

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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

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MEMORANDUM

DATE: July 27, 2004

TO: Blake Graham, Community Planning & Economic Development - Planning Div.
Phil Schliesman, Licenses

FROM: Neil Anderson, Supervisor, Community Planning & Economic Development -
Planning Division, Development Services

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

SUBJECT: Planning Commission decisions of July 26, 2004

The following actions were taken by the Planning Commission on July 26, 2004. 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:

ATTENDANCE

President Martin, Krause, Krueger, Kummer, LaShomb and Schiff - 6

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

REPORT
of the

**CITY PLANNING COMMISSION
of the City of Minneapolis**

The Minneapolis City Planning Commission, at its meeting on July 26, 2004, took action to **submit the attached comment** on the following items:

6. Minneapolis Public Works Department Parking Lot (BZZ-T687, Ward 13)

5028 and 5044 Ewing Avenue South (Michael Orange)

A. Rezoning

Application by the Minneapolis Public Works Department to rezone the site to Transitional Parking Overlay District to allow expansion of the existing 60-stall parking lot located at 5028 and 5044 Ewing Ave. S by one lot to the south to accommodate an additional 24 stalls.

Motion: The City Planning Commission recommended that the City Council **approve** the rezoning to the Transitional Parking Overlay District of 5028 and 5044 Ewing Ave. S.

Staff Michael Orange presented the staff report.

Commission President Martin opened the public hearing.

Tom Steele (5057 Ewing Avenue South, Fulton Neighborhood Association member): I did bring a couple copies of their [Fulton Neighborhood Association's] letter to you. It was supposed have been e-mailed to you today. I don't know if you've received it or not. I do have one copy for you, Madame Chair. As previously stated, the Fulton neighborhood did vote not to disagree with the project. They did have several items which I have brought up now in three public hearings and have gotten no feedback from the designer. Very briefly, the resident that lives at the north end of the block has a forward-facing bedroom, comes out on Ewing. That means that curb cut-every car that leaves in the evening, their headlights will be going into one of their bedrooms. Simple resolution to correct that problem, cure all of his, has been made by myself, to move the curb cut to the south end of the block. That would allow several things. Number one, the south end of the block, all the houses are on a hill – the hill is about 6 foot tall. They have no bedrooms facing Ewing Avenue. There's also a current street light in front of that address. That would mean the curb cut would also have permanent lighting next to it. I own the property at 5043 Ewing which would be the property directly across from that curb cut and I have no problems with changing it that way. Additional considerations: It will allow the snow to be piled on the north end of the parking lot with the proposed building on the south end, that way the snow would get much more sunlight than it would at the current proposed end, it would melt faster. The City would not have to haul it as frequently. Minor changes, shall we say? That is basically what the Fulton Neighborhood Board has recommended also, that the curb cut get put on the south end rather than the north end. Additional considerations because of this: Currently, there's commercial property on the odd side of 50th and Ewing and they are putting in a parking lot on the south side of their building which means you will have three curb cuts within three blocks coming out opposing each other. That's a concern as far as people coming out on to Ewing. There would be two on the west side and one on the east side in between them. So there are many things to consider. As I said, I have made this

proposal three times, the Fulton Board was in favor of it and we've heard nothing back from the planners. I can definitely concur that the neighborhood does need parking. It is a critical parking area, both 49th and 50th and Ewing. I made a quick tour of the block, there's 39 businesses, total of 90 parking spots, of those 90 parking spots, 13 are reserved for tenants (because there are apartments on the block), 7 or 8 are solely used by the businesses for their commercial vehicles, which means that they have, without this parking lot, about one and one half parking spots per commercial business. Even with this, it's only going to be three and a half, so that's really a neighborhood that needs parking. As I said, I think the best resolution would be to put the access at the other end.

Cory Tamm (5027 Ewing Avenue South): I live directly across from the entryway. Tom addressed that concern; I won't go over it again and take your time. But moving the entry and the exit way would benefit us a lot. My second concern is obviously the landscaping. The picture he [staff Michael Orange] showed does represent what you look at out of my driveway, but the rest of the block too, I also have some signatures, they couldn't be here, I will pass that out to you. Of 13 other people that are on that block and have asked me to speak for them included with some pictures that I brought that show you the buffer that we receive from those trees to the backs of those businesses. The backs of those buildings aren't real attractive as probably most of them aren't in Minneapolis. That coupled with another lot that went in within about 150 feet of it, we're going to lose about 35 mature trees within 150 feet of each other. I think that should be a concern for the City and there's got to be some way to save some of those and maybe give up four parking spots or something that we could work on planning it that way. Secondly, we're gaining 24 parking spots as the existing proposal sits. There will also be seven additional gained parking spots street wise because we're losing all of those entryways that are currently there. I coupled that with nine more parking spots in the existing lots, we're talking over 50 parking spots in a very concentrated area, in a very short amount of time and I wonder if the traffic studies have been done ahead of time to really look at the effect of these projects together, not just this one.

Commission President Martin closed the public hearing.

President Martin: Michael, tell us about the ramifications of moving the curb cut from one side of the block to another.

Staff Orange: Madame President, this is the current curb cut, easily seen here. 5027, Mr. Tamm's house, Mr. Steel's house, the new lot and this is, I want to point out, the current curb cut on the north lines up almost exactly with the proposed one, so that condition is not changing with the proposal. But the new curb cut would line up directly across the street from Mr. Steel's house. There is this hill to Mr. Steel's house, 5, 6 feet to the front rooms as he spoke.

President Martin: We're talking about one curb cut or two?

Staff Orange: There's only one. If you're taking it from the north end, instead putting it to the south. So the current is currently here, and the proposal is to have it continue in

this position, but Public Works is willing to move it to the south and adjust the site plan accordingly. We agree though, that there are some other considerations here regarding this. First of all, one of the concerns mentioned is that we have a new parking lot located here, and I've highlighted in green the new curb cut for this parking lot. And the concern expressed was that this curb cut may conflict with the existing one. There's 90 feet difference there.

President Martin: And they're on opposite sides of the street.

Staff Orange: Basically the rule of thumb for Public Works is a 20 foot separation is usually considered adequate, so we don't believe that's a major concern. In terms of the cumulative effects of the new lot expansion, the new lot here, or any additional on-street parking, we don't believe is a significant factor. But nonetheless, if the Commission so desires, the Public Works department will move the curb cut to the south. It would incur a larger cost to create a new curb cut on the south side and close the current one.

President Martin: Aren't there currently three?

Staff Orange: There are currently three, so we would be utilizing the northern one, the plan. If it was moved, then we would close three and open up a new one on the new lot.

President Martin: And tell me why it is that the southern, what looks like the curb cut right there, right now, couldn't be the one?

Staff Orange: Well first of all, they haven't laid it out, but I would presume in order to get the drive aisles to work, it's going to have to line up with the very southernmost part of the lot. The current one would line up like this right now. Actually, the third curb cut probably lines up line this and would have to move down here.

President Martin: What I'm asking Michael, if what you have here is the northern curb cut, if that were where the existing southern one is now...

Staff Orange: This is located with the existing northern.

President Martin: Yes, but isn't there an existing southern? There are three right now.

Staff Orange: Yes there is. That's what I'm saying; the southern one is located about here.

President Martin: So Public Works would have no problem with that happening?

Staff Orange: Public Works said they would do it, but it's not their first choice.

Staff Jim Voll: The one thing I want to remind you is if you do decide to move the curb cut towards the south, we still have that provision that says each entrance and exit from such parking lot shall be located at least 20 feet from any adjacent property located in the

residence or office residence district, so you would have to keep it 20 feet from 5048 Ewing.

President Martin: Yes, OK.

Commissioner Krause: Madame Chair, I think the neighbors did a really good job of researching this, so I want to move the approval with the change, I guess would be to condition 2 that the site plan be amended to use either the current southernmost curb cut or create a new curb cut to the south of that, provided it meets all other zoning requirements including the 20 foot setback.

President Martin: Tell me where you are putting this condition.

Commissioner Krause: Well it looks like it would go on number two which is approval of the final drawings. In other words, Mr. Orange could work with the Public Works on the final drawing, B-2, on the conditional use permit.

President Martin: OK, so you are moving approval of the rezoning, the CUP, two variances and the site plan with that alteration of condition two in the site plan?

Commissioner Krause: It appears to me that all the other variances and site plan issues would stay the same (LaShomb seconded).

Commissioner Schiff: Michael, what's the difference in the difference in the length of a parking stall that is striped for a compact versus a regular space?

Staff Orange: The compact stall doesn't have a standard length.

President Martin: It's the same length, the width is different. I park in them all the time because I have a compact car.

Commissioner Schiff: So do I, I have just never noticed.

Staff Orange: Is it 8 by 16 Jim?

Staff Voll: The compact for 90 degree stalls, the standard width is 8 ½ and for compact it's 8 feet and then the stall depth for a standard depth is 18 feet, and for a compact the depth is 15 feet.

Commissioner Schiff: So three feet difference. The spaces that are closest to Ewing Avenue, we could gain another three feet of landscaping if those became compact.

[comment, off microphone, Mr. Steel]: If I may say something about that, part of the problem with the parking lot as it exists is that the businesses use it for employee parking and that will be regulated by employee parking and the employees have the right to drive full-sized vehicles.

President Martin: Mr. Steel, employees have to park too.

[comment, off microphone, Mr. Steel]: I know, that's what I'm saying, they need the space to park full sized vehicles.

President Martin: Well, maybe there are a few people who drive small cars. They could get those all the time. [Redirecting to Commissioner Schiff]: OK, does that answer your question?

Commissioner Schiff: It does, there's just the intrusion of the setback on to Ewing just makes this whole street look very strange to me and unless we increase the landscaping, either by making those compact spaces or do something else, I'm not going to be able to support this. The impact of this, the landscaping, we're using Spirea. These are tiny little shrubs [and] these aren't even very vertical shrubs that would serve to shield the vehicles.

Staff Orange: The landscape architect changed that today.

Commissioner Schiff: To..?

Staff Orange: To a larger shrub that would be between three and four feet in order to get adequate screening of headlights.

Commissioner Schiff: Of headlights, yes, but you'd still be able to see the vehicles as well.

President Martin: Not if they're compact.

Commissioner Schiff: I guess I will see where my colleagues are and just throw out that the spaces along Ewing become compact, being reduced three feet in length in that the landscaping be four feet minimum in height in the new space.

Commissioner Krause: That's a friendly amendment.

President Martin: Commissioner Krause, just to be clear, staff had asked for yet another condition about the gate arm being eliminated, are you willing to include that?

Staff Orange: It's in there.

President Martin: So what we have is a motion to approve everything that's before us, the rezoning, the CUP, the two variances and the site plan with the alteration of condition number two on the site plan: an additional condition that specifies compact spaces and additional landscaping.

The motion carried 5 – 0.

11. Daniel Lubbers (BZZ-1884, Ward 8)

3020 and 3022 10th Avenue South (Michael Orange)

A. Rezoning

Application by Mr. Daniel Lubbers to eliminate the split zoning on his property at 3022 10 Ave. S. and rezone the northern partial lot from R2B to R4 so that the entire zoning lot will be R4. This will allow the use of the existing fourth unit in the residence.

Motion: The City Planning Commission recommended that the City Council **approve** the rezoning to R4 of the lot located at 3020 10th Ave. S.

Commission President Martin opened the public hearing.

No one requested to speak to the item.

Commission President Martin closed the public hearing.

Commissioner Schiff moved approval of staff recommendation to approve the rezoning (LaShomb seconded).

The motion carried 4 – 0.

12. CVS Pharmacy (BZZ-1793, Ward 6)

5 East Franklin Avenue, 15 East Franklin Avenue, 2000 1st Avenue South and 2020 1st Avenue South (Hilary Watson)

A. Rezoning

Application by Charles Schatz with DJR Architecture, Inc., on behalf of CVS Pharmacy for rezoning of the property located at 5 East Franklin Avenue from C1 to C2.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning application from C1 to C2 for the property located at 5 East Franklin Avenue.

Staff Hilary Watson presented the staff report.

Commission President Martin opened the public hearing.

Bill Tipman (Bear Creek Capital): We've enjoyed working on this project, it is an exciting project. It's one of, as you are well aware, we are doing multiple CVS stores in and around the Minneapolis municipal area. This is probably the one that we are most excited about right now. It is a mixed use development, it is very attractive, it is one that our firm will own with CVS as the tenant and we've enjoyed working with staff, the neighborhood and so forth to get to this point. There are some conditions that staff is recommending that we would like to get the Commission's clarification on. The biggest of which [shows overhead]...I was en route to the City today and didn't really get a chance to connect with Hilary although we traded multiple voicemails and e-mails. But we are facing an interpretation issue, Hilary and I, on multiple sites, this being the one that is most acute right now. And it has to do with the City's code with respect to vision glass to and from the streets, in and out of the stores. The staff condition number one that, even the way it was written, and I think Hilary was attempting to clarify it, it still leaves some ambiguity that we would like to frankly clarify. That is, what constitutes compliance with that provision of the code, and what provides visual connection between the street, the parking lots and the stores? As you're well aware, we're doing multiple stores in the municipal area and we would like to get that clarified.

President Martin: Could we try glass that you could see through on both sides?

Bill Tipman: That would be too easy. The code, as it is written, if you could zoom in on the part that's highlighted. Thirty percent of the first floor façade facing public streets, sidewalks, parking lots, et cetera, shall be non-tinted, clear vision glass or doors. And it's clear intention is to allow view into and out of the stores. The windows shall be distributed in a more or less even manner. The minimum window area shall be measured between two foot and 10 foot. My understanding of the intent of that code is that thirty percent of the lineal distance on a façade would be required to be glass. More or less evenly distributed and that glass be functionally viewable at eye level somewhere between two foot and ten foot. And I think that is the intent of the code. That being the case, if our façade from this point to the end of the CVS store, somewhere in here... I've measured this window, plus this window, plus this window, plus this window, more or less we have 45 percent vision glass linearly on that wall. What we are proposing, and furthermore, on this particular project, in order to make the project attractive, that sill is at three foot tall. In order for CVS or any other retailer to function in a store like this, they need to be able to provide merchandise on that wall. What we have proposed to do, and this is the clarification that I would like to reach, is that we restrict the heighth of any fixtures that are against this wall, against that glass at five foot high, so they can be seen over and that the back side, because the sill is at three foot, the top of the fixture is at five foot, it creates a two foot issue. And what we have proposed on this project and on several others is that two-foot void become a display space to display merchandise, to display advertising, to display things that merchants would want to display in their window as products that they sell in their store. This five-foot dimension to the top of that would still allow people into and out of the store to see over the fixture, thus complying with the code. The issue that we're running into on this particular project, and frankly, another one at 12th and Hennepin, [indicates overhead] this window, the CVS façade is roughly 140 feet. I add that window, that window, that window, that window,

that window, that window – come up with 61 feet. Roughly 45 percent. If we provide vision glass between five foot and 10 foot, I believe it complies with the intent of the code. It provides the visual connection from the store out to the exterior, the same would hold true on the Nicollet façade. As you can see, we have well in excess of our 30 foot there and on the back side, where we would be 20 or 30 percent, I can't remember which it is on this one, again we have well in excess of that at this point. The problem we're facing on this side and others, because we have three facades that face public areas, if we can't put merchandise on those exterior walls, we're basically creating a fish bowl that I don't think was ever the intention of the Commission or the Council when that ordinance was enacted. And that's the consensus I would like to reach on this project, and frankly to give us guidance going forward on the other projects that we're doing in the City if we have provided windows that are at or above 30 percent of any exterior façade and that view corridor from 5 foot to whatever, we have complied with the intent of the code. And I believe this complies and I don't know that the way that the staff condition is written precludes that, but I'd further like to... We don't want to build something that's not attractive, we don't intend to put the ugly back of fixtures up to these windows. We want to put something attractive, a display case on the back side of that. We're perfectly fine with that condition, but I'd like to have that settled once and for all because we are facing it on each and every project that we're doing. So that's one condition. With respect to condition number four, the elimination of the four parking spaces, these four parking spaces [notes overhead]. This is an urban area. Parking in an urban area is by definition very precious. I see no reason to eliminate those spaces other than the obvious concern would be congestion between patrons entering the pharmacy pick-up window, people entering off of Nicollet. It's an urban environment – people are accustomed to dealing with those kind of conditions in an urban environment. To eliminate four spaces arbitrarily, to lessen congestion, it's an admirable goal but is it realistic in an environment such as this where we're paying a hundred dollars a square foot or whatever it is we're paying for the land? Thirdly, condition number four, the elimination of one of the curb cuts on First Avenue – we have no strong disagreement with that unless it gets to the point where it's really eliminating quite a few parking spaces. We think we can work that out with staff, whether that curb cut could come here or one of these two, and one of these go away, we haven't really resolved that yet...

President Martin: Public Works has to deal with that, right?

Staff Watson: The way that they have it set up now is that if you come in here and all of these spaces are full, you have to go back to the street to circulate back into the parking lot. Public Works won't approve this design because it utilizes First Avenue to circulate so they're going to have to, at a minimum, lose 4 spaces. But Public Works won't approve this site plan with two curb cuts or those 4 parking spaces. They just won't approve it. So, internal circulation plus they're exceeding their parking requirement on this site.

Bill Tipman: The last condition I want to talk a little bit about, that is the conditional use permit. I understand full well that both Whittier and Stevens have recommended against it. Whittier, in our meetings with them, I'm trying to remember how they framed a

motion after the fact that basically invited us back to talk about extended hours. I was wondering if perhaps there was an opportunity to allow 24-hour operation in the store with a condition if it does, in fact, cause a problem anywhere near what the SuperAmerica, what was it, 180 Police calls in the last 18 months? CVS operates 5,000 stores, many of which are in highly congested urban areas. They know how to handle security, they have security cameras throughout. I'm sure they have others with security guards if needed. They don't intend to make this type of an investment only to find that people feel unsafe and therefore don't patronize the store. The reason they would like this store to be 24-hours is because geographically, it's located in an area that will serve a segment of the population for pharmaceuticals 24-hours. The reason all of their stores are not 24-hours is that they don't necessarily want to have, the most expensive individual in the store is the pharmacist, they want to strategically locate them around, that's the only logic as to why they would like this to be a 24-hour store.

President Martin: Pharmacy pick-up is where?

Commissioner Schiff: Either Mr. Tipman or Mr. Davolis, what's the sidewalk width between the store and Franklin Avenue, and where are the bus stops?

Dean Davolis (DJR Architecture): 10 feet.

Commissioner Schiff: Then where's the bus stop.

[unidentified person, off microphone]: The bus stop is right on the corner.

Commissioner Schiff: Is that a shelter?

[unidentified person, off microphone]: No it's not.

Dean Davolis: There's no shelters in this part.

Commissioner Schiff: And so where the bus stop is, you have got windows or a wall for that retail section?

Dean Davolis: Windows, which goes back to [elevations], so that is the Franklin Avenue elevation, so right where my finger is, that's where the bus stop is and that's where the glazing is.

Commissioner Schiff: OK, and that's for whatever the other retail tenant is there?

Dean Davolis: Whatever potential retail tenant is there.

Commissioner Schiff: I just mentioned it having focused a lot on sidewalk widths for Lake Street, I now know that 10 feet for a sidewalk, once you add your newspaper boxes and your trees and your bus shelters, you end up going single file in opposite directions when people are passing each other. I think some of these pictures here make it really

clear just how cramped 10 feet could be. But if there's no cube there, and there's no setback variances we're being asked to approve, then I don't see there is much we can do about that.

Staff Watson: If I could just interject, I apologize. We did have a meeting with Public Works and the applicant regarding... The Public Works Department had actually scheduled a meeting, asked the applicant to set the building 8 feet back from Franklin Avenue, from the property line, as their intention at some point in the future is to put a turn lane heading southbound on Nicollet from Franklin, and I don't know, the developer was going to go back and talk with CVS. But now, I hear that they actually own the site, so maybe that's kind of a moot point and Bear Creek can actually answer that question. We had left the meeting, they were going to consider setting the building 8 feet back from the property line in order to help create that turn lane, but I'm not sure, I have not heard anything else from the developer on that, but that is something that Public Works was looking into or had originally requested.

Commissioner Schiff: Well that's intriguing. Are you setting the building back 8 feet?

Bill Tipman: We've not been able to find a way to geometrically make that work.

Dean Davolis: The site is a very, very tight urban site.

Commissioner Schiff: I'm not going to ask you to do that. The City Council's had no discussion about making this a 5-lane intersection.

Dean Davolis: The site, because the parking just fits [tape unclear], once you do that, something gives, which is probably going to be overall parking which I think this is a parking issue. Because right now, under the changes suggested, we've lost 8 spaces; take that more and we're really starting to exacerbate the situation.

Charles Schatz (DJR, not on sign-in sheet): Two things: One, I just wanted to say about the four stalls that Public Works is requesting to eliminate, I think that what you will see is that we did show the required stacking, the 8 by 18 foot stacking size, so 3 cars stacked, plus the one at the window. Based on that, there isn't a conflict between the four stalls. I understand there is other congestion there, but just wanted to make it clear that we did comply with the stacking as per required. And then the other question I had was more a point of clarification from staff. Conditions five and six, is that an either/or? So we either add the additional shrubs or do the decorative fence? I just wasn't clear on that because it wasn't... that was it.

Staff Watson: I'll respond. The tree requirement is 30 trees and they're providing 15. Staff felt that it was too much to ask to put 15 more trees as there does not appear to be a lot of room for 15 more trees, but we felt that they could put 3 more trees in there. So to make up for the 12 that they're not meeting, we're asking that they put the fence. So they have to put 3 more trees, the remaining shrubs that they're lacking in the requirement, and then also the fence. So it's not an either/or, it's a both.

Commissioner Schiff: And then, just in case the question comes up Ms. Watson, can you respond to the interpretation of the windows?

Staff Watson: It does say 30 percent, between two and ten, that will allow views into and out of the building. If I can go back to the 12th and Hennepin site for a moment, because that is another one...I think this is how this discussion started today. On 12th and Hennepin, if you recall, along the 12th Street elevation, the last three windows were approved to be display windows, but the other windows had to be clear glass windows that you could see through. We never talked about having display cases in front of those, it was just the back three. When this site came up, we never talked about having display windows in any of the windows, it was never discussed. CVS doesn't have their internal layouts, or at least they've never shown staff internal layouts of their shelving system. I've requested that they provide them, so we can at least work with them. They say that they have a box; that they have one standard way of putting shelving systems in, but I believe that they could get creative and not put the shelving systems in front of our windows. Even if they keep the shelving system at five feet and have bottles of shampoo or something in front of them, not everyone in this world is over 5 feet in height and people can crouch down below five feet and do things that CVS wouldn't want people doing outside of their windows that, in my mind, that does not get to the intent is that you see... at least from 30 percent, if you've got 60 percent windows, well then you can put shelves in front of the other 30 percent, but that 30 percent needs to remain open to allow views into and out of. Especially if they get extended hours. On 12th and Hennepin, going back to that one, they had the windows on the parking lot. If people are there at 2, 3, 4 in the morning, you want to know what's going on in your parking lot because people will loiter there if you don't have eyes on that area.

Commissioner Schiff: So some of the windows can be display windows? We can make that difference in the site plan, we could say these are display, but these should be...

Staff Watson: Well we can use alternative compliance. They say that they have 60 percent windows in the CVS portion. We measured the entire length of the building and it came up somewhere about 36 percent windows for the entire length of the building. We've never broken it down by use or retail space within the building.

President Martin: But in any case, they're way over what we normally ask for?

Staff Watson: They're not way over. 30 percent is the minimum. They're somewhere within that 30 to maybe 40 percent.

President Martin closed the public hearing.

President Martin: So we've got rezoning, CUP's, site plan.

Commissioner Schiff: I will move the rezoning (Krause seconded).

The motion carried 4 – 0.

Commissioner Schiff: I will move approval of the conditional use permit.

President Martin: One or both?

Commissioner Schiff: For B (Krause seconded).

The motion carried 4 – 0.

Commissioner Schiff: On the conditional use permit, I just went through a very long discussion on the appropriateness of commercial [sic] use permits for 24-hour uses on commercial corridors in my ward. And it is rather complicated to ask to repeal a CUP once it's been given. It's an extremely expensive and time intensive process. I would rather propose that we grant a partial CUP that you can then combine, have it expanded once the issues are resolved on the site and the neighborhood has more addressed.

President Martin: We've done that before by putting a sunset time on it, 6 month or a year, or something like that with a review which then would allow it to go forward if there were no problems.

Commissioner Schiff: I think we can't put a sunset on it.

Staff Watson: We can't put sunsets on CUP's; our Attorney's office got after us for that.

President Martin: All right. It used to be a nice tool.

Commissioner Schiff: I would propose a 1 a.m. use. The standard hours would have them closing at 10 or 11 on the weekends: I would propose that they be allowed to stay open until 1 o'clock. I've got to break this down. 1 o'clock 7 days a week. And then 6 a.m. for opening hours.

Commissioner LaShomb: How about 2 a.m., so when people have a headache from those smoke-free bars, they can go to CVS?

Commissioner Schiff: They won't have headaches – all their health problems will go away.

President Martin: They'll still be drunk.

Commissioner Schiff: Yes, they will need aspirin however, because they'll be so happy of the smoke-free bars.

Commissioner LaShomb: I say that a little facetiously, Commissioner Schiff, but...

Commissioner Schiff: Sure, no that's fine, because the bars are open to 2, so why not?

Commissioner LaShomb: We should have some consistency about closing hours in the City off Minneapolis. Even I can't figure it out anymore, and I'm young.

Commissioner Schiff: Well I would propose 2 a.m. on the weekends for Friday and Saturday.

President Martin: And 1 a.m. other days.

Commissioner Schiff: 1 a.m. other days.

The motion carried 4 – 0.

President Martin: I think we need some findings.

Commissioner Schiff: That it will not negatively impact the surrounding uses.

President Martin: It's not going to hurt anyone around it, and we're expecting people to have headaches. There are other 24-hour uses in the immediate area.

Commissioner LaShomb: Madame President, I think the nature of the neighborhood justifies it because there are a lot of people that work in the service industry and other places where their only access to these kinds of facilities is late at night. You work in a hotel and the dining room doesn't close until midnight, you should have an option to fix your headache too. We should be equal opportunity pain relievers.

Commissioner Krause: The intersection of a commercial corridor – Nicollet's a commercial corridor correct?

Commissioner Schiff: Nicollet and Franklin both are.

Commissioner Krause: The fact that it's at an intersection of two.

President Martin: The epicenter...

Staff Watson: Franklin's a commercial corridor. Nicollet north of Franklin is a commercial, but south of, it's a community corridor.

President Martin: But this is north. OK, south. Then we have site plan.

Commissioner LaShomb: I'm going to move the site plan with the deletion of item number three. Then there may be other amendments want to make this site plan and I would regard them all as friendly (Kummer seconded).

President Martin: OK, we've got a motion to approve the site plan with all of the conditions excepting number three.

Commissioner Schiff: On item number 3 being removed, I look at all the different vehicular patterns going on in that area and it just looks like a prime accident zone. I can understand why Public Works would want to have that removed. You've got people coming in, trying to cut over to the drive through aisle, who are then crossing over an aisle of traffic to get to that drive aisle. You've got people then who would be backing up out of those parking stalls. We've got people cutting through from First Avenue to Nicollet, just because they want to avoid the intersection of Franklin and Nicollet, or just taking a straight shot through the parking. I think Public Works has a very good reason to want to remove those – I think they know an accident zone when they see one in this instance.

Dean Davolis [off microphone]: Let me just ask a question, if we ended up doing, and Billy jump in this, 4 parallel parking spaces...

President Martin: Dean, we can't hear you.

Dean Davolis: One idea, what if we ended up doing 4 parallel parking spaces along that area instead of spaces in which people back in. Because once you remove that angle of the drive through, that drive way could be widened.

President Martin: And now you're assuming people know how to parallel park.

Dean Davolis: Hopefully. Because now once you remove those spaces you have a wide swath in there that can be worked with because you don't need that turn for the drive-through prescription area.

Staff Watson: Just looking at the site plan, there isn't room for four parallel parking spaces if each space is 8 ½ feet wide, 16...it's 24, so you could maybe get two parallel parking spaces in there. Public Works has already said that they won't approve these four parking spaces, so I don't know why we would allow parallel parking spaces there, which would be even more difficult to get into and out of in this tight spot between the sidewalk, which is the pedestrian space, and then the drive through, or the stacking lane for the drive through.

President Martin: Would Public Works allow motorcycles or bicycles to be parked there?

Staff Watson: I bet they could put a bicycle parking space there. They just don't want cars. There's too many ins and outs and cutting over of drive through lanes. We had originally talked about not allowing the drive through there, at all, and this was a compromise, they moved it down and they just wouldn't remove the spaces.

President Martin: So...

Commissioner LaShomb: I'll withdraw my original motion and include item three. Although having said that, my big concern here is it sounds like we're going to be taking other parking spaces off on the First Avenue side and frankly folks, this is going to be a

tight corner for parking – you’re adding units across the street, you’re adding units on top of this, you’ve got a church somewhere on Sunday, you’ve got a funeral home. Maybe you can cut a deal with the funeral home to do, I don’t know, whatever... But anyway, it doesn’t sound like item number 3 is going to come out of here, so let’s just move it on.

President Martin: OK, so now we have a motion to approve the site plan as we see it.

Commissioner Schiff: I’m going to bring up the sidewalk width again. I know 10 feet is the City standard for sidewalks, but we’ve got photos in our packet of what 10 feet looks like.

President Martin: It looks like the City of Minneapolis.

Commissioner Schiff: Right. People walking single file in each direction. I’m uncomfortable with what we’re left with across the street for the new condos that Master & Civil Engineering is building for the same reason. I don’t think we left enough space there for the trees and the sidewalk and I would want to propose, Mr. Davolis: What if the building was set back 1 foot to add another foot to the sidewalk space – what would that do to all your numbers and your unit sizes? Other than it would not make you happy.

Dean Davolis: Let me put it this way, because I don’t want to answer on the spot. If I can make it work, I will try, but I don’t want to give promises because when you get a site this urban tight, every foot counts in a situation like this, so I hate to say yes, and then sit down and realize my parking bays don’t work and I’m losing parking. Because I’m already getting 8 spaces lots, so let’s just say we endeavor, but I don’t want to guaranty it.

Staff Watson: I’ve just been informed that there is no bus stop on this block – it’s just been temporarily moved there because of the Franklin Lofts construction. There is 10 feet of sidewalk between back of curb and their property line on the scale.

Commissioner Krause: Commissioner Schiff, presumably the newspaper sales will all be occurring inside the store, so there may not be any boxes out there to contend with.

Commissioner Schiff: Yeah, I mean they can’t prohibit the boxes if the boxes show up, they show up.

President Martin: It might make sense to continue the site plan another cycle and let folks work out whether or not shifting the building a foot or so would make a big difference to have the staff and Mr. Tipman have some more discussion about what the issue of the 5 foot windows and what can be in them or not. Do people think that makes sense?

Commissioner LaShomb: I’ll withdraw my motion on the major site plan.

Staff Watson: We’d have to continue it two cycles because the report’s due Thursday, and there’s no way I can get this figured out, I can’t physically, with my other work load, get it figured out in two days.

Dean Davolis: One we could handle, two is too much.

Commissioner Schiff: I don't think the issues are all that major that we need to postpone it.

President Martin: OK, well then let's get it done. So Commissioner LaShomb, your original motion is back on with all of the items.

Commissioner Schiff: I'll make a motion to require another foot setback on the Franklin Avenue side.

President Martin: Commissioner LaShomb, is that considered a friendly amendment?

Commissioner LaShomb: I think we should vote on that one.

President Martin: First of all, is there a second for that? [seconded, off microphone].

Staff Watson: I can maybe help out just a little, but I apologize, I was trying to figure out the scale, but there is enough room in the parking lot to move the building back because our drive aisles in this area are about 29 feet. Required is only 22, so at least from here over, I know that the whole building can shift down at least 1 foot. As far as this, that drive aisle is 24, so actually the requirement is only 22.

Commissioner Schiff: Great. Love it. Thank you. That was easy.

President Martin: All those in favor of that condition being added.

The motion to amend the motion carried 4 – 0.

Commissioner Krause: Madame Chair, it seems like we haven't had a chance to discuss the issue of display windows versus completely open windows and I am persuaded by the challenges a retailer would face in having completely open windows on three sides in this case, so I'm going to try to fashion some amended language to condition number one which would allow the developer to work with staff to designated half of all the linear frontage with windows as display. Windows which would allow displays up to a height of no greater than 5 feet.

President Martin: Would you consider that a friendly amendment? Friendly amendment. [in response to off-microphone comment] No, we're not going to debate. The suggestion here is you work it out.

Staff Watson: Ask to clarify 50 percent of the CVS windows or 50 percent of the whole frontage along Franklin. Maybe CVS because that's who these guys are representing?

Commissioner Krause: CVS because we don't know what the other uses are. If it's a restaurant and there's a table there, that might be a problem. So just the CVS windows.

President Martin: So the motion before you is to approve the major site plan with Commissioner Krause's amended language for condition number 1 and for adding a condition number 12 that deals with a setback of 1 foot on Franklin.

The motion carried 4 – 0.