landscape plans.
2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by May 16, 2009, or the permit may be revoked for non-compliance.
3. The proposed privacy fence shall comply with the height requirements of Chapter 535, Article VI Fences of the zoning code.
4. Approval of the rezoning petition and alley vacation by City Council.
5. The applicant shall work with staff for more landscaping adjacent to pedestrian realm and buffer the parking and driveway, visually, from the pedestrian realm.
6. The fourth floor shall be entirely set back 10 feet from the front of the third floor.
7. The first floor plinth shall be lowered 14 inches.

8. The building height shall not exceed 40 feet as measured from the first floor.

F. Preliminary Plat: Application by John Bell, on behalf of KK Corporation, for a preliminary plat (the applicant is proposing to dedicate a new alley as part of the plat) for the properties located at 3725-3729 29th Ave S.

Action: The City Planning Commission accepted the findings and approved the preliminary plat for the properties of 3725-3729 29th Ave S.

G. Vacation: Application by John Bell, on behalf of KK Corporation, for an alley vacation for the properties located at 3725-3729 29th Ave S.

Action: The City Planning Commission recommended that the City Council accept the findings and approve the vacation for the properties of 3725-3729 29th Ave S, subject to the following conditions:

1. An easement shall be reserved for Xcel Energy.
2. A new alley opening to 29th Avenue shall be dedicated in the final plat. The final plat shall be recorded with Hennepin County.

Staff Widmeier presented the report.

Commissioner Tucker: In your report you site the 38th Street Station Area Plan and implementation steps, item 5.3 is the design of any new development on the station block should help frame or front the station creating a sense of enclosure and visually drawing people to 38th St. I'm just wondering if you can just show how this project achieves that, or not.

Staff Widmeier: For reference, do you have the page number?

Commissioner Tucker: Page seven.

Staff Widmeier: That's under the conditional use permit section. I'll start with the site plan. As I mentioned, there is a walkway that currently goes through this site and they're going to maintain that walkway so it provides direct access to the station. The same materials that are proposed on the front of the building, facing 29th St, wrap around to the rear of that so you don't have a front and back; they're all consistent. There is an entrance at the back there. It's tying in to the site. There is still kind a building frontage that faces LRT so that's how it would frame it.

Commissioner Tucker: The applicant may have more to add to that.

President Motzenbecker: The alternative compliance for the wall of the garage facing the pathway, just having kind of gone through the previous piece with The Broadway and having been able to expand those windows and have glass block to look in, was there any discussion with the applicant about that, enlarging those windows or adding more and then being glass block or something so we could actually meet it on that façade since it is a garage?

Staff Widmeier: When we were looking at alternative compliance...or looking at meeting the window requirements, we usually don't consider glass block to meet the intent of it because the visibility through those glass block windows is not very clear.

President Motzenbecker: I didn't see it on the plans, but I remember in Committee of the Whole we talked a lot about adding rain gardens at places around the property because where the

topography kind of dropped off around some of the sidewalks on the north and possibly along that front edge because it's such a steep pitch down. I didn't see that; did you hear from them or is that something we can ask them?

Staff Widmeier: I believe there is something in the narrative that addressed that if I recall correctly. Just to give you an idea of the topography of the site, this end of the site is higher than all the rest of it at the north end. It's hard to make water travel uphill. Maybe the applicant can address that too.

President Motzenbecker opened the public hearing.

Laurie Wright (3728 29th Ave) [not on sign-in sheet]: My husband and I have lived on the 3700 block of 29th Ave for 20 years. He grew up within a mile of our current home, he went to Roosevelt High School, which is just a couple blocks south of our house and so did our daughter. I've lived in Minneapolis since I moved to the city after high school. In that time, the west side of Hiawatha has been single family homes. The area between Hiawatha Ave and Minnehaha Ave was, and continues to be, more commercial and higher density residential. We understand things change. The light rail has brought changes to the area both good and bad. No one can deny that it's much easier to get downtown or the airport and the mall. The businesses nearby seem to be positively impacted, however, had had found it much more difficult to cross Hiawatha in a car, particularly at busier traffic times. The light rail doesn't go everywhere; we still have to drive most places. The area has also experienced a rise in crime from graffiti, purse snatching, assault and even rape. We found it necessary to get critical parking on the block because in spite of the fact that there is ample parking and ride locations, some have decided that our block was much more convenient to park on. We are here as homeowners directly affected by the proposed zoning changes to ask that the commission to reconsider the rezoning of the 29th Ave section of the 38th St corridor. If you look on this map, it's not even included in the 38th St corridor. That's from the city website. The 38th St corridor is clearly outlined on the city website and the properties on the north end of that 3700 block aren't in that outlined corridor. We are asking you that you exclude them from this rezoning just as the west side, our side of the street, has been excluded, to allow homes on this block to continue to be zoned for single families. Other properties on the west side of the tracks, leftover after the light rail was finished, were rebuilt to the existing zoning. The properties on 29th Ave should be no different as they are actually farther from the station than those new houses. Changing the zoning of these properties to allow for much larger buildings would drastically change the demographic, undermine the family feel, erase the feeling of security we have knowing the people on our block, eliminate green space and make the street less safe for the children that play on it because of increased traffic both auto and pedestrian. There is a lot of new construction on the east side of Hiawatha, including several apartment buildings that will have up to 200 tenants a piece and more in the planning stages. We hope that these will bring positive changes to the businesses along 38th St as the light rail has, however, that impact is yet to be determined. Minneapolis has always promoted itself as a green city with neighbors, parks, walking and biking paths and a family friendly atmosphere. We love living here for those reasons. We hope that the commission will stand up and continue to preserve these values and the feeling that makes this city a great place to live and raise a family. We're asking, again, that you exclude these properties on 29th from the rezoning. Please at least postpone your decision about it until we can better research the effects this will have on our homes. We don't know how the larger neighborhood feels about the rezoning, but as our block will be most directly affected we feel that our issues should be addressed first. Thank you.

Gina Polandri (3733 29th Ave) [not on sign-in sheet]: I'm here with a couple things. I do have a petition of properties, people that signed it that live in the neighborhood that have concerns. Basically, there are 27 signatures on it from neighbors on the block that have concerns about this property.

President Motzenbecker: Turn that in to the clerk when you're finished.

Gina Polandri: Certainly. I'm not going to repeat some of the things that Laurie said, but we also have a community impact statement and it's the density and the size that we're concerned about to put it mildly. Our impact statement also says that we're concerned about the noise pollution. We're concerned about the emissions from more parking. We're concerned about the prospect of population density changing so abruptly. Some of the older residents feeling anxious and unsafe. We have questions about the critical parking factor because this block is critical parking and we're wondering how, mathematically, that works out with residents moving in to the proposed apartment building. We're concerned about water pressure change because our pipes under our streets were designed for single family homes. What's that going to do when we take a shower? We're concerned about garbage, the addition of dumpsters and garbage trucks. That's basically everything I have. Thank you.

John Bell [not on sign-in sheet]: I represent KK Corporation, we're the developer of this site. I think most of you we're a multi family developer in the city and have been doing this type of thing for many years. We built a couple of other buildings in the neighborhood. Before I lose my train of thought I want to address a couple of things I heard earlier. I hope that all of you got...

President Motzenbecker: Yes, we have those.

John Bell: The thing that I heard was asking how it acts as a gateway to the station. One thing you need to understand is that from about halfway up on our block there is a transformer screen here that is a part of the light rail station and from that point a wood fence all the way down to 38th St. That made it challenging to connect. We really feel that what we did with the walking path and connecting the walking path into directly across the sidewalk to the interior of the neighborhood. We really feel like we were creating it and doing our best job of it. The location that we chose for the on-site parking really is screened as well as we could possibly do. There are two variances before you. The one variance is to allow us to maximize that off-street parking. I understand what the neighborhood concerns are; change is tough and we're sitting here between two different types of demands where we have the light rail station right there and there's no project up and down that rail that is more immediate to a station than this is right now. I understand how tough it is to have that happen on your block. The long term, we're going to see this kind of density. The one variance is for that parking. The second variance asked for 15% higher occupancy than the R5 allows. In the overlay area, a variance is...you can ask for a variance up to 30% over and we're asking for 15% more. This is driven primarily because of the unit nits that we are offering which is 45 of the 64 dwelling units are single family, eight of them are studio, only 11 are two bedroom. Our population of this building will be lower than if we were to build a complying building that had a lot of two bedrooms in it. We can prove that. You had asked about the rain garden in the front. Our civil engineers looked at that. They came back to us and said that a rain garden that isn't how you use a rain garden for what a rain garden function is...rain that's falling on grass. There aren't nutrients. There isn't dirt to be taken out through a filtration system. It sounded like a nice idea but it wasn't serving a real purpose, especially in the front yards. What we did do is go and add more plantings in the front yard area. We also did push the building down since we met with the Committee of the Whole. We pushed it down a little bit; we're still trying to take some height out of it. It sounds like we're still going to be working on trying to get the building mass down. I guess the only other thing is that my understanding here tonight is that we may continue this. What we're hearing right now is that the building is just too big and of course we have two opposing forces here that we're trying to hang on to the density. The one thing that I think we can do and will continue to work on...one of the things that we're doing, and I know we talked with Council Member Schiff about this, right now we have these elements that come up and protrude higher than the normal parapet around; we did go on the street side of the building, on the house side of the building, and push a lot of the fourth floor back a bit, but one of the things...

President Motzenbecker: A bit meaning how much?

John Bell: Four or five feet. If we look at another view, it's about a five foot setback. I think what we're talking about right now is instead of these elements sticking up above the parapet, we can make them be a lesser element to the parapet which would certainly help to mitigate the mass. We'll just continue to work on being less of an impact for those neighbors.

Commissioner LaShomb: How big is this building in comparison to the building at 45th and Snelling?

John Bell: On 46th, the Oaks Hiawatha building?

Commissioner LaShomb: Yes.

John Bell: Almost identical.

Commissioner LaShomb: And that's about a block long and four stories tall?

John Bell: That is a four story, L-shaped building. It probably doesn't have a dimension that's as long.

Commissioner LaShomb: Your other building, how long is that building?

John Bell: The building that is up and constructed is 163 units.

Commissioner LaShomb: It's two and a half times as big. Is that four stories as well?

John Bell: It's five stories.

Commissioner LaShomb: I walked by there the other day and was very pleased to see the hole in the ground meaning phase two is under way, at least that what I hope it means. How tall is phase two going to be?

John Bell: It will be a three story building with 70 units.

Commissioner LaShomb: For the record, people should understand is it's that building that faces the residential single homes across the street. Is that building going to be flat with the street or is going to be up?

John Bell: It's probably three or four feet above the sidewalk.

Commissioner LaShomb: All of those buildings were at one time or another approved by the Planning Commission, I believe under the supposition that they met the 46th St Area Plan.

John Bell: Correct. We used the 38th St Plan as our guide here. The only other thing that I will say, I emailed some people today, I don't know if I'm speaking right for these neighbors or not, but I know the zoning proposal that's out there right now in your 38th St Station Plan calls for that R5 up the east side of the street. I just don't understand why the west side of the street doesn't get an R3 zoning so there is some stepped density going on there and that the break from single family to multi family is in the alley and not in the street. I know that doesn't affect you now, your houses are there as long as you want your houses to be there but it gives them somewhat of a basis of land value that if they ever sold they know there is value in the fact that their property is multi family.

Commissioner LaShomb: Maybe Janelle can tell me if I'm wrong about this but my assumption is that after the 38th St Plan was approved that there was a zoning study done. Oh, we're seeing that tonight.

Brad Wright (3728 29th Ave) [not on sign-in sheet]: My only comment is that most of the leftover properties along the west side of Hiawatha have always been single family homes, we'd like to continue that. Also, on this map here that we got, you can see the black line going along the corridor of 38th St and then the 29th Ave extension.

President Motzenbecker: We're going to get that clarified.

Brad Wright: We would like that excluded. Thank you very much.

President Motzenbecker closed the public hearing.

President Motzenbecker: I actually wanted to have that clarified if I could, Paul or Janelle, because in the rezoning study it does show on the proposed primary zoning page, it does show the proposal but in the other 38th St Station Plan documents it is as has been shown without that included. If you could clarify that for us where that decision came from, that would be helpful. Clarify the decision to include the parcel we're talking about now on 29th Ave S into an R5 district. If you look at the proposed primary zoning, it's the parcel that's directly west of the C1 district right there. In the 38th St Station Plan that's not included in any of those drawings as something to be rezoned.

Staff Mogush: Ok, I will try to help clarify that for you.

Staff Wittenberg: If it's of any assistance, I'm just looking at the plan online at the moment, page 40.

Staff Mogush: The existing condition...this is an excerpt from the 38th St Station Area Plan and to orient you, where we're talking about is up here, this is the subject site. Where it shows the bottom two building footprints here, that's where the existing single family homes are. This does show on the future land use map, townhomes or stacked flats and buildings of approximately four stories. That was the rationale for proposing an R4 zoning...or R5 rather.

President Motzenbecker: Ok, and just to clarify, the dark line that you are showing on there is a station district plan line not one that...so I think there may be the confusion because that line is showing a station district not the zoning outlines, is that correct?

Staff Mogush: That is correct.

President Motzenbecker: But the 38th St Station Plan does show that as larger, denser housing, it's just within the station district.

Staff Mogush: That's correct. The station district is to create distinctions along the length of 38th St.

Commissioner Schiff: We've sort of got the perfect storm with both the rezoning up on today's agenda, across the street a new development as well this specific parcel. Paul, on the station area plan, we look at these station area plans and we follow through with the zoning afterwards. We've got a couple images to go by. If you could explain to me what those images are...some of them are pretty small so I don't know if we can zoom in, but on the sheet you just had up we see a suggestion of four separate buildings with the number four meaning maximum height across the street from these homes. To me that suggests the size and scale of the buildings that are

supposed to be compatible with what is to remain a single family across the street. Would you agree on that? Is that how we're supposed to interpret those?

Staff Mogush: In terms of building massing...you have an illustrative drawing here of what it might look like. This isn't regulation development proposal so don't need to fit exactly what that is but certainly considerations of neighborhood context are called out in the plan.

Commissioner Schiff: The drawing in the lower right hand corner, that's actually a three story building with a peaked roof that's suggested there by that artists rendition.

Staff Mogush: Sure, ok. I guess I can't see clearly enough to count how many stories, but yes, three or four stories.

Commissioner Schiff: Three or four is a big question. What's the maximum height in the R5 district?

Staff Mogush: Four stories.

Commissioner Schiff: And the maximum height in the R4?

Staff Mogush: Four stories.

Commissioner Schiff: So how do you make the difference between R4 or R5 for the suggestions for this side of the block?

Staff Mogush: The two major distinctions between R4 and R5 are the density of units that would be allowed and also the building bulk that would be allowed. The density was the primary reason for proposing a high density residential district. The high density difference between R5 and R6, certainly R6 allows a scale and height that surpasses what was envisioned in the plan so we went with R5.

Commissioner Schiff: And repeat again why you didn't go with R4.

Staff Mogush: It doesn't allow for enough density right next to a transit station. For example, just to call out some comparables, the existing Hiawatha Square building right here on the corner of 38th St and 28th Ave, which is also pictured in the plan, that has 16 units and when you do the calculations it comes in at 69 dwelling units per acre. The proposal in front of you on item five where the zoning is proposed for R5, it comes in at 73 dwelling units per acre so it's basically the same density. Transit station area policy in the Comp Plan as articulated by the Small Area Plan, calls for the highest density to be oriented towards the station. So, we feel that R5 is consistent with that.

Commissioner Schiff: Are there other areas in the city that we could think of as an example? Here we've got 29th St as the border between single family homes and multi family. Typically we might see an alley as acting as the buffer so that you don't have the inconsistency of one story, one and a half story, single family homes staring at a four story building that's actually built up out of the ground. It's almost five stories with the height difference of the parking that's really above grade here. How is this supposed to be consistent with the single family homes across the street?

Staff Mogush: That's a question that I imagine would have been tackled during the planning process. Unfortunately, I wasn't on staff during that planning process. What I have before me for making the rezoning recommendation is the adopted plan.

Commissioner Schiff: I'm not sure we got it right, but today at least we have everything on the agenda at the same time so we can deal with it.

Commissioner LaShomb: I'm going to move the rezoning (Tucker seconded). I heard someone say at some point we might continue this, but since no one seems to be saying that I'm going to move it. I just want to say two things, one is that when I worked at the MTC I spent about 30 years trying to get light rail built and we finally got it built and I left the MTC and the Met Council and now they're talking about multiple lines. The basic point was, in all of those discussions, I think there was a pretty clear understanding on the part of the city and the Metropolitan Council and ultimately the legislature, the county and the feds that we're going to have to have higher density at station areas. That was a major premise for the approval of that project. The day has come when that density is going to occur, but that density also had some limitations placed on it. The biggest limitation that I recall is buildings shouldn't exceed four floors. I think that was the big point. The point is basically that to make that kind of capital investment, which a lot of people are still paying big prices for, including people I represent at the county, you have to have the density to support the system. While I know there are individuals who don't think that density is appropriate for one reason or another, that was part of the light rail plan and that's why the station area plans were done and I guess that's why we're going to do the rezoning. Point two is that this developer has done two other projects that are part of station area plans, one between 45 and 46th and Snelling, which I walk by quite a bit, and if this building is comparable to that size of building then it shouldn't be a big problem at all because the building fits really well into the neighborhood. It's a well constructed building and very well maintained. The second project was a little more controversial because that was almost three times as big and I remember we had a lot of discussion about that project on the Planning Commission but it's now heading into phase two. The question that I think the Planning Commission should pose is whether or not the design of this building, including the issue about how high this building is because of the garage, whether that's appropriate. The basic concept in my mind of having a good developer in a well built building is one we should support, but more importantly is if we start playing games about zoning after we've built a light rail system and after we've done a zoning study, then I think that if I were a developer I would simply say that the city doesn't get it and that people aren't going to make investments to try and design things if the City Council or the Planning Commission says they just can't do that zoning because now all of the sudden there is a wall of opposition somewhere. That's why I'm moving the rezoning. I think people need to think about the issue about the design of this building a little bit, including the height. I think the height issue is one of the things that did come out in the Committee of the Whole whether or not we could push that garage and make this building flat with the street.

President Motzenbecker: The developer did say he lowered it a bit. Can you tell me what the current...what is the plinth now? How high is...

John Bell: My guess is about four feet. We probably could continue to push it.

President Motzenbecker: Knowing that and then looking at our sheet, looking at the R4 and R5 districts, the thing that is interesting is that in R4 base FAR is 1.5 and in R5 it's two. The current, as proposed in this looks like it's 1.71 so that is actually lower than the total possible with bonuses that someone could get in an R4, which would be 2.10 so it actually could be denser in an R4 with some bonuses than it is currently. That might be something to consider as we look at this density-wise. One of the things I always think of is buffer ideas. Along that corridor, there is the sound wall in some instances buffering the residential neighborhood from the trains and heavy traffic on Hiawatha. I would almost look to this as a secondary level of that. I think that the building does need some tweaking to maybe work with light and air and kind of making that façade a little less imposing perhaps. The neighborhood could possibly look at that as a way to buffer sound and noise that is much more intense on the other side of that. I think with the parking, a lot of that parking is underground and I do understand that critical parking concern

because I have been in those situations too and that's something to look at. Those are just some points for us to consider as we move forward.

Commissioner Schiff: I'm not going to support the rezoning. As you know, rezonings have to go through the City Council after making it through the Planning Commission whether they are appealed or not. I think Commissioner LaShomb gave a great speech that we heard when the R4 rezoning application was before us just two blocks north of this a couple years ago. That was when we were debating whether or not a three story building zoned R4 was appropriate directly in front of Hiawatha, again on the west side of the street. I think that was appropriate then and it's still appropriate now. That was to a size and scale, using an alley as a buffer between single family homes. This is quite different. For some reason in our plan we decided that the homes on the west side of the street should always remain single family. This begs a question of compatibility. We have size and scale suggested in the drawings of the 38th St Station Area Plan that suggest four discreet buildings up to a maximum of four stories in height. What we see here today represents a total maximization of the height and the bulk that you could possibly achieve. I don't think caving into developers maximum density is the same as playing games, Commissioner LaShomb. I think there is a big difference with seeking compatibility and seeking for something that enhances the land values and also allows existing single family homes to remain and that's what we have to consider today. There has been quite a bit of a breakdown between the Met Council and the City Council in recent years. For five years the city tried to get this piece of land so we could go through a request for proposal, have neighborhood review and do what we do best which is redevelop vacant pieces of land for things that mesh with the community's values. Met Council refused to cooperate with the city and instead sold this land at a sealed bid to the highest bidder. That's not the way you develop a city. That's not the way you develop a rail corridor in the framework of an existing neighborhood, an existing city. This isn't some cornfield out in the suburbs where we're starting from scratch. There's a surrounding here which doesn't show up in the drawings. I'm going to ask people to... I have an email from the developer at 2:45 this afternoon saying he was going to seek a postponement to go back to the drawing table. Something has changed in the past hour and a half so I don't know what to believe now, but I think we should turn down this rezoning or at the very least postpone the rezoning of the 38th St Station Area Plan so we can question whether or not we made the right decision of using 29th Ave as the border between four story buildings and single family homes. Perhaps we need an alley as a buffer and perhaps we want to upzone the other side of this street. I don't know, but we should go back to the community and raise that question today rather than approving this.

Commissioner Norkus-Crampton: When I look at the photo of the suggested building type on the 38th St Station Plan that was just shown by staff, it did show a lower scale building that has equal or higher density than this one so I think that we're always struggling with ways of accomplishing the density goals in a way that is more compatible with the existing neighborhood. On the staff report one of the Comp Plan requirements is that heights of new buildings shall be related to their neighborhood context. I think that probably when the community, if I would see these drawings of four separate buildings, four stories, there might be ways of configuring them, of stepping them down or whatever, but it doesn't indicate the kind of mass. It sort of breaks up that mass in relation to the one and half, two story homes directly across the street. There are ways of doing those transitions, as the proposer talked about, which would mean either doing a transition on one block west going into the neighborhood or doing a transition from the alley. You have the corridor then you have the alley then you have a transition going into existing residential if that's the goal. It sounds like we've said we want to keep the residential, we don't want to sacrifice more of the residential housing to accommodate the density here. We have part of our Comp Plan that new developments should relate to their neighborhood context which includes one and half story buildings across the street. It seems like we still have some things to work out here. I was interested in the conversation on a parapet conversations as far as stepping things down where they stand up now. There are some step down ideas. I haven't seen any shadowing

things on how that affects things. I certainly understand the density arguments, but what we're talking about here is more how we can play about with the form, the massing, all those kinds of things that there are still other ways of making the numbers work out that is more compatible with the existing residential because we want this to be an additive to the neighborhood not seen as something that is going to make people feel like it's taking something away. I think there's a lot of great things about the light rail corridor and the projects that are coming forward, but this does seem a little massive and certainly just on one large block to be compatible with one and half stories across the street.

Commissioner Huynh: I'm struggling between both sides in terms of looking at transit oriented development right off the LRT. With the R5 zoning, I think it supports a lot of the density and is appropriate for the site because this is what we're looking for in terms of mass transit use and higher density. I think the issue that I'm kind of struggling with is the massing of the building. I think that four stories is appropriate but I think that in terms of how you're addressing it with the character of the neighborhood could still be played around with a little bit. I'm not sure if it's breaking it down to two buildings so you could keep it as a single structure, but recess some parts back. Right now it reads as a huge mass of four stories and I think you can keep it as four stories but play with some of the recesses, make it look like it's two buildings or three buildings. I'm not sure and I don't want to design your building, but I think there are a lot of things you can do. The other commissioners had mentioned something, but I think that it still needs to be worked out. It's not the density issue or the rezoning, it's the mass of the building. The landscaped area in the back, I think the site plan with the pedestrians going through the site, I think that the landscaping needs to be worked out in terms of activating pedestrians that may be accessing your site to go to the station. It could be worked out a little more as well.

President Motzenbecker: Looking on page 17 of the staff report, it does say that the proposed height of this building 40' which is incredibly short for a four story building. That's 10 feet a floor. Average floor heights are 12 to 14 feet. I really want to clarify that. Is 40' to the top of the parapet, not measuring... ok. So that might be something to consider as we move forward. That's not tall.

Commissioner Schiff: Can we clarify, is that including the parking that's above grade that's covered with a berm in the front yard? Where are we measuring from?

President Motzenbecker: You measuring from the sidewalk or from...good question
Commissioner Schiff:

Staff Widmeier: It's measured from the center of the building ten feet out.

Commissioner Schiff: Mr. Chair, I'd like to clarify a statement that you said earlier. You said the R4 could achieve higher FAR compared to R5.

President Motzenbecker: Not as proposed, but with bonuses for enclosed parking, commercial, affordable...if you maxed them both out, the total possible is 2.1 and R5 is 2.8. If they were going to max out this site, it would be higher than it is at 1.71 which is as proposed.

Commissioner Schiff: Right. I misheard you as to say the R4 can be higher than the R5 can be. What you're stating is that they didn't max out their development. Got it.

Commissioner Tucker: I support the motion. I think the higher zoning is appropriate around the station. That's one of the things we've been doing over and over again. Commissioner Schiff, we do have in my neighborhood a four story building opposite one and two story buildings on 8th St SE; R5 on one side, R2B on the other. It does exist around the city. Not everyone may think it's lovely, but it was our way of accommodating higher density. That was along a bus route and this

is along an LRT so I think it is city policy to encourage a transit oriented design. This may not be the most beautiful building to accommodate it, but it is the density we're looking for I think.

Commissioner Norkus-Crampton: I just wanted to clarify with the developer, when you were talking earlier about dealing with the parapet, the height of that and possibly sinking the parking a little further, how many feet are we talking about here that we have possibly to work with?

John Bell: As far as pushing the building down, our limitations are matching grade. We have a garage grade on the north end of the building that we can't get too steep. I would guess if we were to push it down two steps, which would be about 14 inches, is about how far we can push it down. We've already pushed it down a bit so we've already increased the grade going down. The other thing with the parapets, there are probably three to four feet in those high parapets that if they were brought into a more minor element they could probably be brought down as much as three feet.

Commissioner Norkus-Crampton: Is that something you'd be willing to make part of your proposal?

John Bell: Definitely.

President Motzenbecker: Just a point of reference for everyone, I recall when we were talking about monster houses and other things, a lot of the things that were mentioned were the size of the two story houses and part of the ordinance that ended up coming through was that two story house, I think it was 30-35 feet...a lot of the existing two story houses, that number was set by looking at a lot of the existing housing stock in the city and what that was clocking in at peak of the roof height. Looking at this, if you're going with the 30-35 and this is 40-43, not too much taller than a lot of single family houses. You've got about 10 feet on there, perhaps.

Commissioner Norkus-Crampton: I'm sorry; I just have one more question. I always get confused as far as R4 versus R5. It sounds like, and maybe staff or Jason can help me understand this...so what we're saying is that the density that's being asked for here, because of the bonuses and everything else, could actually be under what R4...what would be allowable under R4? Can you explain to me again why we're doing for this particular proposal and especially if there are concerns about transitions...is R5 really necessary for this particular proposal? If not, then why are we asking for R5?

Staff Wittenberg: I haven't actually done the math, but my understanding in speaking with [tape ended]...is that they would not be able to get to the density that they're looking for in the R4 with the variance. They would not have enough lot area.

Commissioner Schiff: There is also a variance here asking for additional density. We're being asked now to declare a hardship on top of this and to move the total number of units from 54 to 64 units with a variance on top of the R5 so even an R5 isn't enough for this developer, which again speaks to how this is just an exercise in maximizing density and it's really not a demonstration of compatibility.

President Motzenbecker: I see no more discussion. All those in favor to rezone from R1A to R5? Opposed?

The motion carried 4-3.

Commissioner LaShomb: I'll move the conditional use permit for 64 units (Williams seconded).

Commissioner Huynh: I'm going to address this comment to Commissioner LaShomb. I'd like to add a second condition on to the approval of the conditional use permit that the applicant continues to work with staff on the massing facing 29th St to break up the building.

Commissioner Schiff: Before we give a conditional use permit for 64 units I think the developer first has to demonstrate a hardship for the variance in order to be eligible for this conditional use permit so I suggest we vote on item C first. I am going to move a denial of C for this variance. I don't see a hardship for this. The developer purchased the land knowing the size of it and I think this hardship is only created by the developer and their interests and is not anything to do with this unique piece of property (Nurdyke seconded).

Commissioner LaShomb: I think the staff recommended approval so they need to start the explanation and the developer can finish it. Maybe that's a fair way to do it. I assume the staff had justification for this and since I tend to be staff supportive most of the time I'd like to hear it.

Staff Widmeier: Some of the reasons we looked at were its location, directly adjacent to the LRT station. We have policies that support higher density around a transit station. We also looked at the design of the development. As far as units go, they're small units, one to two units. There aren't any three bedrooms or four bedrooms so that would have less of an effect, potentially, on the surrounding area. Also, there were some features of the exterior of the building how they stepped down the upper floor, or stepped back the upper floor so it steps back a little bit towards the residential neighborhoods. I think those were the main reasons.

John Bell: I'm going to put something on the screen. I spoke of this a little bit earlier. We're asking for 64 units. If we built a different building there, in other words a different unit mix, we could have a building that could be compliant and probably almost be complying in an R4. We could build a building that had 40 two bedroom units and eight one bedroom units. It'd be in the exact same building massing; same length, same width, same height, we just divide up the inside of the building differently. We could get a building that had 48 units. The building we're building, 11 two bedrooms, 45 one bedrooms, eight studios. We're proposing that because that's what we perceive the market to be demanding; 64 total dwelling units. That building has 75 bedrooms in it. This building, which will be totally complying, would have 88 bedrooms in it. Most of us think of density as how many people are living in one place and it seems like that's what density should be. What we're saying is that this is being driven by the unit mix and there may be some shortcomings in our zoning code as the way density is defined. Seventeen percent more bedrooms in a complying unit. Seventeen percent more people I would think. Seventeen percent more cars.

Commissioner Tucker: I have a question for staff, if this variance were denied, what would be the maximum number of units?

Staff Widmeier: In an R5 district they would be allowed 54 units.

Commissioner Norkus-Crampton: I'm not necessarily opposed to density along a light rail corridor or a light rail station; I just want to make sure that the way it's expressed is sensitive to its context. With the conditions that are being asked as far as dealing more with stepbacks, working more with sensitivity along those lines, and I actually like the idea that there are some smaller units that might make some of this stuff a little more affordable for the people who are actually more transit dependent. I think that's a good mix too and I appreciate that gesture.

Commissioner Williams: How will the division of the units affect the zoning variance? You had a chart up here and you showed two or three different ways that you could divide up the units. Does selecting one of those have an impact on whether or not it would be the kind of zoning variance that's being requested?

President Motzenbecker: Would one of the things he was showing fit in with what we're debating? Staff had just mentioned it was 54 units that would be available if we denied this variance. They're asking for 64 right now and I think neither of those were in his piece but it could be divided up anyway so I supposed he could shift that interior of the building however he wanted to make any number of units.

Commissioner LaShomb: What's the zoning for Karmel?

Staff Wittenberg: My recollection is that that's an R5.

Commissioner LaShomb: They had several units in that building that were four bedrooms. I think it was the last Committee of the Whole, we had a proposal which is going to be coming here from a developer to build student housing at the University of Minnesota where the building is going to be about 12 stories because about a third of it is going to be four bedroom units if they get their approval. This issue about apartments and bedrooms has been kind of kicking around here for quite a while. I would rather have them build units that aren't going to be basically filled by...and I have nothing against students, don't get me wrong...but it's basically going to be filled by University students where one person rents the units and brings in three subtenants and then after they leave there are a lot of issues about maintenance of the building. I don't think this developer wants that. I don't think that's going to be appropriate by the 38th Ave Station, but that could conceivably happen on a light rail line. I get the sense that there is a hardship of sorts and I think it meets a hardship standard that's been applied to some other things we've done at the Planning Commission so I'm going to suggest that we support the variance. Looking at the building that's between 46th and 45th and Snelling, that building doesn't seem massive to me and it's about the same development. The big difference though is that that building is set up higher because the garage is higher, but it's a very nice looking building and I don't sense that it creates a serious impediment in a neighborhood where there is a great deal of residential in the blocks to the east.

Commissioner Tucker: I just wanted to note that in the recent past we have granted variances for a smaller lot area per unit arguing that we did want to encourage more smaller units. I think that happened at Aldrich and Lyndale. They're more affordable, I think. I wanted to note that there could be an ironic consequence if we deny the variance. The developer might reconfigure to fewer units and as a result have fewer parking slots included in the building exacerbating whatever parking problem exists in the neighborhood.

Commissioner Huynh: I think that having done these exercises with laying out buildings and programs and units, it's a challenging exercise to try to balance what is available in the market, what people want versus what zoning allows in terms of four bedrooms. Do you really want 50-60% of your unit mix to be four bedrooms versus 50% of your unit mix to be one bedrooms and studios to cater towards young professionals and working class to use the LRT to be able to have one or two cars or not have a car? I think that's an issue by not allowing this density. As Commissioner Tucker mentioned, if we don't grant the 64 units, it does become reconfigured to a four bedroom unit and I'm not sure what type of residents I think it would attract. With the market how it is now and offering a wide variety of units, I think this is more ideal than having more four bedroom units by not granting the variance.

President Motzenbecker: We have a motion to deny the lot area minimum variance. All those in favor of denial? Opposed?

The motion failed 5-2.

Commissioner LaShomb: I will go back to two and then we'll come back to three.

President Motzenbecker: Back to conditional use permit which is still...any further discussion? It was already moved and seconded.

Commissioner Huynh: I'd just like to make sure that we add on the...

President Motzenbecker: Yep, continue to work with staff to adjust building form and mass.

Commissioner LaShomb: That's fine.

President Motzenbecker: All those in favor of the conditional use permit? Opposed?

The motion carried 5-1.

Commissioner LaShomb: Now I'll move the variance C (Norkus-Crampton seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 5-1.

Commissioner LaShomb: I will move the variance D (Motzenbecker seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 6-0.

Commissioner LaShomb: I will move the site plan but I think there may be some people who want to do some things with the site plan (Tucker seconded).

Commissioner Huynh: I want to add a condition five that encourages the applicant to work with staff on providing more landscaping at the pedestrian realm with that sidewalk and also buffering the ramp visually from the pedestrian realm.

President Motzenbecker: That was pretty fast, let me make sure I got it. Encourage applicant to work with staff for more landscaping adjacent to the pedestrian realm and along...what was the last piece?

Commissioner Huynh: The last piece was just buffering, visually, the ramp from the sidewalk for pedestrians that take that path to the LRT station.

Commissioner Schiff: Commissioners, you keep on asking staff to work with the developer to address bulk issues, but I don't hear any specific suggestions from the commission. I ask that you articulate something rather than just empty rhetoric. I'm going to add a condition that the fourth floor shall be entirely setback 10 feet from the third floor as a way of addressing those issues.

Commissioner Tucker: I will second that in hopes that you second my motion on that matter in future meetings.

Commissioner Schiff: We recently had an appeal on the issue of amendments to site plans not being voted on separately and I don't think we've had time to send a memo to you all so I will just reiterate that we need to vote separately on amendments to site plans and we can't just wrap them up into one motion at the end even if we think it's a friendly amendment.

President Motzenbecker: Ok, we will vote on amendment number five from Commissioner Huynh about landscaping added in the pedestrian realm and helping to buffer the ramp down into the parking garage along the walk. All those in favor? Opposed?

The motion carried 7-0.

President Motzenbecker: Amendment number six to set the entire fourth floor back 10 feet from the building façade. All those in favor? Opposed?

The motion carried 6-1.

Commissioner Tucker: I would like to propose condition number seven to lower the floor 15", the plinth, the first floor above the sidewalk. I will go with 14", he said that's two steps.

President Motzenbecker: All those in favor? Opposed?

The motion carried 7-0.

Commissioner Schiff: Consistent with that we should say the maximum height for the building.

Commissioner Tucker: Can we ask the developer? I think he was talking about those towers in the front being able to be lowered a little bit on the fourth...

John Bell: I think we're kind of talking about two different things. I think when we talk about the height of the building, where you measure to the top, is top of the parapet or top of the deck? We certainly can bring those high parapet items down. We can bring these down so they are minor to this.

Commissioner Tucker: What is the height to the setback portion in this drawing from the first floor?

John Bell: I thought we were a 39/10 and I thought it was off of zero, which is the first floor.

Commissioner Tucker: That's 40 feet.

John Bell: That's the number I'd like to keep but then we'll pull the parapet elements...

Commissioner Tucker: We're eliminating the parapet that extra 15".

President Motzenbecker: That would happen with the previous condition.

John Bell: I guess what we're really saying is the high parapet would be below 40 feet then because right now the high parapet is above 40 feet.

Commissioner Tucker: So, the height of the building will be 40 feet above the first floor level, which will be reduced 15" per the previous condition.

President Motzenbecker: So, our eighth condition for the height of the building, height of the building will not exceed 40 feet as measured from the first floor, not the sidewalk.

Commissioner Norkus-Crampton: When we said the fourth floor is setback 10 feet from the façade, does that include the undulations or are we saying that's a straight face now? What are we working with on the fourth story?

Commissioner Tucker: When I seconded that, I understood that nothing on the fourth floor would be closer than 10 feet back from the façade.

Commissioner Norkus-Crampton: But we still keep the undulating...

Commissioner Tucker: No, everything moves back.

President Motzenbecker: All those in favor of the height of the building not to exceed 40 feet condition? Opposed?

The motion carried 7-0.

Commissioner Schiff: A couple elements of the building façade look like errors and I just want to clarify with the architect. For example, the balconies outside the bathroom windows, why would you have balconies outside of a bathroom window?

John Bell: What page are you looking at?

Commissioner Schiff: Drawing number two.

John Bell: I believe that's a kitchen.

Commissioner Schiff: If you could put it up on the overhead and show everybody. Those windows, you cannot walk out so why would you have a balcony?

John Bell: That's the balcony, that's the kitchen and it walks out from the living room.

Commissioner Schiff: Oh, from the living room, you just can't see the entrance. Ok. On the first floor balconies, is that typical treatment that you would see? It is a little weird, I agree.

President Motzenbecker: I think this would probably be better because of the slope of the front yard is pretty steep. It'd be tough to do a patio out there.

Commissioner Huynh: Can you mention which specific area you're looking at? The balconies at the first floor...the question is what? There are numerous ways you can handle porches or decks at the entry level. You can extend them on to the lawn and have more of a walkout sort of unit mix or you can close them how they have it now or you can project them out. I think it's all depending on the scale and mass and however the architect and owner decide to pay with it. There are a variety of ways you can do it. That's just one way that you can enclose it with guardrails and handrails there.

Commissioner Schiff: Typically a guardrail and handrail is to prevent someone from falling over and clearly on the first floor we don't have to be worried about people falling over. If your alternative suggestion was more of a patio and step out area, I think we should make that change at this point.

Commissioner Huynh: I don't want to add that there is a building code previous that if there is a minimum change in elevation from grade to the floor slab that a guardrail is required so I'm not sure...

President Motzenbecker: It's 30".

Commissioner Huynh: I'm not sure what the overall change in height is.

Commissioner Schiff: We've lowered the whole building now. We're voting on the site plan before we vote on the alley vacation and fundamentally it's the placement of the alley here that I think sets a tone for this side of the block that does not respect the suggested massings that are in the small area plan. The alley has been placed between this parcel and the first single family home to the south and then there is visitor parking, some 20 stalls, off of that alley so we're creating in the middle of the block, turn into an alley that is going to operate as another drive aisle. This alley should best be placed at the north side of the block, not here. Alleys don't make for the best of neighbors. Even in the small area plan, the suggested massings of four small buildings would be more achievable if the alley was on the north side of the block rather than stuck in the middle of the block. I don't know how you want to handle this, but I think the alley is in the wrong place.

President Motzenbecker: Maybe we can get a little clarification from staff on space available on the site with setbacks etc. because I know the alley kind of heads up that way now. It would probably have to be adjusted a bit to what it is currently so maybe just some clarification on what we have to work with and why that decision was looked at.

Staff Widmeier: With the alley running on the north side of the site, I can outline a few consequences of that. You'd lose the parking along here. You would either have to move the building forward, redesign the building, eliminate that parking to route an alley to the north side of the site. It would also reduce the lot area of the site. Along with redesigning the building you'd have to redesign it...or if you added another building, split it into two or something, you would have to work with the new alley configuration. The lot area variance would also be impacted, you would end up with a smaller lot area. A concern Public Works had was where the alley was going to come out if it were to be rerouted up here. They didn't want it to come out directly adjacent to the street. There are some concerns they had with traffic circulation there. You'd also have to figure out where the walkway leading from the LRT station would go. Those are just a few issues that you'd have to work through.

Commissioner LaShomb: Did Public Works approve this alley vacation and the alignment?

Staff Widmeier: Today we received a letter from them that says they do support the alley vacation as long as a new alley and as proposed...they are recommending approval as proposed by the applicant.

Commissioner LaShomb: What I'm trying to get at is, as it's being recommended by the staff they are in approval?

Staff Widmeier: Correct.

Commissioner LaShomb: Whether other people are in approval or not, at least Public Works is. That's all I wanted to know.

Commissioner Schiff: Ms. Widmeier, can you clarify, when I met with you and Mr. Boblett, he said staff responded to this proposal as far as saying this is ok but didn't necessarily weigh another idea of moving the alley to the north. They said they just are responding to the developer's idea and didn't really state a preference.

Staff Widmeier: We actually originally looked at an alley going more to the north of the site so that's why there was some discussion beforehand but eventually the application that was submitted included an alley at the south end of the site so that's why we only have an official recommendation from Public Works for that.

Commissioner Schiff: Ok. So it's not that Public Works would object to it on the north it's just that they didn't review that because that was never placed in front of them.

President Motzenbecker: It sounded like there were some concerns with the way it would intersect with that little curve up there.

Commissioner Tucker: I'm wondering what would be gained by moving the alley to the north. It seems to me that would put traffic along the back crossing the path between the building and the LRT station, which is one of the ways in which it connects to the station area. It would make the path from 29th going along the north edge a little less pleasant because of cars going along there and it would increase the impervious surface on the site. Where it sits right now seems to serve the traffic needs well. There is less confusion and it seems to add a little bit of land to the property owner to the south. I would think that where it's proposed to be is a good place to have it.

Commissioner LaShomb: I will lay the site plan review as amended on the table momentarily and we'll take up the vacation. I will move approval of the vacation (Tucker seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 5-2.

Commissioner LaShomb: I will now go back to the site plan, lift it off the table and move approval as amended in the previous discussions.

President Motzenbecker: Further discussion?

Commissioner Tucker: Just to clarify, it was that suggestion on the alley moving north...was that moved for the site plan review or no?

Commissioner Schiff: No.

President Motzenbecker: So we have four recommended conditions plus conditions five, six, seven and eight which were voted on and approved. All those in favor? Opposed?

The motion carried 5-2.

Commissioner LaShomb: I will move the preliminary plat (Tucker seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 7-0.