

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

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MEMORANDUM

DATE: July 21, 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 July 18, 2011

The following actions were taken by the Planning Commission on July 18, 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: Cohen, Gorecki, Huynh, Luepke-Pier, Schiff, Tucker and Wielinski – 7

Not present: President Motzenbecker (excused), Bates (excused) and Carter (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

5. Buzza Historic Lofts (BZZ-5205, PL-256 and Vac-1584, Ward: 10), 1006 W Lake St ([Becca Farrar](#)).

A. Conditional Use Permit: Application by BKV Group, Inc., on behalf of Minneapolis Leased Housing Associates III, LP, for a conditional use permit for a Planned Unit Development to allow the conversion of the existing building known as the Lehman Center/Buzza building, located at 1006 W Lake St, to a multi-family residential structure with 137 residential dwelling units.

Action: The City Planning Commission adopted the findings and approved the conditional use permit application for a Planned Unit Development which results in the conversion of the existing building on the premises into a 137 unit residential development located at 1006 W Lake St subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. As required by section 527.120 of the zoning code, the development shall comply with the standards for some combination of the following amenities from Table 527-1, Amenities totaling a minimum of 15 points: LEED Silver Certification, conservation of the built environment, decorative fencing, and a recycling storage area.

B. Site Plan Review: Application by BKV Group, Inc., on behalf of Minneapolis Leased Housing Associates III, LP, for a site plan review for the conversion of an existing structure into a 137 unit multi-family residential development in the C2 (Neighborhood Corridor Commercial) district and PO (Pedestrian Oriented) Overlay district located at 1006 W Lake St.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for a Planned Unit Development for the property located at 1006 W Lake St subject to the following conditions:

1. Planning Staff review and approval of the final site, elevation, lighting and landscaping plans.
2. All site improvements shall be completed by July 18, 2013, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. A minimum of a 4-foot wide walkway shall be provided that connects the entrance on the west side of the structure to the public sidewalk along Dupont Ave S.
4. The final landscape plan shall incorporate three additional canopy trees to meet the minimum quantities outlined in Section 530.160 of the Zoning Code.
5. The final landscape plan shall incorporate pervious pavers as an alternative compliance measure from the landscaping requirements noted above.

C. Plat: Application by BKV Group, Inc., on behalf of Minneapolis Leased Housing Associates III, LP, for a preliminary plat to consolidate several platted lots on the premises located at 1006 W Lake St.

Action: The City Planning Commission adopted the findings and **approved** the preliminary plat application and the drainage and utility variance for the property located at 1006 West Lake Street.

D. Vacation: Application by BKV Group, Inc., on behalf of Minneapolis Leased Housing Associates III, LP, for a vacation of the dead-end alley on the west side of the property abutting the single-story commercial building located on the adjacent property from 1006 W Lake St.

Action: The City Planning Commission recommended that the City Council accept the findings and **approve** the vacation (Vacation File 1584) subject to the provision of easements dedicated to Xcel Energy and Qwest over the entire described areas to be vacated, as well as the provision of a new easement for the neighboring property owner to allow vehicular access to the north side of the property located at 1010 W Lake Street.

Commissioner Tucker opened the public hearing.

No one was present to speak to the item.

Commissioner Tucker closed the public hearing.

Commissioner Huynh moved approval of the consent agenda, recusing herself from item number five (Gorecki seconded).

The motion carried 5-0 (Schiff not present for the vote).

6. Bennett East Residences (BZZ-5179, Vac-1587 and PL-257, Ward: 10), 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S ([Hilary Dvorak](#)).

A. Rezoning: Application by Carol Lansing with Faegre & Benson LLP, on behalf of JPG-OFP, L.L.P. and Uptown Aurora Properties, LLC, for a rezoning of the parcel located at 2820 Colfax Ave S from R3 to R5.

Action: The City Planning Commission recommended that the Minneapolis City Council adopt the findings and **approve** the rezoning of the parcel located at 2820 Colfax Ave S from R3 to R5.

B. Conditional Use Permit: Application by Carol Lansing with Faegre & Benson LLP, on behalf of JPG-OFP, L.L.P. and Uptown Aurora Properties, LLC, for a conditional use permit for a Planned Unit Development including 217 dwelling units for properties located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application for a Planned Unit Development including 217 dwelling units located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. As required by section 527.120 of the zoning code, the development shall comply with the standards for some combination of the following amenities from Table 527-1, Amenities and those proposed by the applicant totaling a minimum of 39 points: outdoor open space, decorative or pervious surface for on-site parking and loading areas, drives, driveways and walkways, pedestrian improvements, reflective roof, shared vehicles, decorative fencing, enhanced exterior lighting, enhanced landscaping, heated drives or sidewalks, recycling storage area, water feature, ornamental street lights, living wall along the Midtown Greenway, public promenade, all parking provided underground.
3. A minimum of 20 percent of the modular block retaining wall shall be covered with panels or something similar that allows the Boston Ivy to grow on.
4. There shall be a maximum of 217 dwelling units provided in the building.
5. There shall be a minimum of 217 bicycle parking spaces provided in the building.

6. There shall be a minimum of 12 bicycle parking spaces provided on the site for guests.

C. Conditional Use Permit: Application by Carol Lansing with Faegre & Benson LLP, on behalf of JPG-OFP, L.L.P. and Uptown Aurora Properties, LLC, for a conditional use permit to increase the height of the building from 4 stories to 6 stories/68 feet for properties located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application to increase the height of the building from 4 stories/56 feet to 6 stories/68 feet located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. The height of the buildings on the south end of the site shall not exceed 6 stories/68 feet and the height of the building on the north end of the site shall not exceed 4 stories/48 feet.

D. Variance: Application by Carol Lansing with Faegre & Benson LLP, on behalf of JPG-OFP, L.L.P. and Uptown Aurora Properties, LLC, for a variance to reduce the minimum lot area per dwelling unit for properties located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S.

Action: The City Planning Commission adopted the findings and **approved** the variance to reduce the minimum lot area per dwelling unit from 506 square feet to 364 square feet (28 percent) for the property located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S.

E. Site Plan Review: Application by Carol Lansing with Faegre & Benson LLP, on behalf of JPG-OFP, L.L.P. and Uptown Aurora Properties, LLC, for a site plan review for properties located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for the property located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S subject to the following conditions:

1. Approval of the final site, landscaping, elevation and lighting plans by the Community Planning and Economic Development Department – Planning Division.
2. All site improvements shall be completed by August 19, 2013, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

F. Vacation: Application by Carol Lansing with Faegre & Benson LLP, on behalf of JPG-OFP, L.L.P. and Uptown Aurora Properties, LLC, for an alley vacation for properties located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S.

Action: The City Planning Commission recommended that the City Council accept the findings and **approve** the application to vacate that part of the alley located within Blocks 4 and 13, Windom's Addition to Minneapolis, lying South of the easterly extension of the north line of the South 5 feet of Lot 8, said Block 4, to the centerline of the alley, and South of the westerly extension of the north line of the South 3.5 feet of Lot 5, said Block 4 to the centerline of the alley, and lying North of the north line of Lots 5 and 8, said Block 13, extended; and the alley easement per Document 400146 being the North 30 feet of the West 18 feet of Lot 4, said Block 13.

G. Plat: Application by Carol Lansing with Faegre & Benson LLP, on behalf of JPG-OFP, L.L.P. and Uptown Aurora Properties, LLC, for a preliminary and final plat for properties located at 2821 and 2825 Dupont Ave S and 2820, 2824, 2828 and 2836 Colfax Ave S.

Action: The City Planning Commission adopted the findings and **approved** the preliminary and final plat application for the property located 2821 and 2825 Dupont Ave Sand 2820, 2824, 2828 and 2836 Colfax Ave S.

Staff Dvorak presented the staff report.

Commissioner Tucker opened the public hearing.

Jim Gearen: We started this process about a year ago. We first met with the neighborhood group in 2010. We met again in January 2011 and had the opportunity to have some great input from the neighborhood and use that in our design. When my partners and I decided to build this project, we wanted to do something that really achieved very high quality within the envelope of what was allowed. We think we've come to you with a design that achieves not only our goals from marketing this building and creating a property that's focused on not so much the kids just out of college like some of our competitors, but what do you do for your third or fourth apartment or where do you go when you're in the neighborhood and you're retired and you don't own a home anymore but you want a condominium lifestyle without having to have ownership. That's the kind of project we're trying to deliver here. We retained ESG to work with us because of their work on 301 Kenwood and The Edgewood, which are two of the more iconic buildings that have been developed in the city recently. We've asked them to bring as much of that design aesthetic to an apartment community as they're able to do. Working within the spirit of the small area plan, we decided to break the building into three separate buildings. There could have been one massive building, but we decided by breaking the building and joining them with glass bridges set way back into the property we would deliver a product that didn't feel like one massive building but felt like three separate scaled buildings to the neighborhood. We designed front porches and provided the bike access to the greenway which the Midtown Greenway Coalition endorsed. Through the LHENA process, they asked for us to provide some additional parking, which we did. Since we met with you and the Committee of the Whole, we've continued to work with Planning staff. We did meet with Bill Casey, who is president of the Midtown Lofts across the street, about three weeks ago in Meg Tuthill's office. Through that process, we have made some adjustments to the building. We've eliminated six units from the top floor of the building. We set the sixth floor back a bit on each of the corners and added a cornice line at the top of the fifth floor so that the sixth floor of the building will be metal, dark and set back a bit to provide more of an attic type of space as opposed to being right out front.

Commissioner Tucker: Do you have a drawing that illustrates this?

Jim Gearen: Here it is. What you can see is we've stuck the building back here on either end and added this cornice line across. This whole top floor is darker metal panel. This glass walkway is set back into the building. This will feel like a four story building separate from the six story building. We've done that on both sides. We tried to address the concerns that have been expressed to us without damaging the architectural integrity and symmetry of the project. We've been asked by our neighbors to just take out the sixth floor on the Colfax side of the building. I understand why that's being asked for, but it really would significantly change the

architectural integrity of the project and we'd be crossing the line of what we're trying to deliver to the neighborhood. I believe the project that we're proposing has been approved and endorsed by LHENA is the best project for the whole neighborhood. I think the fact that the objections we're hearing are solely from the neighbors across the street lends credence to that, that we're trying to do the right thing for the neighborhood.

Commissioner Tucker: How are you going to make the promenade along the greenway welcoming to the public?

Jim Gearen: It's going to be wide open. No gates across the promenade.

Commissioner Tucker: I'd be interested in the architectural treatment so that even the most timid of us will feel like we're welcome to walk there.

Jim Gearen: The landscaping will be inviting, the material on the sidewalk will be inviting, the street lighting will continue around the building so it feels...

Commissioner Tucker: The same paving or different paving?

Jim Gearen: Same paving. It will feel like just part of the streetscape and that's our goal.

Carol Lansing (90 S 7th St): We do not plan to present on the architectural or site plans but I did want to address the issues that have been raised by the Midtown Lofts Association. One other change since Committee of the Whole is that we changed the zoning approach so that instead of applying for R6 zoning, which would have required a lot less alternative and amenities under the PUD, we're sticking with the R5 because that responds to concerns people had with an 84 foot as of right height. Regarding the amenities points I think Mr. Casey raised in his email, a legitimate point regarding how the amenities had been described and how the points for those had been described, Hilary went into that with you. There has been an objection to the CUPs for the PUD and the increase in height and the only articulated basis I've heard for that objection is that the project doesn't meet the standards for a CUP because it's not consistent with guidance in the City's land use plans. Specifically, comments in the plans about needing to transition in height. In the objection that's framed as not having a transition between Midtown Lofts on the east and going west to the Bennett site, but when you look at the small area plan, the issue about transitions is from south to north. This project, this diagram included in your plans show the transition from the Buzza, a taller building across the Greenway to the Bennett East six story then down to Bennett East four story which is at 48 feet and then to these currently like single family homes and duplexes to the north. I'll note that that area is zoned R3 which would allow for a 35 story height in the future. The building is also, in terms of transitions from east to west, this bottom line shows you that this Bennett site is very much in context with Flux, Midtown Lofts and Track 29 which is allowed to be 72 or 74 feet. It's taller than Midtown Lofts but it's not out of context with heights along the Greenway. The building will be set back 16 feet from Colfax and Dupont. It will have a lot of articulation; it's not going to be an imposing or unfriendly structure to pedestrians along that street. Hilary showed you the shadow study, which shows really minimal shadowing in an urban environment. The other objection that we have seen in attachments to the staff report regards the lot area variance to allow for more dwelling units. First, I'd like to say that while economic considerations alone do not constitute practical difficulties, they are a legitimate factor to be considered among others. I think economic considerations are a factor in every project that comes before you. Performas do matter and in

order to achieve the high quality, high amenity project that this is, you do need to have the number of units that we're proposing. Economic considerations are not the only practical difficulties here. It is a reasonable use because it's within the high density range of the City's land use plans and the unique circumstances of this property are based on the City's land use goals for this area. This is a factor that the City has considered to be unique for other projects in looking at lot area variances such as for the Campus Crossroad project. When you're in a location that is close to three commercial corridors, close to two activity centers, along the Midtown Greenway which we want to promote density on and use of near the uptown transit station, all of those things calls for as much density that you can reasonably put in that's consistent with the character of the neighborhood and so it is a unique property in that sense and for that reason there is basis for granting a variance to increase the density on this site. It's also consistent with density of several other projects in the area, some of which have also received density variances like Blue and Flux did not need a density variance. There are no traffic or parking issues that are associated with this density based on the TDMP and the parking provided.

Bryan Friess (2822 Bryant Ave S): The reason I am here is to address some of the objections. Regarding the R6, we feel that this is an R6 project presented as an R5 project. I'm also on the LHENA board of directors. I wasn't at the time that this project was presented for approval, however, it's one of the reasons I joined. This project was presented as an R6 project, there were over 40 people at that meeting. A lot of the information presented at that meeting and the requests that were made by the neighborhood have not been implemented into this project. I believe there are other factors surrounding the lopping off of six units on the top story. It's to meet percentages and not have to go for R6 zoning. I think there's some inconsistency in those statements because I remember that meeting as a lot of people having serious concerns about this moving forward, not only as an R6 project but the density percentages that were associated with it. The proposal, as stated, even with the amendments that were just published today still violate zoning and state law and it's inconsistent with area land use plans. I don't want to go through each area that we feel is inconsistent with the area land use plans because they are policies and they could be interpreted in a lot of different ways. For every piece in the staff report, the way that they've interpreted the plan, we've interpreted it differently. I want to specifically call out the areas where we feel that this proposal violates the zoning and state law specifically regarding underground parking on page 10. I've quoted the ordinances below. The memo that you have in front of you, the paragraph that addresses this specific objection does not include the fact that this ordinance specifically states that in no case shall any item be counted as an amenity for an alternative if it is utilized to qualify for a density bonus in any zoning district. Underground parking is used to qualify for a density bonus. Not only has it been awarded partial points, it's also just pretty strong language. In addition, basically what happened with our objection to the living wall, public promenade and the ornamental street lights were that partial points could not be awarded and, in addition, the public right of way isn't a public right of way, it's a private dedication. It's going to be privately maintained although the public has use to it and it can be cut off at any point. What they've done is taken those amenity points, which are in table 527-1 in the ordinance and they said that there's a piece in the ordinance that's also located in that table that states that the commission may consider other amenities not listed in table 527-1. All these amenities are listed in the table. It prevents you from using amenities that are listed in the table, it says you can't award partial points and you can't roll those back in as additional amenities and then award points anyway. It's clearly stated in the ordinance and the memo. We feel that in this instance those amenities are being awarded incorrectly. The project should have to move forward as an R6 project. There are inconsistencies throughout the staff report. We've noted this, especially in the area of amenities, how these points are awarded is grossly inconsistent across

these proposals. Additionally, the wording tends to be quite confusing and it's difficult to follow and there really isn't enough time to try to read through all this information in a five day period. From that perspective it just doesn't make sense. The total amenity points, we feel that this proposal should not be approved at this point. It should have denied and come back as an R6 proposal. It hinges on amenity points that are unlawful.

Commissioner Tucker: You don't oppose the R5 rezoning do you? I know you say it should be R6, but do you oppose the rezoning to R5 which is the application in front of us.

Bryan Friess: The rezoning of that R3 plot?

Commissioner Tucker: To R5, which is our application.

Bryan Friess: We do. Bill is going to come up and talk about that, the logic that's used.

Commissioner Tucker: We will hear from him. Are you here representing LHENA?

Bryan Friess: I am not, no.

Commissioner Tucker: I think we will have staff address the assignment of points.

Staff Dvorak: I will start out by clarifying, the density bonus that is awarded for the enclosed parking, the language in the zoning code [tape ended]... then 46 spaces. So the points that are being granted as part of the CUP for the PUD are for those additional parking spaces. When we wrote the PUD chapter, we said that all parking shall be... we wrote it differently than the density bonus so developers would put all of the parking underground so we wouldn't get all of the required parking underground that's required for the development and then whatever additional parking they wanted to construct...it is less expensive to build surface parking than it is to do underground, but they would put that underground to get the amenity points. They are not double counting points as far as the underground parking is concerned. I said that very confusingly, sorry.

William Casey (2845 Colfax Ave S): I'm the president of the Midtown Lofts Association. I didn't expect to be here today. I don't want to be here today. I was her for Track 29 and had a great time but one of those is enough. We're here because we're unhappy about a couple of things. I want to make clear that Midtown Lofts is not somebody that wants to keep this unbuilt. We think there are a lot of really nice qualities about what Mr. Gearen has in mind for this project. We have a number of items that we're not mentioning at this meeting to save everybody time and because we don't want to talk about things we don't think are so great but it's generally a really attractive project with, we hope, high construction and design values. Things have changed over the last six months but we still have some confidence in it. There are two things that we're really here for and one is the changing of this project from R6 to R5. We are against it. This is not the same as the rezoning of this little parcel from R3 to R5, that's not what I'm talking about. You can go ahead and do that as far as we're concerned. We're talking about the fact that this project was an R6 project as noted earlier by several speakers and then after the Committee of the Whole meeting, a meeting where people can attend but not say anything. We found that the project was being changed to R5 and it was done by reducing by six the number of units in the project from 223 to 217 which brings the number below a key density number of 120 so the density is 119.9. We feel that this is inappropriate so we would like to see the project resubmitted

as an R6 project because we also think that this erodes the zoning code to take an R6 project and have it basically be questionable in terms of what the city is getting in order to go through certain hoops that the city and its laws are established to do. We think it erodes both the zoning code and land use concerns for the city. This reduction in units that brought the number down below 120 was months after we, as adjacent property on the east side of the proposal, had asked that we had some reduction in height across the street. Variances exist everywhere and everything that's been said about them is true. There has to be something inherent in the piece of property itself and there have to be circumstances in the piece of property that require it to be handled separately or specially, there's a hardship that can be economic in nature but it can't be exclusively economic in nature. There have to be some practical difficulties. Imagine Mr. Gearen buying his property in 1986, things are a lot different in the city and the shape or extent of the property is something that causes him difficulty in developing. A variance would deal with that because of something inherent in the property but it's hard to stand here and say that this piece of property between Colfax and Dupont has something inherently wrong with it that means it can't be developed under the R5 guidelines. I felt this would be straightened out a long time ago with a developer, particularly in terms of the minimal request that we had made. Here's the staff report and it says these practical difficulties exist due to circumstances unique to the property which I just described. Down below it says "minimum lot area per dwelling unit." The site's location in an area that is guided for high density housing in both the Greenway Land Use and development plan Uptown Small Area is a unique circumstance to this property. My point is, they are asking for a variance and they are using as a unique property the zoning code and the area plan as being a unique problem. You want a variance from the zoning and land use plan by saying the land use plan itself is causing a practical problem with your property so I have a problem with that. In the same way we object to a six story R5 project. In the beginning, we didn't have that much objection to R6 and you can go back and look at the record of my correspondence with Mr. Gearen since February. We try to keep our options and views open but we feel like under the R5 regulation, to just immediately change it from a four story environment to a six story overall is something we're not comfortable with. If you came and said they want to change it to an R5 and have an eight percent increase or a 20 or 10 percent... this density, even allowing the amenities bonus and parking bonus, is still almost 30 percent more dense than it would be under normal R5. We have objections to that and we have objections in general to the height. We realize that Mr. Gearen owns all these pieces of property. He owns the central and west part of the Bennett Lumber property too. One of our points with him has been that we'd like him to look at that area as a whole and if he might reduce the number of units a little bit for us directly across the street then he might be able to recapture that in some of his other developments. This is a view looking north from the Greenway at Colfax Ave. That's Midtown Lofts on the right and the proposal involves a piece of property to the left in the photo. They are looking at 68 feet directly across the street from us. The height of our building was described as 54. We never asked the developer to reduce his height to four stories along Colfax; we only asked them to reduce it on the Colfax side by a single story. We say that because we're not greedy. Their fifth story isn't going to be way above our fourth story so we try to be reasonable as we approach them. We said we'd like some relief along Colfax Ave for the immediate 68 feet directly across the street from our property. This is a summary of the communication and process that's been involved in terms of meetings and letters to the planning staff and developers asking that some of the concerns we have be taken into account. The vote in November with the LHENA group, it was a split vote. We had objections to it, but from that point forward we hoped there would be some kind of collaborative process with the developer where he would come talk to our board or our owners or myself and see exactly what we wanted although we expressed it fairly clearly. Midtown Lofts doesn't appear anywhere in this packet except for in the letters that we've sent. It doesn't appear

as an adjacent property. Every time an adjacent property is mentioned, they mention these houses up on 28th St, the ones south of 28th down to the property, which is fine, but they don't even acknowledge that we are across the street and we've asked for a very modest compromise. From the beginning, we've asked for 10 or 12 units to be taken off the top, let it be five stories and let the rest of the project make up those units. I'm not trying to cancel or change the project, just trying to say we'd like more equality. We're not looking for a view. That building is going to be there and we're not going to have a view, that's fine. We think it's a beautiful building anyway. Nobody has ever told us that our request is unreasonable but we've heard from a member of City staff asking what's wrong with 14 or 16 feet, why can't you have a building immediately across the street that's 16 feet higher? Mr. Gearen said that he can't make his performas or financial stuff look the same if he takes off 10 or 12 units, though he did take off six units to get to the R5 rule. He also said she doesn't like asymmetric buildings. We're in July 18th here, we asked this request back in February when they were still very much in the planning stage and something else could have been done. Thank you.

Commissioner Gorecki: You make some very compelling arguments and I appreciate your time. I'd like you to just address the design that they came up with tonight that we saw for the first time and maybe you saw it for the first time and that is the setback of the sixth floor and your comments and thoughts on that.

Bill Casey: I think it's an improvement over what we saw originally. I think it remains a good looking building. It makes the building look better. We would like to see a break along the Colfax side at least that would bring it down one story on the east side of the building but we do think it makes it nicer looking.

Commissioner Huynh: Can you speak to the issue of the R6 versus the R5? I know that you mentioned that you made a request to the developer to go from six stories down to five stories. I'm curious as to what you think the benefit is to Midtown Lofts to have a five story building versus a six story building next to you.

Bill Casey: We feel that as you go to the west towards the Flux building...there are few adjacencies to all of his properties for these three projects for Bennett. The reason that we've been neutral or supportive of this R6 is that across the Greenway we have the Buzza building and then we have some private homes, but when you look at the entirety of it, there are really very few adjacencies. There's our adjacency, which is a six year old building across Colfax, there's an apartment building between Dupont and Emerson but they're almost 100 feet north of the next phase of the project and then you have a supermarket across the Greenway between Dupont and Emerson and then you have an apartment building way in the upper northwest corner of the total number of parcels. Therefore, we feel like there's plenty of spaces to the west where he could build six stories and get the number of units he wants and we'd feel like we got a little bit of a break.

Commissioner Huynh: My question is more related to if it's injurious to your development as far as Midtown Lofts with shadowing and light and impact to density. It seems like according to your argument that you'd rather the density pushed one block over versus adjacent to Midtown Lofts.

Bill Casey: We would like that because we feel like there's nobody a block to the west between Dupont and Emerson that is going to be objecting at all. There aren't any homes there for the

most part that would be a problem. To the east of us, it was mentioned a couple times...to mention Track 29 is a little questionable because we appealed the Track 29 decision and part of an agreement that we worked out with the developer was to take height off the building along Bryant and put it on the Greenway side. They have a building that faces the Greenway that is, in fact, 72 feet, but it was only as a result of a compromise. It wasn't because anybody thought it was the best possible urban planning.

Tim Prince (1621 W 31st St)[not on sign-in sheet]: I own a commercial building adjacent to this development. I was at the LHENA meetings that were mentioned earlier and I also sat on the steering committee for the Uptown Small Area Plan. Going through a neighborhood process and getting that neighborhood to support a project is a hard thing to do, especially in the Uptown area. This particular project has done that. I think they've done that in large part, in my opinion, because what could be there. I'm in favor of the plan that's been put forth. The neighborhood is in favor from the meetings I have attended. I encourage you to approve it.

Commissioner Gorecki: I'd like to ask Mr. Graham to give us a quick analysis and kind of walk through the building. I want to make sure I understand how the sixth floor got set back, what materials are going to be used, how that parapet was created. I want to get a better sense of how this fifth and sixth story plays out.

David Graham (500 Washington Ave) [not on sign-in sheet]: I'd like to point out that in the Uptown Small Area Plan, it is zoned high density up to 120 units an acre. The fact that it's R5 versus R6 is just another overlay. As a designer, I've always felt that the whole idea of the planned unit development is to allow some creativity when looking at building design. From the beginning and as we've worked through this with Lowry Hill East, the whole idea was to open the plan up and create more community amenities; the promenade, the cross axis through the site and actually opening up the façade over the Greenway more to the south even than the Midtown Lofts and really not to have one massive building. So ironically, we need three or five points in the PUD to do the very thing which we think is better design which is to break the building down. To get to your point, if we were to move those units somewhere else we would essentially plug where we have those skyways, those glass links set back and we think it's very important that the building look like a village of three buildings, each of which is slightly different than the other. We did lower the density from 223 to 217. We set the façade back along the Greenway. We also stepped the architecture, broke it down, stepped it along the north, created what I think is a very important architectural opening between the taller building and the 48 foot building and then stepping down into the R3 zoning. So, the notion of a 56 foot high cornice line and then floating an attic which is articulated as metal that eases in from the north along the Greenway...or the south and north, we feel significantly architecturally reduces its presence. As far as shadowing...view corridors, when you're standing on the top floor of Midtown, it has no affect on your view or access. I'd like to say that taking that density and taking it somewhere else will hurt what I think is a very strong design.

Commissioner Gorecki: Can you talk about how far back it is in feet from the edge of the building to what you're calling the attic?

David Graham: The setback from the Greenway is approximately 12 feet and then the setback of the attic level on the north is approximately another 12 feet. The setback along the façade is actually a foot or so. It's not intended to be a full setback but rather architecturally articulate an attic level that's rendered in different material from the base of the building.

Commissioner Tucker: Do you have a section that shows this through Colfax?

David Graham: Yes. This actually shows the 68 foot height which does show a very gradual setback on that upper level. It also shows the sightline from the fourth floor of Midtown and the fact that even if it were a five story building the so called direct view to the west has got some blockage. This begins to show the 56 feet and then the 68 feet with this attic level articulated.

Commissioner Tucker: So that setback is a lot less than it is on the Greenway side; am I understanding that correctly?

David Graham: Yes. It's more of an architectural effect to create the cornice line and attic level to visually set it back along there.

Commissioner Tucker closed the public hearing.

Commissioner Schiff: I will move approval for the rezoning (Cohen seconded).

Commissioner Tucker: Any discussion? All in favor? Opposed?

The motion carried 6-0.

Commissioner Cohen moved staff recommendation for item B (Huynh seconded).

Commissioner Tucker: Noting that condition two has changed as in the supplemental memo. Any discussion? All in favor? Opposed?

The motion carried 6-0.

Commissioner Gorecki moved staff recommendation for item C (Huynh seconded).

Commissioner Tucker: Any discussion? All in favor? Opposed?

The motion carried 6-0.

Commissioner Schiff moved staff recommendation for item D (Huynh seconded).

Commissioner Tucker: Any discussion? All in favor? Opposed?

The motion carried 5-1.

Commissioner Gorecki moved staff recommendation for item E (Huynh seconded).

Commissioner Tucker: Any discussion? All in favor? Opposed?

The motion carried 6-0.

Commissioner Huynh moved staff recommendation for items F and G (Gorecki seconded).

Commissioner Tucker: Any discussion? All in favor? Opposed?

The motion carried 6-0.