

**Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES**

**Minneapolis Community Planning & Economic Development (CPED)  
Planning Division**

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**MEMORANDUM**

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DATE: March 28, 2008

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

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

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

SUBJECT: Planning Commission decisions of March 17, 2008

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The following actions were taken by the Planning Commission on March 17, 2008. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

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

Not present: Commissioner Williams (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

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**2. Karmel Village (BZZ-3956, Ward: 6), 2848 Pleasant Ave and 2825 Grand Ave S ([Hilary Dvorak](#)).**

**A. Site Plan Review:** Application by Phillip Broussard, on behalf of Karmel Village, LLC, for a site plan review for a 77-unit residential building for the properties located at 2848 Pleasant Ave and 2825 Grand Ave S.

The development includes the renovation of the existing building on the site and an addition.

**Action:** The City Planning Commission adopted the findings and **approved** the site plan review for a 77-unit residential building located at 2848 Pleasant Ave and 2825 Grand Ave S subject to the following conditions:

1. The applicant shall dedicate an easement to the City of Minneapolis over the new portion of the alley that will become public right-of-way, as per Public Works specifications, prior to the issuance of any building permit.
2. The applicant shall negotiate an access easement with the adjacent property owners of 2820 and 2826 Pleasant Avenue, prior to the issuance of any building permits.
3. The exterior materials of the addition shall be brick to match the existing building.
4. Additional windows shall be added to the first floor of the building facing the Midtown Greenway so the percentage of windows exceeds 20 percent as required by section 530.120(b)(1).
5. A total of nine canopy trees shall be planted on the site as required by section 530.160.
6. Any changes to the site plan as a result of Preliminary Development Review may result in another public hearing by the City Planning Commission if the Zoning Administrator deems such changes significant under sections 525.360 and 530.100 of the zoning code.
7. Approval of the final site, landscaping, lighting and elevation plans by the Community Planning and Economic Development Department – Planning Division.
8. All site improvements shall be completed by March 17, 2009, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Staff Dvorak presented the staff report.

President Motzenbecker opened the public hearing.

Jim Roscoe (2827/2829 Pleasant Ave): I've been to several of these meetings so I'm familiar with everything that we've gone over. I just wanted to touch on a couple of things. I know it's been addressed that the parking exceeds the required amount; I would like to see that this parking is actually used for residents of this building. I have no idea what control the city has once the building is built that the parking is actually used by the residents. I've lived in the area long enough to know about creative use of parking in that area. The second topic is, I know that you had received a letter from the Whittier Alliance with several recommendations. One of the requests in the letter was that the city have frequent visits to the site and is very well aware of what is constantly happening on this site and that the project actually follows through with what the developer has promised. I've lived in the area for five years and I've seen other developments in that area which have been approved by the Planning Commission; those projects are not what were proposed or what the Planning Commission approved. Whatever the Planning Commission or city has in their control to actually have some oversight on this project when it comes to the number of units, the number of residents, the parking requirements, possibly even the traffic in the area which is quite bad and I know that this development will only make it worse. Thank you.

Leo Whitebird (2825 Harriet Ave S): In reviewing my notes for this, there were several issues that came up. For those of you who have been on the commission for a while, you may remember our confrontation with the Cornerstone Development people who were looking to develop the same property. I have numerous copies of emails and other things in here. One of our biggest objections to the Cornerstone plan was that it was...

President Motzenbecker: We're not here to talk about the Cornerstone plan, sir.

Leo Whitebird: This is germane to this...

President Motzenbecker: Please focus on this item.

Leo Whitebird. The building was too big. It was scaled inappropriately for the neighborhood. My question is, if we scaled this development back to 77 units, why can't we remove one floor? That was one of the neighborhood's biggest problems with this thing. It was scaled inappropriately for the neighborhood and that's going to create some quality of life issues for people whose sunlight and views...

President Motzenbecker: Again, those are items that were decided by the City Council and we have no control over those at this time.

Leo Whitebird: I'm not done yet. One question I would like to have answered is that I notice in the redevelopment proposal here that we have a larger number of four and five bedroom units; my question as a builder and architect is do those units have more than one bathroom facility? What is to assure us that down the road those units aren't going to get split into separate units? This developer is notorious for looking for ways to get around certain strictures. Why do we need four stories when three stories would do for 77 units? Looking at the floor plans, that doesn't make sense to me. I suspect perfidy here. The parking situation...

President Motzenbecker: Sir, these are all items that we...we are not hearing these, sir. This is for site plan review only.

Leo Whitebird: Right, well, the parking situation...

President Motzenbecker: All that has been decided.

Leo Whitebird: The parking situation is still untenable. I don't own .3 cars.

President Motzenbecker: That's great.

Leo Whitebird: We talked to other people in these hearings who were apartment building owners in the same neighborhood and they said that the model that they have found most useful is for anything over two bedrooms you add another parking space.

President Motzenbecker: Sir, I'm going to have to ask you to conclude your comments unless you have something specific to the site plan.

Leo Whitebird: I don't think there is enough parking. There are six guest parking spaces...

President Motzenbecker: That is not a site plan issue.

Leo Whitebird: What are we going to do...

President Motzenbecker: You should have brought that to the City Council during that discussion. I'm sorry. I sympathize with you, but it's just not something we can affect through our decision. I do understand your concern about this issue and it is something that is difficult.

Leo Whitebird: My other question that is germane to the site plan is there is a question of contaminated soil on the northwest corner of the property, has that been addressed?

President Motzenbecker: That was never brought up to us as a site plan issue.

Leo Whitebird: That was brought up in discussion here before the Planning Commission and I have not heard anything about soil abatement or anything like that. That is essentially where this proposed green space is going to go. I believe it was in the northwest corner of the property. I have not heard any discussion of that.

President Motzenbecker: Maybe we can get staff to explore that.

Leo Whitebird: As a neighbor I'm concerned about that, especially if that green space is where children are going to be playing.

President Motzenbecker: Absolutely, we'll get staff to shed some light on that.

Leo Whitebird: That would be very good. Thank you for your time.

Kris Martinson (2930 Harriet Ave): I have a question and comment related to it. My question is if the property owner, Basim Sabri, has a right to build what he's building and the City Council is going to approve it, what rights do we as residents have? For example, the building, he says it's 41 feet in height, what if it goes to 48, 51 feet or it's bigger? What if it's different from the plans that they have been presenting? Do we have any legal recourse as residents?

President Motzenbecker: I can't speak to the legal recourse. Jason might be able to offer insight there. The best recourse you have as citizens is to keep eagle eyes on it and continue to call because once it starts being built it goes to the responsibility of the Inspections Department and they are responsible for citations and keeping tabs on the approvals that we give and making sure they are done to the record. When things start going underway, I would just encourage you guys to be constantly vigilant and keeping watch and keeping report...the 311 line is a good way to do that because I know the Inspections people check that daily and it's one of the fastest ways to get on their radar screen. That would be what I would recommend. Jason, you have any further insight?

Staff Wittenberg: I think that's the best advice is to keep in touch with the city's Inspections and Zoning Departments. You can call 311 directly which is probably the most efficient way to register a complaint or concern.

Kris Martinson: Ok, that leads me to a comment I'd like to make. You're saying that this is ok, everything has been okayed and the site plan is going to the City Council; I would highly hope that in your discussions that you make a note that you can be a eagle eye and as strict as possible with the plans that the developer has presented. When you communicate to them, that if they stray from that at all that there will be repercussions.

President Motzenbecker: The site plan ends here with our discussion, it doesn't go further to the City Council.

Kris Martinson: You recommend to the City Council...

President Motzenbecker: They've already decided what they need to decide on this project. Their decisions are complete. The only one left is the site plan review, which after we discuss it, our word will be...unless it is appealed, then it could go on.

Kris Martinson: Right, but when you approve something, do you put any stipulations to what you approve?

President Motzenbecker: We can.

Kris Martinson: I'm asking for stipulations that the developers adhere to the letter; strictly to exactly what they present to you. The neighborhood is very concerned that they will stray from what is being presented. Thank you.

Robert Speeter (1515 One Financial Plaza): I'm going to be brief. I think you're all aware of the issues. This is our third time presenting here. I think we've really done a lot to try to address all the concerns that everybody has raised. We're not sticking our head in the sand. We voluntarily decreased this project to 77 units and that's what the City Council approved. In doing so, we kept parking where it was. Actually, we increased it one or two stalls so the parking ratio is way up. We've increased the green space. We've significantly increased the amount of common area in the building. There are, I believe, two units in each floor now. They're all accessible. Most of them have access to green space and green roofs. It's really a wonderful project. One of the gentlemen was concerned about four stories, we needed to keep it at four stories to do those things; to have the green roofs, to have the common space and to keep parking. The only way to make it less than four stories would have cut into the parking. We needed to keep that first floor for parking. I hope you can appreciate...anytime you put a development together there are a lot of concerns and we really weighed that and we believe we put together a good project for everybody. We've had to scale back on a few things because you don't have as much profit at 77 units as you would at 92. There are two things I wanted to note on what's being suggested as far as stipulations to the approval. One is that I would ask that it be one year from the issuance of a building permit because if there is an appeal or whatever else, if things get delayed I don't want it to be one year from today, I'd like it to be one year from the issuance of the building permit. The only other thing is, I don't know of any provision that would justify a stipulation that the siding would have to be either stucco or cement based lap siding. There are other materials out there and to indicate that that is the universal two choices; I just don't know of any code provision that would allow for that type of detail. I'd ask those two things, otherwise I'm open for any questions. We have the architect here if you and questions as to how the plan is actually sitting and whatever questions. We do have, as far as environmental...Landmark Environmental is on

top of it. The Pollution Control Agency... the issues are minor, but there is money escrowed and banks involved. It will all be taken care of in due course and appropriately with the appropriate oversight. It's not an issue.

President Motzenbecker: Hilary, is that satisfactory? Is there any more environmental things that you wanted to add?

Staff Dvorak: I haven't received any copies of any additional materials. I know we had this discussion the last time that we were here. Our environmental section within the city will be monitoring the project as it goes through for development permits. I would just say that our office has found that vinyl siding is not a durable material and the code section references durable materials. They specifically reference stucco-like finish and lap siding and so we are putting the condition of stucco and cement based, not vinyl, because we have found and this Planning Commission has found that it's not durable.

Commissioner Tucker: I have a question of the developer. What became of the Greenway level uses? Is there access if that becomes feasible in the future?

Robert Speeter: Certainly any access is going to need approval from the county so those lines of communication are open. One of the things we had to do away with is the catwalk because of the cost and the downsizing of the project. There will be access; it's going to be an interior access and as I understand it, if we allow tenant access then we're going to have to allow public access as well. We'll have to regulate that within the stairway that would be on the southeast corner that would be the access point.

Marian Biehn (Whittier Alliance): Did you receive our letter in your packet? Ok, then I won't cover it because you know the issues that the neighborhood has condensed into several bullet points. I would like a few clarifications and I'll just put them out there and maybe the architect or Mr. Speeter can answer them. One of the things that we heard at the public meeting in the neighborhood was that there was going to be public access from Pleasant Ave down to the Greenway. It wasn't a catwalk, it was a separate access. That doesn't appear on the plans. There was conversation about some coating that was unfamiliar to the neighborhood that was going to be applied over the brick which was not received with a lot of enthusiasm so clarification on that from a materials standpoint. Our concern still remains about the size of the units and I understand that that's not a conditionable piece, but it does appear that the four and five bedrooms are rather small and just kind of that whole idea of the number of people who could be living there and the quality of life with that kind of square footage. Reviewing just our conditions, if there's anything that you have in your control that would make this have an outcome both for the neighborhood as well as for the residents who will live there, anything that could be applied would be appreciated. Thank you.

Phillip Broussard (2190 Como Ave): The only thing I wanted to respond to is what the outside of the masonry, existing masonry, would be treated with. It will be treated with a masonry coating which is similar to almost every other preserved brick that doesn't have a face showing and can't have a face showing; brick that is not suitable for restoring so that you can actually see the brick. It won't be paint, it will be a masonry coating that's specifically for that purpose.

President Motzenbecker closed the public hearing.

Commissioner LaShomb: Hilary, what's this deal about access from Pleasant? Did we promise that in previous rounds?

Staff Dvorak: I don't think anyone has promised anything. We had this conversation, for those of you around, on 2622 W Lake about public access over private property. The city can't mandate private property owners to provide access over the Greenway. I think, if I understand what the applicant is saying, that if the development has access that the county may stipulate that, but the city I don't think has ever done that. Jason can correct me if I'm wrong, but that was where we ended up on 2622 W Lake.

Commissioner LaShomb: I'm going to move the staff recommendation on this and then I just want to make a comment on this whole issue (Motzenbecker seconded). This has been around a long time and it's not been a pleasant experience for us and certainly not for other people as well. I think what people need to understand about the planning process is that developers have rights as well and their rights come from the zoning of the property. The city is held on the advice of the city attorney that this developer could have built as many as 84 units on this site because he was also entitled to a bonus, but the City Council did not grant the bonus and instead they came down to 77 units, but that's his legal right to build it on the site. The second question is, do we have a pleasing building on the site and that's what some of these site plan issues have to deal with. In the end, he has rights too and it's sometimes hard when you're living in a community that someone has rights that you particularly don't like the outcome of his ability to have those rights. I think the site plan recommendations of the staff are appropriate and I think item 6, 7 and 8 deal with the issue of compliance and I don't think we need to put more issues in on compliance. I'm a little troubled by the thought that we ought to limit the parking spaces to residents simply because people talk about congestion in the neighborhood and then someone says we ought to put restrictions on how parking spaces might be used inside the building. I suspect all 103 spaces are going to be used by people in the building simply because of the number of bedrooms and units. Given all of that, I think the staff recommendation on the site plan is about as good as it's going to get, recognizing his rights to build at least 77 units on this site.

Commissioner Schiff: I have a question for Mr. Wittenberg. We've seen conditions before that say, for businesses, that the parking is for business use only. I even think of the Lander development near Lake and River Road where we put restrictions on some of the parking for business access versus residential access. We wanted to make sure that there was parking available for the intended use. It would seem that a condition would be reasonable that says the parking must be available for residents and guests only which would essentially try to prevent the property owner from leasing out these spaces for another use. Is there a way that either existing zoning would limit this to residential use already?

Staff Wittenberg: Given the zoning on this property, users of commercial uses would not be authorized to park in this zoning district in which this building is located.

Commissioner Schiff: I did get the letter from Ms. Biehn on behalf of Whittier Alliance and was able to run that by the city attorney, Erik Nilsson who advises us on zoning matters. As Ms. Biehn knows, the city attorney said the majority of almost all of those suggested conditions would not be legally sustainable as conditions on this, which included limiting the number of bedrooms and further limiting the occupancy of the building; that those are

basically rights that are granted through the zoning and we cannot take any action to limit that further. He did mention that any daycare facility or other commercial use would need additional permits so we don't need to address that today. I do have just one change then to the staff recommendations to condition number three. Our requirements under building placement and design for site plan states that 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 and this building is brick and I note that brick is not being proposed for the sides and the back of the building so I'm going to change condition number four to say the exterior materials of the addition shall be brick, matching the existing building.

President Motzenbecker: Number three you mean?

Commissioner Schiff: Number three.

Commissioner LaShomb: That's fine.

President Motzenbecker: The condition amendment proposed was that that for item number three it would read "the exterior materials of the addition shall be brick to match the existing building."

Commissioner Norkus-Crampton: I have a question for Ms. Dvorak. For the environmental remediation, it seems that if we're going to have uses for families and kids on the site, do we need to make that a condition that that is taken care of since you haven't received any documentation or should we assume that other departments will handle that automatically or how does that work?

Staff Dvorak: I don't think so. Doing the environmental reviews, there are many sites that have issues that are taken care of through the normal city process.

President Motzenbecker: Any further questions? All those in favor of the motion as made with the change to item three? Opposed?

The motion carried 7-0.