



**Request for City Council Committee Action  
From the Department of Community Planning & Economic Development**

**Date:** December 15, 2005

**To:** Council Member Gary Schiff, Chair, Zoning & Planning Committee  
Members of the Committee

**Prepared by:** Tara Beard, Senior Planner, (612) 673-2351

**Approved by:** Jason Wittenberg, Planning Supervisor, (612) 673-2297

**Subject:** Appeals of a City Planning Commission action related to proposed development at 618 Washington Ave N.

**Previous Directives:** N/A

**Financial Impact:** Not applicable

**Community Impact:** See staff report

**Ward:** 5<sup>th</sup>

**Neighborhood Notification:** See attached responses from affected neighborhood associations.

**City Goals:** See staff report

**Comprehensive Plan:** See staff report

**Zoning Code:** See staff report

**Living Wage/Job Linkage:** Not applicable

**End of 60/120 Day Decision Period:** On November 4, 2005, staff sent a letter to the applicant extending the decision period to no later than January 31, 2006.

**Other:** Not applicable

• **Background/Supporting Information:**

Two appeals of the City Planning Commission action have been filed related to the proposed development located at 618 Washington Ave N.

1. Swervo Development Corp., the original applicant for the proposed development, has filed an appeal of the City Planning Commission's decision to deny the following:
  - Conditional Use Permit for 53 new dwelling units
  - Site Plan Review
2. Tower Lofts, LLLP has filed an appeal of the City Planning Commission's decision to approve the following:

- Conditional Use Permit to increase the maximum permitted height of the building

The full action of the City Planning Commission and the appellants' complete statements and reasons for the appeal are attached.

**Department of Community Planning and Economic Development – Planning  
Division**

Zoning Amendment (Rezoning), Conditional Use Permits, Variances, Site Plan Review  
BZZ-2688

**Date:** November 14, 2005

**Applicant:** Swervo Development Corporation

**Address of Property:** 618 Washington Ave N

**Project Name:** 618 Washington Ave N

**Contact Person and Phone:** Nedel Abdul, 510 1<sup>st</sup> Ave N, Suite 500, Minneapolis MN  
55403, (612) 332-8323 ext. 1

**Planning Staff and Phone:** Tara Beard, (612) 673-2351

**Date Application Deemed Complete:** October 3, 2005

**End of 60-Day Decision Period:** December 2, 2005

**End of 120-Day Decision Period:** Not applicable

**Ward:** 5      **Neighborhood Organization:** North Loop Neighborhood Association

**Existing Zoning:** I2, Medium Industrial District, DP Downtown Parking Overlay District,  
IL Industrial Living Overlay District

**Proposed Zoning:** C3A and remove the IL Overlay District

**Zoning Plate Number:** 13

**Legal Description of Property Proposed for Rezoning:** The land referred to is  
situated in the State of Minnesota, County of Hennepin, and is described as follows:

Lot 3 and southeasterly 44 feet of lot 2;  
Northwesterly 6 feet of lot 4 including adjacent vacated alley;  
All in block 030, Town of Minneapolis

**Lot area:** 21,359 square feet

**Proposed Use:** A maximum of 53 condominium dwelling units

**Concurrent Review:**

- Rezoning from an I2 to a C3A zoning district and removal of the IL Overlay District
- Conditional Use Permit to allow a maximum of 53 new dwelling units
- Conditional Use Permit to allow an increase in maximum building height
- Variance to allow a drive aisle width to be reduced from 22 feet to 16 feet 1 ½ inches
- Variance to increase the maximum FAR
- Site Plan Review

**Applicable zoning code provisions:** Chapter 525: Article VI Zoning Amendments; Article VII Conditional Use Permits; Article IX Variances – Chapter 530 – Chapter 548: C3A Community Activity Center District.

**Background:** The applicant, Swervo Development Corporation, have submitted multiple land use applications to convert an existing 6-story warehouse building to a 7-story condominium building. The number of square feet of lot area per dwelling unit proposed by the applicant would not be permitted in the building’s current zoning; the applicant is requesting a rezoning from an I2/ILOD to a C3A district to allow for more units. The project also requires a conditional use permit to create 5 or more dwelling units in a C3A district, a conditional use permit to allow an increase in the maximum height permitted, a variance to reduce the required drive aisle from 22 feet to 16 feet 1 ½ inches, and a site plan review. The applicant applied for a variance to increase the maximum floor area ratio, however that application is being returned. The applicants are proposing to add one story to the top of the building and create two levels of enclosed parking. The proposed addition would meet all setback requirements.

The proposed building would contain a maximum of 53 dwelling units. Four of the proposed units are 2-story live/work units that are entered directly from the Washington Ave N sidewalk.

Staff has not received written correspondence from North Loop Neighborhood Association or other stakeholders at the time of the printing of this report.

**ZONING AMENDMENT -**

**Required Findings for a zoning amendment:**

1. **Whether the amendment is consistent with the applicable policies of the comprehensive plan.**

618 Washington Ave N is designated by *The Minneapolis Plan* as being in a growth center, and the Warehouse District is a designated Major Housing Site in the Plan as well. Two long-range planning documents are currently being undertaken that affect this site: an Industrial Land-Use Plan and an amendment to the Downtown East/North Loop Master Plan. Specific chapters of *The Minneapolis Plan* that pertain to this project are as follows:

*The Minneapolis Plan*, Chapter 4.9 states: “Minneapolis will grow by increasing its supply of housing.” This section of the plan is supported by the implementation step to “Support the development of new medium- and high-density housing in appropriate locations throughout the City.” Rezoning to C3A would allow for a higher density project in an appropriate place – a Major Housing Site.

*The Minneapolis Plan*, Chapter 4.11 states: “Minneapolis will improve the availability of housing options for its residents.” One of the implementation plans for this section of the plan is to “promote mixed-income housing development that offers a range of dwelling unit sizes and levels of affordability.” Rezoning the property to C3A allows the applicant more flexibility in determining the number and size of units offered by the project. Adhering to the minimum lot square footage per dwelling unit requirement of the existing zoning would result in fewer, larger, more expensive units in the building.

*The Minneapolis Plan*, Chapter 4.17 states: “Minneapolis will promote housing development that supports a variety of housing types at designated Major Housing Sites throughout the city.” Implementation of this section includes developing “a citywide Housing Strategy for placing medium (10-30 units per acre) to high-density (30+units per acre) new housing on major transportation and transit corridors and near commercial revitalization projects or neighborhood amenities (e.g. sites such as Growth Centers, Major Housing Sites, Commercial Corridors). Furthermore, implementation includes providing “the flexibility in the City's ordinances to accommodate new housing development tailored to meet a range of different housing submarkets.” Rezoning to C3A would allow a more flexible unit size and number to realize housing in this existing building.

*The Minneapolis Plan*, Chapter 9.22 states: “Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.” Downtown has been widely publicized for its influx of residents and planning policies support this growth. As described above, a rezoning will allow for a higher density building and would support more population growth.

Based on the policies stated above staff maintains that the proposed project is in conformance with *The Minneapolis Plan*.

**2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.**

**The rezoning is in the interest of the applicant as it will allow additional dwelling units on the site. However, more units, diverse unit sizes and live/work units are all potentially beneficial to future residents and the surrounding community.**

**3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible**

**with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.**

Surrounding properties are zoned I2/ILOD, and many (including the adjacent building directly to the northwest), have been repurposed as loft-style condominiums. Commercial uses permitted in the I2 district are also located nearby, and increasing residents to the neighborhood has increased the demand for higher intensity commercial services. Less than one block away to the northeast, a large portion of C3A zoning exists.

- 4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.**

**The site could be used for a variety of industrial uses and lower density housing in its current zoning. Rezoning the property as C3A would render future industrial uses inappropriate for the site. Development services staff has worked with community planning staff to analyze the long term viability of industrial land use in the area. Staff feels that industrial uses east of Washington Ave N in the North Loop are less likely to experience a renaissance than the area west of Washington Ave N.**

- 5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.**

The character of this area has been changing dramatically as older, underutilized industrial warehouse buildings are being repurposed as offices and loft-style housing. Myriad new developments are proposed, approved, or have been built on surface parking lots that take up a lot of the area. Industrial revitalization has occurred to the north of the neighborhood (separated by a major artery, Plymouth Ave N) in the style of large footprint, low-rise buildings that are more appropriate for today's larger scale industrial needs. Relatively few industrial uses remain in the immediate vicinity north and east of Washington Avenue. Since the establishment of a large ILOD over the neighborhood, it has become significantly residential, and any industry impacts in the neighborhood would be undesirable and inappropriate.

### **CONDITIONAL USE PERMIT -**

#### **Required Findings for the Conditional Use Permit for a maximum of 53 Dwelling Units:**

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

There is no evidence that creating a maximum of 53 new dwelling units will adversely affect the public health, safety, comfort or general welfare. A residential use will increase the human activity on the site, and the scale of the use is not dissimilar from adjacent and nearby condominium buildings. New window openings and balconies on the southeast façade will increase visibility from the site to the surrounding area.

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

All surrounding properties are within the Industrial Living Overlay District, and developing a maximum of 53 units of housing should not adversely affect future development and improvement. The building shares a fire wall with the building to the northwest, which is a residential building of similar size and proportion. Provided residents of the proposed development understand that they are living in an industrial area that involves truck traffic and other reasonable industrial activity, nearby uses should continue to operate (and may continue to operate in a legal fashion) without incident. Existing and future development of uses allowed in the surrounding industrial district or Industrial Living Overlay District should not be negatively affected by the project.

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

Utilities would not be affected by the addition of a maximum of 53 dwelling units to the building. Drainage from the building roof will be routed through interior drain pipes to the City's storm sewer. Because of the existing building footprint and the need for parking access, there is very little landscaping proposed. The drive aisle to the 2<sup>nd</sup> floor parking garage slopes up from the sidewalk and street – a trench will be located at the base of the slope for runoff.

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

All parking is provided off street and no curb cuts were added to the site. The applicant proposes the use of one existing curb cut off Washington Ave N. This curb cut will lead to both garage doors serving the property and to the parking area for the adjacent building to the southeast.

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

According to other principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

*The Minneapolis Plan*, Chapter 4.11 states: “Minneapolis will improve the availability of housing options for its residents.” One of the implementation plans for this section of the plan is to “promote mixed-income housing development that offers a range of dwelling unit sizes and levels of affordability.” The proposed development at 618 Washington Ave N will include a five units as small as 574 square feet and thirteen units over 1,000 square feet.

*The Minneapolis Plan*, Chapter 9.22 states: “Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.” Downtown has been widely publicized for its influx of residents and planning policies support this growth. The North Loop is still a growing residential neighborhood.

*The Minneapolis Plan*, Chapter 9.32 states: “Minneapolis will promote housing development that supports a variety of housing types at designated Major Housing Sites throughout the city.” The Warehouse District is a designated Major Housing Site in *The Minneapolis Plan*. One of the implementation plans for this section is to “Develop a citywide Housing Strategy for placing medium (10-30 units per acre) to high-density (30+units per acre) new housing on major transportation and transit corridors and near commercial revitalization projects or neighborhood amenities (e.g. sites such as Growth Centers, Major Housing Sites, Commercial Corridors).” The proposed development at 618 Washington Ave N is considered high-density.

Another implementation plan of Chapter 9.32 is to “promote the development of new housing that is compatible with existing development in the area, as well as to existing historic or older housing stock where appropriate.” The re-purposing of industrial buildings into condominiums is popular in the North Loop and allows for the preservation of an existing building with a new and revitalizing use.

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

In addition to the Conditional Use Permits for increasing height and creating a maximum of 53 new dwelling units, the proposal for 618 Washington Ave N requires a variance for drive aisle wide, and a Site Plan Review to be in compliance with the requirements of the proposed Community Activity Center District (C3A).

**CONDITIONAL USE PERMIT -**

**Required Findings for the Conditional Use Permit for an increase in maximum height:**

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

The existing building is 6 stories, just under 72 feet high with a 1 ½ to 5 feet high parapet. The proposed additional penthouse story would add 14 feet to the top of the structure and 12 ½ to 9 feet from the top of the parapet. Although the permitted height in the proposed C3A zoning district is 4 stories or 56 feet, there is no evidence that one additional story would be detrimental to public health, safety, comfort or general welfare.

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

The northwest and southwest sides of the building are on the property line. The northeast side of the building ranges from 6 ½ feet to 23 ½ feet from the rear property line. The southwest side faces Washington Ave N and requires no setback variance. The northwest side shares a wall with the adjacent building and has a 17 foot minimum setback requirement. The proposed additional height would block existing windows in the adjacent residential building; however, the applicant has agreed to revise the proposed additional story to meet the 17 foot side setback requirement on the northwest elevation. The northeast elevation has and would add windows; however it meets its minimum rear setback requirement of 17 feet. Finally, the southeast elevation will have new windows and meets its minimum side setback requirement of 17 feet.

As the existing and proposed addition to the building will meet all required setbacks, the proposed height increase on the northwest side of the building would be injurious to the use and enjoyment of the windows in the adjacent residential building, Tower Lofts.

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

An increase in maximum height would not affect utilities, access roads, drainage, necessary facilities or other measures, which either previously existed or have been provided for the project.

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

The additional story proposed by the applicant allows for 8 additional units. Staff is not concerned that 8 additional units will significantly add to the traffic impact of the project.

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

According to other principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

*The Minneapolis Plan*, Chapter 9.5 states: “Minneapolis will support the development of residential dwellings of appropriate form and density.” This section includes the implementation step to “expand the understanding of the role that urban density plays in improving business markets, increasing the feasibility of urban transit systems and encouraging the development of pedestrian-oriented services and open spaces.” The increase of residential uses in the Warehouse District of downtown Minneapolis has preceded the demand needed to attract retail and other neighborhood services – adding height and increasing density to the proposed project will further encourage such businesses to serve the North Loop neighborhood.

*The Minneapolis Plan*, Chapter 9.16 states: “Minneapolis will encourage new development to use human scale design features and incorporate sunlight, privacy, and view elements into building and site designs.” This section includes the implementation step to “Encourage the design of all new buildings to fulfill light, privacy and view requirements for the subject building as well as for adjacent buildings.” The design and location of the additional height requested by the applicant is such that provides light, privacy and view requirements for the additional units. The location of the existing windows on the property line that serve units in the adjacent Tower Lofts begin at the 8 foot mark while inside those units; now that the applicant will meet the 17 foot setback at this location, neither views nor light should be negatively impacted by the height addition.

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

See finding #6 in the Conditional Use Permit for a maximum of 53 new dwelling units analyzed above.

**In addition to the conditional use standards, the city planning commission shall consider, but not be limited to, the following factors when determining the maximum height:**

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

The existing building is attached to the building to the northwest and is adjacent to many other buildings. Although future development nearby is anticipated and in some cases planned, the areas directly adjacent to the building are already densely developed. Access to light and air of windows on the shared wall with Tower Lofts should not be negatively impacted by an increase in permitted height as long as the applicant meets the required 17 foot setback.

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

Due to the orientation of the building, it is possible that the additional story would shadow a portion of the Tower Loft windows on the northwest property line for a portion of the day during certain parts of the year. While a shadow study has not

been submitted, shadowing is most likely to occur in the mornings and in the winter months. Staff is not concerned that the possibility of shadowing is to an extent that would negatively impact light for residents in the portion of Tower Lofts that is on the property line and has windows.

**(3) The scale and character of surrounding uses.**

The proposed additional height is relatively minor given the overall height of the existing building. Future and existing developments in the neighborhood are of a comparable height, scale, and character of the proposed project. The proposed addition would alter the roof line in relation to the adjacent Tower Lofts from being approximately 9 feet shorter to being approximately 5 feet higher.

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

No views should be compromised by the addition of the proposed penthouse story. Windows in the Tower Lofts that face the proposed addition are located within each unit such that they begin at a height 8 feet from the floor and are beyond the interior wall of the unit by approximately 4 feet. If the applicant were to meet the 17 foot setback required, it is unlikely that these windows would lose significant views.

**VARIANCE – to reduce a required drive aisle width.**

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

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

**Reduce required drive aisle width from 22 feet to 16 feet 1 ½ inches**

To provide enclosed parking on site, drive aisles must conform to widths between existing building columns perpendicular to the length of the building. The distance between parking stalls is over 17 feet, but the diameter of the columns reduces the drive aisle width at those points. Column width allows up to 17 feet 7 inches for drive aisles oriented to the length of the building. Without a drive aisle variance parking could not be provided on site and a residential use could not be created.

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

**Reduce required drive aisle width from 22 feet to 16 feet 1 ½ inches**

The column width of the existing building is unique to the parcel of land and were not created by any persons presently having and interest in the property.

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

Reduce required drive aisle width from 22 feet to 16 feet 1 ½ inches

The spirit and the intent of the ordinance are, in part, to provide adequate space for vehicles to maneuver out of their parking spaces. Reducing the drive aisle width is not optimal, but the proposed distance is adequate for most vehicles and will be used by residents rather than the general public.

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

Reduce required drive aisle width from 22 feet to 16 feet 1 ½ inches

Staff does not believe that allowing the requested setback would substantially increase the congestion of public streets, increase the danger of fire, be detrimental to the public welfare, or endanger the public safety.

## **SITE PLAN REVIEW**

### **Findings as Required By the Minneapolis Zoning for Site Plan Review**

#### **Required Findings for Site Plan Review**

- a. **The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- b. **The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

## **Section A: Conformance with Chapter 530 of Zoning Code**

### **BUILDING PLACEMENT AND FAÇADE:**

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

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

    - a. Windows shall be vertical in proportion.
    - b. Windows shall be distributed in a more or less even manner.
  - Nonresidential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls

on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

- a. Windows shall be vertical in proportion.
- b. Windows shall be distributed in a more or less even manner.
- c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
- d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
- e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
- f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.

Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

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

#### **Conformance:**

- The footprint of the existing building will not change.
- The existing building sits on the front lot line.
- The northwest and southwest building edges sit on the lot line. The southeast edge is separated from that lot line by a 22 feet 7 ½ inch 23 foot 4 inch wide sloped drive aisle leading to enclosed parking. The northeast (rear) edge of the 2<sup>nd</sup> floor (the 1<sup>st</sup> floor is below grade at this location) is approximate 6 ½ feet from the property line but has no windows, and all floors above that are set back 23 ½ feet from the rear property line.
- The building's principal entrance faces Washington Ave N.
- All required parking will be provided within the existing enclosed building.
- The majority of the 2<sup>nd</sup> floor southeast elevation is blank wall for a portion longer than 25 feet. This story is above grade for the majority of the elevation and is an existing condition that encloses parking.
- The 1<sup>st</sup> floor of the northeast elevation has neither windows nor architectural detail for its entire length (over 100 feet). Again this is an existing condition that encloses proposed parking, and does not face a public right of way. The northeast elevation faces a surface parking lot and building.

- New construction will have exterior materials of either concrete or stained and sealed cedar siding.
- The new materials listed above are not similar to the existing exterior material of brick. However, as mentioned earlier a good portion of the new concrete exterior will be hidden behind an existing brick parapet. While the proposed existing material may not be aesthetically incompatible with the existing brick, staff encourages the applicant to consider matching the existing building with brick or another masonry material.
- All proposed concrete exterior material will be poured and not concrete block..
- The principal entrance proposed that faces Washington Ave N should be adequately defined with architectural detail, lighting, and signage. The existing architectural detail for the principal entrance will remain and frame a new front door directly to a live/work unit. The principal entrance off Washington Ave N will be relocated to the western end of the façade. Staff recommends encouraging the applicant to retain the existing entrance as the new principal entrance, or to alter the exterior of the façade such that the new principal entrance is accentuated and the existing door be aligned with the rest of the façade.
- The percentage of glass is as follows:
  - Southwest side (primary façade):
    - First floor: (20% glass required by the Code within 2 and 10 feet of wall): 19% provided. New windows will be replaced in existing openings – additional fenestration is provided on the first floor below 2 feet high.
    - Second floor and sixth floor (10% of entire wall required by Code): 28% provided.
    - Third thru fifth floors (10% of entire wall required by Code): 31% provided.
    - Seventh floor (penthouse) (10% of entire wall required by Code): 15% provided. The first five to seven feet of the penthouse elevation is behind an existing parapet.
  - Northwest side (no minimum percentage required by the Code):
    - This elevation shares a wall with the adjacent building. A proposed addition set back 17 feet from the lot line with contain no new windows.
  - Southeast side (faces private drive aisle access to enclosed parking – no minimum percentage required by the Code):
    - First floor: 4% provided.
    - Second floor: 4% provided.
    - Third thru fifth floors: 47%
    - Sixth floor: 49% provided
    - Seventh floor (penthouse): 35%
  - Northeast side (rear, no minimum percentage required by the Code):
    - First floor: Below grade
    - Second floor: None provided
    - Third thru fifth floors: 50% provided.
    - Sixth floor: 51% provided.

- Seventh floor: 33% provided.
- All required windows in the new construction portion of the project are vertical in proportion and distributed in a more or less even manner.
- The additional penthouse story will have a flat roof – the existing six story building has a flat roof with a five to seven foot parapet in the front. Flat roofs are the predominant form in the immediate area.

**ACCESS AND CIRCULATION:**

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

**Conformance:**

- The building entrance is located directly on the property line and is adjacent to a public sidewalk.
- There are no transit shelters on or adjacent to the site.
- The use of a single existing curb cut will minimize conflicts with pedestrian traffic and surrounding residential uses.
- Vehicular access to the garage is via the driveway on the south east side of the building.
- There are no public alleys adjacent to the site.
- All areas not needed for buildings, access, or trash and recycling, will be landscaped with the exception of the drive aisle.

#### **LANDSCAPING AND SCREENING:**

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

#### **Conformance:**

- The lot area (21,359 sq. ft.) less the building footprint (14,785 sq. ft.) yields a net site of 6,574 sq. ft. The Code requires a minimum of 1,315 sq. ft. of landscaping, 3 trees and 13 shrubs. The total landscaping proposed by the applicant is 833 square feet. This equals 13% of the net site. The proposed project includes 5 trees and 5 shrubs. Staff recommends that the Commission require compliance with the minimum number of shrubs.

- Staff recommends granting alternative compliance for the amount of landscaping because strict adherence to the requirements is impractical because of site conditions. The existing building footprint and existing lot size are such that very little land is left for landscaping; once a driveway is added to allow access to enclosed parking, there is no longer enough area to provide the required landscaping. However staff also recommends encouraging the applicant to explore a green roof option above the second floor building annex.
- All parking provided is enclosed.

**ADDITIONAL STANDARDS:**

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **To the extent practical, site plans shall minimize the blocking of views of important elements of the city.**
- **To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260 related to:**
  - **Natural surveillance and visibility**
  - **Lighting levels**
  - **Territorial reinforcement and space delineation**
  - **Natural access control**
- **To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

**Conformance:**

- The applicant is proposed curbing around the drive aisle area. Staff recommends encouraging the applicant to consider on-site filtration where possible.
- Lighting must comply with Chapter 535 and Chapter 541 of the zoning code.
- Headlights should not cause a problem with any nearby residential uses.
- The new-construction elements of the project will not block views of important elements of the city nor create any substantive shadows on adjacent buildings and open spaces.
- The project would not be expected to contribute significantly to ground-level winds.
- The site design and landscape plan allows views from the public sidewalk into the site to the extent possible.

- The applicant proposes to renovate an existing structure that is not historically designated but that contributes to the historic fabric of the area.

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

**Zoning Code:** The proposed use is conditional in the C3A district.

**Off-Street Parking and Loading:** Chapter 541 requires not less than one parking space per dwelling unit. The applicant proposes 53 off-street parking spaces for the proposed maximum of 53 units. 10 of these are compact stalls and the developer is also providing additional tandem stalls. Existing columns prevent the drive aisle requirement from being met. See variance findings above.

**Maximum Floor Area:** The maximum floor area ratio (FAR) in the C3A District is 2.7. With a density bonus for enclosed parking, the maximum FAR increases to 3.2; the FAR of the building in its existing state is 3.0. The lot in question is 21,359 sq. ft. and the project as originally proposed would have a gross floor area of 62,081 sq. ft., which equals an FAR of 2.9. In order to meet the 17 foot setback on the northwest elevation the gross floor area should reduce even further, resulting in an even smaller FAR. It was originally anticipated that a variance to increase the minimum FAR would be required to add an additional story with additional units. It has been determined that that variance is in fact not needed and staff is recommending returning that application to the applicant.

**Building Height:** Building height in the C3A District is limited to 4 stories or 56 feet, whichever is less. See conditional use permit findings for additional information. The project would have the following heights:

- Southwest, northwest, and southeast sides (front, and interior sides, respectively): 7 stories and 86 feet above grade.
- Northeast side (rear): 6 stories and 74 feet above grade.

**Minimum Lot Area:** As previously noted, the lot has 21,359 square feet. The C3A district requires not less than 400 square feet of lot area per dwelling unit. This allows 53 dwelling units on the site (without consideration of density bonuses). The applicant is proposing a maximum of 53 dwelling units.

**Yard Requirements:** The C3A District includes the following yard requirements for this seven-story project (based on having windows facing interior side and rear lot lines):

- Southwest side (front): 0 ft.
- Northeast, northwest, and southeast side (rear and sides, respectively): 17 ft.

The project as proposed did not conform to all yard setback requirements; however, the applicant is willing to modify the plan to do so.

**Specific Development Standards:** N/A

**Hours of Operation:** N/A

**Signs:** If the project includes a sign, it will conform to the Code. None are proposed at this time.

**Refuse storage:** All storage of refuse and recyclable materials will be enclosed inside the building.

**Minneapolis Plan:** Refer to the Conditional Use Permit section of this report.

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

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

**Conformance:** Staff recommends granting alternative compliance for the amount of landscaping because strict adherence to the requirements is impractical because of site conditions (as noted above); however staff also recommends encouraging the applicant to explore a green roof option above the second floor building annex.

## **RECOMMENDATIONS:**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the zoning amendment change from I2/ILOD zoning to C3A zoning district:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a zoning amendment from I2 district to a C3A zoning district and removal of the IL Overlay District.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit a maximum of 53 new dwelling units:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to create a maximum of 53 new dwelling units at 618 Washington Ave N.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit for an increase in maximum height:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow an increase in maximum height from 4 stories to 7 stories at 618 Washington Ave N, subject to the following condition:

1. A seventeen foot setback be required from the northwest property line for the proposed 7<sup>th</sup> story addition to allow proper access to light and air for residents of the units of dwelling units on the adjacent property that have windows that face the proposed addition.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance to reduce the minimum drive aisle width from 22 feet to 16 feet 1 ½ inches:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the variance to allow a reduction of the minimum drive aisle width from 22 feet to 16 feet 1 ½ inches at 618 Washington Ave N.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance to increase the maximum FAR:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **return** the variance to allow an increase in the maximum FAR at 618 Washington Ave S.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the Site Plan Review at 618 Washington Ave N, subject to

the following conditions:

1. Not less than thirteen shrubs are located on the final landscaping plan as required by section 530.160 of the zoning code.
2. Planning staff review and approval of the final site plan, landscaping plan, and building elevations.
3. A minimum of one van-accessible parking space is provided in the enclosed parking garage.
4. Site improvements required shall be completed by December 2, 2006, unless extended by the zoning administrator, or the permit may be revoked for non-compliance.

**Attachments:**

1. Statement of use
2. Findings
3. Correspondence
4. Site Plan, Floor Plans, Elevations, & Zoning map
5. PDR Comments
6. Photos

**Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES  
Minneapolis Community Planning & Economic Development (CPED)  
Planning Division  
350 South Fifth Street, Room 210  
Minneapolis, MN 55415-1385  
(612) 673-2597 Phone  
(612) 673-2728 Fax  
(612) 673-2157 TDD**

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**MEMORANDUM**

DATE: November 29, 2005

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division; Phil Schliesman, Licenses

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

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

SUBJECT: Planning Commission decisions of November 28, 2005

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The following actions were taken by the Planning Commission on November 28, 2005. 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 Martin, El-Hindi, Krause, Kummer, LaShomb, Motzenbecker, Schiff and Tucker – 8

Not present: Henry-Blythe and Krueger.

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**9. 618 Washington Avenue North (BZZ-2688, Ward 5) 618 Washington Avenue North ([Tara Beard](#)).**

**A. Rezoning:** Application by Swervo Development Corporation for a zoning amendment to rezone the property at 618 Washington Ave S from I2 to C3A.

**Action:** Notwithstanding staff recommendation, the City Planning Commission recommended that the City Council **deny** the application for a zoning amendment

from I2 district to a C3A zoning district and removal of the IL Overlay District based on the following findings:

1. The project does not contribute mixed-use or street level activity to the public;
2. Rezoning would result in spot zoning in the midst of the IL Overlay District; and
3. The application is primarily in the interest of the developer and does not meet the public interest.

**B. Conditional Use Permit:** Application by Swervo Development Corporation for a conditional use permit to create 53 dwelling units in a C3A district for the property at 618 Washington Ave S. The applicant is proposing to convert the existing building to condominiums and expand it to include one penthouse story and underground parking.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **denied** the application for a conditional use permit to create a maximum of 53 new dwelling units at 618 Washington Ave N based on the following finding:

1. Based on the recommendation of denial for the rezoning.

**C. Conditional Use Permit:** Application by Swervo Development Corporation for a conditional use permit to increase the maximum permitted height of the building for the property at 618 Washington Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow an increase in maximum height from 4 stories to 7 stories at 618 Washington Ave N, subject to the following condition:

1. A seventeen foot setback be required from the northwest property line and also be provided along Washington Avenue for the proposed 7th story addition to allow proper access to light and air for residents of the units of dwelling units on the adjacent property that have windows that face the proposed addition.

**D. Variance:** Application by Swervo Development Corporation for a variance to reduce the minimum drive aisle width for the property at 618 Washington Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the variance to allow a reduction of the minimum drive aisle width from 22 feet to 16 feet 1 ½ inches at 618 Washington Ave N.

**E. Variance:** Application by Swervo Development Corporation for a variance to increase the maximum Floor Area Ratio (FAR) for the property at 618 Washington Ave S.

**Action:** The City Planning Commission **returned** the variance to allow an increase in the maximum FAR at 618 Washington Ave S.

**F. Site Plan Review:** Application by Swervo Development Corporation for site plan review for the property at 618 Washington Ave S.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **denied** the Site Plan Review at 618 Washington Ave N, based on the following finding:

1. Based on the recommendation of denial for the rezoning.

Staff Tara Beard presented the staff report. She noted a correction to the height of the parapet in the staff report. The correct height of the parapet is 7 feet high. Additionally, she noted a correction on page 7 of the report: "...A proposed height increase would not be injurious to the use and enjoyment of the windows in the adjacent residential buildings" (the word 'not' was missing). She also noted that a letter of support had been received from the Warehouse District-North Loop neighborhood association, but that the association had requested the applicant set back the penthouse level from Washington.

Commissioner Schiff: Tara, the C3A zoning district was created in the '99 code in order to encourage mixed uses and activity centers. And here we're being asked to apply it for something that's not proposed to be a mixed use. It seems to be contradictory to the intent of the district to use this just to increase residential density without providing the mixed use that we want in an activity center. What other impact are we going to set off if this entire industrial living overlay district reverts to C3A, which I can see where making that...Where starting that process today, if we were to allow this building to change, what happens on the rest of 2<sup>nd</sup> Avenue and the rest of this I2 district?

Staff Beard: That's a very important point. Thanks for bringing it up. Staff met with both the downtown community planner and the community planner that is looking at the industrial land use study because we were quite aware that recommending approval on a rezoning to C3A would have really increased the impact of other properties between 2<sup>nd</sup> and Washington, downtown and 8<sup>th</sup> Street and maybe even 10<sup>th</sup> to the C3A district. It was the collective opinion of staff that long term industrial use in this portion – from 8<sup>th</sup> to 5<sup>th</sup> and then between Washington and 2<sup>nd</sup> – is really no longer long-term probability for industrial use. So the industrial living overlay district, in keeping the underlying I2 zoning, is not necessarily something we need to be – in that particular area – too concerned about setting a precedent for. There's also, as everyone's well aware, that there is a current rezoning study for downtown east and the north loop area. It's likely that commercial uses will be encouraged along Washington Avenue. The proposal before us is such that parking constraints and existing building constraints are such that commercial is not appropriate at this time. However, the live-work units do provide a potential for that use.

Commissioner Schiff: Well, I think I'll disagree that commercial is not appropriate on Washington Avenue...

Staff Beard: Oh no, I said 'is appropriate'.

Commissioner Schiff: Oh, it is appropriate.

President Martin: Just not here...

Staff Beard: But that the applicant feels that it's not viable within this project.

Commissioner Schiff: OK. Well, let's clarify what the applicant's saying and what staff is saying. Staff's not saying commercial is not appropriate at this site.

Staff Beard: I would argue that staff feels that the live-work units are sufficient to allow for the commercial uses along Washington Avenue, as is encouraged, as well as promote housing and what is a major housing site.

Commissioner Schiff: Where else is there commercial potential on this stretch of Washington Avenue?

Staff Beard: Here is a map showing the existing building. There's currently office space here. I believe this is still warehouse space. This also is warehouse space. If there were to be a kind of ripple effect of C3A zoning applications, these two building which have not been converted to my knowledge (I'm sure of this one, I'm not positive of this one) would potentially be buildings that commercial could be placed in. I believe there also is existing first level commercial in a few of the buildings down here. I'd be afraid to say I knew for sure which ones.

President Martin: OK, thanks Tara.

President Martin opened the public hearing.

Tom Owens (Attorney representing Chuck Leer, the developer of Tower Lofts): In addition to representing Chuck, I'm representing the Tower Lofts condominium association, a newly formed homeowners association with more than 100 members. In the 100<sup>th</sup> unit out of 138 closed today. If you look deep, deep, deep in your packets [tape end] ...and the list that were used except for Mr. Leer's company, you will not find a single owner of Tower Lofts who received notice. And that goes to the defects in the application and the notice, but we're going to save those because of the short amount of time we have for an appeal if necessary. I'm here to oppose the request for a conditional use permit for a height increase. My clients are not pleased with the lack of mixed use or retail on the first floor. And by what looks like good old fashioned spot zoning in requesting to change the property to C3A district, which 3 years ago, my client right next door, was discouraged very strongly from doing. But let's focus on the gravest problem, the proposed height. You know well the factors and findings that are necessary to grant a conditional use permit. The ones that are most relevant here are access to light and air of surrounding properties and shadowing of residential properties. I would also like to suggest that there are two additional factors that you

should consider and the ordinance on the subject is clear that you can consider additional factors. They are number one, privacy and view elements and number two, the effect on values of the surrounding properties from the proposed addition. It is these factors that get you to the six findings which you must make - none of which is optional - and the two most relevant here, are that the conditional use will not be injurious and will be consistent with the comprehensive plan. And before I go on to my third point, I have to trouble you with one legal concept and that is the burden of proof in this case. The applicant has the burden of proof of coming forward with sufficient facts and data so that you can make an intelligent decision. I suggest that he has not done so and I'd like to show you very quickly why. This is an elevation from the original application. This was good through about last Monday or Tuesday. It shows the development going right up to... well, up to what? In the north elevation here, that's Tower Lofts here which is not shown. The south elevation, that's also Tower Lofts right adjacent which is not shown and which was dramatically overshadowed by that proposal. Also in your packet is a photograph, and again this approaches the 'Where's Waldo' sort of analysis. Here's a little, tiny view of a little corner of what we're most concerned about. Staff showed you the next picture that gives you an inkling that something is going on up there. If you enlarge this original picture, this is what the staff showed us on Monday when they were kind enough to meet with us. Staff drew in these lines to say, well, your building should come in somewhere about there. So, the application by Swervo, when it got to the key facts, had this to say in the original application: 'the project will not interfere with access to light and air'. At the time, the addition ran up to and then surpassed the height of the 700 building by several feet. In addition, the applicant asserted that there would be no significant change in the shadowing of adjacent structures.

President Martin: Mr. Owens, I think we have a question.

Commissioner Krause: Mr. Owens, could you perhaps speak more to the actual plan we have in front of us, not what the plan was previously. I mean, that's what we have before us and this plan has changed significantly.

Tom Owens: In the last couple of days.

Commissioner Krause: And that is what's before us, so...

Tom Owens: And this is the new plan.

Commissioner Krause: Yes.

Tom Owens: And, excuse me, the statements and assertions by Swervo have not changed. They have not submitted any further information or data, any shadow studies, or anything further. They have said there is no impact on light and air and no significant change on shadowing. The staff went on to conclude similarly that access to light and air - they mention the 700 building - but they found no problem. They did so without studies, without data. The sheet that Ms. Beard showed you a moment ago with one of the windows did not appear in any of the materials that we had and it's the first time

we've seen that. So let's... I'd like to go to the real facts, the 'Where's Waldo', so we can figure out what the impact is and you can have some idea whether it's one or two windows or five or six windows and where they're located and how they're affected. And here's a depiction of the top of Tower Lofts. I've highlighted the 18 windows that are impacted. They're in four different units. So it's not one or two, it's 18 windows, it's in four separate units across the southeast side of the building of the condominium including eight windows serving unit number 621. Now staff made a reference to the 8-foot height of the windows as if that made a difference. In fact, the owners of unit 621, Ralph and Judy Bogestad, in this area, added a height feature and almost a separate room up there, to take advantage of the views so that they can have views like this [showing photos] during the daytime, views like this during the nighttime and back to one more daytime view. Now this view is not obtained by getting up on a ladder and using a telescope or binoculars. This is a view out of one of their five windows on that side. At the other end of the building, right here, three windows in unit 621 are affected. Here's the view from the ground, there's seating up in this area, and here's the view from that area with the 3 windows. [tape unclear, off microphone] The reality check here is that the proposed addition will have a very significant and dramatic affect on views, light, privacy, and finally, on values of these four units. So we'd like you to reconsider carefully what the staff has recommended without much information and we hope you'll agree with us that these are very serious considerations and that the applicant has failed to come forward and meet his burden of proof and tell you a good reason why you should approve the conditional use permit. Thank you.

President Martin: Others who wish to speak to item number 9.

Nathaniel Shea (Tanek Architects): I just wanted to briefly revisit, clarify I guess, the proposal that is in front of you is only for a 14-foot addition to the top of 618, so I just wanted to...And this actually does represent the proposal as it is today with the 17-foot setback from the adjacent property and then the 14-foot height. So it is dramatically different and then we did obviously make some dramatic changes to improve the project and to accommodate some of the things that we had heard. So I just wanted to address that as well as the section that was provided does describe – there's two things on here I guess I would like to speak to I guess. This is the section of Tower Lofts here and this is the proposed addition here and then right below that section we do follow up with an elevation as if you were standing at Tower Lofts – we do represent the windows along the bottom half as it is existing here. And then this is the top portion, so that's the view that you'd see or what would be obstructed from the top of Tower Lofts' deck if you will. So those are just a couple things that I just wanted to remind everyone in terms of what the package is that we're presenting today and also talk to some of the changes that we did make to the entry in terms of commercial. This is again the rendering here. To really try to address given the parking constraints and really make accessible entries off of Washington here, so that was always part of our proposal to try to allow for and bring in some sort of a commercial element to this space on the first floor and then all [tape unclear] connect to the upper four units there. So I think that was the points that I just wanted to make.

President Martin: Anyone else? Item number 9.

Commissioner Tucker: Is your penthouse set back at all on Washington?

Nathaniel Shea: We have it set back. It's not on the parapet, it's two feet back.

Commissioner Tucker: Just two feet back.

Nathaniel Shea: Correct.

President Martin: OK, others who wanted to speak.

Anna Bogestad (with father Roger Bogestad; owners of unit 621): You just saw several pictures of all the windows. And we'd just like to say that we absolutely object to this proposal for obvious reasons. We've made a considerable investment in this property and feel that it would negatively impact our views and the value of our property.

Roger Bogestad: I'm a potato partner from up north. My daughters, two of them are doctors here in Minneapolis, one in St. Cloud. And we purchased this property as an investment and a place for our children to live. When they say that it doesn't affect the view, I think... As a matter of fact, what I'm trying to find is two of the windows that go into one of my daughter's bedrooms.

Anna Bogestad: We have a total of 8 windows that would be blocked by this... Elevation.

Roger Bogestad: And also into one of the bathrooms.

Anna Bogestad: This is a bedroom. We just want to say that we object.

President Martin: Others who wish to speak to item number 9.

Chuck Leer (700 North Washington): I appreciate what Tom Owens went through. I'll try not to touch on the same subjects and areas that Tom did. I've been a developer in the North Loop since 1988 when we did the Guthrie Laboratory Theater. I've been involved in the neighborhood in a variety of fashions and ways. I spearheaded the design review for the Federal Reserve Bank building back in the 1990's. I have a deep and abiding interest in design and the way things look and the way the neighborhood develops. Just before Tower Lofts, I developed the property at 801 North Washington into the first loft project along North Washington. That was before the reconstruction of Washington Avenue. And now we have lofts in abundance and I applaud that. I expect that after hearing what you have this afternoon, you understand why we as stakeholders feel left out of the City's process. We're right next door. The two buildings look as though they're joined together, but no one from the city even checked with us until we knocked on the door last Monday and frantically when we found out where this was in the process, tried to play catch up. And we've been trying to play catch up ever since. We believe that we deserve better than that. Tower Lofts is an award winning, mixed use project that fulfills the dreams of the City's master plan. Yes, we have real retail on

Washington right next door. Java J's Coffee House just opened. Division, a new eyeglass and optometrist is going to open within a month. And we're working on plans for an Asian-fusion restaurant. We think retail on Washington Avenue is critical to the development of this area and we hate to lose an opportunity where one presents itself. We have live-work on the second level. We have 24 units. And if you're free next Thursday, Friday, Saturday, we're hosting an art show presented by Forecast Public Artworks in the lobby of the second floor, an art show.

President Martin: OK, Mr. Leer, we want you to talk about this please.

Chuck Leer: Yes, OK, sorry about that. I can get carried away.

President Martin: Appreciate the invitation, but...

Chuck Leer: I apologize. Tower Lofts is topped by a spectacular 6,000 square foot roof deck. I know that some of you have been there. We hosted the North Loop neighborhood party with over 500 people in September. Before we acquired 700 North Washington, we too looked at adding more floors, but we quickly realized that the existing building already exceeded the maximum height permitted by the zoning. We took the height limitation seriously and developed our plans accordingly. We played by the rules. I'm very familiar with 618 North Washington. I've studied the property inside and out. The previous owner of 618 tried to make it part of the Tower Lofts project, but the timing didn't work out. When 618 went on the market last spring, I made an offer. My offer was based on the assumption that the economics of the project needed to work within the framework of the existing building and the existing zoning. I assumed I needed to play by the rules. When I heard how much the applicant paid for the building and then intends to flip it for to another group, I could not make sense of it. But now I think I understand. Swervo needs to add another floor to make its numbers work. It is a well established rule that a property owner cannot create its own economic hardship. The rules do not afford relief to those who pay too much. I urge the Commission to take seriously its responsibilities as stewards of design. Under the CUP process, you have responsibility to consider any factors appropriate to the application in determining whether the applicant has met its burden. Pop-top buildings such as 618 are new. They merit serious study, both in terms of the impact on the contributing historic building – here the International Harvester building – you've seen a variety of depictions of the building – they're changing daily. And the neighborhood, the North Washington corridor. We've invested a lot of private capital and public money and effort and resources into it. And we don't want to lose the integrity of the corridor. The use of materials, window configuration and placement and visibility relative to the street all are important factors. So too is beauty, it's an important value for us. It needs to look right and not be thrown together. Design review, I believe, would be the correct approach here...

President Martin: But you know we can't do that.

Chuck Leer: You did it to me. With 801 Washington Lofts, when I came before you for a conditional use permit, you, as one of the conditions to the issuance, you directed me to

go back to staff, and I had to work with Jack Byers and Greg Mathis to redesign the façade of our parking lot. And you know what? I thank you for it.

President Martin: It's better, yeah.

Chuck Leer: It's a better parking ramp than it was when we came in despite what the architect said.

President Martin: We don't call it design review though.

Chuck Leer: Anyway, I'll conclude. I respectfully request that the Commission deny the application. Thank you.

President Martin: Thank you. Anybody else, item number 9.

Michael Roess (5010 Knob Hill, Edina): I'd like to speak this evening with some probably 15 to 18 years of adaptive re-use, loft development experience, primarily in San Francisco and New York, although I grew up here and have lived in Minneapolis most of my adult life. I've been active in those other markets until some 5 or 6 years ago. I met with Mr. Chuck Leer in early October at Swervo Development's request to share with him what the development plans were for the building. At that time, Mr. Leer was given the drawing that was presented earlier this evening. And so, the Tower Lofts,... I don't want there to be the impression that there hasn't been communication with the neighbor because there has been and at that time they were given a chance to look at the plans and to provide input. And so what's happening now surprises me a bit. The only other comment I would make with regard to that this evening is... I haven't seen in the 15 years that I've been involved with this area of development property line windows that have been protected. In fact, I haven't seen them be permitted. In general, in San Francisco and you know, I'm learning here in Minneapolis still, those windows are not permitted. Property line windows at the very minimum have to be fire rated windows and cannot open. And I've been up on the roof of this building and how this happened I'm a little bit puzzled. I think we're going to be faced with these issues in Minneapolis if the Metropolitan Council is right and we get more and more people like they say that we will, there will be more and more additions to top of buildings. There will be more and more people wanting height. And there will be more and more density. And so, the only point that I would make is that this is probably the first of other proposals that you'll see to restore an existing building and to do it within economics. Thank you.

President Martin: OK, anyone else, item number 9.

Ned Abdul (Applicant, Swervo Development): I'm here just to make a few comments regarding the presented proposal. First of all, I'd like to address Mr. Schiff's request and feel that the need for commercial in this district, which potentially would be a C3A district, we feel like in meeting with the neighborhood and other people that this live-work is something that's in dire need in these areas. Those are a lot of small businesses that want somewhere to hang their hat, but don't have the ability to actually

financially afford to lease an office space. I'm a little confused with the... when Commissioner Schiff refers to commercial. Are we referring to retail or are we referring to office or industrial?... I'm not really sure. Because there are a lot of parking restrictions that go along attached to retail, which this is not a free parking zone like a B4C or a B4S where you have unlimited parking. As you add retail, the density of parking per square foot goes up quite a bit from what it normally is for a residential or live-work type of a development. We've already asked for and been supported by staff for some parking variances for the existing proposed project based on the use and the covered parking and the use that we're proposing. So for us to actually propose a retail, high-density retail, would require additional variances which I don't know that could be necessarily supported in this area. And that's our main concern, trying to accommodate the retail use or the commercial use. But you know, it's kind of, you have to play that game between the lines where we, you know we, where we have sufficient parking to support that use. Second of all, I'd like to contend with a lot of the comments that were made by Mr. Leer and his counsel this evening regarding... because I'm a little bit confused on the notification requirements here. I mean, we were informed by staff on exactly a process that we needed to take. We need to, obviously everybody's aware here: contact Hennepin County, receive a 350 foot list, which we all did. Now the fact that Hennepin County didn't have these people registered at the time because they were new owners I guess is beyond our control, but I find it hard to believe because residents from the Tower Lofts were at not one but both neighborhood meetings that we had that they were not informed of this. Also, we worked with staff that the plans changed on us trying to massage this proposal and receive approval from staff on their advice and their feel that there was a need for a setback, a 17-foot setback on the side. So this wasn't something that was changed at the end. It's commonly made where proposals are made to staff and staff makes recommendations and we have the option to actually acquiesce and try to acquiesce to the recommendations or actually apply for a variance. And this point, we went with staff's design and felt like we needed a variance. Also, from this light and air study that Mr. Leer is... We would have been gladly to have conducted that [sic] had staff asked us to conduct it but it wasn't conducted. And all we're really doing is following the rules that are set by the staff and by the city. And I guess I don't see how we should be held responsible for playing between the rules and actually doing what we're asked to do. And if there's a loophole in the process, I think that it needs to be addressed by staff and the Commission and the applicant shouldn't take...be penalized because there is a loophole in the system with the timeframe and so on. The building was also placarded. So the residents of Tower Lofts, some of them even supported the project at the neighborhood meeting. As you can see, we have support from the neighborhood and the staff. So I find it very hard to believe that the Tower Lofts were only aware of this project seven days ago.

Commissioner Schiff: Mr. Abdul, what's the definition of live-work that you're going to go with when selling these units? What are you looking for.

Ned Abdul: Well, we're looking for, like I said, the small business that can't afford to hang their hat at a separate... whatever... like an office, a small architectural firm, graphic firm, small graphic design firm, so on.

Commissioner Schiff: And what guaranty is it that you're not going to end up, that we're not going to end up with somebody that happens to work as a real estate agent who happens to do most of their work off site and it's just another residential unit.

Ned Abdul: There is not really a guaranty, I have to be frank with you.

Commissioner Schiff: OK, well if you could work on some language that would give us that guaranty. Because I want that interaction at the street level, not just somebody who's employed. Because I've seen live-work units so called throughout the city and they just don't interact with the street like a traditional commercial space where there's retail activity or there's actual office where the general public can come in. So these spaces have to be designed for the general public to walk in on the first floor, actually engage in some kind of business activity, for my definition of live-work.

Ned Abdul: I understand your concern.

President Martin: Anyone else?

Michael Roess: [comment, off microphone]

President Martin: You already had your shot. New information that we haven't heard.

Dustin Maddy (700 Washington Ave N): I'm going to speak to something different. The distance from the pop-up off of Washington Avenue was changed to just 2 feet and that doesn't sound like enough. That's the view looking down 7<sup>th</sup> Avenue North. It's right in the center of a lot of old warehouses, you know the area. But this is the view looking down Washington, looking upriver down Washington and the pop-up would be here and we've got a stock of pretty genuine old warehouses and the pop-up would be about 7 feet sticking up right behind the parapet of architectural detail that we don't know. But then we look at the other direction, we've got our view corridor down Washington to the old Federal Reserve and we've got a pop-up that will be sticking up right there. So I was just showing concern that 2 feet doesn't sound like enough to protect this view corridor, just like the neighborhood group.

President Martin: Thank you. Alright, I'm going to close the public hearing.

Commissioner LaShomb: Well, let's see where people are. I'm going to move the rezoning.

The motion failed for lack of a second.

Commissioner Schiff: I have a question for staff. I'm having trouble with the public interest part of this. One of the findings: that it's not just in the interest of the developer. What else... There's lots of uses allowed in the I2 district and the conversion of this could take place – what's the difference in the total number of units? Is that the only difference between I2 with the industrial overlay district and C3A?

Staff Beard: You know, I don't have the numbers on me, but you are correct in that that was what was expressed to me as the major difference. However, staff was not inclined to support it because it would help this project along. Staff was inclined to support it because it's likely to be zoning that is likely to be moving into that direction in the near future and to meet some of the goals of the comp plan including Washington Avenue as a community corridor and as potentially the commercial corridor of the North Loop. Rezoning to C3A looked like a future trend that we could support.

Commissioner Schiff: OK, I'm still, maybe just more discussion from Commissioners. I'm just stuck on the rezoning for something that's not a mixed use unless we have some kind of guaranty that we're going to have activity on the first floor that really acts like commercial activity that should exist in a mixed use commercial corridor.

Commissioner Krause: Madame Chair, I agree with Commissioner Schiff, that's clearly the intent of the C3A and I'm wondering if maybe Ms. Beard can help clarify the impact on density. If this was to remain as an I2 or ILOD, what number of units would be permitted?

Staff Beard: I might have to defer to Jason who has a code in front of him to do the actual math. I can tell you...

President Martin: Actually, the code is traveling back and forth over here.

Staff Beard: But I can tell you that the major impact there is the minimum lot area per dwelling unit required. And that's 900 in an ILOD. I can't remember off the top of my head in the C3A.

Staff Wittenberg: 400.

Staff Beard: With the very common condition in the North Loop area of building footprints that occupy a huge majority of the site. That's a major consideration.

Commissioner Krause: So the cleaner, more direct way to do this would be to consider a lot area variance perhaps to get to a certain level of density beyond what the I2 – ILOD would allow as opposed to the C3A which is just more or less a wholesale change in what that requirement would be.

Staff Beard: Again, I would have to look at the numbers to be sure, but I know there is I believe a maximum percentage we can vary, I believe it's 20 percent...?

Staff Wittenberg: 30 percent.

Staff Beard: Thank you. And so even with that variance to the maxed out 30 percent, they would not have been able to put forth a project like this together without many, many fewer larger units which would not meet the comprehensive plan's goals of diversity and stock and affordability of stock. That was what staff considered.

President Martin: Commissioners, I think it might be useful to think back to the discussions that we had on the other side of the river about extending the C3A down Main Street. You know, we sort of went around and around and around on that one, but in that case, there are actual commercial activities.

Commissioner Krause: And in that case, it was to accommodate a proposal that included those active uses, which were later withdrawn, but at the time they were proposed and weren't allowed, so there was a compelling reason there for the C3A that I think Commissioner Schiff and I both are not finding in this.

President Martin: Exactly. That was part of the point I wanted to make. OK, anybody ready to make a motion?

Commissioner Schiff: I'll move to deny the rezoning (Krause seconded).

Commissioner Tucker: I just want to reiterate that when you have a mixed use rezoning, you really should have some mixed use and that's the problem with this – it's not giving to the public that street level activity that we're looking for. And we've come across this term work-live before and again, we don't know how that really works. So if this project did contribute to the city with activity on the ground and then started to work like a C3A, then it would be worth consideration.

President Martin: And I think, I may be out on a limb here, but it seems to me that if we actually believe that Washington Avenue is going to be moving toward a C3A kind of usage, it makes more sense to rezone a block or two blocks rather than a single structure. I mean, if that's to meet the sort of goals of the plan as we go forward.

Staff Wittenberg: Just one quick note that as Commissioners are aware, the rezoning is really supposed to be blind to the issue of the proposed use, but is supposed to consider the proposed zoning district and its compatibility and whether it's in the public interest, et cetera. Should you go along with that motion, you may want to consider bolstering those findings.

Commissioner Tucker: Well, we can certainly state that this at this point is spot zoning in the middle of an ILOD and if we need to reconsider the use of those blocks then we should do that as a larger area.

Commissioner Krause: And I would also add that it is primarily in the interest of the developer and the financial formulation of this project and I think it fails in meeting the public interest in the sense that it's coming at a time when we're anticipating a rezoning of this area, isn't delivering the active street uses we're looking for. And that is already reflected in that North Loop Master Plan, so there is already language in place that directs us that way.

President Martin: All those in favor of the motion to not approve the rezoning, please signify by saying aye.

The motion carried 7 – 0.

Commissioner Krause: Based on the action on the rezoning, Madame Chair, I think we need to deny the conditional use permit for the number of units, so I'll move that denial (Commissioner Tucker seconded).

The motion carried 7 – 0.

Commissioner Krause: Madame Chair, I guess everyone is leaving, but the other issue here is the height issue and I frankly am not concerned about the height in this application. I think this proposal represents something we are going to see more – these additions on top of these older buildings – and I think they're appropriate in certain circumstances including this one. So I'm going to move the staff recommendation which is to approve.

Commissioner Tucker: I would second, but to have a setback from Washington on that additional height to protect the view corridor of the additional... one bay, whatever that is, one structural bay, about 17 feet.

Commissioner El-Hindi: Thank you, I just have a quick question to staff. If you could tell me – the windows on the Tower Lofts – the existing windows – were they a pre-existing condition, or were those added at some point and maybe...you don't know that? Or the applicant does...?

Staff Beard: I did do a little bit of research as to the Tower Lofts staff report when that project went through. Those windows were existing openings. In that research, I discovered that over the past few years, it has been somewhat in flux whether or not we would require a setback variance for them to... even though they're existing to allow the continued use of windows on the property line. At that point in time, staff was not requiring a setback variance.

Commissioner Krause: Madame Chair, Commissioner Tucker, as suggested to me, that we should require an additional setback on the Washington Avenue side of the building also of 17 feet and I'm agreeable to that as a friendly amendment.

President Martin: Alright, so your motion is to allow the increase in height, but also require that anything that is added be set back 17 feet from Washington.

Commissioner Krause: This may not be the appropriate place to do it, but I don't see any other setback...

President Martin: Jason says it works here.

Commissioner Schiff: I'm confused by denying the rezoning and approving a CUP for height given the conversations we've been having. Can you reiterate the findings for how this is not detrimental to the surrounding uses which is most of what the testimony

that we heard today was how this would be detrimental to the surrounding uses and how this is consistent with the comp plan.

Commissioner Krause: I think any impacts are largely addressed by the setbacks. Any impingement on the view corridor, any impingement on air and light from the adjacent building – I mean the fact that they share a fire wall means that this addition has to be pulled back if you're going to go up any further beyond that existing building profile, you have to be pulled back from that adjacent building to allow for light and air. That's my take on it and frankly, I'm thinking of some buildings that I've seen in other cities where they've done exactly this and it's quite a nice treatment and allows you to really make the best possible and most economical use of these older warehouse buildings. Portland comes to mind.

Commissioner Schiff: Yeah, and Portland they allow 4-story stick construction on top of their warehouses.

President Martin: They have a lot of wood there.

Commissioner Schiff: Yeah, they do. I was thinking of the Portland effect a lot during this conversation.

Commissioner Krause: Is that a friendly amendment?... Did you...?

Commissioner Schiff: Well, how many units are you intending to allow?

Commissioner Krause: Well, I don't think... This isn't a question of the units. We've kind of addressed that now. It's saying that in this particular case, we would allow the addition of a structure, this additional structure on top of this building. I'm not trying to make this all relate to the number of units.

President Martin: It's just an indeterminate available structure on top of the building, set back 17 feet. OK, all those in favor of that motion, please signify by saying aye.

The motion carried 6 – 1 (Motzenbecker opposed).

Commissioner Krause: Well, Madame Chair, I believe we can approve the variance on the drive aisle width, so I'll move approval of that and then I'll move denial of the site plan.

President Martin: Hang on, before you get to the site plan, you're moving approval of variance D, we have to move to also return variance E.

Commissioner Krause: OK, then let me move the approval of variance D on the drive aisle width and the return of variance E (Tucker seconded).

The motion carried 7 – 0.

Commissioner Krause: I'll move denial of the site plan given our earlier actions (Motzenbecker seconded).

The motion carried 7 – 0.