

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

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MEMORANDUM

DATE: July 7, 2011

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

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

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

SUBJECT: Planning Commission decisions of June 27, 2011

The following actions were taken by the Planning Commission on June 27, 2011. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: President Motzenbecker, Bates, Carter, Cohen, Huynh, Luepke-Pier, Schiff, Tucker and Wielinski – 9

Not present: Gorecki (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

11. 401 Oak Grove Street (BZZ-5182, Ward: 7), 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave ([Becca Farrar](#)).

A. Conditional Use Permit: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a conditional use permit to allow 124 dwelling units for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application to allow 124 dwelling units to be located on the properties at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following findings:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.

B. Conditional Use Permit: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a conditional use permit to increase the maximum permitted height in the SH (Shoreland) overlay district from 2.5 stories or 35 feet to 7 stories or 84 feet at the tallest point for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application to increase the maximum permitted height in the Shoreland Overlay district from 2.5 stories or 35 feet to 7 stories or 84 feet at the tallest point on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following findings:

1. The proposed height will be injurious to the use and enjoyment of other property in the vicinity.
2. The proposed height violates the Shoreland Overlay District requirements.
3. The proposed height is not consistent with the applicable policies of the comprehensive plan.
4. The project is not in scale and character with surrounding uses.

C. Variance: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a variance of the front yard setback requirement adjacent to the north property line along Oak Grove St for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the front yard setback from the required 18 feet, 8 inches to 15 feet for the proposed building wall and to allow bay window and stair encroachments and a glass entrance canopy on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following finding:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.
2. The applicant has not demonstrated practical difficulties in order to acquire this variance.

D. Variance: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a variance of the corner side yard setback adjacent to the west property line along Clifton Ave for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the corner side yard setback from the required 18 feet, 8 inches to 15 feet for the building wall and to allow a decorative wood arcade and glass entrance canopy, and a variance to reduce the corner side yard setback from 8 feet to 0 feet to allow a pocket park on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following finding:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.
2. The applicant has not demonstrated practical difficulties in order to acquire this variance.

E. Site Plan Review: Application by BKV Group, Inc., on behalf 430 Oak Grove, LLC, for a site plan review for a new 7-story, 124-unit multi-family residential structure in the SH overlay and OR3 districts for the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review application for a new 7-story, 124-unit multi-family residential structure on the properties located at 401, 409, 403, 343 Oak Grove St and 416 Clifton Ave based on the following finding:

1. With denial of the conditional use permit to increase the maximum permitted height, the development cannot be accomplished as proposed.

Staff Farrar presented the staff report.

Commissioner Carter: Just a point of clarification, under your first findings, I was just noting the language that staff does not generally believe that increasing the height of the building would be injurious and that it also omits the word “comfort.” In your first few words, is that definitive?

Staff Farrar: What it’s basically saying and what the rest of the finding is meant to illustrate is the fact that this specific site, regardless of what’s built here, is going to have some impacts that may affect someone in some way. Any time you go from being a vacant piece of land that has no building on it that’s used for merely the parking of cars, we believe that there’s going to be some general impacts but we don’t believe that it’s going to be detrimental to or endanger any of those factors.

Commission Tucker opened the public hearing.

Brent Rogers [not on sign-in sheet]: I’m with Greco Properties. Thank you to staff for their hard work on this project. We were engaged by the property owner to be a development consultant based on our track record of working on urban infill projects in Minneapolis. This project will redevelop a surface parking lot into market rate apartments that will provide high quality housing choices close to the jobs and amenities in the urban core as well as increase the City’s tax base. This project, like many of our other urban infill redevelopments, is not without opposition. I’d like to introduce Mike Krych with BKV and he can detail and outline the steps that our team has taken to incorporate the neighborhood’s comments into the design of the building.

Mike Krych (222 N 2nd St): Gretchen Camp just handed out three brief memos that are in addition to the packet that you received previously. The three items relate to the chronological meetings that we had with the neighborhood groups and their opposition and we’ll go into that in detail.

Gretchen Camp: We have been to two Committee of the Whole meetings so we just wanted to get to the critical points since we’ve discussed it with you twice.

Mike Krych: The second page of that is just a list related to the guidelines that the neighborhood and we had looked and there are a number of items that we think we comply with. The third item has to do with design revisions that we made regarding feedback from Committee of the Whole as well as feedback from the neighborhood in various meetings. We had three meetings with the

Citizens for a Loring Park Community as well as a fourth meeting that was with the immediate adjacent property owners as well as the Loring Business Association. The vote from the board of directors of the CLPC voted to oppose the project and it was due to four specific reasons. We'd like to touch on those briefly. Hopefully you can read along on the first page. I won't get into specifics on those writings, but the first one was opposition due to the proximity of the surrounding buildings. Becca's done a great job to portray the actual context but I just want to touch on it that the context is more than just the immediate adjacent land areas. There are shorter buildings and taller buildings within one viewpoint of the entire site. This photograph is approaching the intersection of Clifton and Oak Grove and within this one shot there is the context of the Loring Park office building, the Women's Club, the nine story apartment building that's directly kitty-corner to our site, it also includes the mansions that are surrounding our site and it also has Summit Towers and the other tall apartment building all within that context. The context, we believe, is all of that and it's right there in your neighborhood. It's just a few paces to get to any of these buildings within this compact varied neighborhood. Regarding opposition to the bulk and height of the proposed development negatively impacting light and air to the surrounding and recently historically designated mansions, we've tried to pay attention to providing a design that works to integrate with the sit and the geographic nature of the area as well the architectural variation within the area so our building does work to provide a number of architectural moves regarding massing and fenestration and stepping. The building, as you heard previously, we worked to try to step the building and terrace this. The building varies from a four story component at the southwest portion of the property to a five story entry component with a pedestrian scale entrance. We have a two story walk-up brownstone on the north side. From that point, the building face steps back as it gets to the fifth floor and steps back again as well as the sixth floor and top floor. It cascades and steps back from the pedestrian and public realm. Regarding the proposed development not meeting the criteria of the Shoreland Overlay, Becca has clarified that but we want to reiterate that the project sits within an urban location and the Shoreland Overlay does recognize urban locations and context. We believe that this project is consistent with the findings of the Shoreland as well as recently approved projects that are within this area as well as other areas surrounding the city. Regarding the opposition that the development plan ignores the Loring Hills Design Guidelines, if you see the second page of the attachment that we just handed out and it's in your packets, we have spent a lot of time in the neighborhood, walking the neighborhood trying to understand the character and quality and the unique characteristics of the neighborhood and it's quite varied but there are underlying components that are unique and exciting and really nice about the neighborhood. This study that we have talked about in the past with you talks about these qualities and characteristics - the horizontal banding found within details as well as larger components. The idea of balconies and projections, the use of innate materials in the neighborhood, stone walls, metal horizontal siding, that kind of thing, the use of walk up entries and pedestrian characteristics that we've incorporated, significant entry components. The way we view it, we read the Loring Hill Guidelines even though they're not adopted we felt it was important to read through those and understand them and try to incorporate as many of those components as we could possibly do. We thought it was important. We acknowledge that this project does not comply with the specific guidelines regarding height within the lower terrace area. Beyond that, we believe we comply with a vast amount of the guidelines. We met with the Committee of the Whole twice as well as the neighborhood group and this is just a brief summary of some of the design changes that we did incorporate after receiving feedback from those meetings as well as the meetings with the neighborhood group. One was that we had a [tape ended]...the brownstone elements as the pedestrian street levels, to integrate those more with the overall character, the architecture and the main entry feature that is skewed to acknowledge this very important corner at Clifton and Oak

Grove. We provided more detailed street elevations that included the overall context to show that our building, within this compact neighborhood, we believe in alignment with various heights within the neighborhood and characteristics. Our courtyard design is more detailed, including the pocket parks and the pedestrian public realm as well. We provided additional park storage. Items that were brought up from the neighborhood, one is we originally had the entrance to the underground parking directly across the western most exit and entrance point to the Women's Club. It was strongly suggested by most of the people in the neighborhood to move that as far east as we could. We have done that and it's now located on the eastern side. It's much more difficult based on the grades but we were able to do that. That actually had a positive repercussion on the building design in that it enforced the first 35 feet of the building that's closest to the street and closest to the mansion on the east. It forced that west away from the mansion so we think that's positive. We added parking stalls since there was a concern about parking for a new residential project. We added a full second level of parking to our project to increase it from 1:1 to 154 spaces for 120 units so we're beyond that so we have parking for a minimum of one stall for every bedroom along with some additional guest parking. We updated the building design at the corner to further express its significance at that corner and the unique qualities of that corner and the rotation of that and we embellished it. We updated the brownstone design too. We also maintained pocket parks, one at the southwest corner as well as this linear park on that public realm. Lastly, Gretchen if you want to speak about traffic.

Gretchen Camp: ROK recently completed a Travel Demand Management Plan and I believe that was emailed out to you. I think I want to start with page eight and go through the traffic considerations. Currently, there are 90 parking stalls and the lot is primarily full during the business days. ROK's conclusions are that during the peak times, the use will have less impact than the current project using 63 stalls in the a.m. peak and 77 in the p.m. peak. Based on this information, plus the potential change in land use from the office building that you saw last week to rental housing, no traffic impacts are anticipated. I think that kind of covers traffic. As we talked about at Committee of the Whole, we have been looking at parking for a long time here and ROK has been working on this for a while and I guess one of our points is the biggest issue is the office building and we do anticipate that will be changed to rental housing and they will provide that on site so I guess that kind of makes it a moot issue, however, ROK did look around the area in addition to the ramp that is used, 19% of the ramp is used during the weekday... we had looked at this as a viable option. Residents were not supportive of that idea of office people walking from a ramp to the office building so we did look at other lots that are open in the area and these are just noting the lots available for parking.

Mike Krych: We're very excited about this project. We see that it could be a very positive contribution to the neighborhood and the area. We've done several other projects in the area and I think they've had a very positive impact as well for the City, the pedestrian realm and the neighborhood. Thank you for the opportunity.

Jana Metge (430 Oak Grove): I am the coordinator of Citizens for a Loring Park Community. We have a little bit of a structured testimony tonight, but my piece is to add a little more to the timeline. We talked about the moratorium and Becca talked about all the different processes that we've gone through on Loring Hill, but I want to talk through the numbers. In 1993, we decided through action of the neighborhood, that the historic properties were in danger. We dedicated \$130,000 of NRP Phase I money to this project and it resulted in an agreement to rehab the house. Also, between 1993 and 2001, we devoted \$581,204 to the leverage improvement program to help with deferred maintenance issues of properties on the hill. In addition to that, in August 2005

through August 2006, \$40,000 of NRP Phase I money went into the Loring Hill Guidelines. With the Phase II plan that was approved by the neighborhood in October 2008 by the NRP Policy Board October 27, 2008 and then in November 2008 it went through the City Council Ways and Means Committee and the Community Development Committee. We not only worked with former director Chuck Ballentine on this, but we also had Barb Sporlein come and speak at our community approval process for our NRP plan and I sent a letter earlier today with that so I won't repeat it. With that Phase II plan, we started our Loring Park Master Plan which was an additional \$50,000 of tax payer money neighborhood revitalization funds. You total that together and you get about a million dollars of investment. Our biggest concern is that if this development goes forward and undermines 15 years of work and a million dollars of taxpayer money, does it undermine our ability to protect and support the Loring Hill neighborhood?

Michael Marn (400 Groveland Ave): My neighbor and I were chairmen of the Loring Hill Task Force, an extraordinary citizen outreach and participation effort, the final result of which was the Loring Hill Design Guidelines, a collect will of hundreds of Loring Park residents. I would like to highlight some of the features of that effort. The community outreach and engagement included a variety of forums, locations and opportunities to contribute to the final product. We held eight focus group gatherings of renters, condo owners, other property owners, business owners, representatives from churches and other institutions and we even had two developer round tables. We held six community meetings spread evenly throughout the process. Throughout the process there were monthly meetings of the Loring Hill Task Force that were open to the public and meetings of the planning team with city staff. Those meetings were capped with a neighborhood summit survey, a walking tour of the Loring Hill neighborhood and a public presentation of the final product. In total, hundreds of individuals, tens of thousands of dollars and countless amounts of time and energy from Minneapolis and Loring Park residents contributed to the Loring Hill design guidelines. It is unconscionable that the citizenry should go through such a process, that the City should encourage the citizens to go through such a lengthy engagement process and to tell us at the end that the result is meaningless and doesn't have any legal standing, that the findings of the City officials override all those contributions of the neighborhood residents. That message contributes to public cynicism and public apathy in the public and political process. That we are no better protected five years after completion of our work is not the fault of the neighborhood, it is the fault of a slow, cumbersome, lethargic City government process that takes years and years to enact any meaningful or effective policy regarding development. Still, the neighborhood has not lost faith in the system. We are presently engaged in an even more ambitious project, the Loring Park Master Plan. The Loring Hill design guidelines will be incorporated into the master plan. We are close to completing the master plan and it is our wish that the master plan will be incorporated into the City plan. Please don't let this proposal slip under the rug. If you pass this proposal, then it's like pulling the rug out from citizen participation. Seven stories were never considered ideal for this site by the neighborhood. In 2005, Citizen's for a Loring Park Community approved a proposed seven story building by this same developer after his 21 story building was rejected. At that time we had no other options. That was before the Loring Hill Design Guidelines and the Loring Park Master Plan. We are not opposed to density on Loring Hill. What we are opposed to is a one size fits all zoning policy. The Loring Hill Design Guidelines divide the neighborhood into five distinct areas which recognize the distinct characters of the hill. It is very varied. We have designated the southern edge of the neighborhood, which would be on Groveland Ave along the highway, as an ideal place for such density. Just down the street from this proposed site, an area that we call Courtyard Row on the eastern edge of our neighborhood, that's also designated for higher density. This proposal would be ideal in that area but not in the area where it is proposed. That

area is designated as lower terrace. We cited that for two and three story development to protect the historic resources of the area, to protect the character and charm of the neighborhood, to protect historic views. That decision was made by the collective will of hundreds of people, including our consultant, including everyone that I mentioned previously that engaged in this process. After I speak you will see a model of our neighborhood and when we met with the developers, we made it clear each time that two or three stories is what we designated for that area through the design guidelines. Each time we made our suggestions, we asked them to go back and come back and see if they had made any changes to their models. We cited two or three stories; they came back each time with their six and seven story model. The neighborhood is willing to compromise. Two or three stories would be ideal, but three to four stories is acceptable to us. Minneapolis is the progressive capital of the upper Midwest, it's a center of democratic principles that should encourage citizen participation, strong neighborhoods, populous driven policies. I have attended several city and senate district conventions where our Mayor R.T. Rybak extolled these virtues. He is the standard bearer of democratic, populous Minneapolis. Loring Park is at the epicenter or progressive Minneapolis. Our residents are teachers, social workers, professionals from the arts, fashion and design businesses, the largest and most concentrated GLBT population in the upper Midwest. In other words, your constituents. If you were elected to the post that you are serving on now, you were probably elected by that constituency. If you were not elected, then you certainly were appointed by a Mayor who was. Do not turn your back on citizen participation and your constituents. There are legal hooks upon which you can hang your decision, Shoreland Overlay and historic preservation. One of the finest moments, several years ago when I was here and the commission was considering the 21 story tower that this same developer had proposed, Carol Cummer, the Park Board representative at that time, took task with the developer and his architects when they tried to belittle Shoreland Overlay. She leaned over the desk that you are sitting at now and she pointed directly to them and said in very strong, clear language, "Shoreland Overlay is something that we take very seriously" and she proceeded to vote with the neighborhood. Please do not turn your back on your constituents. Thank you.

Commissioner Huynh: Mike, I have a question for you. A lot of your presentation was geared towards height and I was curious about hearing more how the neighborhood came to a three to four story height conclusion, if that was from the Shoreland Overlay and how you're basing your height recommendation on. A lot of the data submitted to use shows light and access and shadowing as being a minimal impact on the surrounding area. I'm curious on hearing a little more on the neighborhood's thought process on justifying three to four stories.

Michael Marn: Two to three was always considered ideal. Three to four was a compromise that we would accept. We felt that at three to four stories that would still preserve the integrity of the historic buildings in the area, it would protect historic view sheds and it would also not usurp the historic buildings access to Loring Park.

Commissioner Huynh: I guess for clarification, it's a matter of context of height in relation to existing historic structures and not necessarily a review of the light and shadowing?

Michael Marn: The information that I'm privy to, it is a historic context in relation to the historic nature. Also, the character and charm of the neighborhood. A lower building doesn't block historic view sheds. If you come up on that corner, a six or seven story building is going to totally eclipse any view of the turn of the century homes on that corner. It is a destination neighborhood.

Tom DeAngelo (400 Clifton Ave S): I have a model of the neighborhood and some drawings showing the adjacent buildings in context with the proposed development. What this model shows is the Loring Hill Guidelines and the Master Plan of the area that we worked on as a neighborhood group five or six ago and it shows the proposal for the scale and character of three key sites. There are three key developable sites, one is adjacent to the freeway to the south and our neighborhood agreed to the six story OR3 type height limitation because buildings back there did not block the neighborhood's relationship to Loring Park. There is a second site, which is the site at 1730 existing building that was proposed to be more in the three story scale and character. You can see on this model how that relates and incorporates a three story character to the whole neighborhood. The third site is the property in question, which we also envisioned in the three story scale, however, this model shows how three stories could perhaps, with sensitivity to the scale of the adjacent buildings, still work at a four story level. This model shows our vision for the neighborhood. It's a three dimensional relational model of the master plan and of the Loring Hill Guidelines. What Joe is going to put in now is the proposal. This is the seven story, up to 84 food development. I encourage you to look at it. Our building is behind that property. This property basically blocks the relationship of all of the hill buildings behind this wall to Loring Park and we as a neighborhood oppose the height, bulk and scale of this type of development and instead propose the pervious one. I do want to point out in the drawings that this is an accurate representation of the height of the buildings. You can see that the property on the corner is to scale with the proposed development. This is our property right here and its scale in relation to the building, the 337 property right here in relation to the project, the Women's Club across the street and the 430 Oak Grove building all drawn to scale. I think it speaks for itself. Thank you.

Rob Daniels (431 Clifton Ave): I am on the CLPC Historic Task Force. I'm going to give a couple of quick points on the historic relevance of this site. On May 14 we did a community design workshop and in that workshop we came to some of the height recommendations that were spoken to earlier. Talking about the Loring Hill specifically, I think it's important to note that 25 of the 33 locations on Loring Hill, and this is from the City of Minneapolis site that was cited by staff, are designated as having historic relevance. Seven of those have been officially registered, 10 have been specifically cited by that same study for special consideration so I think that's important. What may be more relevant to tonight's conversation is that this site is very unique in that when you look at the surrounding properties, there are six surrounding properties and of all six of those properties, four of them have been officially designated as historic sites, two of them have been recommended for study as contributing historic resources. To get those designations, there were three HPC staff designated for a year so there is also a taxpayer factor in this as well. Beyond the designations, from a context perspective, these houses are unique to Minneapolis. My house is an example. The Nimic's house was founded by the newspaper man of Minneapolis, a founder of the City. It was designed by Harry Jones, he was Park Board commissioner, author of a book on the history of parks. That's just an example of the kind of history and fabric you're talking about when you talk about what's going on with these properties, they aren't just blocks on a diagram, they actually have a history and they're in books and there are tour buses that drive by our houses. I think it's important to understand the context of what we're talking about here. We are willing to work together, we do see that there's an opportunity to do something really wonderful that compliments the historic value of this particular site.

Brad Conley (116 Oak Grove): I'm a board member of the CLPC and serve on the land use committee as well. I'm going to leave a letter with you that I wrote earlier today. I'm going to read a little bit of that letter to transmit the stance of the CLPC towards this proposal. The

Citizen's for a Loring Park Community Board of Directors stands in opposition to the proposed structure at 401 Oak Grove. The opinion of the board is enhanced by an earlier affirmative vote by the CLPC land use committee on a motion rejecting an identical plan. In regards to the variances and CUPs, first, in relation to the neighboring buildings, which include the Women's Club as well as many distinct and historic mansions. The proposed building is of such size and bulk, as well as such proximity to property lines that much needed air flow and sunlight would be greatly reduced for these buildings. This also becomes a concern when considering the impact a building of this size would have on safe winter passage for Oak Grove pedestrians, drivers and cyclists. The shadows cast during low winter sun would greatly increase the length of time that ice and snow would remain on the sidewalks and streets. The shadowing of residential properties is especially significant on the recently purchased 337 Oak Grove mansion. Have it be known that the proposal has never shown the building's relation to said mansion, therefore neglecting its affect. Both CLPC and Loring Hill Guidelines protect a neighborhood that was in place before Interstate 94 and carved the hill in two. When we speak of the scale and character of surrounding uses, we speak of the times when Charles Loring and the formation of our wonderful park. Lastly, a seven story building would immediately and permanently diminish and eradicate the views of landmark buildings, significant open spaces and water bodies for the property owners to the south. Not only property owners, but coming up Clifton and going down the hill you have a great view of downtown and that would be completely eradicated by this building as well. It's for these main points that we stand in firm opposition to the current proposal for 401 Oak Grove. Considerable work and consideration has gone into these viewpoints of the CLPC and each of these has been transmitted to the developers who have returned with little to no compromise or concern. We have cooperated to the best of our abilities and operated with the best of intentions for the neighborhood. We strongly feel the proposed structure would be a great detriment and liability for decades to come. Thank you.

Eric Galatz [not on sign-in sheet]: I am an attorney with Leonard, Street and Deinard. I represent the owners of 400 Clifton, 410 Clifton, 337 Oak Grove, 419 Oak Grove and 410 Oak Grove. All five of these buildings have been recognized by the City as historic structures, four are designated as historic landmarks, one's a contributing structure. You have three sets of findings you're required to make. The standard section 525 findings for a conditional use permit, I'm going to focus just on finding five, the proposed project is consistent with applicable policies of the Comprehensive Plan. Every one of the nine policies in the Comprehensive Plan that the staff cited in support of finding number five are directly contradicted by the proposed plan. Land use policy 1.1 requires that you ensure that land use regulations continue to promote development, that it's compatible with nearby properties, neighborhood character and natural features. The testimony you've heard today from those opposing this project have all been about how this proposed project blends in with the neighborhood, how it's inconsistent with existing development. You can point to some existing structures that have been approved that are out of character and scale for the project, but you will notice that the historic mansions are at the most part clustered on the hill along Clifton Ave and with the exception of Summit, which in itself is problematic but it's set back behind the ridge and it's set back from the property lines in a way that at least doesn't immediately interrupt the character of the neighborhood the way this proposal will sitting right in the middle of the view from the park and the view to the park from Clifton, from Oak Grove, from the park itself. The neighborhood supported bigger projects around the perimeter of the property or on the back end on the freeway side as a buffer from the freeway itself and maybe think of it as a step down development higher up in the back with views down to the park in a place where you're not interrupting views up from the park into the historic mansions or down to the park from those historic mansions. This proposal sits right in the middle

of all of that. Land policy 1.2 requires that scale, massing, buffering and setbacks are appropriate in context with the surrounding area. Obviously, from the model, you can see that's not the case. The highest density development, there might be some along the free where there might be some difficult environmental conditions to address but it doesn't make sense right in the middle of the historic hill. New medium high density housing in appropriate locations throughout the city, the policy recognizes there are places where it's not appropriate. To protect scale and quality in areas of distinctive physical or historical character, preserve and enhance public view corridors that focus attention on natural or built features such as landmark buildings, significant open spaces, water bodies. We are interrupting all of those things with this building. Policy 10.4, maintaining strength in the architectural character of the City's various residential neighborhoods, compatible with existing development. Again, we're not there. Policy 10.5, appropriate form and scale. Policy 10.6, should be designed in terms of traditional urban building form with pedestrian scale features, design features at the street level. There are two view findings you're supposed to make and I don't think staff addressed both completely. One relates to the view from the body of water, in order to approve a height variance under section...or a conditional use permit for height under 551.480, you're required to find that approving it will not affect preservation of views of landmark buildings, significant open spaces or water bodies. I think it's evident from the model that this proposal will obstruct views to and from the water, to and from the park. The historic structures themselves, one of the characteristics of those structures is the location in this neighborhood and their views of the park.

Patricia Weber (412 Oak Grove): I'm president elect of the Women's Club of Minneapolis and I'm here today to represent the board of directors of the club. We are directly across from the development in question. We're sandwiched between 15th and Oak Grove. We share the concerns that have already been expressed by the previous speakers here from the neighborhood. There's one other issue that I'd like to add. We've been there since 1928 and have been an anchor of the neighborhood and have seen it grown. Over many years, we have expressed concern about the traffic on 15th and the safety of our members and neighbors of the ability to get across 15th St to Loring Park. As some of you may know, we donated the dock on Loring lakes back in 1995 with some hope that our members would use it. The pressure of 124 minimum cars, 154 that they're asking for, plus another 88 that 430 Oak Grove is going to bringing in the neighborhood, two entrances to that parking facility from 15th St, another entrance from Oak Grove. Becca showed a picture of the neighborhood. I wish it looked like that boulevard. Oak Grove is a very narrow street. This past winter, emergency vehicles and delivery trucks had a great deal of trouble getting on what was supposed to be a two lane street and was barely a one lane for most of the winter. Clifton and Oak Grove is a T intersection. Oak Grove and 15th is a T intersection. The pressure of the traffic and the back up that it's going to cause at that light on Hennepin, which is already backed up at any of the rush hours is enormous. I think it will have a great deal of difficulty for the neighborhood.

Commissioner Carter: I have been waiting to hear from the Women's Club to weigh in on this issue and I would just say broadly that, personally sitting here, I appreciate the level of detail and time that's been taken from the constituents to come and speak here tonight. I think it's important to recognize that where there are this many people that there is something significant to be said. Thank you for your time.

Mohamed Elkhateeb (337 Oak Grove St): I represent Innovating Engineering Services, the new owner of 337 Oak Grove. I can't stress enough what all the surrounding neighbors have just said and all the efforts that have been put into this project. To me, as a design engineer, that is

very obvious. When I look at this building, my building is like a storage sitting in the back of it. If you come to visit me from Oak Grove, coming west going east, you're probably going to miss my driveway because you won't see the building. You have to go all the way to 15th and make a u-turn and come back. If you look at it from this perspective, it's completely buried behind this building. When I came to this building at the beginning of winter in 2010, I studied the neighborhood and I have been around the city of Minneapolis and have developed a lot of properties around here, I looked at three things; the building was recently designated as a historical landmark or proposed for a historical landmark which shows to me the direction of the city. The second thing is the CLPC guidelines. The third thing is the Shoreland Overlay. It seemed like a safe area to move to which does not risk the investment and putting into rejuvenating to that block of the neighborhood. Right now when I heard that someone is coming to develop the parking lot next to me, I was the happiest person because that was my biggest concern, the parking lot. I wanted someone to develop the parking lot, but when I looked at the project, a lot of things came to my mind. When you look at this building, why does he want to go seven stories instead of three? Why? Simply for four reasons; it increases the value of his property and profitability, it exposes to him the beautiful view of the city and the lake and the park, it's the beautiful marketability of the hill that he is overlooking from all angles of his property. The design looks at the whole neighborhood from 360 degrees. All the historic character around this building increases tremendously the marketability of the building as a rental property. What do we lose by him putting this project here? As a property owner that is willing to put his private money to serve the public by destroying a historical landmark, I am losing the exposure to sun, light and air. I am losing a huge value of my property. It's completely diminishing. That property actually takes a huge value of all the surrounding properties as businesses or residences and it actually to its value and marketability. He loves the view so he's stealing it from everyone else. When I came here, I put a big budget to restore this building. Should I really focus on restoring this building or should I just ignore that and focus on fighting this project to the end? I don't think I can add any value to this building that is even equitable or even close to the value of that project will decrease or diminish my property.

Commissioner Tucker closed the public hearing.

Commissioner Huynh: I will move the conditional use permit for 124 dwelling units (Cohen seconded).

Commissioner Cohen: We've had a lot of discussion about 337 Oak Grove and a lot of people here have spoken about how they live in the neighborhood and they have an intimate knowledge of the different buildings and what they're like and the residences and the character of the neighborhood. I had an office at 337 Oak Grove for quite some time. I don't think that we need to hold this project hostage to 337 Oak Grove. I think that the historic value of this building will exist or not exist based on its own merits and not be detracted from by another building which will add, as the last speaker pointed out, very attractive residences for 124 people. I think that would be an addition to the neighborhood and not a subtraction to it. I don't think we need to abandon the proposal here. I think we need to support it because I think it brings something new to this neighborhood that wasn't there before and will be a benefit to the entire city. I am pleased to support this.

Commissioner Huynh: I think the reason for the density is just because this is an area of the city downtown where I believe it can support density. You have the Greenway, the highways and it's

an area where it's very walkable. For that reason, I think allowing the conditional use permit for 124 dwelling units does make sense.

Commissioner Bates: I found the concerns from the neighborhood group pretty compelling in terms of the massing and that's why I'm a little concerned about the density piece. I support a high density, but one of the things that I'd like a little more clarification about is that this property brings together five different lots, right? Even though all five are owned, that's what's platted. I'm interested to ask, are there any zoning or any rules that exist when five different lots are put together like that?

Staff Farrar: They are all separately platted, thus the addresses that are before you. There's no requirement for them to replat as part of this redevelopment or they could have chosen to do that. Really, the only finding that you need to make in terms of meeting minimum lot sizes or what else is addressed, in the zoning code section under the site plan section of the staff report where it addresses that essentially this site could accommodate because of its eligibility for a 20% density bonus for underground parking [tape ended]...

Commissioner Bates: I don't think that they could get that density on just one lot unless they go much higher. I have a question about process. If we approve this one but then not approve the height and don't make any sort reference to the fact that there are five lots being combined here to create one big huge building in light of the fact that, primarily, the concerns that have been addressed by the neighborhood have to do with massing, with blocking of views, loss of light and all those sorts of things, we're losing a lot in regards to... I know it's not a historic district yet, but that was platted as five different lots and all of that space and air between those lots are being filled up now. I'm confused about process in terms of supporting such an increase in the number of units.

Commissioner Schiff: When was this site zoned OR3?

Staff Farrar: I don't have that information in front of me. It was obviously zoned OR3 when it went through the process back in the early 2000s. Jason may know.

Staff Wittenberg: My understanding is that it has been OR3 since the City did a comprehensive remapping in 1999.

Commissioner Carter: I want to echo Commissioner Bates's concerns and I don't know that I have a definitive answer, but I have concerns around the density as it relates then with what's required for the need for the conditional use permit for the height. I don't know how it can support one and not the other.

Commissioner Schiff: To attempt to address the concern by Commissioner Bates, I think all of those concerns would be precisely relevant if this was a historic district. Then the size and the way that lots have been platted, I've seen used and taken into consideration when we're viewing applications, but the fact that this is not a historic district takes all that off the table and what we're left with is a lot that's zoned OR3 that has proposed less units than the maximum allowed under the zoning code.

Commissioner Bates: I understand that. How does that relate though with the possible conflict between saying yes to the increased density but no to the increased height?

Commissioner Schiff: Maybe we want to take the applications in a different order then.

Commissioner Bates: Perhaps that might be a better idea.

Commissioner Wielinski: I am having a real hard time over the last five months with the idea of a conditional use permit where the only condition is that it has to be recorded with Hennepin County. I believe that as a city we should be allowing conditional use permits but we really have to have some conditions. I am not seeing any conditions in either section A or B other than registering these. In my mind, this is not something I can vote for. I need to see some conditions. I cannot vote for a conditional use permit where the only condition is that they record it with Hennepin County.

Commissioner Schiff: I move that we vote on item B over item A (Bates seconded).

The motion carried 7-0.

Commissioner Schiff: This site has been before us for a long time and I was interested in the arguments that were going to be made in opposition of the staff report on page 10, particularly with finding four because that seems to be the most compelling finding in the standards that are necessary for increased maximum height and that is the preservation of views of landmark buildings, significant open space or water bodies and that is what most of the testimony was about. Having a great deal of involvement in the previous proposal and having been in court on that proposal, we have a bit of understanding of precedence with legal rulings, I didn't hear any cited today on item number four and I don't know if that's because there aren't any or if that was just left out of the testimony. I believe the rule that talks about the preservation of views or landmark buildings; I don't think they are talking about the backs of those buildings from the alley. I think they are talking about the front of those buildings. I think the image that's up on the screen demonstrates that the preservation of the buildings that may someday be designated as historic aren't yet but may be eligible someday, you can still see those buildings. I don't believe the view of Loring Park, which will not be affected by people who come to Loring Park today and look at the pond in the middle of it is going to be affected by this building. I don't believe that this clause is to be interpreted to mean that anybody's view from any vantage point on any piece of private property without the help of a crane is what we should be looking at when talking about the preservation of open spaces and water bodies. I think the courts are going to take a very definition of that and they're going to be looking at the view of the lake for the classic situation of somebody built a house right up against it in between the sidewalk and the shoreline blocking the views of other people of that lake. I don't think number four has been interpreted by those who spoke against the staff report in a way that would be consistent with the courts. The motion on the table is to approve the conditional use permit (Bates seconded).

Commissioner Huynh: Another view is looking at the urban context and how you look at development. Although you have historic buildings adjacent to the properties, you are in a downtown district and can expect some development of some type. I think the project being proposed is a very good project and they have addressed a lot of issues that the Committee of the Whole and Planning Commission have asked of the design team in our previous meetings. I appreciate their design responses but also the community's efforts in terms of outlining some of the issues. I think the concept that kind of comes up above for me is just the whole item with height and how significant shadowing and lighting of adjacent properties. Due to the shadow studies that BKV has provided, there's not a lot of significant shadowing that occurs on the

adjacent properties that wouldn't occur in a seasonal scenario and it's very minimal on the historic districts. However, I'm very sensitive to context, but in the grand scheme of things with finding four with approving the conditional use permit for increased maximum height with access to light and air and shadowing of residential properties, that doesn't seem to be as significant of an issue and I agree with Commissioner Schiff with his interpretation of item four.

Commissioner Luepke-Pier: I disagree with my colleagues on this aspect. I am going to vote against approval of B for four reasons, the first being that I don't believe it meets the second finding found on page seven. Based on the really compelling testimony and the imagery and modeling used, I do believe it will be injurious to the use and enjoyment of other properties in the vicinity. I think that the community has made a really valid case for that. Second, I do believe it violates the Shoreland Overlay District and although it's stated in the staff report that none of the adjacent properties appear to comply, it's better to move towards compliance than to ignore it altogether. I value the Shoreland Overlay District and will respect its requirements. Three, finding number five, I thought testimony was very compelling to show how it is not consistent with the Comprehensive Plan. Finally, in regards to additional standards to increase maximum height, I thought finding three about the scale and character of surrounding uses...the architect provided a sheet that showed snippets of architectural elements from surrounding areas, which I thought was clever and interesting, but snippets do not a building make. I don't think that is in scale and character with the surrounding buildings regardless of the points referenced of some of the surrounding elements. I do not find it to have met the requirements needed to fulfill that conditional use permit.

Commissioner Carter: I will echo Commissioner Luepke-Pier and thank her for putting words to what I was attempting to say. My final point is around the scale and character and I do not believe it meets that. I think it's incredibly impactful in that particular area at that height and I will be voting against the height.

Commissioner Bates: Yes. I am will also be voting against it for some of the concerns I have of the unspoken aspect here of putting the five lots together. I understand that the platting issue isn't an issue yet in terms of the historic district piece, but I do think the fact that five parcels of land that are being put together and then adding that extra height, two and half times as much as the Shoreland Overlay District allows, really seems to fly in the face of access to light and air of surrounding properties, the scale and character of surrounding uses and the preservation of views of landmark buildings despite the reminder from Commissioner Schiff. Those are the reasons I think we have a basis for opposing this.

Commissioner Tucker: All in favor of the motion to approve the CUP for height? Opposed?

The motion failed 4-3.

Commissioner Bates: I will move to deny item B (Wielinski seconded).

Commissioner Tucker: All in favor of the motion to deny the CUP for height? Opposed?

The motion carried 4-3.

Commissioner Tucker: Jason, do you have the findings that you need?

Staff Wittenberg: Of the commissioners who spoke, I think Commissioner Luepke-Pier articulated most thoroughly the rationale for the motion to deny, perhaps just a reiteration that there's a consensus that those were the findings that those are the findings the commission is adopting or if you'd like to add to those.

Commissioner Tucker: For those who voted to deny, does that seem like the reasons that you wanted to attach? Ok, we will now move to item A, the CUP for 124 units. I think we want to be careful to send forward something that isn't possible to do given our decision on item B.

Commissioner Huynh: I will support staff recommendation to approve 124 units (Cohen seconded). I was hoping to hear from my fellow commissioners in terms of what their recommendations are, but I do believe that the density regardless of the height could be accommodated on site by some additional mass shifting if needed.

Commissioner Luepke-Pier: I will be supporting this motion because if the architects can figure out a way to get the density on this site at a height that's more appropriate, more power to them. That's not up to decide how much density they can fit into three or four stories.

Commissioner Tucker: Are we going to suggest some appropriate height that might be acceptable?

Staff Farrar: I want to express a little concern if we're denying the height and then thinking how you're going to process the site plan review. I think we had a circumstance before where we approved a CUP for a project and then had some issues with it.

Commissioner Tucker: I agree. I think we are better off denying the whole set of applications or approving them with enough conditions that it's buildable.

Commissioner Huynh: Ok, let me try this a second time. I withdraw my initial motion and put out a different motion to recommend denial of the conditional use permit for 124 dwelling units (Cohen seconded).

Commissioner Tucker: The motion is to deny item A for 124 units. All in favor? Opposed?

The motion carried 7-0.

Commissioner Huynh: I'm assuming that since we denied both conditional use permits for dwelling units and height we'll probably have to just carry that forth as far as recommending denial for item C (Bates seconded).

Commissioner Schiff: The variance we're supposed to be voting on is about the encroachment for windows and front staircases. Even if the building was two stories, those would probably still be before us.

Staff Wittenberg: There are multiple ways of looking at it. Essentially, your denial of the conditional use permit, if that stands, results in a much different project so I think Commissioner Tucker is suggesting that all the other applications sort of fall from there. However, it's perfectly reasonable for you to vote on the applications on their merits if that's what you choose. It does

sometimes send a mixed message and complicate things but it's perfectly rationale to take that approach as well.

Commissioner Wielinski: I would like to make a substitute motion that we deny C, D and E. I'd like to do that based on the fact that they have not demonstrated practical difficulties in order to acquire these variances (Huynh).

Commissioner Tucker: All in favor of the motion? Opposed?

The motion carried 6-1.