

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

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2526 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: April 13, 2006

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division

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

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

SUBJECT: Planning Commission decisions of April 10, 2006

The following actions were taken by the Planning Commission on April 10, 2006. 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, Henry-Blythe, LaShomb, Nordyke, Schiff and Tucker – 8

Not Present: Motzenbecker (excused) and Krueger

4. Carol Sitarz (Vac-1485, Ward 1), Vacation occurring within the block bounded by Stinson Pkwy NE, 22nd Ave NE, New Brighton Blvd and 19th Ave NE (Hilary Dvorak).

A. Vacation: Application by Carol Sitarz for an alley vacation for that part of the public alley as dedicated in Auditor's Subdivision No. 332, described as follows: Beginning at the northeast corner of Lot 16, said Auditor's Subdivision No. 332, thence East 14 feet to the northwest corner of Lot 13, said subdivision, thence South 32 feet, thence West 14 feet at a right angle to the west line of Lot 13, thence North to the point of beginning, according to the recorded plat thereof, Hennepin County, Minnesota.

Action: The City Planning Commission recommended that the City Council accept the findings and approve the vacation application subject to the retention of an easement in favor of Xcel Energy and Qwest.

Staff Hilary Dvorak presented staff report.

President Martin opened the public hearing.

Ryan Hoffman (2416 22nd Ave. NE): My home is just behind this alleyway. I'm going to put up a survey. I just constructed my home this year in that lot. I believe I'm probably the only one that would at all be affected by this. If you can see here, the City's depiction of where the alleyway comes into the yard here as it shows kind of splitting our property lines. I'm in this blue area. The City shows it kind of splitting the lots in half there when in reality the property line with the power pole being right here... the alleyway, if it were extended, would pretty much hit on my property. We were told when we purchased this land that we could have an easement onto this alleyway for access for a garage when we built our home. Obviously we chose not to pursue that alleyway right now with our garage actually exiting off of 22nd Avenue. The one thing I wanted to maintain was the ability to use that alleyway if ever I so choose. Carol does own both properties. She has a shed here currently, which is in-between the two. I am not asking that she moves anything, I'm just asking for my ability to take away the easement on to that alleyway. Basically that's what would happen with this vacation. The one major thing that we've had done is underneath our garage, due to soil conditions on this lot, my garage walls are actually standard full-height basement walls filled with sand, but if I ever have the money or means I could actually cut a hole in my back foundation wall and have a storage unit underneath the garage with some rework of my home. I've seen it done; I've actually done it as I am a home builder. Again, I'm not saying I'd ever go through that route or do anything like that, I'm just asking the City... she's had this for fifty years as is and she'll have it for the next fifty years probably as is and I just don't want my right to that alley way to be taken away.

President Martin: Ok. Others who wish to speak to item number four?

Carol Sitarz (1951 Stinson Pkwy): I guess I'm confused because the City has already put in two driveways. There is one to the east of the lot and then the City just recently put in a driveway for his garage to the west side. I was told that they wouldn't put another entrance through the alley. The alley has been a dead-end alley since 1946, I have the original plat. When my dad bought the property he was always under the impression that was just an extension, that the alley would never go through and would always be a dead-end alley.

Hugh McSherry (3024 Crestview Dr., St. Anthony Village): I am a relative of Carol Sitarz. I think that Carol's concern is that you can see, judging by the houses that have been built prior to the new home that's been built, the alley was always pretty much meant to be a dead-end alley. As you can see, the reason they thought the continuation was... because if you see there's grass here and they have maintained it for fifty something years under the assumption that is was their property. By looking at the structures around it, you can tell it was never meant to go through.

President Martin: Ok. Anything else? Anyone else wish to speak to item number four?

President Martin closed the public hearing.

Commissioner Schiff: I'm a little confused about the overlap between the easement and this vacation so I'm going to ask the gentleman who testified earlier to explain that again. I don't know if my fellow Commissioners understood that.

Ryan Hoffman: I don't know if I'm going to be able to help you greatly with that. When we purchased the property, it was actually in our purchase agreement with the old owner that we had easement to that alley way in the rear.

President Martin: Was there a legal document?

Ryan Hoffman: Yes, but I did not bring it with me. I can definitely supply that...

Commissioner Schiff: You use that to turn around, in a three-point turn?

Ryan Hoffman: I can extend, on my dime, the alleyway on to my property and use that as access to my lot. At least that's how I understood it. I played around with garage placements back there to utilize that and couldn't quite come up with it so we ended up doing what we did. Soil corrections being the one big issue that I wasn't planning on, which extended our basement walls... obviously if we had a regular foundation underneath that garage it would be much more work.

Commissioner Schiff: Seeing that you already built the garage and the house that you have, what now would be your purpose?

Ryan Hoffman: All I'm saying is that if I ever still wanted to build that storage unit underneath the garage it would actually be pretty well in grade. I have a couple of other pictures here too. The top picture here, you can see that the grade of the garage would actually be pretty close to the bottom of my foundation on my garage. Basically if you extend this alley straight through it would hit pretty close... I don't know if it'd be plus or minus up or down for a unit underneath the garage for a third car, a storage unit or whatever. Again, I'm not saying that I'm going to do that next week or next year, I just want the ability. Carol's had this for fifty years. She's obviously maintained it; she has a shed there so she doesn't use it for any other purposes. I'm just saying I wouldn't like that possibility taken away from me. I'm not saying I'll ever come across it, but she's had it for every fifty years and she could have it that way for the next fifty years that way too.

President Martin: Does that answer your question?

Commissioner Schiff: Yeah, I think I do understand now. Thanks.

Commissioner Krause: I want to try to clarify something too. In the event that this land owner wanted to build an access to the rear of his lot and then get to the alley, it doesn't appear that he could do that without getting a variance to the sideyard setback, is that right? Looks like it might be about zero?

Ryan Hoffman: I don't think I would need that. I have a six foot setback on this side of the garage, the alleyway is back here. The alleyway is approximately 14 feet wide, I believe. If you extended that back, I'd still have eight feet plus or minus within my setback.

Commissioner Krause: I am thinking of the sideyard setback. The paved area you would need to access your driveway looks to me like it would have to be right up against the lot line.

Staff Wittenberg: Commissioners, just to clarify, a driveway is permitted in a required yard, but it has to lead to a properly positioned parking space. If that paved area did not lead to a parking space you're probably correct that it would require a variance.

Commissioner Schiff: You have an easement right now on what is a public alley and I don't understand the power of easements and law. Does that easement transfer over to private property if we were to abandon this or would the easement evaporate? Anyone want to take a stab at that?

Staff Wittenberg: If I am not mistaken, the easement applies to the property directly to the west of you?

Ryan Hoffman: It's south.

Staff Wittenberg: To the south of the area in question is the current public right of way.

Ryan Hoffman: Yes, this direction is south.

Staff Wittenberg: One doesn't need an easement to access over public right of way.

Ryan Hoffman: I don't know if the term is... in my purchase agreement they said I had access to the alleyway.

Staff Wittenberg: Yes, I believe that is correct. If that alley goes up and abuts your property, you have access to that public alley.

Ryan Hoffman: Obviously that alleyway isn't extended to my property. They said if I wanted to do that it would be my cost for the city to extend that alleyway to my property, which I understand.

President Martin: That's true.

Commissioner Krause: I think I can answer Commissioner Schiff's question. If it's not a recorded easement and if it's a merely a notation in a purchase agreement then it probably does not transfer from the public land to the private land. That would be my guess.

Commissioner LaShomb: Maybe I'll be the bad guy tonight all the way.

President Martin: You're getting a good start.

Commissioner LaShomb: The problem I have not supporting the staff position on this is that I think when the City retains property that is not being used a public purpose and isn't maintaining the property either, even allows a shed on it. Basically it says to me that the land shouldn't be in the public domain, it should be vacated. We've had some other discussions about vacations on some other properties, but in those cases the issue related to access to... I think there was one over by the river about a year ago where we didn't want to vacate the street because we thought...

President Martin: Oh, up in north Minneapolis through that industrial area, yeah.

Commissioner LaShomb: In any event, I always like to keep my options open too, but I just think that leaving land on the public payroll when it doesn't serve a public purpose doesn't make a lot of sense so I am going to move the staff recommendation on this one.

President Martin: Ok, is there a second?

Commissioner Tucker seconded the motion.

Commissioner Schiff: I am going to agree with that. The purpose here is supposed to be public and although there is a private interest in access to this lot, it's not a public purpose and that is what alleys are supposed to be about.

The motion carried 7-0.

7. 2nd Police Precinct (BZZ-2875, Ward 1), 1911 Central Ave NE ([Tara Beard](#)).

A. Rezoning: Application by the City of Minneapolis for a rezoning from C1 to C2 of the 2nd Police Precinct located at 1911 Central Ave NE.

Action: The City Planning Commission recommended that the City Council adopt the findings and **deny** the application for a zoning amendment from C1 district to the C2 zoning district at 1911 Central Ave NE.

Staff Tara Beard presented staff report.

Commissioner Tucker: Is there a companion application for the property that is to benefit from this?

Staff Beard: There is not. There was an application that was withdrawn for the fast food use on this adjacent site. It was for C4 zoning which would not have required the linear feet. The applicant decided that there wasn't enough support for C4 zoning and withdrew.

Commissioner Tucker: So this is the alternate route to get to where they wanted to be with the C4?

Staff Beard: Correct. They would not need C4; they could do it with C2 if...

Commissioner Tucker: So if we were to approve this application, presumably they would come forward with a C2 for that piece of property.

Staff Beard: Presumably, yes.

President Martin: Or come back and ask us again for C4. All things are possible. Anything else Tara?

President Martin opened the public hearing.

Joseph Walker (3201 Cleveland St. NE): I see you got an application here for a change in this here. The address at 1851 Central Avenue is what there interest is in and why they want to change the zoning on here. Now that has been an eyesore over there for how long? This is what I complain about in our community here is that we have a property owner that wants to get the zoning changed for another piece of property to build on here or do something else with it when they can't even maintain the one they got. This is the worst eyesore we got in northeast Minneapolis right there on Central Avenue right now is 1851 Central. They won't...

President Martin: Mr. Walker, we're talking about 1911 Central.

Joseph Walker: That's right because it's right next door to it and you can look right across there and these applicants come down here and try to get this zoning changed to get something else in here on a piece of property that looks like hell is what it is. They'll do a song and dance and try to work their way around and try to use some other zoning in the area to come in and take over a piece of property over here and put something in it here and they won't maintain it while they own it. That's what my biggest problem is when I come down to these meetings here.

President Martin: Mr. Walker, I have explained to you I can't tell you how many times that we have no control over maintenance here. We are not the Inspections Division.

Joseph Walker: Absolutely you're not.

President Martin: There is a division of the City that does that and we're not it.

Joseph Walker: When they come in front of the City Planning Commission here, they should at least maintain the property before they come in here.

President Martin: But they are not here applying for anything. This is the Police Department.

Joseph Walker: That's right and they want to do something else here to get something else next to them. No way.

President Martin: Ok. Others who wish to speak to item number seven?

Doron Clark (1914 Ulysses St. NE): I am the co-chair of Windom Park Citizens in Action. You have a letter from us stating that we are strongly against this. Just to point out one thing that I don't think is in any of the documents... this map I put up, this is the Police precinct proposed rezoning. There is fast food right here and there would also be proposed fast food here. In the city vision for a main street on Central, multiple fast food joints with drive-thru's reflect that vision. I believe there are also property adjacent property owners who are here to speak as well.

Matt Novachis (1900 Polk St. NE): I live right directly behind the police station. Myself, my wife and all the neighbors close to me that I've talked to are very much against this. The rezoning of the police station... I mean, I have heard rumors that the police station was going to be shut down. Although it might not happen now, if it were to be shut down or rezoned, I'd be afraid of what could go in my back yard. To speak to the empty lot, I'm worried to replace it with someone that's not fitting just to replace it just to have it developed on would be a bad decision. I don't think a fast food restaurant... the drive-thru would come out 50 feet from my driveway. The noise and my quality of living would go way down. My neighbors and I are all very much opposed to it.

President Martin: Safe to assume that everybody from the neighborhood is against it, yes? Ok. Thank you.

Nicole Erdman (1837 Polk St.): I live about 100 feet away. The point I just want to make is that... what an unusual precedent to rezone a public building for private interest. Not only is our neighborhood against it, but so are the neighbors that live there. To think about Commissioner Krause's earlier statement of using public land for public interest, I would like you to think about that tonight when you vote on this. This is not a good precedent to set to start rezoning our public land for private interest. Thank you.

Council Member Paul Ostrow (350 S. 5th St. #307): From time to time we face, in the zoning code as you know, some unusual circumstances and I would suggest to you that this is one of them. I wanted to back up just a bit and talk a bit about this particular area. The Central Avenue Plan actually has three parts of Central Avenue. It's the area north of 26th, the area between 20th and 26th and then the area south of 20th. This, of course, being the area south of 20th. The current Pedestrian Overlay District actually is from 22nd to 26th. There has been some talk about expanding it, but at this point it ends at 22nd. It is true that this was prompted by the fact that Porky's restaurant approached the neighborhood a number of months ago with a proposal to move forward on a restaurant that would be defined as fast food. Whether or not they have seating in their building, whether or not it's a different kind of fast food restaurant, it clearly is a fast food restaurant under the code. In looking through the code, we realized after some study and working with the Zoning staff that the 660 foot rule would not allow a Porky's restaurant there or any use with that description unless there was a rezoning to C4. I obviously would never support a C4 zoning. This Planning Commission, I assume, would never support that kind of zoning. The only reason that I do support this rezoning, however, is that I do believe that the original zoning of the precinct was somewhat arbitrary. If you think about our zoning classifications, in a C1 zoning district, the maximum size of a structure is 4000 square feet. The police precinct is more than three times that large, about 13,000 square feet in size. The police precinct has 102 off-street

parking spaces which, unfortunately, are in the front of the building. Had this been built more recently, such as the third precinct, it would have been built out to the street front. Unfortunately we have a use, an entire block use, that really does break up the pedestrian district. I would suggest that the original zoning classification of C1 is really a mere accident of the fact that this is a public use. If you look at the criteria here, the one being that I think you would look at...whether the amendment is in the public interest and not solely for the interest of a single property owner, I would suggest to you that if you conclude that the zoning of the police precinct does not really property fit this use or this location...I would suggest that it would under those circumstances be appropriate to rezone this property because the current classification here is really creating an anomaly when you look at the use and what the zoning classification really ought to be. I also want to note that there is an adjacent senior high-rise that had about 90 people in a meeting where there was really strong support for this. The Northeast Community Development Corporation does support it so there is a mix of opinion. There is no question that the neighborhood organization clearly opposes it, but there is that mix of opinion in the neighborhood. I also wanted to add that in the conversations I have had with Porky's this last week, I made it clear to them that I would not support this proposal unless they fully complied with all of our site plan regulations and had very strict conditions that would be placed on a conditional use permit. I have also pointed that out to some of those with concerns here tonight that this only allows them to apply for the rezoning, the site plan and the conditional use and the concerns that are being raised here would clearly have to be addressed.

Kevin Reich (1018 22nd Ave. NE): I'm a Windom Park resident, but I happen to also work for the Holland Neighborhood Improvement Association who has also weighed in on this matter. I respectfully disagree with Council Member Paul Ostrow's interpretation of three points. Even though technically the pedestrian overly district only extends to 20th, the neighborhood groups have always treated 18th to 26th as the main street. If you've ever been up Central Avenue, that's the main street part that we've been trying to preserve. The second point, I would contend that the zoning designation for the property in question is not arbitrary. It suits the current use and as the staff pointed out, there is no contemplated different use. The public use is not an accident, it's a fact. The final point, in reference to the Central Avenue Plan, the communities have always used that as a guideline and I would say my interpretation of it is that it also supports the notion of the three sections of Central Avenue... this falls within what's termed the "main street" portion of it.

Aaron Roseth [not on sign-in sheet]: I am an architect and I am working with the Truelson family on this project. I apologize for arriving late. The owner's currently in a family emergency. I have been told everything is ok, but that is the reason they are not here right now. I can answer any questions outside of what Paul has already given to you as far as information. I can say that we've tried very hard for the last six months to work with the neighborhood group on finding a site plan that will work for them and I think we have come to some great concessions, some of which don't meet with the city planning goals. We've agreed with the neighborhood group that we'd like work with them in the future to meet both the city planning requirements as well as theirs. We're trying to work through the site plan issues and we would like your support.

President Martin: We don't have a site plan, this is a rezoning.

Aaron Roseth: We'd like your support for the rezoning of the police precinct so we can apply.

Commissioner Krause: Is your client willing to consider a restaurant that does not have the auto oriented uses like the drive-thru?

Aaron Roseth: Unfortunately....

Commissioner Krause: I know it's in the nature of their business, but does... so in other words the drive-thru is a given?

Aaron Roseth: Right. It's a 50's throw-back to the drive-thru idea and their business model doesn't work.

President Martin closed the public hearing.

Commissioner Tucker: I think the staff report lays things out very well. What we're looking for here is the checkerboard nature that eliminates more intense uses that are more appropriate for a activity center further up Central and that the Central Avenue Plan used calls for a more mixed use, traditional and pedestrian oriented, Central Avenue. I will move the staff findings and recommendation to deny. (LaShomb seconded).

Commissioner Nordyke: What is the process for the City to make a decision to request this rezoning?

Staff Beard: That is a very good question and it's the same one I asked when this project was assigned to me. It was something that was bounced off Erik Nilsson from the City Attorney's office to determine the appropriate way for this to happen. There was a motion approved by Council to allow for Public Works to apply for this application. It was not something done arbitrarily by staff, but something approved by Council.

Commissioner Nordyke: The City Council in its entirety has voted in a majority to ask for this rezoning?

Staff Beard: The City Council in its entirety has given its approval for the Public Works department to apply for this application. Their decision should not be interpreted as support or against.

Commissioner Krause: I will just add that I am not sure it's in the public interest to surround our public safety staff with fast food restaurants so I am supporting the motion.

President Martin: As long as there are no donut shops we're ok, right?

Commissioner LaShomb: That was my joke, but I didn't get it out fast enough. To me the fundamental question is why are we proposing to do a rezoning here? The fundamental point is that the property that is being proposed for rezoning isn't going to change one iota and I don't know whether it was properly zoned originally or not. I suspect there is all kinds of property in Minneapolis that isn't properly zoned. If the

people in the community don't want us to do it, why stick our fingers in the air and say we're smarter than they are? If something were going to happen on the police site I might have a different view. The basic point is that nothing is going to happen to the site that's in front of us now; this is just kind of a Trojan horse to get into the fast food business. I am not a great fan of fast food businesses, but I don't like Trojan horses. I think we need to deal with the issue at hand and that is, is the zoning change appropriate for the situation and my opinion is that it's not.

President Martin: Ok. The motion before us is to approve the staff recommendation to deny the rezoning. All those in favor? Opposed?

The motion carried 7 – 0.

14. Grain Belt Housing Phase I (BZZ-2851 and PL-196, Ward 3), 1215 Marshall St. NE and 130-134 13th Ave NE (Jim Voll).

A. Rezoning: Application by Sheridan Development Company for a rezoning from I1 Light Industrial, R3 Residential, and R5 Residential Districts to the C1 or C2 Commercial and R5 Residential Districts to allow 152 residential units in four buildings at 1215 Marshall St. NE and 130-134 13th Ave NE.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning application from I1 Light Industrial and R3 and R5 Multiple-family Residential to C1 Neighborhood Commercial and R5 Multiple-family Residential for property located at 1215 Marshall St NE and 130-134 13th Ave NE.

B. Conditional Use Permit: Application by Sheridan Development Company for a Planned Unit Development to allow 152 residential units in four buildings at 1215 Marshall St. NE and 130-134 13th Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit for a planned unit development application, with exceptions, for 152 units for property located at 1215 Marshall St NE and 130-134 13th Ave NE.

C. Variance: Application by Sheridan Development Company for a variance of setbacks to allow 152 residential units in four buildings at 1215 Marshall St. NE and 130-134 13th Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the front yard setback variance application from 15 feet to 7 feet for the building, to 4 feet for the balconies, and to zero feet for the stairs and landings for property located at 1215 Marshall St NE and 130-134 13th Ave NE.

D. Variance: Application by Sheridan Development Company for a variance to allow parking between a residential structure and the front lot line for property located at 1215 Marshall St. NE and 130-134 13th Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the variance application to allow parking within 6 feet of a residential structure for property located at 1215 Marshall St NE and 130-134 13th Ave NE.

E. Variance: Application by Sheridan Development Company for a variance to allow parking within 6 feet of a residential structure for property located at 1215 Marshall St. NE and 130-134 13th Ave NE.

Action: Notwithstanding staff recommendation, the City Planning Commission **approved** the variance application to allow parking a principal structure and the front lot line for property located at 1215 Marshall St NE and 130-134 13th Ave NE based on the following findings:

1. Amenities and historic features dictate layout of the site creating a hardship for parking location.
2. There is a need for visitor parking,
3. The parking lot is adjacent to a surface parking lot to the north.

F. Site Plan Review: Application by Sheridan Development Company for a site plan review for property located at 1215 Marshall St. NE and 130-134 13th Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the site plan review application for property located at 1215 Marshall St NE and 130-134 13th Ave NE subject to the following conditions:

1. Staff review and approve the site plan, lighting plan, landscaping plan, and elevations before building permits may be issued. The location of all exterior mechanical equipment and screening of this equipment shall be shown on the plan. All site improvements shall be completed by May 12, 2007 (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
2. Provision of additional architectural detailing along all blank walls facing 13th Avenue NE on building A, B, and C and provision of 30 percent windows on the first floor of Building A facing 13th Ave NE as required by section 530.120 of the zoning code.
3. Compliance with all HPC approvals.

G. Preliminary Plat: Application by Sheridan Development Company for a preliminary plat for property located at 1215 Marshall St. NE and 130-134 13th Ave NE.

Action: The City Planning Commission adopted the findings and **approved** the preliminary plat subdivision application for property located at 1215 Marshall St NE and 130-134 13th Ave NE subject to the following conditions:

1. Drainage and utility easements shall be shown on the final plat unless a variance is obtained to eliminate this requirement.
2. Provision of a deed restriction that meets the requirements of Section 598.260 of the subdivision ordinance.

*Note: Commissioner Nordyke recused himself and took no part in discussion or voting regarding agenda item number 14, Grain Belt Housing Phase I, BZZ-2851 and PL-196, 1215 Marshall St. NE and 130-134 13th Ave NE

Staff Jim Voll presented staff report.

Staff Voll: The staff report states the addresses at 1215 Marshall and 130-135 13th Ave NE and it is an error. The address should be 130-134 13th Ave NE.

Staff Voll continued staff report.

President Martin: That's condition three on the plat?

Staff Voll: On condition three on the plat, we originally wanted the lot line changed so that this parking was on the same lot as this office building, but we're recommending that condition three on the plat be dropped so that this parking if you allow it can be where the developer would like it to be. For the screening we're recommending language that would be under item 14F that would say "and as allowed by HPC and SHPO" unless you choose to say that you would just give them alternative compliance for the screening requirement and let them have a design which SHPO has encouraged them to do. The reason SHPO likes the design without any screening is that they believe this area has historically been a loading and vehicle area. It interprets that central historical feature...

President Martin: It's been full of trucks for a really long time.

Staff Voll: Yeah, that's another way of saying it. So they probably would not want to see screening, but the way we've written the condition is that at least we can talk with them about it, but I don't think we want to send them through a couple month long process.

President Martin: Ok.

Commissioner Tucker: I'm sorry, which variance are you recommending denial on?

Staff Voll: There are two surface parking lots. This one doesn't need a variance, this one is allowed unless you were to say under your authority of site plan review that you don't think it's appropriate there then you could require that it be removed. It doesn't need a variance because it's commercially zoned. This parking lot right here, because it's between a principal structure and a front lot line in a residential district needs a variance to be located there.

Commissioner Tucker: I'm thinking on the green sheet the motions got reversed somehow so it's confusing. It reads that you deny the variance application to allow parking a principal structure and the front lot line for property located at 1215 Marshall.

Staff Voll: Sure. That's because we put all of the addresses in because of the whole project. If we wanted to make it clear we could...

Commissioner Tucker: That's referring to the one that's at the east end of the project.

Staff Voll: What you could do on that item D is you could drop the 1215 Marshall and that would be... I mean, that's the project address so D is talking about parking within six feet of the residential structure. We are recommending denial on item E. That's parking between...

Commissioner Tucker: The six foot variance...

Staff Voll: No, the six foot variance...

President Martin: No, the six foot variance they are recommending approval.

Staff Voll: Item number E, which is the variance we are recommending denial of, the other parking does not need a variance. Sorry if I made that confusing.

President Martin: Is that clear Commissioner Tucker?

Commissioner Tucker: I'm working on it.

President Martin opened the public hearing.

Ross Fefercorn [not on sign-in sheet]: We have been working on the project for a really long time and there has been a lot of interesting things that have gone on. Originally we had designed the project so that all buildings were up to the street including the first building where the commercial is that would be right here. This building was originally designed to be built up to the corner. Through the requirements of SHPO, the archeological study was done that had found the Orth Plaza Ruins. I just want to show you an image of what the space looked like historical. This Orth Brewery was the predecessor to the Minnesota Brewing Company and it was indeed a lively place. Before there were trucks there were a lot of horses and a lot of wagons pulling a lot of kegs of beer around and there were a lot of people. As we went through our design of the project, I think SHPO and their wisdom directed us to leave the foundation in place. It's an interesting story. I think it's a remarkable place. It also opens up a great vista view of the historic brewery which I think is important for the neighborhood. It creates a mini pocket-park if you will. That property will be owned by the business and the residential association and maintain in perpetuity. The parking that is adjacent to it really is... in this area right here, which is where the office building was built... I think that idea that people and activities and although we're not going to have trucks there, a UPS truck may come occasionally. I think what was done by Ryan Construction and RSP Architects adjacent at the brewery is quite nice. There are a lot of pavers and cement areas where people park, but it's consistent with what was there historically. Not only is this area important to maintain the plaza, but also the area off of Main. The way the project is assigned, really, the three buildings are fronting on 13th. Main Street has this building fronting on it. There's an existing parking lot for the office building here. We do add landscaping around the perimeter of the site. The surface of this parking would be consistent with the rest of the promenade. One thing that Jim may not have mentioned is that the promenade is in alignment the largest cupola feature of the existing brewery. This is a nice place to provide a little relief for the residents for their own deliveries. To avoid confusion and parking that is exclusively for the office building here and parking here that is primarily for the very small piece of retail that we have on the plaza. We think that this piece is important. It's not really the front yard of this building, it's adjacent to another parking lot which we buffer and it's not it's not buffered right now. It would be of consistent materials to the rest of the plaza space and provides an address for deliveries and guests for the housing, which is rather dense and compact because of the Orth Plaza and so forth. The neighborhood supports that by the way. We do think that's important. It's not a lot of parking, but it's a very nice place for deliveries and having an

address for pick-up and drop-off so people get off of Main Street. So that was the concept so we hope that you will approve the variance for these five parking stalls. There is also one ADA parking stall there. Also, it's on grade with the rest of the plaza and in our design we provide a public elevator which serves people who would park here and want to drop down to Orth Plaza which is about 12 feet difference in elevation. From an illustration standpoint, this is the area looking easterly... this is the existing office building and this is the elevation difference with the retail on Orth Plaza next to it. The recommended design by SHPO which, incidentally, we began talking to Dennis Gimmestad at SHPO late April of 2005. We went through about three months of meetings. Greg Mathis from HPC was there for many of those meetings. Jerry LePage from CPED was there at all of those meetings. We had our landscape architects Bob Close and his group and ESG architects there for all of those meetings. The state went on strike in July and August, we received our approvals in September but SHPO was adamant about maintaining this Orth Plaza space as it was in its original spirit which is a place where there was pedestrians and traffic, somewhat void of landscaping and over-story trees. We showed many, many schemes that had lots of different landscaping options. Ultimately, the approved plan is what we're looking at today. This is another good image of the site. It shows you what was there. This shows you the elevation difference which we used to stuff our parking underneath and the three first floors of the residential buildings are on this level. This is where the foundation ruins are and the retail would be setback to about this point. This alley alignment is maintained and we're parking the cars just on the side of it so that as one is walking between the buildings it's really this vista and that vista takes in this particular elevation of the brewery. It's a pretty spectacular view.

President Martin: Mr. Fefercorn, we've seen most of this so I'm going to ask you to focus on the issue of where the staff is disagreeing with you.

Ross Fefercorn: The only issue that we're really asking for your consideration on is the five additional parking stalls that would be used for guest parking and pick-up and delivery that differentiates itself for the residential from commercial piece.

President Martin: Ok.

Staff Voll: I want to make a point though. With the longbar building, we were making the recommendation that it be brought up to the property line. I want to make sure that it ends up to the setback, not the property line so you are aware of that concern and it could...

Ross Fefercorn: You're referring to...

Staff Voll: Yes. I want to make sure everybody... I can see this being an issue. There is a fifteen foot setback that the code requires that the building be modified like that so it is brought up to the property line. Staff is recommending that, but if you don't think it's a good idea of if the developer can't do it then that would require alternative compliance.

Commissioner Krause: How will those five spaces be signed? Are they going to be specifically signed for deliveries and visitor parking?

Ross Fefercorn: Correct.

Commissioner Krause: So it's unlikely that the residents would park there themselves?

Ross Fefercorn: Correct. We have at least one stall per unit. I imagine that a resident could park there against the signage, but the recommendation is that it's going to be for visitors and pick up and delivery of goods and for moving in as well which is probably going to happen a lot.

Commissioner Krause: And not employee parking for the retail uses?

Ross Fefercorn: Correct. It cannot be used for employee parking because it's in a residential R5 versus the C1. This would be a hardship for us, I believe, to redesign the building to have this angle. Also, I will tell you that we worked a lot with the Sheridan Neighborhood Organization and it was their wishes that this building be slightly set off of Main Street as a condition of their approval to us to allow for a little more relief of the building and not to block any sun from the houses across the street. Also, the scale of the houses on the east side of main is fairly small mechanics houses from the turn of the century. This gives us a little bit of distance so that we're not too massive in relationship to those houses. We did have this designed this way originally and based on our discussions with the neighborhood we changed the design. Also, because of the geometry of Main Street and the perpendicular nature of the site in alignment with 13th and Marshall, it does create some rather unusual interior spaces that are kind of impractical. I don't think they are interesting spaces, I just think they are difficult spaces in this application.

President Martin: Ok. Anyone else?

Jenny Fortman (1515 Grant St. NE): I am president of the Sheridan Neighborhood Organization. Everything that Ross Fefercorn just said is essentially true. I think it does help if we look at this. The building did have this hockey-stick look. We asked him to maintain... this is the best view of the brewery right here. To maintain this view, keep that open and also to... because they are small houses across the street. As far as this parking lot is concerned, if this is the front of the building I don't know why the ordinance or whatever that suggests that this needs to be...or calling this between the front of the building... I don't think the neighborhood has any problem with this parking lot or this setback. In fact, we really have been fighting for this parking lot and I don't see any need to require any screening being asked for. All the discussion about the lengthy process this has been through is also something the neighborhood feels strongly about. Anything we can do to keep this moving would be good because it's been seven years. The developer has been amazingly agreeable about taking and making changes that the neighborhood would like to see and we're ready to see it be built.

Joseph Walker (3201 Cleveland St. NE): I'm looking at the variances here and I'm concerned that when we start cutting down from 15 feet down to seven feet and then 4 feet for balconies and zero feet for stairs and landings. We're having a lot of problems in our community here, our city here right there with stairs right close to property lines because they can't they control the property then. If they got them back a few feet, they have control of the property for public safety. About parking six feet from a residential

structure, I don't think it should be that close. I don't know what the requirements are, but I prefer it farther apart because we have residents that park their vehicles there and they aren't just parking just a regular car or something like this, we have big vehicles parking in these spaces that aren't supposed to be there. I say we don't allow any parking that close to a residential structure. I hope the developer will maintain the property while he's building on it. That's all I have to say.

President Martin closed the public hearing.

Commissioner El-Hindi: I am going to talk about a couple of points that were mentioned by the applicant and by the public. We've heard that the ruin of the plaza is located and that basically the whole design has been changed to accommodate for that and make that into a feature. I've heard that the promenade, which is the most important corridor or at least green corridor on the property, is a major element. I've heard vista, which is the direction of the end of the corridor which is really being important and yet I see the parking at the intersection of the major attractions of those two elements that have been talked about today...which is the plaza on the corner and the promenade. In terms of the parking in the back or at least on Main Street, if that is designated as delivery parking, I think I would probably support the idea of having parking in that area rather than support the nine spaces that are actually...it seems to me that they are allowed those spaces, we can't...

Staff Voll: There is nothing in the code that requires a variance for this. In the site plan chapter it says that in general parking should be located within the interior of the site so you'd have authority to say that the parking shouldn't be there, but it's not like it needs a variance or anything to be there. I do want to make one thing clear after listening to some of the comments, even if you allow this parking, it cannot be used as commercial because it's in residential. If the intent was to allow this in lieu of this that wouldn't work. This parking could only be used for guest parking for the residential buildings, it can't be used as a substitute for the parking that they want, the convenience parking for the office building.

Commissioner El-Hindi: So it cannot be used as deliveries?

Staff Voll: A pizza delivery person could come for a resident, but it can't be the delivery area for the office building.

Commissioner LaShomb: I move the rezoning. (Tucker seconded)

The motion carried 6 – 0.

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

The motion carried 6 – 0.

Commissioner LaShomb: I move variances C and D. (Schiff seconded)

President Martin: Ok. Any discussion?

Commissioner LaShomb: I think the variances are being granted because it's kind of a unique site and it's got a preservation piece of it that makes it difficult to... the hardship is the preservation piece and the public amenities and I think there is a price to be paid for them and I think these are the variances that are the price.

The motion carried 6 – 0.

Commissioner LaShomb: On item E, I am going to move approval of the variance for the same reason that I sited for C and D. (Commissioner Krause seconded)

President Martin: Ok. Discussion?

Commissioner LaShomb: Well I think it's a difficult site. It's a great site and difficult site, but there is a substantial piece of it that cannot be touched because it's a ruin and then there's a grand public plaza and I think we're getting something for granting this variance.

Commissioner Krause: I am supporting the approval of this variance too because I think this is adding a lot of density to this area that wasn't here previously and I think that visitor parking is really going to be needed. The fact that it's adjacent to an existing parking lot as well, this is not going to stand out and be a surface parking lot in the midst of a residential.

Staff Wittenberg: Just so we're clear, for the parking that is along the eastern part of the lot, I presume that the expectation is that the parking will be screened and if not the commission should grant alternative compliance from that requirement.

Commissioner LaShomb: I'll grant alternative compliance.

Commissioner Krause: I am open to suggestion from staff on what side of it they would like screened. I don't know that we need to screen it from the other parking lot. Screened from Main Street?

Staff Voll: Just to clarify, the easterly parking lot, there is not a problem with landscaping that to code and the applicant has provided a landscaping plan so there is really no difference between what they have proposed and what the city requires. For the easterly lot, it's the westerly lot that's the issue.

Commissioner El-Hindi: I think that if the parking is going to stay I would rather see no screening.

President Martin: Alright. So Commissioner LaShomb, what you have proposed is that we approve the variance and that we find alternative compliance and do not require screening.

Commissioner LaShomb: Yes, that's right.

Commissioner Tucker: I was understanding that the plan included screening from Main Street already so we don't need to grant alternative compliance.

Commissioner LaShomb: Ok.

Commissioner Tucker: And we're not worried about the screening between this parking lot and the other one.

President Martin: Jason, could you just make sure we're all on the same page here?

Staff Wittenberg: Commissioner Tucker is correct. The applicant appears to be proposing screening along Main Street.

Commissioner LaShomb: Then I'm fine with that.

President Martin: Ok. So the motion is to approve the variance. All those in favor?

The motion carried 6 – 0.

Commissioner LaShomb: On the site plan I will move it with the following changes... under item two I would delete the sentence "if spaces remain they shall be screen per the standards of the zoning code" and I would delete item four.

President Martin: Ok. Any discussion?

Commissioner LaShomb: I think the building on item 4 requiring the building to come out a little farther does have some site issues so why do it? This is a historic site and I think screening is going to block out a lot of the historic features of the building so I am not fond of the idea.

Commissioner Tucker: Instead of just striking number two, I would have some reference to the HPC.

Commissioner Krause: That parking won't be visible when you're walking towards the brewery from the east because of the grade and I really am persuaded by the discussion of the historic character of this area that the unique kind of parking was typical of the historic uses that were on this site.

President Martin: Except they used to park in the street when they were driving horses. The motion is to approve the site plan review with the elimination of condition four and altering condition two to eliminate the last sentence.

Commissioner LaShomb: Yes, that is correct.

Staff Wittenberg: Given the commission's intent, would it make more sense to completely strike condition number two altogether?

Commissioner LaShomb: That's fine.

President Martin: Ok. So we're taking out number two and four. Ok?

Commissioner Tucker: Yes I will agree with that, noting that condition five is where one would ask for advice on how to handle the treatment for the parking lot on Marshall.

The motion carried 6 – 0.

Commissioner LaShomb: I'll move the plat. (Krause seconded)

Staff Voll: Staff is recommending that item number three on the plat be dropped because it's no longer necessary.

Commissioner LaShomb: That's fine.

The motion carried 6 – 0.

President Martin opened the public hearing.

No one was present to speak to the item.

President Martin closed the public hearing.

Commissioner Krause moved approval of the staff recommendations (LaShomb seconded).

The motion carried 9 – 0.