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

Date: May 19, 2005

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

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

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

Subject: Appeal of the decision of the City Planning Commission by Brad Schaeppi

Previous Directives: At the April 11, 2005, City Planning Commission meeting, nine of the Planning Commission members were present. Planning commissioners voted 6-2 to deny the conditional use permit for the proposed six-unit building; 7-1 to deny the side yard variance; 8-0 to approve the drive aisle variance; 7-1 to deny the site plan review. Please note that the President of the Planning Commission does not vote unless a tie vote needs to be broken.

Financial Impact: Not applicable

Community Impact:
Ward: 5
Neighborhood Notification: The Whittier Alliance voted to recommend denial of the applications.
City Goals: See staff report
Comprehensive Plan: See staff report
Zoning Code: See staff report
Living Wage/Job Linkage: Not applicable
Other: Not applicable

Background/Supporting Information: Brad Schaeppi, the original applicant, has filed an appeal of the decision of the City Planning Commission denying three of the four requested land use applications.

The original staff report and the minutes from the April 11, 2005, City Planning Commission meeting are attached. Staff has extended the City's decision period to no later than August 6, 2005.

The appellant's reasons for the appeal are attached.

Department of Community Planning and Economic Development—Planning Division
Conditional use permit for more than 5 units, site plan review, side yard variance, and a drive aisle width variance (BZZ-2251)

Hearing Date: 4/25/05

Applicant: Brad Schaeppi, 2619 Pillsbury Ave. S., Mpls., MN 55408

Address of Property: 2619 Pillsbury Ave. S.

Project Name: Pillsbury Town Homes

Contact Person and Phone: Brad Schaeppi, 2619 Pillsbury Ave. S., Mpls., MN 55408, 651-222-3404

Staff Contact Person and Phone: J. Michael Orange, Principal Planner. Phone: 612-673-2347; facsimile: 673-2728; TDD: 673-2157; e-mail: michael.orange@ci.minneapolis.mn.us

Date Application Deemed Complete: 3/7/05

End of 60-Day Decision Period: 5/6/05

End of 120-Day Decision Period: N/A

Ward: 6 **Neighborhood Organization:** Whittier Alliance

Existing Zoning: R5, Multiple-Family District

Zoning Plate Number: 24

Proposed Use: Applications by Brad Schaeppi to allow the construction of a six-unit town house development to be located at 2619 Pillsbury Ave. S. Applications include a conditional use permit for the use, site plan review, side yard variance, and a drive aisle width variance.

Prior approvals: None

Concurrent Review / Applicable zoning code provisions:
1. Conditional use permit for more than 5 units per Table 548-1
2. Side yard variance per 525.520 (1)
3. Drive aisle variance per 525.520 (14)
4. Site plan review per Chapter 530.

Background:

Site Information (based on the applicant's submissions): A two story single family stucco home with a single car detached garage sits on a R5 lot (165 feet deep by 45 feet wide). The applicant purchased 2619 Pillsbury Ave on April 22, 2004, and has owned and occupied the residence since the purchase date. The 2600 block of Pillsbury is primarily multi-family and high density. An 18 unit apartment building lies to the south of 2619 and a 4 plex lies to the north.

2619 Redevelopment Proposal (based on the applicant's submissions): The project would remove the single family home and build 6 side-by-side, two-story, for sale town homes. Five units would have side entrances and one unit would have a front entrance. The units can be constructed either one bedroom with 1,040 sq. ft. or two bedrooms at 1,192 sq. ft. Each unit would have 1.5 bathrooms and individual washer and dryers. All units would be constructed to be compatible for rooftop decks. Exterior surfaces would include Hardi plank and galvanized steel with cedar trim and pergola around the front entrances. Five units would have one stall each and one unit would not have off-street parking. By installing 6 bicycle parking locations near each front entrance, the project requires one less car parking stall, thus no variance will be necessary for parking. The project would be fully landscaped to manage stormwater on the site that would ultimately drain to the rear alley. Pervious pavers or ecostone will be the surface under the parking. Shielded lighting would be used at all times at all locations. The proposed project complies with floor area ratio, impervious surface, and building area maximums of the R5 District.

Neighborhood comment: The Whittier Alliance Board of Directors voted to deny the subject applications (Attachment 7).

A. CONDITIONAL USE PERMIT TO ALLOW MORE THAN FIVE RESIDENTIAL UNITS

Findings as required by the Minneapolis Zoning Code for the Hawthorne Avenue Apartments project at 1501 Hawthorne Ave.:

The Community Planning and Economic Development—Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

Planning staff concur with the applicant's response: "The existing single-family home on the property was constructed in 1903 and has substantially outlived its useful life. The house was constructed prior to high density multi-family zoning (R5) and prior to high density multi-family structures that have risen . . . on the

2600 block of Pillsbury before and after the zoning code, occurring in the 1920s, 1960s, 1970s, and 1980s.

"Today, most properties on the 2600 block of Pillsbury range from four to eighteen units per building and are predominantly 2 1/2-story walkup structures. Six units is a below average number of units for the 2600 block of Pillsbury. The project design conforms to impervious surface, height, floor area ratio, and building surface area maximums of R5 zoning. The lot surface area at 2619 Pillsbury permits up to 8 units on the site. The proposed 6 units is 2 units under the maximum allowable (with a CUP for 5 or more).

"The conditional use permit will aide the general health, safety, and welfare to the 2600 block of Pillsbury. Safety will be improved with the addition of rear windows in close proximity to the alley. The City of Minneapolis public works benefits due to the removal of a non-conforming garage that presently sits on the alley line (in the rear yard 5' requirement), complicating snow removal off the alley. General welfare will benefit though the addition of owner/occupiers to a high rental area. The 2619 Pillsbury project will alone potentially double the number of owner/occupiers on 2600 Pillsbury.

"Land economically viable for redevelopment in Whittier is scarce. Many properties are valued based upon the income approach, thus do not present profitable ventures. 2619 presents a scenario where the owner is the developer and only resident who has lived in the house since April 2004. In sum, no population is disenfranchised or forced to move to accommodate redevelopment at 2619 Pillsbury."

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

Planning staff are recommending the approval of this conditional use permit and the site plan review application, and the denial of the side yard variance. In the event the Planning Commission decides to approve the side yard variance, Planning staff have concerns regarding the crowding that might result on the south side of the building. Also, the project does not provide a parking stall for each unit. While the substitution of a bike rack meets the letter of the Zoning Code, Planning staff have a concern that the project may contribute to congestion on the public streets.

The Code requires the 5 parking stalls be screened from the adjacent residential building to the north and south. Although Planning staff prefer a vegetative screening, the site is too narrow to accommodate any screening other than a 3-ft. fence, which is included as a condition of approval for the site plan review application.

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

Access to the five parking spaces will be via the alley. Public Works reviewed the project at the Preliminary Plan Review Committee meeting on 3/23/05 and made no substantive changes. The drive aisle width is the subject of the variance. Public Works did not object to the proposed layout of the stalls and the substandard drive aisle width.

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

Refer to the response to the first finding and to the applicant's response: "The City of Minneapolis and Whittier both have goals to increase alternative forms of transportation, whether bus or bicycle. 2619 adds residents two blocks from 26th & Nicollet, a high frequency transit line. In addition, 2619 Pillsbury will have one bicycle rack immediately outside each entrance, closer than auto parking, to encourage alternative transportation."

Planning staff have a concern about not providing one automobile space per unit. While the bicycle-based reduction applies to all uses, the primary intent of this allowance in the Code was not for residential uses.

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

The applicant's statement follows: "The redevelopment of Hawthorne Avenue Apartments addresses several policies set forth in the Minneapolis Plan, such as: building a skilled and employable work force in living wage occupations, connecting residents with living wage jobs, increasing housing that is affordable to low and moderate income households, encouraging and supporting walking, bicycling, and transit use, building on the educational activities of technical schools."

a. The *Minneapolis Plan* (adopted by the City Council in 2000):

Policy 4.9: Minneapolis will grow by increasing its supply of housing.

Implementation Steps (selected):

- Support the development of new medium- and high-density housing in appropriate locations throughout the City (refer also to Policy 9.1).

Policy 4.11: Minneapolis will improve the availability of housing options for its residents.

Implementation Steps (selected):

- Increase the variety of housing styles and affordability levels available to prospective buyers and renters.
- Provide and maintain moderate and high-density residential areas.
- Promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.

Policy 9.5: Minneapolis will support the development of residential dwellings of appropriate form and density.

Implementation Steps (selected):

- Promote the development of well designed moderate density residential dwellings adjacent to one or more of the following land use features: Growth Centers, Commercial Corridors, Community Corridors and Activity Centers.

Policy 9.8: Minneapolis will maintain and strengthen the character of the city's various residential areas.

Policy 9.21: Minneapolis will preserve and enhance the quality of living in residential neighborhoods, regulate structures and uses which may affect the character or desirability of residential areas, encourage a variety of dwelling types and locations and a range of population densities, and ensure amenities, including light, air, privacy and open space.

Implementation Steps (selected):

- Apply the form and density approach within the context of a neighborhood or a site and within the framework of The *Minneapolis Plan* and NRP Plans when evaluating the appropriateness of development proposals for specific sites.

Policy 9.22: Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.

Implementation Steps (selected):

- Use both infill development and new development opportunities to increase housing in the city.
- Consistent with the City of Minneapolis adopted Housing Principles, develop strategies so that the variety of housing types

throughout the city and its communities shall be increased, giving prospective buyers and renters greater choice in where they live.

- Develop an approach to residential development which combines housing form and housing density; for example, medium density residential development may be a townhouse development as well as a high-rise structure, while an attached dwelling form may result in a low density development or a medium density development.
- Ensure that new development projects incorporate a mix of housing types and affordability levels to reach a range of housing submarkets.

c. Project's Consistency with City Plans and Policies: The following describes how the petition relates to the above plans and policies and the Zoning Code:

- The site is two blocks from Nicollet Ave. in the area where the *Minneapolis Plan* designates the street a Commercial Corridor. Per Policy 9.5, medium-to-high density residential is appropriate in areas close to Commercial Corridors.
- Consistent with the City Goals and Policies 4.9 and 4.11, the project provides new home ownership possibilities in a residential area of the City and will transform a site (that is currently under-utilized as regards the R5 zoning for a single-family house) into 6 condominium units of modest cost, market-rate housing.
- There is no public subsidy for the development.
- At 35 units per acre, this project is classified as a high-density development which is called for by the R5 zoning district.
- At two stories and 22 ft. in height, the design, massing, and bulk, of the project are compatible with the character of the medium-to-high density residential neighborhood consistent with Policy 9.8, 9.11, and 9.12.
- The building is built up to the minimum front setback consistent with Policy 9.9.
- Planning staff have a concern about the form of the development being incompatible with the predominant building form in the neighborhood as well as concerns related to privacy.

6. And does in all other respects conform to the applicable regulations of the district in which it is located.

The subject variances and site plan review applications address the other issues of the Zoning Code and other applicable regulations governing this district.

A. B. SIDE YARD VARIANCE FOR THE STRUCTURE

Findings as Required By the Minneapolis Zoning Code for the Side Yard Variance:

The Board of Adjustment and Planning Commission shall not vary the regulations of the zoning code, unless it makes each of the following findings based upon the evidence presented to it in each specific case:

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

The proposed project includes side entrances for the internal four units.[1] These side entrances increase the required side yard setback on the south side of the lot from 7 feet to 15 feet.[2] With the 7-foot northern side yard, the buildable width for this 45-ft.-wide lot is limited to 23 feet (51% of the lot width) with the applicant's design. Without the side entrances, the buildable width would be 8 feet wider, 31 feet (69% of the lot width). The applicant's design intrudes 6 feet into the required south yard with its 9-foot setback from the property line. This 6-foot intrusion is the subject of the variance.

The applicant's statement follows:

> "Adding home ownership to 2619 Pillsbury, a goal of the Comprehensive Plan and Whittier, requires working within the confines of a 45' wide by 165' deep lot with rear alley access. These dimensions preceded the addition of high density zoning classification of R5. Except for properties that abut 27th Street, Pillsbury Avenue does not have curb cuts along the Avenue, only rear alley access for any off-site parking. The result forces off-street parking to the rear of the lot with residents walking to their units from the rear toward Pillsbury Avenue.
>
> "2619 Pillsbury is zoned R5, a 'multiple family district established to provide an environment of high density apartments, congregate living arrangements and cluster developments on lots with a minimum lot area of five thousand (5,000) square feet and at least nine hundred (900) square feet of lot area per dwelling unit.' 2619 Pillsbury has a width of 45' and a 165' depth for a total of 7,409 sq. ft., 2,400 sq. ft. over the minimum R5 lot area. At the present time, a single family home covers approximately 5.4% of the lot area, while R5 zoning permits up to 75% lot coverage without a variance.

[1] The attached site plan shows the rear unit with a side entrance as well. The applicant may wish to face that entrance to the rear of the unit.
[2] Side yards must be 5 ft. plus 2 additional feet for every story above the first story. Side entrances increase this to 15 ft

"According to the Land Use Map complied by the City Assessor, February 2005, 2619 Pillsbury is one of two single family homes on the 2600 block of Pillsbury. Other adjacent structures include: 1-19 unit apartment, 3-18 unit apartments, 1-10 unit apartment, 1-8 unit apartment, 2-5 unit apartments, 4-4 unit apartments, 1 boarded up duplex, and 1 other single family home. Thus, the average on 2619 Pillsbury is 8.57 units.

"When applied through a strict singular zoning lens, 2619 Pillsbury is disabled from achieving the goals of the Whittier Plan and the City of Minneapolis Plan (specifically 9.5, 9.16, 9.17, 4.9, 4.11). For instance, most historic structures on the 2600 Block of Pillsbury do not comply with today's side yard zoning requirements. Specifically, the structures to the north and south of 2619 Pillsbury at 2.5 stories are 3.5' and 5' respectively from the lot line with 2619 Pillsbury, not the 7' required. Later in time, zoning removed an extra 4' of the total 45' width when building 2.5 stories, 8.88% of the width of the lot. Two floors as proposed require 7' setbacks for a total side yard (14/45) of 31% the width of the lot. Three floors require 9' setbacks for a total side yard of 18'/45' or 40% of width. Practically speaking, this distance is equal to or greater than the common corridor in the adjacent apartment buildings that did permit rentable or saleable units with a reasonable width on both sides of the common corridor. Crowe/Schaeppi argues this "historic" development as demonstrated on the block with central common corridor apartments on a 45' lot has been rendered obsolete by later in time, wisely written standard side yard minimums for fire, health, and safety standards. The only economical option is to make beneficial use of side yard entrances.

"Crowe/Schaeppi argues that the side yard entrance setback minimum was drafted for a different intent than the side yard setback minimum, arguably mitigating "activity" as represented by Michael Orange, not the same fire, health, and safety requirements for structure spacing. Thus, the decision of whether or not to vary the side yard should be read as producing less impact to strict fire, health, and safety standards of standard minimum side yards. Crowe/Schaeppi requests the City consider the side yard entrance variance knowing the side yard design as presented increases the remainder side yard area (9' rather than 7') permitting more sunlight, air, and access than otherwise would occur in a "historic" redevelopment built form at two stories. As precedent, an apartment building on 2600 Pillsbury has two stories of balconies that face a side yard creating arguably higher levels "activity" than the 4 side entrances as presented.

"Whittier has a price point ceiling for newly constructed owner/occupier condominium units at around $270,000. This number was assessed by an analysis of the marketplace, especially those units at 26th & Nicollet

(nearest new construction project) where most priced over $270,000 have not sold for 6 months, while all units under $270,000 sold quickly. At 6 units, 2619 redevelopment permits the sale of 6 units between $220,000 and $250,000. The proposed new modern, open floor plans are essential to attract young professionals who demand specific housing options, furthering 4.11 of the Minneapolis Plan.

"Importantly, adding fewer units (4 or 5) with larger square footage is not a viable redevelopment option at 2619 Pillsbury. The market demands a price point largely below $250,000 in Whittier. Adding additional square footage adds additional construction costs to the developer, with no opportunity to reclaim costs for larger units on the revenue side (more square footage, same total price ceiling). In other words, it is not a straight multiplier of price per foot in Whittier. The project becomes economically viable only when the properly designed units at the correct square footage are placed onto the marketplace. As a note, the design substantially complies with almost every provision of R5 zoning: number of units (6 not 8), height (25 feet not 56 ft), number of floors (2 not 4), impervious surface (66% not 85%), floor area ratio (.95 not 2.0), lot coverage (47% not 75%), and parking 5 stalls for 6 units with individual bicycle parking at each door to not only meet a reduction provision but to encourage bicycle trips rather than auto trips in the neighborhood.

"Lastly, no decision on this hardship request should be made without a full understanding of the challenges to adding owner/occupiers to Whittier, arguably due to the built form challenge of 45' wide lots and the present day zoning code. According to 2000 Census data posted on http://www.ci.minneapolis.mn.us/neighborhoods/whittier_housing.asp#TopOfPage, Whittier has 781 owner occupied units and 6,250 renter occupied units (12.5%). To "increase community" Whittier has a goal to increase home ownership. At the present time, 2600 Pillsbury is approximately 90-95% renter occupied. There appears to be only two other owner occupied units on Blaisdell—one woman named Virginia who has lived on the block for 60 years and one family who occupies the only other single family home on Pillsbury. 2619 Pillsbury would more than double the amount of owner/occupiers on the entire block.

"In sum, the side yard hardship boils down to producing an economically feasible private market/non-subsidized project designed to fit a 45' wide/165' deep lot with the appropriate number of medium density units requested of the market demand, R5 zoning, Whittier ownership goals, and City commercial corridor and housing supply and option goals."

Planning staff believe that the site can be redeveloped at the R5 level of density using a 31-foot-wide building that meets the side yard setbacks. As is the case for

the vast majority of multi-family buildings in the City, an entrance on Pillsbury could give access to an internal corridor that then provides access to the units in the structure. The applicant is the source of the side yard "hardship" through the nature of the design that relies on side entrances, not the Zoning Code.

The applicant replied to this point as follows:

> "The width of the lot necessary for interior common area entrances eliminates significant first floor square footage, thus forcing a floor plan design of only long/narrow shot-gun type units. In consequence, redevelopment would have to reclaim square footage on additional vertical floors, significantly shading properties to the north and forcing construction costs beyond the purchase price point of Whittier. The literal reading of the City code forces re-development up (R5 permits up to 56 feet), yet the end product of the proposed development neighborhood sits at an appropriate height (below neighboring properties).
>
> "Even if exterior entrances occur only on the front and rear, residents remain forced to walk along the property line towards their units from their off-street parking. Thus, the impact of the plan with side entrances, walking along the lot line from the rear to the front, is a pre-existing circumstance due to the configuration of the lot, one not created by the present owner of the property. Lastly, many existing old structures in South Minneapolis (including the single family home on the site) do have side doors that facilitate pedestrian traffic along and into the side yard."

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

The above statements from the applicant address this finding. The requested variance is not based on unique circumstances related to this parcel.

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

The above statement from the applicant addresses this finding.

The applicant has proposed two alternatives for consideration: Part of the intent of the Zoning Code with the increase the side yard setback for side entrances was to provide a distance buffer between the windows on adjacent residences and the activities associated with entrances (people coming and going, the potential for

noise, night lights, etc.). The applicants are willing to recess the entrance area by 6 feet to meet the side yard setback in this area only while keeping the rest of the building out to the proposed 9-foot line. A second alternative is to recess the first floor to the 15-foot setback but allow the second floor to cantilever out 6 feet to the proposed 9-foot setback.

The Planning Department position is that both of these alternatives yield inferior designs. The adjacent, 3-story, 18-unit apartment building to the south is 5 feet from the property line. This allows only 14 feet between the apartment building and the new building. The apartment will shadow the entire south side of the proposed building for half the year between the autumnal and the spring equinoxes. Recessing entrances and cantilevering the second floor will exacerbate this condition. Staff also believe a cantilevered design will not be compatible with the other buildings in the area. Further, the proposed side entrances, even if set back 15 feet, would direct a good deal of foot traffic into the side yard, which would have a negative impact on the privacy of the adjacent residents.

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

The applicant's statement follows:

> "In the event of fire, the present design of nominally 10' side yard setback to the south increases the chance of fire rescue to access the interior of the lot versus the alternative no-side entrance design. Also, the 10' side yard entrance setback, rather than 5' permitted without entrances, aides the public welfare through additional natural sunlight available to the apartment building to the south versus the alternative no-side entrance design. The requested variance does not increase the congestion of public streets."

The side yard variance will have no substantive impact on congestion, the danger of fire, or the public safety.

B. C. DRIVE AISLE WIDTH VARIANCE

Findings as Required By the Minneapolis Zoning Code for the Side Yard Variance:

The Board of Adjustment and Planning Commission shall not vary the regulations of the zoning code, unless it makes each of the following findings based upon the evidence presented to it in each specific case:

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

Parking for the project is accessed via the alley to the rear of the site. There would be 5 feet between the 5 stalls and the property line on the alley. Section 541.290 requires that all maneuvering associated with parking occur in the off-street parking area (with exceptions that do not include this project). Thus, the Code requires a 22-foot drive aisle between the alley and the stalls. The lot is relatively narrow at 45 ft. for an R% District intended for medium-to-high density housing. To accommodate 22-foot maneuvering area, the applicant would either have to shrink the length of the building by 17 feet probably by eliminating one of the units. At 5 units, the site would be developed at 63% of its allowable density (based on the proposed layout). Another alternative is to build higher than the proposed two stories to both accomplish the density allowed by the Code and meet the drive aisle requirement.

Neither the staff of the Planning Division nor Public Works staff believe safe access to these 5 parking stalls warrants a 22-foot drive aisle.

The applicant's statement follows:

> "The Drive Aisle Variance is a function of a number of regulatory provisions which encourage redevelopment of the site of 2619 Pillsbury, R5 zoned lot 165 feet long and 44.9 feet wide, but at the same time present undue parking hardship to the proposed project at 2619 Pillsbury that meets the spirit of the City and Whittier goals of a diverse supply of homeownership opportunities near transit lines while blending into the present urban structure and form.
>
> "The lot in question is 7,404 sq. ft. in area, permitting up to 8 units, subject to all other regulatory provisions. Permissible height on the site is a maximum 56'. Building to 56' on the block of 2600 Pillsbury would not "fit" the average height of adjacent properties which are 2.5 stores or 35-40 feet. In order to keep within this framework, development is kept at a height of 25' and floor area ratio of half of that permissible. In addition, lot coverage encourages infill development with up to 75% coverage, yet as presented, the project, with only 47% coverage, makes it difficult to park necessary off-street parking. The end result is redevelopment as presented which by taking into all accounts of public and private impact, requires greater use of the depth of the lot and a balancing of public and off-site private impact.
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> "The alley between Blaisdell and Pillsbury already has many pre-existing conditions that force some degree of maneuvering onto the alley,

decreasing the overall impact to the alley. In addition, it is arguable that 5 parking stalls could sit as they are designed on 2619 Pillsbury but for the number of units. For instance, if the development was a 4-plex, the Code would permit such a configuration of 5 stalls 5' from the alley. Yes, this is not the case, but the point is made to quantify the impact that could possibly occur with redevelopment at 2619 without a variance.

"While there will be public and public works impact, the overall impact is mitigated due to the removal of the present garage at 2619 that sits up to 1 foot off the public alley. Removing the garage will benefit the City and public works allowing for greater maneuvering up and down the alley in times of emergency and add needed snow storage off the public alley onto 2619 Pillsbury. To put the present impact into perspective, cars can pull out of the present garage, but when they motion forward they must blindly turn into the alley due to the non-conforming garage. Cars that will pull out 5' then across 2' of the non-paved alley will have 7' to be noticed by on-coming traffic, much more than the present 1'."

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

The above statements from the applicant and Planning staff address this finding.

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

As stated above, the staff of the Planning Division and Public Works staff do not believe safe access to these 5 parking stalls warrants a 22-foot drive aisle.

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

The drive aisle width variance will have no substantive impact on congestion, the danger of fire, or public safety.

C. D. SITE PLAN REVIEW

D. Findings as Required By the Minneapolis Zoning Code for the Commons at Hiawatha Project at 2740 Minnehaha Ave.:

Section A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A below for evaluation.)
Section B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan (refer to the above discussions).
Section C. The site plan is consistent with applicable development plans or development objectives adopted by the City Council (refer to the above discussions).

Section A: Conformance with Chapter 530 of Zoning Code

Building Placement and Facade:

- **Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.**
- **First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.**
- **The area between the building and the lot line shall include amenities.**
- **The building shall be oriented so that at least one (1) principal entrance faces the public street.**
- **Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.**
- **For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.**
- **In larger buildings, architectural elements shall be emphasized.**
- **The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.**
- **The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.**
- **Entrances and windows:**
  - **Residential uses shall be subject to section 530.110 (b) (1).**
  - **Nonresidential uses shall be subject to section 530.110 (b) (2).**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

Planning Division Evaluation of Building Placement and Façade Requirements:

- The building is built up to the front setback line and the yard is fully landscaped.
- The entrance to the first unit faces Pillsbury.

- Building elevations include architectural detail, articulation, a variety of colors and materials. Although not shown on the front elevation in Attachment 4, the applicant will add a window on the west façade to bring it into compliance with the Code's requirement for more than 30% glass. All elevations are compatible with one another.

Access and Circulation:

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).**
- **Areas for on-site snow storage are provided.**
- **Site plans shall minimize the use of impervious surfaces.**

Planning Division Evaluation of Access and Circulation:

- All entrances are connected to the sidewalks.
- Vehicular access is via the alley.
- The project meets the requirements of the Zoning Code as regards parking. Note, however, that the applicant is providing bicycle parking to substitute for one of the required automobile parking spaces.
- There is no acceptable on-site area for snow storage.
- All areas not covered by the building, parking, and walkways are landscaped in order to minimize impervious surfaces. The parking area and possibly some of the walkways will be paved with pervious pavers.

Landscaping and Screening:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
- **Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**
    - **A decorative fence.**

- **A masonry wall.**
- **A hedge.**

- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).**
- **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**
- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.**

Planning Division Evaluation of Landscaping and Screening:

- The site (7,408 sq. ft., 0.17 acres) less the footprint of the building (3,577 sq. ft.) equals a net site of 3,831 sq. ft. Twenty percent of the net site area (766 sq. ft.) must be landscaped to the standards of Chapter 530. The project includes 1,555 sq. ft. of landscaping, which equals 41% of the net site.
- The applicant proposes to use pervious pavers for the parking area (23 X 42.5 = 978 sq. ft.). This represents an additional 26% of the net site (however, pervious paving cannot be counted towards meeting the 20% landscaping requirement).
- The project exceeds the minimum number of trees and shrubs required by the Code.

- Parking lots of four or more spaces are required to be screened from adjacent residential. As a condition of approval, Planning staff are requiring the addition of a 3-ft. fence that is at least 95% opaque to the north and south of the parking area.
- All areas not occupied by buildings, parking facilities, walkways, or driveways are landscaped.

Additional Standards:

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **Buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260: The Police Division has reviewed the plans.**
- **Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

Planning Division Evaluation of the Additional Standards:

- The applicant will comply with the lighting requirements in the Zoning Code. No fixtures will create off-site glare.
- Alley access will minimize the potential for headlight glare to affect residential properties in the area.
- Since the building will be lower than most of the other buildings in the area, it will not block any views of important elements of the City.
- The location and height of the building is such that it will not shadow public spaces and adjacent properties or generate wind currents at ground level.
- The Police Division has reviewed the plans as regards crime prevention design elements as specified in section 530.260.
- There are no locally designated historic structures or structures that have been determined to be eligible to be locally designated.

<u>Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan</u>

ZONING CODE:

Hours of Operation:

Not applicable.

Dumpster screening: Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses.

Although this is not yet shown on the site plan, trash will be stored in a fully enclosed structure on the eastern end of the site.

Signage: All new signage is required to meet the requirements of the Zoning Code and permits are required from the Zoning Office.

Not applicable.

Air conditioner units: The applicant will move the two air conditioner units shown on the site plan that are north of the project and opposite the apartment to the north.

MINNEAPOLIS PLAN:

Applicable policies of the *Minneapolis Plan:* Refer to the findings above in the conditional use permit portion of this report.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

Refer to the findings above in the conditional use permit portion of this report.

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

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as**

historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.

- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

Planning Division Analysis Regarding Alternative Compliance:

The project as described herein is not in compliance with the site plan review requirements in the Zoning Code in the following ways:

- There is no acceptable on-site area for snow storage. As a condition of approval, Planning staff are requiring the applicant to remove snow off site.
- The front façade as shown in Attachment 4 does not meet the 20% glass requirement. The applicant has committed to add a window to bring the façade into compliance.
- The attached site plan does not detail the trash enclosure. The applicant has committed to enclose the trash containers consistent with the Code.
- The site plan does not include screening of the parking lot. The applicant is committed to adding a 3-ft. fence to resolve this matter.

E. RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department—Planning Division for the Conditional Use Permit for Five or More Dwelling Units:

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application to allow 6 dwelling units at 2619 Pillsbury Ave. S.

Recommendation of the Community Planning and Economic Development Department—Planning Division for the Side Yard Variance:

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the side yard variance application for the project at 2619 Pillsbury Ave. S.

Recommendation of the Community Planning and Economic Development Department—Planning Division for the Drive Aisle Width Variance:

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the drive aisle

width variance application for the project at 2619 Pillsbury Ave. S.

Recommendation of the Community Planning and Economic Development Department—Planning Division for the Site Plan Review Application:

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for the project at 2619 Pillsbury Ave. S. subject to the following conditions:

1. The Community Planning and Economic Development—Planning Division shall review and approve the final site, landscape, and lighting plans.

2. The applicant shall enclose the trash containers, move the two air conditioning units on the northwest end of the site, and add a 3-ft., 95% opaque fence to screen the parking.

3. The applicant shall remove snow from the site.

4. If the site improvements exceed $2,000 in value, the applicant shall submit a performance bond for these improvements prior to the issuance of building permits.

5. The site improvements shall be completed by April 31, 2006, or the application may be revoked for noncompliance, unless extended by the Zoning Administrator or the City Council.

6. Not less than 20 percent of the first floor façade that faces the public street shall be windows as required by section 530.110(b) (1) of the zoning code.

ATTACHMENTS

1. Zoning and parcel map
2. Zoning
3. Survey
4. Site plan, floor plans, elevations, and renderings
5. Submissions from the applicant, statement of purpose, responses to required findings
6. Photos of buildings in the area
7. Letter from Whittier Alliance

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

350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
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(612) 673-2157 TDD

MEMORANDUM

DATE: April 12, 2005

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

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

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

SUBJECT: Planning Commission decisions of April 11, 2005

The following actions were taken by the Planning Commission on April 11, 2005. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Present: President Martin, El-Hindi, Henry-Blythe, Krause, Krueger, Kummer, LaShomb, Schiff and Tucker – 9

11. Pillsbury Townhomes (BZZ-2251, Ward 6), 2619 Pillsbury Avenue (Michael Orange)

A. Conditional Use Permit: Application by Brad Schaeppi for a conditional use permit to allow the construction of a six-unit town house development to be located at 2619 Pillsbury Avenue.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application to allow 6 dwelling units at 2619 Pillsbury Avenue South based on the following findings:

1. The plan negatively impacts the orderly development in the surrounding area.

2. Proximity to neighboring properties is injurious to the use and enjoyment to those properties.

B. Variance: Application by Brad Schaeppi for a side yard variance for the property located at 2619 Pillsbury Avenue.

Action: The City Planning Commission adopted the findings and **denied** the side yard variance application for the project at 2619 Pillsbury Ave. S.

C. Variance: Application by Brad Schaeppi for a drive aisle width variance for the property located at 2619 Pillsbury Avenue.

Action: The City Planning Commission adopted the findings and **approved** the drive aisle width variance application for the project at 2619 Pillsbury Ave. S.

D. Site Plan Review: Application by Brad Schaeppi for site plan review for the property located at 2619 Pillsbury Avenue.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review application for the project at 2619 Pillsbury Ave. S. based on the following findings:
1. The project is too much in too small of a space.

Staff Jason Wittenberg presented the staff report.

President Martin opened the public hearing.

Matt Norton (2600 Harriet Avenue): I support the project and just want to offer the perspective of a person in the neighborhood that narrow walkways on the sides of buildings are an attractive thing if they're done well. I speak from a little bit of experience in that my sister who lives in Center City, Philadelphia lives in an old house that happened to be in very high demand these days – called Trinities. The entranceway for five different units on her walkway is incredibly narrow but they're turned into common gardens with planters and that sort of thing. I do think it would be an attractive addition to the neighborhood. And I also think that it advances the interests of having city residents close to revitalizing commercial centers which at the corner of Nicollet and 26th is one. I want to give my support to the project. Thank you very much.

Marian Biehn (Whittier Alliance): The Whittier Alliance is asking that you deny the request for the CUP for five or more units and the variance for the side yard setbacks. Brad Schaeppi has presented his concept of 6 townhomes to multiple community issues neighborhood meetings starting last November. At each turn of the presentation, the neighborhood and the board has turned down his proposal. As you see on the most recent March 24th motion. After the March 14th community issues meeting, Brad Schaeppi e-

mailed me that he had no intention of proceeding with the proposal without further neighborhood input. This type of speculative development in this neighborhood, although we support multi-housing, the neighborhood and particularly that block does support that. There are condominium conversions going on along that block. And just because this is zoned R5, doesn't mean that it's the right thing to do for this lot or for this house. It's currently a single-family home. And the percentage of free-standing, single-family homes is minimal. This is a home that is an opportunity for a family to have ample space and a yard. The demolition of this property, even with a salvage, and replacing it with six townhomes would forever lose the opportunity for the neighborhood and for a family with children to have a free-standing home with a yard, and that is a commodity in Whittier. Currently in Whittier there are ample existing and in the pipeline condos of 600 to 1,000 to 1,200 square feet. This house is larger than that and it does offer the green space which, like I say, is a commodity. According to the findings, it will not be detrimental or endanger or put the health or safety or comfort of others in danger. Yes it will. It will be detrimental to the safety. Side yard entrances, particularly in this narrow lot, according to our 5th precinct CRT team, could be a danger, not only for access to the homes but for fire and police and safety access. They are hard to reach and also they will be a detriment and endanger the comfort of the neighbors next to it based on lighting, noise and since there are no basements or garages, there's no place to store things, so there will be clutter. One of the comments that was made by the staff is an existing single family home on the property has outlived its useful life. It was sold to Mr. Schaeppi in 2004 for over $200,000, so it seems like it still has a viable price tag on it. And I think based on the Minneapolis Plan, if Minneapolis is looking for a variety of housing options for its residents, the Whittier neighborhood does have the variety of single family homes, apartments, condos and this is a supply of housing that of limited availability in Whittier. So it is a type of housing that should be supported – the single family home should be maintained on this site. Again, on the Minneapolis Plan, this for policy 4.11, this is a variety of housing that is valuable in our neighborhood and we ask that you deny the CUP and maintain that housing. Thank you.

President Martin: Can I just ask whether there have been any requests by Whittier or by owners of these sorts of properties, which are clearly zoned way out of proportion to what they are, to get the zoning changed?

Marian Biehn: No there has not. Good idea.

David George (2621 Pillsbury Avenue owner; 2515 Blaisdell resident): I've lived in the area pretty much all my life and am quite familiar with the type of structures, the type of architecture that are in that neighborhood. I'm basically opposed to the project for two main reasons. The first one is the extreme closeness to my building of the proposed property. Particularly with the requested variance. Secondly, with the positioning of the five or perhaps even four side entrances, which will face directly toward my building, toward the bedroom windows, living room windows, kitchen windows of approximately 10 of the units, half of the building. I believe that's just going to be an intolerable situation. The pathway that is proposed for the new development is only five feet away

from these windows and the front entrances are only several feet further. I can envision that there will be constant noise, if not wild noise, just regular normal noise that's going to be almost precluding these people from opening windows and enjoying the outside through their windows. The other issues I think, and I'll go through them a little more quickly, I believe that the closeness of the building, both to my property and to the 4-plex on the north of this proposal, presents a fire hazard on the one hand. And on the second hand, if there were a fire to start, it would be extremely difficult to access by fire crews. I can't imagine a ladder being positioned vertically, or I shouldn't say vertically, at an angle between these properties. It would be almost going straight up. The noise, particularly on the south side where this pathway goes from the front street to the alley, will essentially echo back and forth between these two buildings and create somewhat of a canyon effect so that any normal noise at one end is likely to be heard at the other end. In addition to the noise, the light will obviously be reduced, not only to my property but to the new property and to the property to the north. The air quality (I believe) will be reduced. I can envision several people trying to grill outdoors during the summer and smoke going pretty much all along this canyon into any open windows that might be there. The walkway from the front street to the rear poses a unique opportunity for potential criminals who might want to do… certainly one way that some of the drug dealers in the neighborhood operate, they do a drug deal on the street and be positioned somewhat in the middle of the block so they quick dart between buildings to a waiting bicycle or car in the alley or over to the next street. I can attest to that because when I was a kid that's exactly what we did with snowballs. Unfortunately now it's with drugs. It's a pretty easy job for somebody to do – drug dealing and disappear between these buildings. The space in the rear, I don't believe is adequate for the parking. The five spaces in the rear… There's almost no space to put plowed snow. The snow apparently would have to be removed by some other vehicle. There's almost no space for garbage containers. There's almost no space for maneuvering as I think was already discussed. The yard space is almost nonexistent. No basement, no storage areas. I can't imagine what people are going to do with their camping equipment, a kayak, a swimming pool for the kids, tools, and extra gas can, et cetera, et cetera. Typically, those things go in my basement or my garage, but there's no such facility here and I can envision everything including Christmas decorations or whatever piling up somewhere and perhaps in front of the units. The units, I believe, even though they meet the requirements, are simply too many for too small a parcel. The architecture, in my opinion is unattractive and really doesn't fit the character of the neighborhood which I'm hard put to even describe the particular architecture – it seems to have no particular identity. The construction materials, I don't believe are of the highest quality. Chintzy might be a charitable way to describe them in my opinion. I think all this will lend to a situation where perhaps these units will be difficult in the future to sell. I think they have a high probability of becoming so called investor rental units and I don't think that would lend to the stability of the neighborhood. Finally, there is a proposal and an option to provide rooftop decks for these units and that I think would be another indelicate situation. On a summer night, to have people up on top of these roofs, essentially broadcast to anyone who's in listening distance. That concludes my comments. I did provide a letter and I don't know if Michael Orange was able to get it to the members of the Commission… And several

opposition statements from people. I have a total of 18 opposition statements which I'll leave with you. The thing to distinguish here is the importance between people who have an intellectual curiosity or an intellectual interest in this property who may not live right next to it and those people who in fact do live right next to it. I own the building right next to it and 20 of the signatures which I have are people who immediately abut or are adjacent to the property on the north side, on the south side and in the rear across the alley. To a person, we are all opposed to this project for reasons I've already discussed.

Commissioner LaShomb: Do you know how many units are in 2621?

David George: 18.

Commissioner LaShomb: How many units are in 2615?

David George: 4.

Commissioner LaShomb: So, just hypothetically, 2619, if it were developed would be substantially less units than 2621 and one more unit than 2615.

David George: Yes.

Commissioner Tucker: Question: How far is your building set back from the property line?

David George: 5 feet.

Paula Horan (2023 Stevens Avenue): I'm speaking against the proposal. Whittier Alliance has been working for stability in the neighborhood. Currently and in the past we've been a neighborhood of many, many rental units. We're working very hard so we have more home ownership. And this particular building looks as though it is home ownership at first glance, but it gives families no way of growing. I can't see anyone living in these units very long without having garages or basements. So stability is a question. Also, the other thing is parking with subtracting one spot because you've got a bicycle rack. I think that the number that you're talking about one per unit isn't enough anyway. And then to subtract it because you've got a bicycle rack… I have rental units. People are not especially wealthy in them and yet, in spite of the fact that I'm within half a block from the number 2 bus and two blocks from the 18 and the 17, I average 1 ½ cars per unit and what's going to happen is you're going to have an extra 4, 5, maybe 6 cars right out on the street. So to give a variance because there's a bicycle rack I think is really pretty silly. It was intended for a working situation, not as this says, for home ownership. Thank you.

Brad Schaeppi (applicant): I expect that you have all read the report and I won't go in length in anything in front of you. To that degree, I hope you also understood that the wide support of the neighborhood, including adjacent property owners, that was included

in that packet. From the pastor of the church to Urban Homeworks directly across the alley to three businesses including the Falls Agency, a block away, the owner of Foreign Auto Works, the owner of the Chiroprat [sic] four lots down that I think it's a bit misconstrued to say that people in and around the block don't support the project. So [I] respectfully disagree to that point. Getting to the general issue, the gist of why the side entrances. Basically there's an R5 lot in front of you. It has a depth that's a little over four times as it is wide presenting challenges. The buildings that are there currently had the benefit of using up to five feet of the lot. I mentioned this point in my report. But I want to stress that the alternative to what we're doing in terms of redevelopment, meeting the City goals on this lot, basically limits your units. If you're going to have that four feet from five to seven feet two stories make each unit on the side would have to be around 12, 12 ½ feet. That's arrived at 45 minus 10, 5 yards, 5 feet minus 4, which it's now 7, minus 5 feet for a corridor is 26 minus 3 feet for exterior walls and party walls in the middle. Bringing you down to about 12 ½. The alternative to what we're doing – there simply is none. It's not our preference to propose this, but I think at the end of the day, this is a great thing for the block and the neighborhood. There is no alternative. The project was proposed to keep within the height of the block. It's lower in height than the projects next to it. And in terms of the crime issue – I just want to have a quick rebuttal – this project does… There's some benefits to having a long building that there's going to be windows on the rear. That's our rendering of the rear. The setback is going to be different. What you in fact have instead of garages which run up and down the alley in certain areas basically closing off the alley, closing off eyes on the street, that there is a benefit to having a building of this sort where you'll have lights on and people cannot just kind of lounge around without being noticed. I wanted to make that point. Then, I basically want to speak to the issue of activity and the side yards. It was our original intent to work with… understandably we have a very large building to ourselves. The entrances, as proposed, point towards the building. So basically, we've worked with Michael over some revisions on entrances and understanding what does 15 feet mean as the entire building is at the entrance. So, once we found out the staff report last week we kind of have one suggestion for alternative compliance that can meet the spirit of reducing activity with the side yards at the same time permitting home ownership on this lot. The site plan in front of you…[indicates site plan] …Presently on the front under the other alternative where we were 7 feet from the building to the north and 9 feet from the building to the south (David's building), this proposal would have front entrance here, allowing it to look like most of the buildings on the street – how they have one entrance. There's only one other building on the street that has two doors on the front so that keeps with the look of the front from the street as you drive by. A rear entrance, which would face the rear, and this you can see carefully, the 7 feet now faces the property at 2621 to the south where there are no entrances here, here, here, here, or here. So activity, and what will be proposed is what it was flip-flopped on the other rendering where there's a fence not permitting activity and people to walk through the alley. That, in effect, will take advantage of the 4-plex that maybe in 20 years we're redeveloping 90 percent of our lots, but currently sits on the front half of the lot where we would add entrance here, here, and here, leaving one entrance that is 9 feet from the property. Presently, my house sits 4 feet from the building to the north. And I also have a side, not a principal, but I do have a

side door that faces that building. So, in sum, what I'm arguing is that if alternative compliance is possible that this allows doors to open up into fenced area. Not a building, not a window, that all but one of the units can essentially walk to their front entrance without disturbing.

President Martin: How wide is that walkway?

Brad Schaeppi: You would have 9 feet in between properties simply flipped the other way around. So 9 feet on the north. So we could have the walkway as wide as it would work with the City as well as ADA compliance to the degree that it affects. The site is relatively flat with about a 2 foot grade over 165 feet and all along we've proposed significant landscaping, rain gardens, that essentially filter into the front and back to the alley for service water entry.

Commissioner Krause: Madame Chair, Mr. Schaeppi was formerly employed by the Green Institute – hasn't been for quite a while – I'm just disclosing that. I don't think there's a conflict with that. I did have a question I wanted to ask you about. The decision to not include basements. Can you maybe explain for us why that was part of the plan?

Brad Schaeppi: With respect to the basement, it certainly came from our perspective. We believe access to sunlight is a great thing, so under our proposal in our base line budget for our construction we have money in to support extra square footage on the roof so it allows – if someone wants the option… Essentially we flipped the concept that the basement is space that… we have a big building to the south, we'll receive very little light, that we'll put some extra costs into the construction of the 6-plex, allowing rooftop access to some. And so, there was no intent to deny… There's a part 'B' to your answer is that quite frankly there's a price point to home ownership in Whittier and we're obviously… There's clearly constraints on the site as to the number of units we can do. So, what we proposed for significant square footage from 1,050 to 1,200 where that is the size of the unit. If you were building larger units that included basements, there would be extra cost, but if that's a public policy that's not in the City plan but is supported by this Planning Commission, we would take that into consideration.

Commissioner Krause: I guess the issue is the question of storage which I think was well made by a couple of the other speakers. Those items that are not in use continuously. Where do you put those when there isn't also a garage.

Brad Schaeppi: Without question, there's less storage. It's a bit of a hybrid, yes, a traditional house that has a full basement and a condo that has possibly one closet. We have in terms of efficiencies for laundry on the second floor, there's a stacked laundry closet by bedroom, so in terms of a basement for that purpose, we've just made a more efficient living space. In terms of closet on the first floor, there's one entry way closet. There's also where the utilities are in the interior there is a closet. But yes, there is less storage than if there was a basement.

President Martin closed the public hearing.

Commissioner Krause: Madame Chair, we were presented with an alternative site plan proposal essentially that moves those entrances around and that seems to be one of the principal objections so I guess staff could maybe give us some guidance in how they would like us to handle that. We have a very different site plan in front of us today.

President Martin: We don't have site plan review.

Commissioner Krause: Well the variances are driving that site plan with those entrances on that south side.

Staff Wittenberg: I don't believe the revised site plan would change staffs' opinion. The concern would remain and our recommendation would remain the same that we need to deny what would now be the north side yard variance to reduce that required setback. Even the single unit that would be directly adjacent to the building to the north would still be a concern as well as still spilling the rest of that activity into the interior side yard. Even if it's only adjacent to somebody's back yard.

Commissioner Krause: Madame Chair and Jason, then, the developer, if we were to approve the variance allowing the side entrances on the north side and the developer wanted to come back with his alternative proposal, would he have to seek new approval from us? That can't be done administratively it seems.

Staff Wittenberg: I would have to see how Mr. Orange sent out the notice, but my assumption that that went out as a variance of the required south side yard so if we were to want to grant the north side yard variance, that would have to be re-noticed.

Commissioner Krause: Let me make just one additional comment which is that I'm looking at the photographs and it appears to me that the windows for the adjacent buildings are set up quite high. So I'm not sure that the top of the doors for these entrances that are in that side yard – the top of the door even gets as high as the window. So I don't see as much conflict there as there might be. I'm also noticing that there really doesn't appear to be any active living space. There's not enough room to have a chair to sit outside in the summer time, it is merely and entrance and the entrance only. So in that sense I don't have as much of a concern about that conflict.

Commissioner Tucker: I would be concerned about the proximity of this proposal to the building to the south. I think that's just close with those entrances and doesn't give enough breathing room for those entrances. So I would recommend the staff recommendation to deny.

Commissioner Schiff: To clarify, if we denied the variance, how much would Mr. Schaeppi have to narrow the building in order to go ahead.

Staff Wittenberg: I believe his proposed building extends 6 feet into the required setback so we'd have to remove 6 feet and I believe that leaves him with about a 22 or 23 foot wide building.

Commissioner Schiff: I'm going to move to deny the conditional use permit. I do think this particular site plan does negatively affect the orderly development of the surrounding area and the use and enjoyment of surrounding properties because of their proximity on that south side (Tucker seconded). [end of tape] I think the lack… I like the concept of this development but it's just too much wedged in here. I think it would be great on a reverse corner lot and if there was more of a side yard, more space, it would be more livable. And I do think as Mr. Schaeppi's written testimony shows quite well that this is economics that's driving this. The fact that cutting it back to something that would not need a variance just would not be economically viable. Finding number two under conditional use permits says the development will not be injurious to the use and enjoyment of the other property in the vicinity. I think we've clearly heard tonight that the adjacent property owners talking about people staring into their units, apartments or condominiums. Either way, you're talking about people walking out their front door and practically staring at… any closer they would be hitting the neighbors house. And clearly I can't find any reason why this would not violate finding number two.

President Martin: OK. So the motion that's before us is to deny the CUP. All those in favor of that motion please signify by saying aye.

The motion carried 6 – 2 (Krause and LaShomb opposed).

President Martin: OK, what do we want to do about the variance?

Commissioner Schiff: Move to deny.

President Martin: All three?

Commissioner Schiff: No, just the south yard.

Staff Wittenberg: President Martin, note that item D says variance on the bolded, but it…

President Martin: But it really is site plan. Yes, I was confused about that but then I figured it out. So we have the two variances. And your motion, Commissioner Schiff, is which?

Commissioner Schiff: I'll move to deny the side yard variance (Tucker seconded).

The motion carried 7 – 1 (Krause opposed).

Commissioner Schiff: Move to approve the drive aisle width variance (Tucker seconded).

Commissioner LaShomb: Maybe I'm just confused. Does it make any sense when you haven't approved the conditional use permit to approve a variance?

Commissioner Schiff: I guess we'd have to find under the findings of that variance, we'd have to argue that it doesn't meet a hardship. I realize the other motions prevailing make this moot, but I still think it needs the findings for a drive aisle variance.

The motion carried 8 – 0.

President Martin: OK, and then we have the site plan.

Commissioner Schiff: Move to deny (Tucker seconded). I'll just say overall I do like the idea. I don't think single family homes are going to be made in areas where we have rising property values for the end of time. And I do like the modern architecture, but this is just too much in too small a space.

The motion carried 7 – 1 (Krause opposed).