

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

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

MEMORANDUM

DATE: May 30, 2006

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

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

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

SUBJECT: Planning Commission decisions of May 22, 2006

The following actions were taken by the Planning Commission on May 22, 2006. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners Present: President Martin, El-Hindi, Krause, LaShomb, Motzenbecker, Nordyke, Schiff and Tucker – 8

Not Present: Henry-Blythe and Krueger

11. Lyndale Park (BZZ-2954, Ward 11), 5719 Lyndale Ave S (Hilary Dvorak).

A. Rezoning: Application by Randy Noecker, with Lyndale Park LLC, for a rezoning from C2 to OR2 for the property located at 5719 Lyndale Ave S.

Action: The City Planning Commission recommended that the City Council adopt the findings and approve the rezoning of 5719 Lyndale Ave S from C2 to OR2.

B. Conditional Use Permit: Application by Randy Noecker, with Lyndale Park LLC, for a conditional use permit for 57 dwelling units for the property located at 5719 Lyndale Ave S.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application for 51 dwelling units located at 5719 Lyndale Ave S.

C. Variance: Application by Randy Noecker, with Lyndale Park LLC, for a variance to increase the lot coverage from the maximum 70 percent to 78 percent (10 percent increase) for the property located at 5719 Lyndale Ave S.

Action: The City Planning Commission adopted the findings and **denied** the variance application to increase the lot coverage from the maximum 70 percent to 78 percent (10 percent increase) located at 5719 Lyndale Ave S.

D. Variance: Application by Randy Noecker, with Lyndale Park LLC, for a variance to reduce the minimum lot size requirement from 599 square feet per dwelling unit to 536 square feet per dwelling unit (10.5 percent decrease) for the property located at 5719 Lyndale Ave S.

Action: The City Planning Commission adopted the findings and **denied** the variance application to reduce the minimum lot size requirement from 599 square feet per dwelling unit to 536 square feet per dwelling unit (10.5 percent decrease) located at 5719 Lyndale Ave S.

E. Variance: Application by Randy Noecker, with Lyndale Park LLC, for a variance to reduce the front yard setback along Lyndale Avenue South from the required 19.75 feet to 11.5 feet for the property located at 5719 Lyndale Ave S.

Action: The City Planning Commission adopted the findings and **approved** the variance application to reduce the front yard setback along Lyndale Ave S from the required 19.75 feet to 11.5 feet located at 5719 Lyndale Ave S.

F. Variance: Application by Randy Noecker, with Lyndale Park LLC, for a variance to reduce the east rear yard setback from the required 11 feet to 4 feet for the property located at 5719 Lyndale Ave S.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the east rear yard setback from the required 11 feet to 4 feet located at 5719 Lyndale Ave S based on the following finding:

1. The applicant can redesign the building to include less parking and comply with the required yard along the alley.

G. Site Plan Review: Application by Randy Noecker, with Lyndale Park LLC, for a site plan review for a four-story, 57-unit building located at 5719 Lyndale Ave S.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for the property located at 5719 Lyndale Ave S subject to the following conditions:

1. Wood mulch shall be used in the landscape beds.
2. Taller screening shall be provided along the alley in the additional 7 feet that are there as a result of the denial of the rear yard variance.
3. The applicant shall submit a lighting plan that complies with the lighting level requirements of Chapter 535.
4. Approval of the final site, elevation and landscaping plans by the Department of Community Planning and Economic Development – Planning Division.

5. All site improvements shall be completed by June 30, 2007, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Staff Dvorak presented the staff report.

Commission Tucker: I am wondering if the land coverage were reduced from 78 to 70 percent, would that not take care of some of that setback problem?

Staff Dvorak: It may... staff didn't want to... we talked about the variances for the setbacks in conjunction with the other two variances and did not want to prescribe how the building could be redesigned to meet the lot coverage variance given that in the City, Public Works requires that for the first 20 feet of your curb from the property line maintain a four percent slope or less. Although there is that 30 feet of right-of-way, the applicant's 20 feet does start back at their property line. In order for 20 feet you have to have four percent slope or you can only have up to four percent and then they have to ramp down to get underneath the building. Without knowing where their grades would come out, we didn't feel comfortable prescribing a required rear yard setback and also that they need to rearrange things on the inside and they have internal ramping. We didn't want to go that far in the design for them.

Commissioner Tucker: So they might choose to do that, but they might choose to take the south end and shorten it or who knows what.

Staff Dvorak: That is correct. We felt that overall the building will get smaller from one side or the other if the lot coverage variance gets denied, but we didn't feel like prescribing them.

Staff Dvorak continued with the staff report.

President Martin opened the public hearing.

Fred Easter (5739 Garfield Ave. S.): I rise to oppose this variance.

President Martin: One in particular or all of them?

Fred Easter: The one that has been recommended to be approved, which is the building of this building to begin with, how close it sits to anywhere is not my issue.

President Martin: It's actually the conditional use permit that allows the approval of the building. That's ok, you're just opposed to it is what you're saying. Go ahead, it's ok, it's confusing.

Fred Easter: I understand that this body has approved some usage of this area.

President Martin: The South Lyndale Plan has been approved by this body and by City Council.

Fred Easter: Residents, to my knowledge, were not invited to provide input to those discussions. If the Met Council has yet to approve them, I would like very much that it is on the record that I be informed of when that discussion takes place.

President Martin: We'll ask staff to find out where that's at.

Fred Easter: As I understand it, this variance would make a low density into a high density area stepping neatly across medium density. It would cast a shadow on the property that I own. I am vehemently opposed to the traffic that it would create, to the increase in the density of the neighborhood in general and I am disturbed that, without speaking to residents who are affected someone has studied this and decided that it's just a wonderful idea. Thank you.

President Martin: Thank you. Jason.

Staff Wittenberg: Commissioners, as you may recall, and there may be others here who can speak to this better than myself, but the South Lyndale Master Plan underwent an extensive public process in which numerous stakeholders were invited to participate. The Plan is currently with the Metropolitan Council and that review that the Council does is not a public hearing process, it's an administrative process where the Council will provide feedback to the City regarding the Master Plan's conformance with regional objectives.

Fred Easter: Can you tell me when this extensive discussion took place?

Staff Wittenberg: I believe there are people here who can speak to that better than I who I presume will speak.

President Martin: Ok. Others who wish to speak to item number 11?

John Oehlke (5734 Garfield Ave. S.): I live directly in back of this proposed development. We didn't have enough time to get together a petition and I do bring that today, a petition of 37 residents who are opposed to this.

President Martin: You can give it to our clerk.

John Oehlke: I believe you have in your packet, a letter that I sent to Ms. Dvorak along with the drawings. This proposed development is so large in scale that I thought it needed to be modeled somehow in three dimensions. At my office, I am an architect, we modeled it on a program called SketchUp. It shows a perspective taken across Garfield Avenue from my house looking at my house at this 200 x 50 foot high wall 11 feet from the alley. I wanted to do that just to get the scale of what we're talking about here. There have been statements made that this development is in line with the South Lyndale Corridor Plan and I guess the neighborhood really questions the wisdom about this

comparison. I'd like to go through my letter briefly, just touching on the main items here.

President Martin: Mr. Oehlke, if you could just really hit the highlights, everyone's got a copy.

John Oehlke: I think the first three items indicate the quotations and where they came from in the South Lyndale Master Plan indicate clearly in four different places that this development should respect the scale and character of the neighborhoods. Four different places. The residents on Garfield feel that this is not even close to the scale and character of what the residential neighborhood is. We showed these scaled drawings to the Windom Community Council, they weren't aware of the scale of this project and in our meeting with them they withdrew their support for this project when they realized how big this thing was and how much imposition it had on the neighboring residences. One of the big issues, I believe, is that in the South Lyndale Long-Range Plan, they indicate higher density not high density. There is another zoning classification called OR1. In that zoning classification, neighborhood office residential district, the OR1 neighborhood office residence district is established to provide a small scale mixed use environment of low and moderate density dwellings and office uses. This district may serve as a transition between neighborhood commercial centers and the surrounding residential uses. We feel that the OR1 is far more appropriate as far as making that transition to the residential neighborhood that is immediately on the other side of the alley and to the ramping up in density to the new development plan for the Lyndale South Corridor. We feel, as neighbors, that the quality of our life is going to be greatly impacted by this project. Vistas are important in the city because we live close together. It is important to be able to see some distances. We can see the trees in the Kenny neighborhood. We can see sunsets, storms coming in and it's a real amenity to have some vista beyond our house to the west. This development would greatly reduce the direct sunlight in our back yards. The drawings are taken at the vernal and autumnal equinox in September and March and they show the shadowing pattern. This is the spring and fall equinox. You can see by afternoon we are entirely in shade. By six o'clock the entire lot is covered and the shadow is into the street. By seven o'clock it's all the way across the street to Mr. Easter's residence and the other residences across there. It casts a tremendous shadow in our neighborhood. Going to June 21st, which is the highest point of the sun during the year, come home from work at six o'clock and the back yard is in shade. Seven o'clock, the whole lot is covered. Eight o'clock it's way across the street.

President Martin: Ok, you have made your point Mr. Oehlke.

Commissioner Krause: Mr. Oehlke, I have a question about that because I am trying to recall, what time is sunset on the equinox?

John Oehlke: Which equinox?

Commissioner Krause: Spring.

John Oehlke: You're probably talking around 7:30 p.m. or 8:00 p.m. I think. It's actually light right now until 8:00 p.m.

Commissioner Krause: I assume by "equinox" you're talking March so I am thinking the sun would have set by 7:00 p.m.

John Oehlke: Well, the computer generated drawing is what it is. The programs are very active programs. Once they are set up it tells you where the shadows are. We feel we are going to lose a great deal of sunlight and it will impact our gardens and our yards. The prevailing winds in the summer are helpful in keeping our homes cooled by natural ventilation. The prevailing winds right now in this latitude are basically southwest to southeast, I'm sorry, southwest to northwest, this building of 50 feet high and 200 feet long would totally block any access to breezes in the summer. All of the six residences that are immediately impacted and those that are adjacent to those would lose 100 percent of their backyard privacy. We know that's important because people put up privacy fences just to get privacy from their neighbors. This building would be four stories and looking down in everyone's backyard with no possibility of relief from that. Snow removal is difficult in the alley. This development with its requested variance of four feet from the alley would push not only the parking ramp, which is three feet above grade at the alley, but also it would have terraces on top of that. Realistically, I know the city snowplow will push snow into those terraces. I also know my snow blower to clean out my driveway would throw snow that far; it's the only way to get rid of it. Property values... in our meeting with the developer, which was held on May 8th, I brought up the issue of property values because I was greatly concerned with what was going on here. We asked the developer and he said "no problem, you're not going to have any loss in your values at all". He said "for instance, if you had 90 buyers that wanted your house, maybe you're only going to have 40 now". This is from his experience. He also said "for instance, if it took your neighbors normally three months to sell their house, it might take you six". I talked to two real estate agents about those comments and they said "it's a pure indication of loss in property value". It's all about location, location, location. Lastly, the neighbors feel that the statements in the South Lyndale Plan that call for respect and scale of the neighborhood... the Minneapolis Plan, page 16 of the staff report...infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of the surrounding dwellings. We don't feel that this is in compliance with that at all. The Master Plan calls for buildings that are between two and four stories. An OR1 district would be in compliance with that. It would also increase the density which is what the South Lyndale Corridor Plan and The Minneapolis Plan ask for. I think with all those issues at stake here, the neighbors on Garfield Avenue feel that we have got a tremendous amount to lose if this development is granted. Do you have a letter from Mr. Noecker to the council? I wanted to read one of those items.

President Martin: We have lots of letters.

John Oehlke: There is one in the report...oh here we are, I have it. April 26th letter by Mr. Noecker to Ms. Dvorak, it says "the condition use permit will not be detrimental to

endanger the public health and safety, comfort or general welfare. It will not cause injury to other nearby residents in the use or enjoyment of their property. Nor is normal development of other surrounding property adversely affected". We take issue with the fact that it will not be a negative impact of the enjoyment of our property and the comfort and the use of our property and the privacy of our property. Thank you very much.

President Martin: Thank you. Others who wish to speak to item number 11?

Mary Ubl (5511 Grand Ave. S.): I'm a 13 year resident of the Windom neighborhood. I am also a member of the Windom Community Council and a member of the LASR-CC Committee. For those of those who don't know what LASR-CC Committee is, it's a committee four neighborhood boards in the community that worked on developing the South Lyndale Master Plan. To answer some of the community's comments here in regards to community input, we have had four major projects over the last four years. They included the vision statement, the streetscape design, the corridor housing initiative and the Master Plan. Within each of these projects there was a minimum of three community meetings. The community was informed within five blocks of each side of Lyndale Avenue South all the way from Cross-town to the creek. We've also had articles in the Southwest Journal about this project. We were at Borton Neighborhood Festival with this one. The community and the neighborhood festivals as well. We also had some interviews on the cable network TV about two years ago. We've had extensive community input on the South Lyndale Master Plan process. In regards to this Lyndale Park proposal, we've had additional community input as well. At the April Windom Community Council meeting, the developer presented and initially the Council did support the concepts that the developer met the concepts of the Master Plan. The developer submitted the required notices to the residents in the area and then we requested an ad hoc meeting with the adjacent neighbors and with...we meaning Windom Community Council...and the Council member's office having an ad hoc meeting with the developer and the adjacent neighbors. There were 15 residents at that meeting. John Oehlke identified that in that letter. I wanted to comment on that letter that there were actually three people in that meeting that said that they would support this proposal over the motels that are currently there. There has also been notice in our community newsletter that went out in late April. At the May semi-annual meeting, the Windom Community Council chose not to take a formal action on this development plan. No formal approval or denial has taken place from the Windom Community Council. In the last week, the LASR-CC Committee has been emailing back and forth about this development project. One of the things that we have discovered is that we want to get in front of these developers before they come before the City and submit further application. Our group is going to be meeting tomorrow night to discuss this further with City representatives. Why I personally support this project is because I believe this project meets the South Lyndale Master Plan. It does have housing density identified in this area. We would like to see some mixed use, but the developer at this time doesn't feel that the market is there. I am hoping with this project that the market will be there and that we'll see more retail in this area. There is retail at 58th and Lyndale that has had turnover in the last ten years and we'd like to see more of a stable mix of retail in that

area. This also offers condos in this area; Windom doesn't have condos that are owner occupied so it's another variety of housing in this community. The underground parking meets the community concerns. The business community spoke quite often through these community meetings that they are concerned about parking in this area when we do redevelopment. They don't want to see something like 50th and France and the challenge in that area. The developer has done a good job at meeting the bulk reduction in this. We are looking more for reducing the floors, with the variation of the footprint of the building we felt that he did a good job at meeting the bulk reduction requirement. We looked at this proposal and found it's similar to Mt. Olivet, which is two blocks north of this project. Mt. Olivet is a four story building along Lyndale Avenue South and there are single family homes adjacent to that with an alley in the back. It's similar in nature. One of the biggest reasons why I am proposing this is that the motel no longer meets the need of our community. There is a lot of crime in the area, although the owners of the motels have done a better job over the last couple of years. The city attorney spoke at our May meeting that there is still crime at the motels and we are hoping to move this out and deter this crime from continuing in the future. Why I believe the Planning Commission should support this project is because I feel the variances are reasonable considering the site. This developer is significantly challenged with the future of the reconstruction of Lyndale Avenue South. Hennepin County and the City have not made formal decisions of how this will be realigned and I feel that these variances are reasonable. I want to comment that the motels hold down the property values in this area and it does impact the four neighborhoods not just the Windom community. The developer has done a good job at meeting the City's master plan as well as the South Lyndale Master Plan and my final comment is that this is the beginning of South Lyndale, the future of it, and we need to look at it as a community as a whole.

Commissioner Krause: In the meetings that were held in the neighborhood, the plan that was presented I am assuming included the 58 units as opposed to the 57 that the staff are recommending.

Mary Ubl: I believe it's 57 units in the proposal.

Commissioner Krause: That's what was presented and what's before us is 51 units. The other question related to the maximum lot, maximum coverage ratios and the minimum lot sizes. I am wondering which one was presented at the neighborhood level as opposed to the one that is before us today.

Mary Ubl: We saw the entire proposal at the Windom Community... I think one of the things that I saw from the Windom Community Council as well as the LASR-CC why no decision has been made to support this is they wanted more information. They wanted more information about the details of the site of what's taking place. I think the developer's challenged because of the future reconstruction of Lyndale. We felt a 10 percent variance was reasonable.

President Martin: [tape ended]... in terms of what the South Lyndale Master Plan group envisioned for this area, something between two and four stories was what you guys basically approved.

Mary Ubl: Mmm hmm.

Commissioner Tucker: Has the neighborhood set up a meeting to discuss this further?

Mary Ubl: We'll have further discussions on this project, plus another one that's on Nicollet and Diamond Lake Road. Our concern is that we want to get a little bit more in front of the developers to have these discussions and we feel that we get a little flat-footed when the proposal has already been submitted to the City. We have good information, but we always want a little bit more.

Commissioner Tucker: But the proposal we have today is what you saw on May 11th?

Mary Ubl: Mmm hmm, that's correct.

Commissioner Tucker: Was there particular pieces of information that you were looking for in addition?

Mary Ubl: I think we just didn't have enough time to discuss it and all the Council wasn't there.

Commissioner Tucker: Was there any discussion about the height of the building on the alley side?

Mary Ubl: From the LASR-CC perspective, our dialogue felt that the four stories was within the Master Plan. I think if it would go beyond that we'd have additional discussion. We were actually pleased with the setback that the bulk of the building is behind or at the setback line on the alley side. Several years ago there was a development project at the boulevard across from the Boulevard Theatre and just the fact that you have an alley between the single family homes we thought added that space as well. My comment to the community here in regards to the snow plowing as a concern, I think we should address that with the city. If there is a problem with the snowplowing in the alley we need to contact our council member to find out what's happening there.

Commissioner Tucker: The height of the building didn't seem to be a concern?

Mary Ubl: The height of the building with the residents adjacent to the property, definitely. In regards to four stories, that was the limit of what we saw in South Lyndale.

Commissioner Schiff: I'm concerned about your comment regarding the lack of mixed use. Your plan calls for mixed use on this site. Can you tell me about the conversations with the developer? I don't understand the logic that there's no market for mixed use.

This is a fairly solid middle class neighborhood and this site offers... with higher density you're going to have more people that are willing to buy a cup of coffee, go local grocery shopping, all of which would reduce vehicle reliance. People won't have to drive for the basic necessities if there is something built into this building. Can you tell me about your conversations with the developer?

Mary Ubl: It's not there's no market, it's the market isn't as strong as what it is on 54th and Lyndale. You have a lot of pedestrian traffic and you have a surface parking area in there. You have the drive-thru traffic that comes through, but the pedestrian traffic isn't there. Fifty-eighth and Lyndale, we've had a significant turnover in the corner retail spot there. We really want to stabilize some of the retail in that area. Uncommon Gardens has been a very good neighbor and they have made it more stable. We even see the oil exchange place as being a potential as a turnover for redevelopment to get more of a stable pedestrian traffic in there. You don't have that with an oil exchange place. That's what we're seeing down the road, it's just not quite there yet.

Commissioner Schiff: I agree it's not there yet, I just wonder though if this isn't the way to get there is by offering more retail that can help encourage those pedestrian counts that you want that will help other retail survive.

Mary Ubl: I wish I could predict the market.

Louis Hohlfeld (5830 Pleasant Ave. S.): I'd like to speak in favor of the motion. I was on the original NRP planning committee for our neighborhood many years back and a couple of things that we talked about was developing a housing diversity in the area. This is one of the projects that has been long overdue. We lack condos in the area and it will help the mixed use balance. With reference to the commercial access to amenities, it is in walking distance of Walgreens, Kowalski's and Starbucks. I think we are getting some of that mixed use already. There is a plant store down the block. One of my main concerns has always been the safety of that community. As you walk north along Lyndale, you hit a daycare senior care facility and then you hit a senior center high-rise and a little bit later, a half block to the east, you hit Annunciation School. As you heard from Mary, the motels have always been problematic in terms of its safety issues and I think that this development, clearly, will help that problem.

Betsy Johnston (5740 Garfield Ave): I live on the alley where this building is going to be built. I am against all of it. I was not involved. I did not make myself involved in the Master Plan, that's my own fault. I don't think that I, or my neighbors on that block, ever envisioned four stories. We didn't envision people four stories up being able to look into our bedroom windows and being able to look in our backyards. Our privacy is going to be taken away 100 percent. I am all for development of the area. When I heard that these talks were going on, I thought it was wonderful until I heard that it was four stories. What I heard the developer say at the May 8th meeting was that economically he can't build anything less than four stories because he won't make any money. People that don't live on that alley are not going to feel the full effect that us that do live on that alley

do. Just the thought of it and seeing these pictures makes me feel suffocated. I would like to see the conditional use permit and all the variances denied. I live right on that alley and have not had an issue with those motels. I haven't had anyone break into my house, I haven't seen drug dealers and I haven't seen prostitution. I would like to see it redeveloped, but not into a 50 foot, four story building that is going to take away our privacy in our backyards. We do like looking to the west, seeing the trees, seeing the sky and seeing the sun and sit in our back yard. If they build this, we will not be able to do that anymore. I am against this.

David Cormier (5740 Garfield Ave): If you can envision this as my backyard, this is the alley and this is my wall I'd be looking at and I want you guys to ask yourself this question, would you be happy with that? I think the answer is 'no'.

President Martin: Mr. Cormier, I think people live in very different circumstances. I actually live in a place that's been like that for 20 years. People can look right into my private patio.

David Cormier: But I didn't move to this backyard that's going to have this four story monster built.

President Martin: The point is that people live in a lot of different circumstances.

David Cormier: Yes, but this is not one I want to see built.

Gail Barth (5738 Garfield Ave): I've lived in my house for 36 years. I'm retired and now live on a fixed income. I got the impression when the contractor was talking to me that if I didn't like I could move and he would be willing to buy my house, probably not at its true value but at what he considered its value. He said he could turn around and sell it in a year. When you retire, I'm sure you'd like to know that your home is secure and that, if need be, you could reap the financial rewards of having lived in your house for a number of years and that the home value would be what it needs to be. His answer to me about if I didn't like the project I could move, that didn't sit well with me and I'm sure it would not with you either.

Mary Peterson (5824 Pleasant Ave S): I've lived in the Windom neighborhood for about 28 years. I am a member of the Windom Community Council and I was a member of LASR-CC. I'm not going to go over what Mary said, but I just wanted to let you know that at the three large community meetings that we had during the master planning process, we had an exercise where folks got red dots for places in the neighborhood that they would like to see gone and little green dots for places that they want to see stay and that they liked. The pile of red dots on the two motel sites, there wasn't enough room on the area to even put the dots. That's one of the most major concerns at all of our public meetings is what was going to happen with the motels. They have been a problem for as long as I have lived in my house. There is high crime there, lots of police reports and I just really feel like this is going to stabilize the neighborhood.

Randy Noecker (8315 Pleasant View Drive): I am the developer of the project. What I want to convey is how connected these requests for variances are inside this structure. The crux of the problem is that with the restriction of maintaining the four percent grade, it doesn't allow for the vehicles to get low enough into the ground so what you have is this gray area which is the patios front and back. These patios are also the outline of the lower garage level. We are at the steepest grade that we are allowed from an engineering perspective to go down. It's a heated floor as a result of that so that there are absolutely no ice considerations inside of that drive aisle. The patios stick out of the ground about three feet and as a result of that it causes the lot coverage requirement...when you include the patios you would incorporate a lot coverage that exceeds the 70 percent ratio. If it was not granted, the logical alternative would be to eliminate the patios in the back to reduce the lot coverage area. From the perspective of how the building functions and the amenities that we're trying to create in this project, it's not a good idea, but it's a workable plan if that's the way the Planning Commission would choose to go. I'm tremendously against the situation. I do empathize with the people who live behind the project, adjacent to it. It's definitely a building that's going to affect their present lifestyle, but I think that historically it's been proven that property values go up when you put a building of this caliber next to it rather than having what is there currently. One of the questions was asked at the Windom community meeting, how many people want the condo building and most of them indicated they did not want it. There were about three that said they were fine and actually wanted it. When I asked the question of how many want the motel, everybody also said no to that so in my mind it was obvious what was driving this thing. The emphasis that I want to make here, there seems to be a general consensus that I have a lot of parking. If you're looking at a midtown or uptown or a situation like that where you have a higher percentage of rental units rather than owned units, that makes a significant difference when you're marketing a project as a developer. These units are owner occupied and you'll have 57 or whatever number of individuals or couples in the project. There are currently 99 parking stalls and that gives us, with 57 units, an adequate amount of parking for our two bedroom and one bedroom den or two bedroom plus den units. In other words, those units where you're going to have two people with vehicles. I am short guest parking. I've heard comments that I might consider moving the storage or moving the fitness center and make reconfigurations there. We've worked a lot with the configuration of that site or of that floor. I'm not saying there might not be some adjustments or some way that things might be achieved in a more appropriate manner, but you're only going to save a few parking stalls. To eliminate the patios in the back, or to not approve some of these variances and have that create a demand on my part to redesign in which we would basically eliminate the patios in the back, we would then have a tremendous loss potentially in our parking stall and drive aisle requirements. You're stuck with 18 feet and you're stuck with 22 and you'd like to have 24 in your drive aisles, it makes a big difference. Twenty-five years from now, everybody is going to be crying for parking. Anybody that's developing condos would love to get a two ratio rather than a 1.7 like I have. A building like this should have 7 to 10 parking stalls for guests and I don't think I'm going to have that many. If anything, my plan would be to have a slight design to possibly capture one or two or three more parking stalls to accommodate the guest need. Long-term, you really need it.

In the limited meetings that I went to with the business owners in the area, way back in the beginning, everyone was crying for more parking. It's a real critical issue to maintain and get parking. If it's the desire of the Commission, I would enhance the landscaping to accommodate this lot coverage or whatever might be needed. I'm flexible.

Commissioner Schiff: Do you have any view of the landscaping, of what it looks like up against the building? Screening it from those homes across the alley is going to be crucial to minimizing impact.

Randy Noecker: The only ones that I have are from an aerial perspective. I don't have a straight shot.

Commissioner Schiff: I would like to see that to be comfortable to make sure that there is adequate screening going on here for the nearest neighbors. I have a problem adopting a plan one week and then the first application that comes through, veering from that plan. If we were to mandate commercial inclusion and make this a mixed use project, which direction would go, what kind of retail tenants would you look for?

Randy Noecker: I would probably leave the project. I've had Suntide, United and Coldwell Banker in there. I'm a 30 years of retail agent and I just dabble a little bit in retail and knew I didn't have a handle on retail so I called in some of the guys that I knew that they knew the business. Every single one of them told me not to bother putting any retail in here. It's just not, if you understand the market, there's just no possibility of generating... you can build it, you can rent it, but a year later they're going to be gone because they can't support themselves at that facility. It could easily be converted five, ten, twenty years from now into a retail component if that was the desire of members of the association or the city or whatever, but you're not going to be able to force that into...we looked long and hard about creating a first-level retail component. It adds four to five feet in height to do that or maybe six feet in some cases. Even though there's no height component... an OR2 is not...I'm not asking for a variance on height. The commercial would just not fly.

Commissioner Schiff: I don't buy it, but thanks for the explanation.

President Martin: Mr. Noecker, if we approve the applications as they are before us and you're reduced to 51 units, what would that do to your parking? Will you still have 99 spaces?

Randy Noecker: No. I don't think I can have anywhere near 99. What it does is it enlarges some of the units and it creates a reduction in the available parking for the units so the marketing time is going to be much more significantly added onto. You can look at market studies. I have a pretty good marketing sense. You hire people like Maxfield or whomever and they tell you to build units as a certain size. Should you choose to build them 25 percent or 50 percent bigger, your chances are that you may have more

marketing time involved in them. You also, with fewer parking stalls, are going to affect the desire of the buyer to purchase in the area.

Commissioner Motzenbecker: Perhaps I could help clarify some of Commissioner Schiff's question. On the back, looking at the site plan as it is given to us, a lot of the plants that are indicated would not get very high. The techni arborvitae will get probably six feet if you let them. That's covering probably three feet above the platform of the garage and that's the highest one that you're going to get back there. Most of the others are six feet and under so it's not going to screen very much at all.

Randy Noecker: I am perfectly willing to add trees back there if that's the desire of the Commission.

Commissioner El-Hindi: I wanted to talk to the neighbors behind the property. Currently the property is zoned C2 which, by code under this zoning classification, the height requirement is 56 feet in height, four stories. Even if we don't approve a project like this, that doesn't mean that somebody else can, by law because of the zoning classification that is currently there, they can come and build a four-story and 56 foot high building. I just wanted to clarify that to the public. I also just did a very quick calculation and maybe Hilary can verify if it's correct or not, but I believe the lot size right now currently is 30,000 square feet and if there is a retail component and as there is underground parking that it would have two bonuses, basically the parking bonus and the retail component bonus of 20 percent each.

Staff Dvorak: I think if 50% of the floor area of the first floor is retail that you would qualify for that bonus as you would in the OR2 as well.

Commissioner El-Hindi: So if that was the case that would be about 42,000 square feet which would probably make it about 46 to 47 units allowable under the current zoning if those two criteria's were met. Somebody could just come and build 46 or 47 unites, four stories in height, 56 feet high and that would be allowed by code by the current zoning classification and it would be meeting the current Master Plan for the South Lyndale Corridor and I wanted to make sure the public is aware of that. We're not debating the height issue because there isn't a variance for the height on our part.

President Martin closed the public hearing.

Commissioner Nordyke: Following up on what Commissioner El-Hindi said, if this were about permitting a variance on height, I would never do that because I think the scale is out of context with the housing, but there is really nothing we can do about that so the discussion is about the other variances. It is a problem that we're moving ahead with this. For better or for worse, the neighbors are going through great inconvenience based on the plan, yet we are wholly ignoring the plan when it comes to the discussion of mixed use. I'm not sure I'm willing to tank the project over that, but I would like to hear other people's opinions about it.

Commissioner Motzenbecker: Forgive me for this, but I do have a clarifying question for Hilary if I could. After hearing more of the information, I was still a little confused as to why it's changing from C2 at all to OR2 and with the information given from the testimony, why it couldn't be OR1.

Staff Dvorak: The OR1 is a very low density residential development. I believe the minimum lot area is 1500 square feet per dwelling unit. It's a two and a half story max so you'd have maximum variances being applied for. When an applicant comes in and they say they want to build 57 units, we go through the zoning classifications and say 'this is what you could apply for to meet this density requirement'. OR1 wasn't even an option. Let me just tell you, we ran through all of the options of keeping it C2 and we ended up maxing out at 50 units with a 30 percent variance to get to the 57 they'd need a 37 percent variance of lot area and we don't allow you to apply for more than 30. That's why a C2 isn't before you tonight, because it didn't allow the applicant to propose what he's proposing.

Commissioner LaShomb: My reaction to this whole thing is that... at first when I read this I was kind of conflicted because I thought that what we're trying to do it put our thumb down on the South Lyndale Master Plan and say we're going to interpret it different than they implied it. Commissioner El-Hindi hit it right on the head; this project isn't any different than it would be if it were a C2. Basically it's not any different than any commercial corridor in the city or any community corridor in the city of Minneapolis. We've had numerous discussions around Light Rail plan station sites about how tall buildings should be and they generally come up about four floors. I don't remember what we did at Calhoun Square; I am trying to think if we did four or six floors there.

President Martin: There are six.

Commissioner LaShomb: People behind Calhoun Square have all the same kinds of shading issues that you're talking about. The basic point is that these are the kinds of projects where if you have a community corridor they are going to be built because Minneapolis' goals are to achieve greater density in housing, greater use of land and community corridors are natural places to do it because that's where the least impact really is. If we decided to go three blocks farther in to the community and try to build a four story building on an old school site, people would be all over our backs and that would be a strange deal. I don't think the options are really there not to do this so I am going to move the rezoning to OR2. (Tucker seconded)

Commissioner Tucker: I was going to move the entire staff recommendation, but starting with this... I think the C2 pretty much does what this project asks for but not quite as intensity, but moving to the OR2 probably makes it more feasible but doesn't injure the neighborhood anymore than a C2 project would so I think it's a good rezoning.

Commissioner Krause: The C2 zone is not just about the housing density. There are a lot of other uses allowed in C2 that I am almost certain the neighborhood would not like.

President Martin: All associated with cars.

Commissioner Krause: A Super America station, a fast food restaurant and a number of other things that can be done in a C2 which is probably why this site had this designation because of the motel. The rezoning actually removes a lot of those more intensive commercial uses that you would otherwise see in a C2.

President Martin: Ok. The motion before us is to approve the rezoning. All those in favor please signify by saying 'aye'. Opposed?

The motion carried 5 – 2 (El-Hindi and Schiff opposed).

Commissioner LaShomb: I'm going to also move the conditional use permit for 51 units (Tucker seconded). This gives me an opportunity to talk about the commercial issue on this site. I live by the Walgreens on Hiawatha and 46th and there is a beautiful new apartment building about a block east of that. There is retail on that site, commercial space, and that building's been open for about a year and a half and with the exception of a temporary H&R Block he hasn't been able to lease any of that space. It's just not getting leased. It's a beautiful place to have commercial business because within 50 feet is a major Walgreens store and if you cross the street you have a gas station and if you go a little farther you have a shopping mall. It isn't as easy to fill this space as you think. My experience on Lyndale is that if you go from Minnehaha Creek down to 52nd or 54th, you have a great deal of commercial space on Lyndale. In fact there is some space that needs to be redeveloped. I think there's a Volvo dealer down there and a funeral home site. I'm not worried about the fact that there isn't commercial in this building because I think there is a lot of commercial from Minnehaha to 62. What I am concerned about is that I am starting to rethink a little bit about where we try to impose commercial into residential projects simply because they're not that easy to fill. The project right before you get to the river on East Lake Street, the great dry cleaning store that I used to like to take stuff to has now got paper on there and they are trying to lease the site. I don't think the commercial should be a mandatory consideration on this site. I think the conditional use permit is appropriate for this project as it is for 51 units.

Commissioner Krause: I wish there was commercial units too. I don't think our developers know how to do this very well. I don't think they try very hard at it. They know how to do housing very well, that's their area of expertise, but they don't know how to do the retail. At some point we're going to have to draw the line and say where it is that we're going to insist that they take that market risk and do it if they want to develop on this kind of a site. Mr. Noecker also lost me when he said that 25 years from now we're all going to wish we had more parking. That is not where this Planning Commission is going, we're going exactly the opposite direction. We're trying to create neighborhoods where 25 years from now there will be as little parking as possible.

The motion carried 5 – 2 (El-Hindi and Schiff opposed).

Commissioner LaShomb: I am going to move staff recommendation (Tucker seconded) on variance C and D. I think the staff has made a pretty compelling case and when I hear developers say ‘we can’t do this’ and ‘we can’t do that’...I’ve been here four and a half years and it’s amazing within two weeks what developers can do. I think that 57 units on this site is not justified and 78 percent is not justified on this project. I think we’re giving the developer a great deal on this rezoning and I think he can come back with a plan that puts 51 units on this site and meets the 75 percent compliance.

President Martin: Ok. All those in favor please signify by saying ‘aye’. Opposed?

The motion carried 5 – 2

Commissioner LaShomb moved approval of variance E (Tucker seconded).

Commissioner Schiff: What are the sidewalk widths we have here?

Staff Dvorak: I’m not sure what the sidewalk widths are. They won’t be touching the sidewalks. The survey is too small to tell.

Commissioner Motzenbecker: It’s six feet.

President Martin: The usual generous six feet.

Commissioner Schiff: And the boulevard width?

Commissioner Motzenbecker: It’s about three or four feet. Between the sidewalk and street or between the sidewalk and this building?

Commissioner Schiff: Between the curb and sidewalk.

Staff Dvorak: That’s probably three feet.

Commissioner Schiff: Hilary, this section of Lyndale is supposed to be a commercial or community corridor?

Staff Dvorak: It’s community.

Commissioner Schiff: Where are we with our sidewalk recommendations?

Staff Dvorak: We’re not recommending any changes. This area Public Works feels will be changing. They don’t know when and they don’t know how. The applicant tried to vacate a portion of the right-of-way in this area for land purposes. We’re not

recommending any changes on the sidewalk with the boulevard width. It's consistent up and down the street.

Commissioner Schiff: Yeah, it's consistently inadequate. It's not a pedestrian friendly environment. We could certainly add another foot to these sidewalks and make it easier for people to walk here. We could certainly ensure the health of our trees with adequate boulevard widths. I'll just do an overall staff direction because this is project, by project by project that we're going with either the standard quo or the ADA minimums as our standard sidewalk widths and Public Works has been unable, after five years of asking questions, to come up with recommendations that are consistent with pedestrian overlay districts in a real healthy pedestrian environment so I am just frustrated. Yet again, this project is not meeting the high standards that the community originally outlaid in its plan.

President Martin: Ok. The motion is to approve the variance to 11.5 feet. All those in favor? Opposed?

The motion carried 6 – 1 (Schiff opposed).

Commissioner LaShomb: I will move variance F, but I think we need to add some language regarding adequate screening between this building and the properties on the east.

Commissioner Motzenbecker: I would like to make a substitute motion to deny the variance (El-Hindi seconded).

President Martin: Ok. So the discussion is about the substitute motion to deny.

Commissioner Motzenbecker: I think it comes down to what was mentioned previously about just being able to design a building appropriately. We've been seeing application upon application throughout the city on these types of things that have been done. It can be done; it can be done with a lot less parking. It can be done to give... if we're going to allow the building to go forward in whatever form it finally takes, I think to give the people behind a little more breathing space and access would at least be a compromise that could be looked at. To do that by bringing the building back or reconfiguring the building along the alley would be critical. I think it can be done. I think the parking question... it doesn't need that much parking. As Commissioner Krause has said, I think double the parking is the opposite way to go. In fact, most developers in the city are getting one spot per unit. You can reconfigure that ramp. You can put a radius in there and get your percentage going down and reconfigure the basement. It can be done; it's just a design question. Along with all that, I would recommend that we deny this variance and ask the developer to go back to the drawing board a little bit and reconfigure this as it can be.

Commissioner El-Hindi: I second Commissioner Motzenbecker's comments on that because I feel like this variance is directly related to the parking layout and design of this

building and I feel like there is another way of doing this. I feel like 99 spaces is more than the project really should have.

Commissioner Nordyke: I'm going to speak in favor of allowing the variance. I would love to have a magic wand and not have the project be built because I think it's about of scale. Since it is moving ahead, I think that maybe while we all want something... I think the current market reality is probably a little different and I do think that the 2 to 1 or the 1.75 parking that we're looking at here is probably necessary to get the market the way it is today.

Commissioner Krause: I somewhat agree with Commissioner Nordyke that one unit is not enough, but 51 units which is where we are at now, divided into 91 is actually 1.94 so I think what this means is that you probably lose a row of parking on the far side. Although I think there are some additional configurations that might allow you to build back some of those parking spaces. Where it'll end up is closer to 1.7.

Commissioner Motzenbecker: Just to reiterate that one of the conditions for granting this is that it's a unique situation and it's not. It's completely dependent on the design.

President Martin: We keep seeing this design over and over. Ok. The motion before us is to deny the variance for the rear yard setback. All those in favor? Opposed?

The motion carried 7-0.

Commissioner LaShomb: That begs the question as to whether the site plan can be approved or whether that has to be deferred until...

Staff Wittenberg: The denial of the rear yard variance really wouldn't affect the placement of the main structure; it would only be, presumably, the area of the garage that sticks up slightly above ground so the denial of that variance doesn't necessarily substantially alter the site plan.

Commissioner LaShomb: Based on the good judgment of our staff, I will move the site plan (Tucker seconded).

Commissioner Tucker: I would like to add a condition that I don't think we added in the previous one for additional taller screening along the alley. We've just provided an extra seven feet for that.

President Martin: That's a friendly amendment? Alright, so the motion is approve the site plan as we have it with the additional requirement for taller screening along the alley in the now additional seven feet that are there. All those in favor? Opposed?

The motion carried 7-0.

