



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: June 21, 2007

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

Referral to: Zoning and Planning Committee

Subject: Appeal of the decision of the City Planning Commission filed by Tom Peterson with Station Nineteen Architects, Inc., on behalf of both Friends of Hope Community and Minnesota Teen Challenge

Recommendation: At the May 7, 2007, City Planning Commission meeting all ten of the Planning Commission members were present. However, after the vote on reasonable accommodation, one of the Planning Commissioners left the meeting. There were split votes for the individual applications acted upon at the meeting for the MN Teen Challenge development located at 2300 Chicago Avenue South:

Reasonable Accommodation: Denied 5-4, 1 abstained. President Motzenbecker broke the tie on this action but did not vote on the rest of the applications.

Conditional use permit for a supportive housing facility: Denied 4-3, 1 abstained.

Variance to increase the number of persons served in the supportive housing facility from the maximum 32 to 80: Denied 4-2, 2 abstained.

Variance to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero: Denied 4-2, 2 abstained.

Variance to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193: Denied 4-2, 2 abstained.

Site plan review: Denied 4-3, 1 abstained.

Ward: 6

Previous Directives: Not applicable

Prepared by: Hilary Dvorak, Senior Planner Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Hilary Dvorak, Senior Planner
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Community Impact

- Neighborhood Notification: Notice of the Planning Commission hearing was mailed on April 20, 2007, and notice of the appeal was mailed on June 11, 2007
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: A 60-day extension letter was mailed on May 22, 2007, extending the 120-day decision period to August 9, 2007.

Supporting Information

Tom Peterson with Station Nineteen Architects, Inc., on behalf of both Friends of Hope Community and Minnesota Teen Challenge, has filed an appeal of the decision of the City Planning Commission in regard to the redevelopment of the property located at 2300 Chicago Avenue South. The appeal is associated with the decision of the City Planning Commission to deny the following applications:

- Conditional use permit for a supportive housing facility.
- A variance to increase the number of persons served in the supportive housing facility from the maximum 32 to 80.
- A variance to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero.
- A variance to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193.
- Site plan review.

The original staff report and the minutes from the May 7, 2007, City Planning Commission meeting are attached.

The appellant has stated that the decision is being appealed for two main reasons. Please see the appellant's complete statement and reasons for the appeal that are attached.

- The denial of the reasonable accommodation violates the requirement of the Federal Fair Housing Amendments Act of 1988.
- The denial of the conditional use permit, variances and site plan review are not supported by the evidence in the record.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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

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MEMORANDUM

DATE: May 18, 2007

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

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

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

SUBJECT: Planning Commission decisions of May 7, 2007

The following actions were taken by the Planning Commission on May 7, 2007. 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 Motzenbecker, El-Hindi, Huynh, LaShomb, Mains, Nordyke, Norkus-Crampton, Schiff, Tucker and Williams – 10

9. Hope Commons (BZZ-3505, Ward: 6) 2300 Chicago Ave (Hilary Dvorak).

A. Conditional Use Permit: Application by Tom Peterson with Station Nineteen Architects, Inc., on behalf of both Friends of Hope Community and Minnesota Teen Challenge, for a conditional use permit for a supportive housing facility located at 2300 Chicago Ave.

Action: Regarding the application for the proposed supportive housing facility at 2300 Chicago Ave, the City Planning Commission finds that accommodation from the minimum spacing requirement is not warranted for this specific use in this location. The City Planning Commission **denied** the conditional use permit application for a supportive housing facility located at 2300 Chicago Ave S based on the following findings:

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Deleted: Since the City Planning Commission found that reasonable accommodation is not warranted for this specific use in this location t

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1. The accommodation being requested is not reasonable in that it undermines the basic purpose of the spacing requirement.

2. ~~The proposed facility does not conform to the minimum spacing requirement for these uses and exceeds the maximum number of persons for a supportive housing facility, which would result in an undue concentration of supportive housing in this area.~~

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B. Variance: Application by Tom Peterson with Station Nineteen Architects, Inc., on behalf of both Friends of Hope Community and Minnesota Teen Challenge, for a variance to increase the number of persons served in the supportive housing facility from the maximum 32 to 80 for property located at 2300 Chicago Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to increase the number of persons served in the supportive housing facility from the maximum 32 to 80 located at 2300 Chicago Ave S based on the following finding:

1. The space could be put to reasonable use.

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C. Variance: Application by Tom Peterson with Station Nineteen Architects, Inc., on behalf of both Friends of Hope Community and Minnesota Teen Challenge, for a variance to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero for property located at 2300 Chicago Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero located at 2300 Chicago Ave S based on the following finding:

1. ~~The parking variance would create a burden for the community.~~

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2. ~~It is not an accurate assumption that the people in the program will not have cars.~~

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D. Variance: Application by Tom Peterson with Station Nineteen Architects, Inc., on behalf of both Friends of Hope Community and Minnesota Teen Challenge, for a variance to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193 for property located at 2300 Chicago Ave.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193 located at 2300 Chicago Ave S based on the following finding:

1. The parking variance creates a burden for the community.

Deleted: Taking away 18 spaces

E. Site Plan Review: Application by Tom Peterson with Station Nineteen Architects, Inc., on behalf of both Friends of Hope Community and Minnesota Teen Challenge, for a site plan review for property located at 2300 Chicago Ave.

Deleted: Application creates an assumption that the people in the program will not have cars. ¶

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review for the property located at 2300 Chicago Ave S based on the finding that accommodation from the minimum spacing requirement all other applications for 2300 Chicago Ave were denied and therefore the use is not allowed.

Staff Dvorak presented the staff report.

Commissioner Nordyke: Going back to the conditional use piece, in order to grant the petition we do have to find reasonable accommodation.

Staff Dvorak: That is correct.

Commissioner Nordyke: So, how are you recommending that we approve the conditional use if you are not taking a position on the reasonable accommodation?

Staff Dvorak: Maybe I need to defer to Jason, but we've always asked the Planning Commission to make the reasonable accommodation finding. That you believe through all the evidence and all testimony that comes through here this evening and in your reports and whatnot, that you believe that reasonable accommodation should be granted and that the use is then reasonable.

Commissioner Nordyke: [not on microphone]

Staff Dvorak: If you had to remove the spacing requirement, we believe the supportive housing facility would be appropriate in this location. I don't know if it's appropriate to dissect the two issues, but for us to write the report we have to think of it that way because we're providing facts to you to answer one question and then we're giving you our professional opinion on the others.

Staff Wittenberg: Commissioners, if you just note one small piece on the first recommendation on the agenda, it does reference "if the City Planning Commission finds that reasonable accommodation is warranted, then staff recommends approval". It's a little bit of a, as you're recognizing, a sort of chicken and the egg type of situation where it wouldn't really be appropriate for us to leave you completely high and dry on the other applications that are before you by providing no recommendation on anything so that's what happens to be our approach in this case.

Staff Dvorak continued with the staff report.

Commissioner Nordyke: I have two things I would like you to clarify a little bit for me. In the staff report on page eight, when we're talking about the Comprehensive Plan, the first point that you make in regard to that this takes steps to eliminate discrimination does not seem intuitively obvious to me. Can you talk about that a little bit? One that seems completely counterintuitive is that this particular proposal promotes the diversification of location of affordable housing, which I think is your fourth point. Can you talk about how you came to those conclusions?

Staff Dvorak: It is a protected class under the Federal Fair Housing Act. To eliminate discrimination, we should think more globally I guess, citywide, about locations of these. Although there may be a concentration in this area, this is where the operators of the facility feel that it is best served and best located given that their support system is located within this area, meaning their other facilities. I guess we pull policies out of the Comprehensive Plan that talks about the issues or the use that's proposed or going in. As far as the location distribution of affordable housing, we tend to like to show both sides of an issue. I actually didn't have this one originally in my staff report and my staff report asked that I do put this one in so maybe he can talk a little bit more about why it was added. I honestly don't want to respond for him

Staff Wittenberg: Commissioners, I thought it was only fair that the report provide some balance and point out policies that this clearly would not be in compliance with. As with any analysis of consistency with the Comprehensive Plan, it's really sort of an analysis that looks at if the project is consistent with the Comprehensive Plan because with almost any project you'll find policies that it's not in conformance with and you'll find policies that the project that is in conformance with. That's why that particular bullet point is there. It's not stating that this project actually diversifies the location of affordable housing; it references that that is one of the relevant policies to consider for the project.

Commissioner Nordyke: So when you say it applies to this proposal, you mean that it applies in that the proposal does not meet it.

Staff Wittenberg: It applies in that it's one factor for the Commission to consider.

Commissioner Nordyke: I'm assuming that the Chair has a methodology for leading us through this reasonable accommodation so I won't jump into that. On page nine, with regard to the variance that's being requested, you discuss here that the density requirement for a supportive housing facility under the OR3 zoning district is 300 square feet per rooming unit, the site in question is 47,000 square feet give or take; a site of this size would allow up to 491 rooming units, do you mean supportive housing rooming units or just rooming units in general?

Staff Dvorak: All of the above, units for supportive housing, regular dwelling units...

Commissioner Nordyke: Under the program that's being put forward, even with the design ability to do 491, they are still under the 32 unit cap that we're even discussing right now, right? Are you insinuating here that if they dropped the supporting housing aspect of if that they could 491 units?

Staff Dvorak: It was meant to show you the comparison if supportive housing didn't have a cap on the number of residents... they have 42 rooming units, rooms, with two residents per room and then two staff members so 80 residents being served. It was meant as a comparison to show you how large the site is and what kind of density it could actually accommodate. One of those specific development standards, in addition to the spacing, is that no more than 32 persons be served in a facility meaning that once you get over that we should look at the site and the characteristics of the area and that's what we go through in this variance. I guess it was meant to show you the scale of this site in relation to how many rooming units or persons they're actually wanting to accommodate in the facility.

Commissioner Nordyke: That's my questions for now, thanks.

Commissioner Williams: In relation to the rationale of raising the question of affordable housing, we are looking at a population group that would be extremely difficult for these young people to find housing anywhere in the city that they can afford. That if it is not structured as a part of a program that it is unlikely that they will find housing. When we're thinking of affordable housing, we have to go beyond the traditional base of whether or not people have income from whatever source to be able to afford a unit of housing, but we all need housing. There are some who will need more help in getting the housing than others. This is compounded by the fact that there are few communities that will extend, with open arms, come to our community with your housing. That's probably why we are asking for the variances in terms of having all of these places sited within a quarter mile of one another. It's not an accident that they are located where they are. Those are the neighborhoods that were most accessible for this kind of housing. That's part of the reason why we're seeing a request for variances here.

Commissioner Norkus-Crampton: When you think about supportive housing and the limit of certain kinds of facilities like this within a certain area, obviously what's coming up from the neighbors and other residents, is this having an effect on their communities, is it having an effect on public safety, are there other issues that they need to be aware of that maybe people that would be using this facility would be bringing to their communities? Can you tell me from

your perspective, are there any safety issues that we should be aware of or that could be a possibility as far as having an effect on the surrounding community?

Staff Dvorak: I think that question might be better directed towards the applicant?

Commissioner Norkus-Crampton: I was just going based on your recommendation, if there was anything that you discussed or anything that you had explored along those lines.

Staff Dvorak: My personal opinion, the residents that are in this facility are arriving sober. They've demonstrated that they can maintain their sobriety through a one year treatment program. The goal of this facility is to ensure that they remain sober. As you get them out of supportive services, supporting housing and into mainstream society like all of us where you live on your own and you're not dependent and you're not falling back on whatever your dependency was that got you to the treatment program itself. That's my personal opinion is that I think this is...I think if you separated the uses there wouldn't be an issue, but because you put someone in a facility to take care of those who are trying to achieve stability in their life that in some regard they're punished. Again, that's my own personal opinion. I have friends who work in these types of facilities and that's what their goal is, to get these people out of these facilities for good.

Commissioner Norkus-Crampton: I know there was a liquor store on the corner of Chicago there that they've been trying to close down for a long time, was that successfully closed? I can't remember.

Staff Dvorak: I am not sure.

Commissioner Norkus-Crampton: It was on the corner of Peavey Park. Ok. I knew there was talk about it for a long time. I couldn't remember if it was finished. Thank you very much.

President Motzenbecker opened the public hearing.

Blake Graham (): I represent MN Teen Challenge in this application and in the request for the waiver of the quarter mile spacing requirement. That's the issue I would really like to address for the Commission because I think there may be still some questions about what that requirement is and how is that waived or why is it waived. Then I would ask the Commission's indulgence to hear from Rich Scherber who is the director of MN Teen Challenge and he can more fully describe...and I think this will get somewhat at your question about is there really a safety issue to have more supportive housing in an area, perhaps for some supportive housing but not for this supportive housing program and I think Mr. Scherber can explain why. Then Jack Rasmussen who is with Station 19 Architects will be available if there are any questions on the actual physical design, the physical improvements, the redesign, the screening, the greening

of those hideous parking areas that are there right now and the addition of the E 24th St building entry as well as the corridor to the second floor and above. I think Ms. Dvorak did an excellent job of summarizing a very complex project when it comes to all of the approvals that are required. Actually, it's a pretty simple project. Friends of Hope Academy and MN Teen Challenge are simply proposing to remodel the upper floors of the old Mt. Sinai hospital building, which has been vacant for over 15 years. The second floor and floors four through six will be remodeled into office space that will serve a variety of nonprofit organizations. The third floor is proposed to be used as a structured supportive aftercare housing facility for graduates of the intensive one year residential chemical dependency program that's run by Teen Challenge just a few blocks away, both for men and for women. When we get into the regulations, things get more complicated and I understand that. If there are any questions concerning findings, such as the Comp Plan issue. The Comp Plan has hundreds and hundreds of policies in it. As part of the application process, Teen Challenge did submit about a dozen Comp Plan policies that we thought were strongly supported by the project or strongly did support the project. You're always going to be able to find some policies that are for and some that are against and I guess that's the reason Mr. Wittenberg wanted to place that obvious discontinuity policy in his staff report. Let me get to reasonable accommodation because it's an extremely important issue in the matter for the Planning Commission to consider. The policy or practice of the Planning Commission has been not to make a recommendation regarding reasonable accommodation. Whether that is the best approach, I don't know. Whether the Planning Commission or City Council or the Planning Commission would like to recommend in the future the Planning Commission put forward a recommendation, that's up to you. Here's the long and the short of it, the Fair Housing Amendments Act of 1988, I'm just going to call it Fair Housing, the Fair Housing Act prohibits discrimination in the sale or rental or to otherwise make unavailable or deny a dwelling unit to any buyer or renter because of a handicap. Case law has made it clear that unlawful discrimination under the Housing Act includes refusal to make reasonable accommodation in zoning rules. When such accommodation may be necessary to afford persons with disability equal opportunity to use and enjoy a dwelling. I'm going to come back to that point as I go through the factors that Hilary...

President Motzenbecker: Mr. Graham, Hilary did go through all those in detail so if we could just focus on your items in particular it would help us a lot.

Blake Graham: Alright, I'll go right to the factual basis for why we believe this application not only warrants, but requires, reasonable accommodation which was the holding of the Lydia House decision in 2003 that the city not only may, but must, grant a waiver of a zoning ordinance where it is needed and it's factually based. Let's go to those facts. On those three points, the first was that the requested accommodation must be made on behalf of persons who are considered handicapped. The proposed Teen Challenge supportive housing facility is designed to provide structured aftercare for folks who have gone through a one year program. Many of these folks are still facing serious obstacles for re-entry into the community. Many of these graduates have more than ten years of daily drug use and alcohol abuse behind them. According to Teen Challenge statistics, over 80% have been through rehab programs before and have relapsed. It's clear that because of the chronic alcoholism and drug abuse, past drug abuse of the residents, the residents are considered disabled for purposes of the act. The first point I think is fairly clear and well settled law. The second point, the requested accommodation is necessary to afford disabled persons equal opportunity to use and enjoy a dwelling. Let me just state that the federal law construes very broadly the term dwelling to include dwelling units, rooming units, group homes and supportive housing. I can read the act if you'd like, but trust me, it's very broadly construed. Most of the cases involve group homes in a supportive housing

type of setting. Hilary talked about the prior hospital use and configuration. The third floor had 45 double rooms, eight single rooms, beds for 98 people. It can very easily be reconfigured to this supportive housing arrangement. Twenty rooms for men, twenty rooms for women and two for the on-site staff. Hilary talked about the need for this site being in close proximity to other Teen Challenge facilities. She mentioned the hot meals that will be delivered daily from the commercial kitchen at 1619 Portland Ave, another Teen Challenge facility. More importantly, perhaps, the residents will be transported on a daily basis to other Teen Challenge facilities for training and various service projects and other programming that's going to be involved in the supportive housing itself. Hilary talked about the history of drug abuse and alcoholism that really prevents these folks from having driver's licenses or certainly being able to afford insurance if they did have a driver's license so they need to be near public transportation, which this site is. Probably the most important point is this site is being given to Teen Challenge. All of the costs of the development are being donated by Friends of Hope Academy. If this housing is not provided at Mt. Sanai, it will not be provided. That would constitute a clear deprivation of the opportunity to be in that housing. I think the second point about the reasonable accommodation being necessary, based upon the facts of this case, is fairly clear. This third and final point is the requested accommodation is reasonable and will not fundamentally alter the city's land use or zoning scheme. The OR3 zoning of the property is extremely intense. It allows high density residential uses, supportive housing institutions, college campuses, hospitals and so on and so forth. Much of the zoning of the surrounding area also allows high density uses and supportive housing. The point that Hilary was trying to make with the 491 figure, the 491 units, is that the size of the nearly three and a half acre Mt. Sanai parcel could be developed into nearly five hundred either dwelling units or rooming units, more likely dwelling units, that would house thousands of people without disabilities. This would be entitled under the zoning ordinance. The size of this lot would entitle that. That is more than ten times the number of units being asked for by Teen Challenge and it's more than twenty five times the number of residents that are being proposed by Teen Challenge. In light of what is clearly legally available under the OR3 district, converting a single floor of the six story hospital into a supervised supportive housing facility for up to 80 persons with disabilities seems to be clearly consistent and compatible with the city's land use and zoning scheme and the surrounding mix of residential, commercial and institutional uses in the area. Moreover, the impact, if there is an impact, and I think this is something the city really needs to consider, if there is an impact of adding an additional supportive housing facility in the area it's mitigated by several factors. First, the size and nature of the nearly three and a half acre parcel itself and the six story hospital building. Secondly, the nature of the Teen Challenge program itself, which includes rigorous screening requirements including that all residents must have completed successfully the intensive one year program. This is a one year residential program, these folks don't leave the program for one year, they're on site, 24 hour on-site supervision both in the women's wing and in the men's wing, nightly curfews and prohibition on uses of drugs and alcohol while in the program. There have been two other nearby supportive housing facilities that have been closed in the recent past. The first is Jacob's Home. When we were trying to identify the regulated uses nearby we found Jacob's Home listed, but when we went out there it's a clear piece of land. It was razed in the fairly recent past. That was at 2510 Chicago Ave. The second one that has been closed is Colonial Place, formerly 2401 Chicago Ave which is now the vacant Chicago Commons corner. Finally, the existing population density and prevalence of multiple-family dwellings in the area. We think all of these things mitigate against whatever adverse impact one might argue would be had by adding an additional supportive housing facility. The quarter mile spacing requirement clearly restricts housing choices for persons with disabilities. There's no way around it. I drafted it when I worked in the Planning Department. At the time we drafted it, the governing case law here was family styles versus St. Paul, which upheld the quarter mile spacing requirement. That spacing requirement constitutes a cap or quota on the number of disabled people who can live in the neighborhood, plain and simple. No such cap or quota exists for people without disabilities, only for those with disabilities, therefore waiving a spacing

requirement to allow the Teen Challenge supportive housing facility is a necessary and reasonable accommodation for the three reasons that we just went through. That's the end of reasonable accommodation. I'd be more than happy to answer questions.

Commissioner LaShomb: I've been around about six years. We've had issues before about the Fair Housing Act of 1988 and in my time on the Planning Commission I can't think of any times when we didn't approve a project and that was the supposition, but my memory could be bad. I'm going to go back to a point you made about the Planning Commission not taking up the issue of reasonable accommodation. I don't know how we would avoid that and still have to act on the conditional use permit, but nevertheless, is your reasoning for that statement that the Planning Commission doesn't have adequate legal council to take up that issue or that, well, I don't know, you tell me what the reason is that makes you believe that it...

Blake Graham: Commissioner LaShomb, you may have misunderstood my comment. I believe I stated that the Commission may want to have discussions with CPED staff regarding whether you would like to see a recommendation from staff in the future on these types of applications that involve fair housing as opposed to what you have before you tonight which is, while they've laid out a pretty good picture of the reasonable accommodation case, but they haven't made a recommendation for you and then they have made recommendations on all of the land use applications that depend upon the reasonable accommodation being granted. That was my comment. Clearly the Planning Commission has to address reasonable accommodation.

Commissioner LaShomb: Ok, then let me move on to another question. I'm sure that one of the issues that people are kind of concerned about on this issue is that we're talking about a facility with 80 residents in it. I've served on the Board of Directors of three mental health/brain injury facilities in my part time career and that's a pretty sizable facility. None of the facilities I ever served as a board member of ever had 80 members so I guess the question I have is, under the Fair Housing Act, is it possible that there could be as many as 800 people on this site? That if Teen Challenge wanted to buy the whole building and convert it that it would meet the standards of the Fair Housing Act? Is there a cap at some point where rationality or reasonable... or is that standard set by the applicant who basically says "I need 80 people here because it's the cost effective thing to do." We hear that in the nursing home industry all the time. If you don't have 80-100 people, the cost effectiveness of running a nursing home starts to slide down the drain. What's the Fair Housing standard? Is there some case law or precedent that says there's some point where it's just not rational to believe that you can argue reasonableness based on the size of the facility?

Blake Graham: That's an excellent question. The question is "is the request reasonable?" Under this scenario where in fact well over 2000 persons without disabilities could be housed. One could argue that 800 persons with disabilities is reasonable as well within the zoning scheme. We're not proposing that and we don't want that and this facility wouldn't really provide that. It would require such modification that it wouldn't be practical. What Teen Challenge is trying to do is simply to meet this unmet need for supportive aftercare housing. About 200 people a year graduate from the program. Many, but not all, need this extra support for a year or two to help them maintain continuing sobriety. With this meth epidemic that's going on out there, the old 30 and 60 day program, I don't know how much you know about treatment programs and I know it's a land use matter, but with meth, 30 and 60 day programs do not begin

to address the real underlying issues. The federal courts have put caps of about eight people in single-family neighborhoods. They would accept as a reasonable cap, eight people in a single-family neighborhood, an R1 district or an R1A district. Minnesota law says six people is mandated as of right in a single-family district. Six, eight, I don't know. When you get into multiple-family districts like this, I think it has to be decided on a case by case basis. Fortunately, you don't have before you an application for 800. It makes the request for 80 seem that much more reasonable by comparison.

Commissioner LaShomb: I'm not going to argue the merits of the program. I've been on boards and I've argued the merits of programs in neighborhood meetings. I'm not an attorney and certainly my constitutional law classes and my short time in law school probably didn't address some of these issues, but I can almost see an argument that under the Federal Fair Housing Act of 1988 that clustering individuals into neighborhoods where there are a number of facilities could be construed as discrimination. Basically what we're saying is that individuals who have a drug dependency can't be put in what I would describe as typical neighborhoods and therefore we cluster these facilities into certain neighborhoods like Phillips or Ventura or maybe there are some facilities down in my part of south Minneapolis, but I think the basic point is that too much clustering in my mind might have a reverse affect of creating a situation where individuals are being discriminated against because we as a society concluded that there are certain neighborhoods that are appropriate for these kinds of facilities and I assume that's what the city was trying to get away from when they passed the 1996 version or previous version.

Blake Graham: That was the reasoning behind the quarter mile spacing requirement. To prevent deinstitutionalization of certain populations. That was the holding of the Eighth Circuit Court of Appeals in Family Styles versus St. Paul, that was a 1991 case and that was governing law up until 2003 when the Lydia House decision came down. That case made it clear, we're not talking about "well, maybe you should go to another neighborhood or maybe there is housing available in another neighborhood", it says the city must, not may, must approve a waive of a zoning ordinance requirement when it needs to do so in order to provide equal opportunity for disabled persons to live in the same neighborhood as persons without disabilities. You can say "well, they ought to be down in Fulton neighborhood or somewhere because we don't know if we have any..." that's not what's before you. What's before you is this neighborhood and right now I've demonstrated that the Zoning Code would authorize thousands of people to live on the Mt. Sanai site if they didn't have disabilities. Clearly the city cannot prevent 80 persons with disabilities from living on that same site. You'll have to talk to your city attorney about this if you need to get there, but that clearly is the holding in the Lydia House case. I hear what you're saying about the institutionalization and spacing. I helped author many of these ordinances, but the law has evolved and changed. Whether we like it or not, this is state of the law now in Minnesota. Thank you.

President Motzenbecker: I'm going to ask that unless there is some specific questions from Commission regarding the detailed nature of your program that we reserve the public testimony for some other folks. Does the Commission have any specific questions for the applicant?

Commissioner Norkus-Crampton: I'm just clarify for the record if there are any safety issues that are presented either by...and it sounds like there's been some screening, sounds like they've been through a year long program, I think it's fair for the surrounding communities to

know whether or not there are any public safety issues dealing with the particular clientele that comes in whether it's a previous criminal record, history of violent altercations, things like that. I'm a nurse so I'm always interested in ratios and I would just like to know what is the ratio...they talk about two staff people, is this two staff people per 80 residents or is there...I'm assuming there are other supportive services and I don't expect you to go into your whole program, but just things that could be perceived along the lines of public safety.

Rich Scherber (1619 Portland Ave): I'm the Executive Director of Minnesota Teen Challenge. To answer the first question, there will be two resident staff there at all times. There will probably be a total of 10 plus staff that work in counseling and other supportive services so that means that on any given day, 2 o'clock in the morning, there will be two resident staff there watching. Again, these are people who could be on and would be on their own behavior. Concerning safety issues, we're located in four different neighborhoods. I've got letters of support here from Steven's Square neighborhood, Elliot Park, and the Lyndale neighborhood. I won't read them unless you want them all read. Steven's Square neighborhood says that Teen Challenge has consistently been a positive contributor to the neighborhood by operating safe and well-maintained facilities by establishing strong ties with the neighborhood.

President Motzenbecker: If you could submit them to the clerk that'd be great.

Rich Scherber: The neighborhoods are strongly endorsing Teen Challenge. For the last 12 years, we've been using the former Steven's Square nursing home. At the time we used the Steven's Square nursing home up until two years ago, part of the nursing home was attached to an existing 80 bed facility. I have a three page letter here from the Executive Director of the Steven's Square nursing home who basically tells us how they were very concerned with chronic drug addicts and I just want to read one paragraph. "Initially safety was a concern when we considered a program such as Teen Challenge. Our fears have been totally unfounded. We have not even had one incident in a [tape ended]..." ...any safety risk issues to our people. I'd be happy to submit this. Thank you.

President Motzenbecker: As I continue the public hearing, can I just get a show of hands of how many people are hear to speak to this particular item? We have about six people. If I could ask, please, just in interest of time and focus if you come up for your comments if you can keep it to two minutes, we'd appreciate that. It's the President's discretion. As a general point of order, if we could please keep it focused because we do have a lot of people who want to speak. If you could bring new information that's different and new than the previous person who has spoken, we would appreciate that as a Commission too because it helps us see the different points of view instead of hearing the same thing repeated. With that, please whoever would like to speak, come up.

Del Lundeen (2615 Park Ave): I'm chair of the Phillips West council. We, very strongly, are against this move. We feel that, at the present time, your staff already said that there are eight of these supportive residences within a quarter mile of the building. When you look at the greater Phillips area, there are well over 100 of this same type of housing. It just seems like every time that somebody wants to put up these sort of things they move them into our

neighborhood. We have been trying to improve our neighborhood. That doesn't mean that we want to kick these people out, but we don't want to have all of them. There are a lot of neighborhoods in the city who could probably take care of some of them. That's all I have to say.

Jim Graham (2101 10th Ave S): I'm from the Ventura Village neighborhood. I'd like to assure this gentlemen that we have built about 2000-3000 units of affordable housing. That community is absolutely opposed to this; in fact, voted to oppose this. If you give me a sugar coated donut, it may be good for me if I eat one a day. You give me 25 to eat a day and I become diabetic and I die. We have, in a population of 6500 people, about 850 units of supportive housing. Do the math and see what happens. If you talk about reasonable accommodation, if the city wants to do reasonable accommodation, it should build or make available land in other areas so that you could build these units so that they're not so concentrated. Before, we heard Blake Graham say that they had ruled that six or eight of them in a residential community was enough. We have a residential community. They didn't talk about across the street there's residential housing. They didn't talk about a residential neighborhood that is fighting with every bit of its core to make a family oriented neighborhood. They didn't talk about anything to do with those communities. When they talk about reasonable accommodation, what they should have been talking about is that, is it reasonable to stick all these people in one spot and say there won't be any problems here? Is it reasonable to say a community can support that? No it's not. It's also a thing about parking. They didn't mention that this body has given variances for thousands of parking spaces in that area. It made, instead of 32 units of stores at the Village Market one block away, it allowed there to be 132 so that no one can park within two or three blocks if they live there even though there's not reasonable parking because these old houses didn't have adequate off-street parking. They don't talk about that. All these hundreds of units of parking that have been given and varied. The main thing is the variance. Is it reasonable to have something that is 1000 times a variant that is normally there? Thirty-two units, this would be equivalent to two and a half of those supportive housing units all by itself. We have a list of all of the different units there, we've made it available to people many times. I ask you to do something. We ask not for fair treatment, we don't expect fair treatment from this body or the city of Minneapolis. What we ask is to not be so terribly discriminated against. We have poor families that are trying to live there. They have concentrated sexual predators in our area, they have concentrated these situations in our area. Our neighborhood has voted more than any other community to have such facilities and to make accommodations for them. No other community has allowed as much. Now it becomes more and more and more. We ask you for at least a little bit of nondiscrimination. Not fair treatment, just less terrible abuse and discrimination.

Dawn Wangen (2730 Oakland Ave): I'm a council member of Phillips West neighborhood organization. Our community voted to not support the conditional use permit that Teen Challenge asked for. Fortunately, Jim gave you a lot of data that I don't have. I just want to say that this is not about discriminating against Teen Challenge, drug addicts, alcoholics, and handicapped people at all, obviously. This is about the Phillips West neighborhood saying enough is enough. Our neighborhood is saturated with this type of housing and it has been for a long time. We don't want anymore. There are safety concerns for us. There may not be for them, but there are for us. We need more single-family homes and offices. Even if the place stays vacant, so what? That's better than us being worried about bringing more people in. The other thing is that there's still open drug markets in that area. I don't think it's a good place for addicts at all. Without giving specifics, I think it is injurious to us, to our neighborhood, to have this many facilities concentrated. The Planning Division states concern with the concentration

of supportive housing, but says it's not injurious to the other properties in the vicinity, how do they know? It is. To us it is and it's because there are so many. If it was one facility, that's no big deal, but we already have too many. In The Minneapolis Plan it says "diversify the location distribution of affordable housing in order to relay the historic patterns of concentration of poverty that characterizes some neighborhoods" and that's exactly why this shouldn't be there. Thank you.

Mary Watson (1815 13th Ave S): I live in the Ventura Village neighborhood. I have so many reasons why I think this project is a bad idea. I know I only have two minutes so I'm only going to touch on three of them. I have served on the board of the Salvation Army, Harbor Lights, which is a housing facility for homeless people who have to be sober, they can't be there drunk. It's over on Curry Ave. When I was on that board, we had men and women on different floors and I think in the women's area we had 12 residents and then the men's we had as many as 20. We had two full time staff per floor all the time. For 12 women we had two full time staff and there were issues that you wouldn't believe. There were fights over property, food or whatever and these were sober people recovering. I think this program is very understaffed. I don't think two full time people, which means one per group, can ride herd on 40 recovering alcoholics and drug addicts. I think they need a lot more staff for the program that they're going to do. The next issue is one of the parking variances. About three or four years ago, Detox, which didn't show up on your quarter mile map, but is just to the north of the quarter mile on 18th and Chicago. Detox came to the Planning Commission because they did a whole new site review of that facility. They asked for a parking variance of something like less than 10 parking spaces. They were denied because of the huge amount of parking problems in that area and traffic problems. This project is asking for a variance of 48. We already have a huge amount of parking and traffic problems in this area due to the Somali market called The Village Market on 24th between Elliott and 10th. The residents who live over there can't find a place to park. Parking is a very big issue in this area. The Children's Hospital is expanding. It's just going to get worse. I would hope that you would deny the parking variance if nothing else. The last point I want to touch on is that I'm the chair person of a group that's called Court Watch. We meet monthly, in fact we'll be meeting Friday. It's an organization made up of the Police Department, Hennepin County attorney's, city attorneys, residents, police officers and business owners. We have a list of people that cause problems in the greater Phillips area which includes Franklin Ave, Chicago Ave, Bloomington Ave, Lake St and Little Earth. We have 10 to 12 people per area on our list of problem people. Some of them have been arrested 40 to 50 times. We have a process worked out with the courts that if one of our people, we call them our top 10 list, if one of them get arrested we receive a notice immediately because the next day they go in for a hearing. We ask that the judges do what's called a geographic restriction which means that we ask the judge if they're going to give probation that they have these people not come back to our neighborhood.

President Motzenbecker: If you could conclude for us, please.

Mary Watson: Some of the worst offenders, rather than doing jail time, are sent to Teen Challenge. This is not a program for teenagers as you might think it is. It is for adults who are chronic alcoholics and drug offenders. By having them come to this facility, you are literally going to have the judges putting them back into the neighborhood where they cause the most problems. Thank you.

Greg Walsh (500 E 24th St): I have been doing this for about 25 years now. I've lived in the Phillips neighborhood. I can't really add much to everything that's been said except to reinforce it. I totally agree with everything that's been said so far. Minnesota Teen Challenge is a fantastic program, it's treatment the way I think it should be done, but I have watched Phillips approve program after program after program. Years ago, Phillips as a neighborhood decided to draw the line. No more treatment facilities, no more program properties – it's time for these programs to locate in other neighborhoods where perhaps they'll have a little bit better peer group and a better chance of success. Thank you.

Ray Peterson (2111 13th Ave S): I'm chair of the Ventura Village neighborhood group. Our organization officially does not support this project or the variance requests. The reasons have been pretty thoroughly outline regarding the over concentration and the parking and the fact that there's a lot of drug activity going on in the street and it's not a supportive neighborhood for the people in the program. I also think you can't predict what the behavior's going to be for the people who are there. The last project you did approve in our neighborhood, Collaborative Village Initiative, ended up causing considerable problems in the neighborhood. The kids in the units started organizing gangs and went out and shot people and shot people's windows. My tenant was robbed at gunpoint by these people. I think as a personal testimony, I suffered probably \$3000 worth of damage from the tenant moving; lost rent, broken windows, other people got their windows broken out. You can't predict what the behavior's going to be, especially when you're putting people in such an area where there's really not a whole lot of support around them. They're not being locked up there, they're free to come and go. I would support 400 to 500 units of regular housing there over the further concentration of supportive housing.

Robert Lilligren (2919 3rd Ave): I represent the sixth ward of the city of Minneapolis. I am also a resident of Phillips West neighborhood. I also want to thank Teen Challenge for their work. I have worked with them throughout my Council career. When I represented the eighth ward they had a significant presence in the Lyndale neighborhood. Now they represent the sixth ward. They're present in the Steven's Square neighborhood. As Mr. Scherber can tell you, I've worked with them to address some of their challenges in both wards, but I am here to oppose this expansion of their use into the Phillips West neighborhood. I will speak directly to the applications. I'm here to ask Commissioners to deny the CUP and all of the variances. This is about concentration. Concentration of supportive services, concentration of poverty, concentration of populations that are earning no income or are of limited income. This is a worthy program, as Mr. Walsh said, no one is arguing that. I'm certainly not saying that it isn't, but it's the cumulative effect of co-locating programs like these and what that does to a community, a community's ability to develop a viable local economy, what that does that people who are investing in the community and the expectations they have that those investments will increase in value. Studies show that people in programs and people in low income housing fare better when they are living in deconcentrated areas so it's even better for the people who are participating in the programs. My constituents have given some good reasons; I'm not going to try to duplicate anything, but there are some good reasons just as there were good reasons for putting spacing requirements and statute. They were putting language about deconcentration into the Comp Plan. There were very good reasons to eliminate that concentration. To the reasonableness of an accommodation, and that is a key question, accommodation is unreasonable when it creates a fundamental alteration in our land use. I would say, first off, just the scope of the applications themselves show that there is a fundamental difference between what the city's vision is for this area and what this application creates. It's been a quarter mile spacing requirement since 1996; the language in the Comp Plan that we have gone over and

over. The city has been very accommodating with this program, with Teen Challenge, due to some very hostile statutory changes. Some of their uses have become nonconforming at their existing site and the city, rather than just shutting them down, is working with them to accommodate those uses and to find ways that they can continue to operate even though they're no longer compliant. To the CUP, is it detrimental to the comfort or welfare of the community and the concentration we've already talked about that and I think that is a detriment. Our policies speak directly to the negative impacts of concentrating the supportive housing. The applicant identified eight facilities within the quarter mile. Some of the work of the neighborhoods has identified 14. Whether it's eight or 14, whether 600 beds or 800 beds, it doesn't matter. What that's showing is that this is a highly concentrated area. To the varying from 32 residents to 80. There is no hardship here. The argument that staff puts forward is that the hospital provides a floor plan that can easily be converted to supportive housing. That's not a hardship, it's just a statement of fact. Also, this 491 dwelling units allowed that Mr. Graham argues could contain thousands of people, I'm not certain that 300 square foot units can contain that much population, but that's really not relevant. No one has asked to put 491 units of housing here and that would only be possible if there were no other uses in this building already. Parking would be an issue. I think that's really not a relevant argument. To the parking variances, the congestion, the livability in the area, as Mr. Graham said, a tremendous number of variances have been provided in this area already; thousands of them to businesses, nonprofits and other supportive housing facilities like Village Market on 24th and Elliott. CVI Collaborative Initiative, PPL has had a variance I think down to zero very near this area. As residents work and as they get jobs, they are going to want cars and they are going to want to park somewhere and there is a nearby ramp available, but I would ask if it'd be used. Our experience in the area, with a lot of intensive institutional uses in the medical corridor has shown that no, given the option, employees will not pay for parking. They will use the city streets and residential area around for parking. That is a very real concern. I would ask that for these reasons you will deny the conditional use permit, the variances, the supportive housing variances and the site plan review based on, in part, the lack of parking and with the inconsistency with the Minneapolis Comp Plan. Thank you.

President Motzenbecker closed the public hearing.

Staff Wittenberg: Just a point of information, staff is currently under discussion with Lutheran Social Services about another potential supportive housing facility on the 2400 block of Park Ave. We're currently working with Lutheran Social Services to make a determination about whether that is indeed supportive housing. I just thought I'd let you know that that would be an additional facility within this quarter mile radius within, potentially, the coming months.

President Motzenbecker: I think the first order of business would be, as we've talked about, determine the reasonable accommodation piece and I think we'll just talk about the vote on that and I think that will determine how the rest falls into place.

Commissioner Tucker: I did want to bring that up first to get this matter before us so I move the following: regarding the application for a supportive housing facility at 2300 Chicago Ave, the Minneapolis City Planning Commission finds that reasonable accommodation is warranted for this specific use in this location. The applicant has demonstrated in its submission and testimony that first; the requested accommodation is made on behalf of persons who are

considered disabled. Second, the requested accommodation is necessary to afford disabled persons equal opportunity to use and enjoy a dwelling. Third, the requested accommodation is reasonable and will not fundamentally alter the city's land use or zoning scheme. We have additional details if we need them for findings in the applicant's submission. The conclusion of Mr. Blake's written report states the case very succinctly. That is my motion (Schiff seconded).

Commissioner Schiff: The only thing that defines the people who will live in this housing as a group is the fact that they do not use drugs or alcohol. That's a condition in which they must have in order to live in this housing. It's clear from the advice of the City Attorney in the memo that's included in our packet from 2001 on the question "is the existence of a handicap covered by the Act...", meaning the American's with Disabilities Act, "...a requirement for residency in this housing?" Absolutely. That's what we're here for. This is absolutely about a protected class under the American's with Disabilities Act. Should we not find that people with chemical dependency issues or people who have been accepted and have been through alcohol treatment programs are not disabled, then we better enter those facts into the record right now. Federal law has been clear. These people are protected as a protected class under the ADA.

Commissioner Nordyke: This is one of those wonderful situations where we're being asked to pretend like we're lawyers and we're not. My inclination would be, frankly, find some way to refer this without a recommendation or to ask for some sort of council on it. I'm going to go back to the staff report on page five. I'm going to assume that there their recitation of case law here is somewhat, and to a degree, I agree with Council Member Schiff. However, under reasonableness it does say "Case law has established the following test for when an accommodation is unreasonable: 2) if it would create a fundamental alteration in the local government's land use and zoning scheme or otherwise undermine the basic purpose which the requirement seeks to achieve." Not two paragraphs later, under the purpose of spacing requirement, it says "the basic purpose for having a spacing requirement in the Zoning Code is to prevent the undue concentration of specific types of use". This is not asking us to reasonably accommodate a third or fourth use in this area, it is asking us to accommodate a ninth use in this area that is in violation of the spacing requirement. If that is not undermining the basic purpose of the requirement, I don't know what would be. I'm going to speak against the reasonableness of this accommodation and suggest that if we must vote on it, I'm going to vote that it is not a reasonable accommodation.

Commissioner Williams: I tend to agree with the last comment around the reasonableness. We have an unusual concentration of these services in one area of the city. I recognize the tremendous need that has been identified. The responsibilities are not shared. We do find concentrations in two or three areas of the city and this body and sometimes the Council and others will move to allow it to happen because there is not as much organized resistance from those communities as might be elsewhere. The other concern that I have is the staffing, whether or not two people on duty 24 hours is adequate for 80 people. That would be a concern of mine. My vote would be against it. I am going to have to leave now because we've gone longer than we traditionally go and I had another meeting scheduled and people are waiting for me to get there. Thank you.

Commissioner LaShomb: This is one of those issues where you need a Supreme Court instead of lawyers and maybe we'll get a Supreme Court decision if we work at it hard enough. I guess

my sense about this is that, I think in my time here on the Planning Commission, I think I voted every time where this issue has come up, I voted to support it and said that it is reasonable to provide a facility. What troubles me about this facility is the size. It really bothers me. I was on the Board of Directors of an organization known as Restart and we probably had 80 residents in the whole program and we had about seven different facilities and just the idea of treating a transitional care facility with 80 people troubles me, but I'm not into program management. I think this program, if it's approved, one way or the other is not going to be a problem in the community in one sense and that is it's not going to be a security issue. It's not going to be an issue where they don't have adequate staffing. I've been down that road in these discussions and I know that these programs work well by and large. The problem, inherently is, that you're adding a facility with 80 residents in a neighborhood where you've already got a heavy concentration of these kinds of programs and because Portland, Park and Chicago tend to be neighborhoods that have a lot of social services, there's more of an inclination to add more of them there. The problem with that is that is that the concentration after a while really does start to lower the standards of the community and I think it diminishes the care that people get in the community because the stigmatization is there. If I'm in this facility, I'm going to be stigmatized because I'm going to be put into a neighborhood where by and large a decision has been made for any reason that basically the neighborhood is primed for this, for treating people. I don't think that creates normal relationship for people in the long run. I think Minneapolis has a very good history of accommodating persons with disabilities. It may not have always been that way, but the fact of the matter is that is in my time on the Planning Commission, we've approved a lot of programs over the dead bodies of a lot of neighborhoods. On the boards I've been on, and I've been on two programs that have facilities in Minneapolis, both cases we've never had trouble with the city of Minneapolis. I think the inherent question is how much clustering do you really want to do? I'm afraid that if this facility is a success, what's going to happen is a couple more floors in this facility are going to end up being residential treatment facilities and then pretty soon what we're going to have is we're going to have a campus in Phillips and Ventura. I just don't think that that's what we ought to do. I think the city ought to help this program find a facility in a community where the concentration isn't there and where people can find a normal kind of relationship with their neighbors in the community. I'm going to oppose the motion. I did have a question about the variance, but I guess when we get to the variances we can deal with that. Maybe we won't get to them at this point. It hurts me to think that I have to vote against a program that I think is really going to be useful and helpful, but I just think the placement of this program and the size of the program just aren't right in this situation.

Commission Norkus-Crampton: I guess I concur with the previous couple of speakers. I have lived in Phillips. My first apartment in the city of Minneapolis was on Park and Franklin. One thing, driving through the area, because I still have friends that live in Phillips, is that there is usually...there's no shortage of what at least appears to be business men hanging out on the corners of a lot of these streets and it doesn't sound like this is going to be a facility where people would be staying on site all the time, people will be coming and going. It sounds like the type of people will be people that have had drug use and I'm not trying to state anything against anybody in particular or any class of people in particular, but I'm saying that as a city, trying to help our communities grow and prosper, trying to provide some kind of balance of community, mission and welcoming all-comers, but also some level protecting the people who have stuck it out in these areas when there have been a lot of problems that are just inherent. Living down here, I think they've been good sports. I think that the residents have been very accommodating by the number of facilities we're talking about here, obviously that's the case. I think there is an issue of fairness here and I guess I feel strongly that there could be an issue of public safety as well because if you have this much of a concentration of this type of activity with people with these kinds of chronic problems and then the staffing, I'm not a chem-dep person,

but it sounds pretty marginal and that large a program sounds unusual to me. I know people who work in these programs. I guess I haven't really heard of one with 80 members, maybe there are some and I don't know about it. There's just enough things here that I don't feel comfortable supporting another facility and certainly not a facility of this size in this area.

Commissioner Schiff: A lot of the comments being made are completely irrelevant legally to the decision before us and I think that's crucial for all Planning Commission members to recognize because your comments will not be upheld in court if you don't relate them to the legal findings of fact that this body is required to make. Those are summarized by the City Attorney. I believe one of the Commission members who was talking right now had said they wish they had some legal advice and it's in the packet. It's from the City Attorney, Carol Lansing, and was written in 2001 and that opinion has not changed. The first question, "Will the housing to be provided serve people with handicaps as defined by the Americans with Disabilities Act?" Again, nobody here, yet, has claimed that people with chemical dependencies are suddenly not covered by the ADA in their opinion. Indeed, the courts have consistently held that people with chemical dependencies and alcoholism are disabled and thus they are protected. Number two, "Is the requested accommodation necessary to afford such persons equal opportunity to use and enjoy a dwelling?" By a dwelling we're talking about this dwelling in this housing that's before us. If we don't find a reasonable accommodation, then this can't open, thus people have been denied. Therefore, in order to find equal opportunity to use this dwelling, we must find equal accommodation and we must approve this application today. It's not discretionary; it's a requirement that we have this finding today in order to be in line with the law. I want you to realize that, that something that Mr. Graham as the former Zoning Administrator for this city has pointed out to you. It is required that we find this finding today in accordance with the laws of this country. Finally, in the question of reasonableness, that has been misconstrued by several speakers already. The question "will it fundamentally alter the nature of the city's land use or zoning schemes?"; housing is not a violation here. Nobody has said housing is inappropriate on this site. In fact, one of the questions that Carol Lansing gets to in her memo is "what is the history of this building?" This used to be a hospital. You know, one of those places where people who have a sickness go to get better. That's what Teen Challenge is doing. This is completely consistent with the historical use of not only this building, but the Health Science corridor which carries that mission from Children's Hospital, Allina's facilities and all the others. That is what's in the Comprehensive Plan for this part of the city. Now we're going to redo the Comprehensive Plan and if people want to strip out the Health Science corridor and say we shouldn't have hospitals or health related industry in this corridor, we could make that statement. Right now, that's in the Comprehensive Plan. I ask you to please read again the review by Carol Lansing who wrote this as the City Attorney. This is still the city's opinion even though she's not in that position. I ask you to support the motion before us.

Commissioner Huynh: Regarding this item here, I'd like to speak in approval of moving item number nine. I think that we need to step back. I'm not going to address it from legal issues, but also just about Minneapolis and where we're going. Just addressing it from a social sustainability perspective. We've had several outreach meetings in regards to the Minneapolis Comp Plan and a lot of the discussions that came up in regards to the break out session for sustainability is, one of the main topics, was being able to provide housing for all people of all social spectrums of all people in any neighborhood. I think that as part of the discussion and conversation that we've had tonight, there seems to be two types of discrimination that I've been hearing. One is just the use; discrimination against the proposed use and basically concerns of safety. I'm not sure if that's, to me, a valid argument. As Commissioner Schiff had illustrated, it's covered underneath the act. I think the second type of discrimination is a discussion that

Commissioner LaShomb had raised, but also Council Member Lilligren, in terms of concentration of uses in a certain area. I feel that the use that is in front of us today could be beneficial for the neighborhood in terms of the people that are a part of the project. They have been part of the program for a year and area clean and I think that it is in all fairness for us to give them that benefit of the doubt in terms of providing this type of housing for them in the area. I would like to support item number nine here in front of us.

Commissioner Tucker: I was on the Commission when the Lydia House matter came before us and all the comments were very similar. I come from a neighborhood that had, we though, more than our share of group homes, but that was not the issue. The issue, as Commissioner Schiff outlined so well, is are the people to live here disabled or are they entitled to equal opportunity and is this a use that one finds reasonable in this part of town? We have no choice but to pass this. Federal law trumps our spacing requirement. We just have to do that. Carol Lansing's memo was very clear on that and in the end, the Commission back in 2001 said "we don't like this that much, but we have to do it."

Commissioner Mains: I've gone back and forth on how I'm going to vote on this all evening. It's a hard decision. I tend to agree with Commissioner Tucker that federal law trumps what we can do with our local law. I just want to make a couple points. First of all, I don't believe safety is an issue with the people that are going to be in here. I don't think quality of care is an issue. We've not had any testimony that the level of staffing is inadequate by anyone who has any expertise in that. I personally know that this may be large for Minnesota, but it's not large on a national level. We tend to have small treatment facilities in Minneapolis and Minnesota. I know that from years of working in human service non-profits. I can see the neighborhood's perspective here, but I think I'm going to end up voting in favor of this, partially because of federal law, partially because I think this program is not going to cause a problem for the neighborhood.

Commissioner Nordyke: Just in response to the issue of us needing to vote for this in regard to federal law. Certainly, again, this speaks to the issue of not having legal council on a lay panel like this. If we were to err on the side of complete caution, I guess we would probably want to simply approve this and send it on. I don't think we run into legal issues at this committee if we interpret the law in front of us as best we can. I have been in housing for 20 years and have dealt with some of these issues and I don't think it's clear and I don't think we have to vote to approve this particular one. I do think it would be useful to have a specific opinion about this particular case; they're all different. There is no such thing as a blanket "must-do" in any of these situations. If we vote not to approve the reasonable accommodation, I'm sure the applicant has reasonable alternatives to go to City Council to file an appeal and it can be resolved in that situation using the City Attorney's and people with much greater resources and wisdom than we have. I agree with Commissioner Schiff that there are a lot of issues that come out and some of us don't speak as well to them as others, but I don't agree with him that we must support this. If it turns out that we must, we'll be told that by a higher authority and I would encourage commissioners to vote as if they do have a choice whether to support this at this time or not.

Commissioner LaShomb: If this is a black and white issue, then the city is living in a charade. The city should then get rid of the code provisions that say that you can limit facilities. Why in the world do you have a policy that it's blatantly unconstitutional? As I said, I've been on the

Boards of residential treatment facilities. I think this is going to be a great facility. The whole issue of concentration and the size of the facility bothers me a lot. I think it'd be interesting to go into court and say that it's reasonable simply because the applicant wants to have 80 people so he can provide his food service. Is that an issue of reasonableness? I don't think so. I think that's to convenience the applicant. The issue about we should take all the parking spaces away and have people park on the street, no one can convince me that you're not going to need 18 spaces when you have 80 "adolescents", unless they're going to put a provision in that says that they're not going to allow people to own or use cars who are in the facility. Is that in there? I don't know. I think the basic point is, yeah, I think a lot of these issues are very black and white in one sense, but if it's such a simple black and white issue, I don't know why it's here. I think the basic point about all of this is that reasonable people would say that Minneapolis has a good record of reasonable accommodation and we should put facilities in neighborhoods but we should do it in an intelligent way, not one that creates clustering. If we have to go into court and challenge our present policy, I guess that's something Vice President Lilligren can worry about talking to the lawyer's about. Commissioner Schiff, on this issue I am probably there with you 99% of the way, but it's that one percent that says to me that a reasonable person would say that putting this facility in this situation at the size that it is, largely for a lot of reasons that have to do with the convenience of the applicant and not the people who will be in the program, is in my opinion a reason why there can be doubt about the reasonableness of this.

Commissioner El-Hindi: I concur with Commissioner Nordyke on his comments about legal counseling. We don't have a legal council on this board. I'm not an attorney. I certainly feel like if this is a matter of law, then this body should not be put in this position because we are a quasi-judicial board and we're not the law here. I guess, for me, I feel like if this motion does not pass as stated by Commissioner Tucker, I am going to suggest that we put a substitute motion to move this forward without recommendation because I feel like I don't have the legal counseling to be able to vote either way on this. That's just my opinion. Thanks.

President Motzenbecker: Just a point of clarification, Jason just informed me that this does not go forward unless it is appealed so to move it forward without a recommendation would be moot.

Commissioner Schiff: We can certainly postpone this if people would like to have Erik Nilsson come and read Carol Lansing's memo out loud. I don't know how else to say it, but you want to hear something legal and it's right here in front of you. This is the official City of Minneapolis analysis of these cases. It's not going to change to have someone say it before us versus printing it out in front of us. It's right here. We are a quasi-judicial board. Everything we make is quasi-judicial in nature. We're making legal findings all the time. I know this doesn't come up very often, but we're as qualified on this item as we are on the rest of the items on the agenda tonight. It might be a scary thing to admit. I think the commissioner representing the county had a good question that I can answer in a straight forward way. The reason this ordinance is on the books is because the ADA came after the city passed our quarter mile spacing rule. Not all supportive housing deals with a population that's protected by the ADA. Someday we may have an application for supportive housing. Supportive housing just means the services are in the same building. We wouldn't be here tonight if these services were across the street. I suppose Teen Challenge could open up an office across the street and then it wouldn't qualify as supportive housing and then we wouldn't be here discussing it, but we know when you put the services in the same building under the same roof you have a higher success rate for the

program and that's why you want to see the services under the same roof of where people live. Again, this population is covered by the ADA and that compels us to release them from the normal findings of the quarter mile spacing rule.

President Motzenbecker: Ok. I think we've exhausted all avenues of discussion here. We are going to need to vote on the motion and I'm going to have Commissioner Tucker read it quickly again. If this motion is denied, we do need to have kind of a finding for each of the three items of the reasonable accommodation as to why the commission thinks it's not a reasonable accommodation. I think we've determined well enough why we feel it is in the motion. Commissioner Tucker, if you could just please refresh our memory and then we will vote.

Commissioner Tucker: The motion is simply that regarding the application for a supportive housing facility at 2300 Chicago Ave, the Minneapolis Planning Commission finds that reasonable accommodation is warranted for this specific use in this location.

President Motzenbecker: I'm going to ask for hands, please. All those in favor of this please raise your hand. All those opposed? Four and four, I get to vote. I'm going to vote in opposition of this. I think I would have to agree with Commissioner Nordyke's idea and Commissioner LaShomb and put it forward to an appeal. I just don't think the reasonable accommodation has been met. While I feel the handicap piece is there, I just don't feel the reasonable accommodation has been met. It's very clear. It was put as Commissioner Nordyke had said, we have to meet number two and de-concentrate uses. One of the key pieces of the spacing requirement is the concentration of uses and that is a very strong piece in my opinion.

The motion failed 5-4, 1 abstention.

President Motzenbecker: We still have to vote on the items before us and see where those end up.

Commissioner Tucker: Given that vote I think we just need to move this along and I would move that we deny the CUP, item A, a conditional use permit for a supportive housing facility (Norkus-Crampton seconded).

President Motzenbecker: Moved and seconded, any discussion? All those in favor? Opposed? Can I have hands again please? In favor, please? Opposed?

The motion carried 4-3, 1 abstention, Commissioner Williams not present for the vote.

Commissioner Tucker: I'll do all the variances because I'm going to recommend we deny them just to move it along. That's B, C and D variances (LaShomb seconded).

President Motzenbecker: Moved and seconded, any further discussion? All those in favor please raise your hands. Opposed?

The motion carried 4-2, 2 abstentions, Williams not present for the vote.

President Motzenbecker: Those are denied and that leaves us with the site plan review.

Commissioner Tucker: I will move we deny the site plan review (President Motzenbecker seconded).

President Motzenbecker: All those in favor please raise your hands. Opposed? Thank you.

The motion carried 4-3, 1 abstention, Williams not present for the vote.

Staff Wittenberg: Commissioners, we heard a number of statements in the discussion of reasonable accommodation that largely hinged on the reasonableness factor and I'm hoping that for the purposes of the land use applications, if you could summarize some of the reasons for denial along those lines, please, within the context of the findings for each application.

Commissioner Nordyke: With regard to denying the CUP, I guess the finding basically is that the accommodation being requested is not reasonable. I would actually use, just to be safe, jumping back to the letter from the attorney, I would go back to the language from Carol Lansing's memo, point number three under her conclusion with regard to the accommodation is unreasonable in that it undermines the basic purpose of the spacing requirement. I was going to speak against the variances. The first variance is from 32 to 80, right?

Commissioner LaShomb: On the issue of the number of individuals in the program, I think the fundamental question in my mind is picking 80 individuals to be in the program over 32 basically was determined by the applicant for his own convenience to provide food service and adequate supervision so I think, fundamentally, I think this space could be put to reasonable use as a 32 bed facility as well as an 80 bed facility so I think the variance is inappropriate. It isn't a client issue so much as it's a question of the ability of the applicant to sustain a certain kind of program, a program that they want to run. I've been in facilities where it's run very well with 10 people in the facility; it's all in how you design and what you want to do. For example, if you made a decision that residents were going to participate in the preparation of their own meals, that's a training program in the program, I was a member of the board on. I think that this variance was really being offered as more of a convenience to the applicant rather than anything else. I think this program can be put to reasonable use in a smaller residence. With the other variance, I think the parking situation in the neighborhood creates a problem right now

so I think taking 18 spaces out of the equation basically creates a burden for the community. More importantly in my mind is that it makes a great assumption that the people in this program aren't going to have cars. I would say that if the program were going to be 80 people that that means that 25% of those people could potentially have cars. My experience being in the transit business is that adolescents are the worst people to talk to about taking transit. They want that car even if it costs them 40 hours in a sweat shop in a fast food facility so I think the parking, 18 spaces was a reasonable request given the parking situation in the community and the recognition that not all these people who are going to live in this facility are not going to drive unless the applicant is agreeable to a provision that restricts the use of cars by residents in the facility. If they did that, I would really be surprised because then it's really hard to transition into the community. There may be a lot of residents here who want to work in suburban areas, how are they going to get there?

President Motzenbecker: Ok. Then we have site plan review, which I'm guess was just not going to go because all the previous applications were denied. I would like to add one under the conditional use permit. Number six, in respect to conforming in all other aspects, conforming to applicable regulations of the district, I would add that I think that discussion has warranted that it does not conform in regards to concentration and spacing of these uses of the persons and the populations served in concentrating in this area.

Department of Community Planning and Economic Development – Planning Division

Conditional Use Permit, Variances and Site Plan Review

BZZ-3505

Date: May 7, 2007

Applicant: Friends of Hope Academy and Minnesota Teen Challenge

Address of Property: 2300 Chicago Avenue

Project Name: Hope Commons

Contact Person and Phone: Tom Peterson with Station Nineteen Architects, Inc., (612) 623-1800

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: April 11, 2007

End of 60-Day Decision Period: June 10, 2007

End of 120-Day Decision Period: Not applicable for this application

Ward: **6** Neighborhood Organization: **Phillips West**

Existing Zoning: OR3, Institutional Office Residence District and NP North Phillips Overlay District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 20

Legal Description: Not applicable for this application

Proposed Use: Supportive housing facility located within a larger mixed-use building

Concurrent Review:

Conditional use permit: for a supportive housing facility.

Variance: to increase the number of persons served in the supportive housing facility from the maximum 32 to 80.

Variance: to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero.

Variance: to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193.

Site plan review.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, specifically Section 525.520(6) "to reduce the applicable off-street parking, stacking or loading requirements by up to twenty (20) percent of the applicable regulations or one (1) space, whichever is less", Section 525.520(7) "to reduce the applicable off-street parking requirements up to one hundred percent, provided the proposed use or building serves pedestrian or transit-oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guest of the use" and Section 525.520(22) "to vary the development standards of Chapter 536, Specific Development Standards..." and Chapter 530, Site Plan Review

Background: The property located at 2300 Chicago Avenue is owned by Friends of Hope Academy, LLC. The owner, in conjunction with MN Teen Challenge, is proposing to renovate the building and convert it into a mixed-use building including a K-8 school, a supportive housing facility and office space. The building that is located on the site was originally constructed in 1948 and was home to the Mt. Sinai hospital until its closure in 1990. Since 1990 the first and second floor of the building has been used as a public and private school. Currently, the only tenant in the six-story complex is a private K-8 school called Hope Academy.

The applicants are proposing to renovate floors 2 through 6 by converting floors 2 and 4-6 into office space and floor 3 into a supportive housing facility that will be operated by MN Teen Challenge. The first floor of the building will remain Hope Academy. Located on the north end of the building is a gymnasium that is used by the community. Also on the north end of the site is a Minneapolis Park and Recreation building for the adjacent Peavey Park. No changes to either of these uses are proposed.

In the OR3 zoning district, a supportive housing facility is a conditional use. Therefore the applicant has applied for a conditional use permit. Also in accordance with the zoning code, supportive housing facilities are limited to serving not more than 32 persons. Because the proposal is for 80 persons, the applicant is seeking a variance to increase the number of

persons served. The applicant is also seeking two parking variances; one for the supportive housing facility and the other for the remainder of the building. This use also requires site plan review.

One of the requirements for a conditional use permit is that the use comply with all applicable requirements of the Zoning Code. Supportive housing facilities must comply with specific development standards. One of these standards requires that supportive housing facilities be located at least a quarter mile from all other existing supportive housing facilities as well as community correctional facilities, community residential facilities, inebriate housing facilities, motels and overnight shelters.

The applicant has identified eight facilities located within a quarter-mile of the development site that fall into one of the categories mentioned above. Pursuit Hometel, a supportive housing facility, is located at 1900, 1904, 1918 Park Avenue and 626 East 19th Street. Breakaway, a supportive housing facility, is located at 1911 Park Avenue. American Indian Services, a community residential facility, is located at 2200 Park Avenue. Our Savior's Housing, an overnight shelter, is located at 2219 Chicago Avenue. Collaborative Village, a supportive housing facility, is located at 2020 Elliot Avenue. The Lorraine, a supportive housing facility, is located at 2310 Portland Avenue. Alternative Homes of Minneapolis, a supportive housing facility, is located at 2446, 2448 Portland and 512 East 25th Street. And, Phoenix Program, a supportive housing facility, is located at 2421 Portland Avenue.

Because of the site's proximity to the above referenced facilities, the applicant is seeking a reasonable accommodation under the Federal Fair Housing Act of 1988 in order to locate the facility at this location. For your reference, the definitions of the above mentioned uses are provided below:

Definitions

Community correctional facility. A facility where one or more persons placed by the court, court services department, parole authority, or other correctional agency having dispositional power over a person charged with or convicted of a crime or adjudicated delinquent reside on a twenty-four (24) hours per day basis, under the care and supervision of the Department of Corrections (DOC) or Hennepin County, or licensed by the Department of Corrections as a corrections facility, excluding detention facilities. The maximum capacity shall not exceed thirty-two (32) persons.

Community residential facility. A facility where one or more persons reside on a twenty-four (24) hour per day basis under the care and supervision of a program licensed by the Minnesota Department of Human Services (DHS). Community residential facilities shall not include facilities that are also eligible for licensure by the Minnesota Department of Corrections (DOC).

Inebriate housing. A facility that provides housing twenty-four (24) hours per day to persons who are chemically dependent and considered to be

handicapped persons under the Federal Fair Housing Amendments Act of 1988. It does not include any facility licensed by the Minnesota Department of Human Services (DHS), Minnesota Department of Corrections (DOC), or any other county, state, or federal community correctional facility.

Motel. An establishment containing rooming units designed primarily for providing sleeping accommodations for transient lodgers, with rooms having a separate entrance providing direct access to the outside, and providing automobile parking located adjacent to or near sleeping rooms.

Overnight shelter. An accessory use to a religious institution place of assembly providing temporary housing for a period of time not to exceed twenty-four (24) hours to persons without permanent housing.

Supportive housing. A facility that provides housing for twenty-four (24) hours per day and programs or services designed to assist residents with improving daily living skills, securing employment or obtaining permanent housing. It does not include:

- (1) Elderly housing with congregate dining.
- (2) Inebriate housing.
- (3) Any facility licensed by the Minnesota Department of Human Services (DHS), Department of Health (DOH) or Minnesota Department of Corrections (DOC).
- (4) Any other county, state or federal community correctional facility.
- (5) Fraternities, sororities or other student housing.
- (6) Any facility owned, leased or operated by the Minneapolis Public Housing Authority (MPHA).
- (7) The use of one dwelling unit on one zoning lot which meets the occupancy requirements of the zoning district in which it is located.

REASONABLE ACCOMMODATION

As described in the memorandum from the City Attorney's Office dated September 14, 2001, that is attached to this report, the evaluation process for determining whether the federal law requires an accommodation in how the City's zoning regulations are applied or enforced can be broken down into three areas of inquiry. First is a determination whether the request is being made on behalf of a person or persons who are considered "handicapped" under the provisions of the Act. The second issue is whether the requested accommodation is necessary to afford

such persons equal opportunity to use and enjoy a dwelling. Finally, it must be determined whether the requested accommodation is reasonable.

The Planning Commission should make findings regarding each of these factors in determining whether the requested accommodation should be granted or denied.

Handicap

With respect to a person, "handicap," as defined by federal statute, means: 1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a regard of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance. The courts have found that impairment under the Act includes alcoholism, past abuse of drugs, chronic mental illness, mental retardation and HIV/AIDS.

The applicant has indicated that the residents of the supportive housing facility would be 80 adult men and women (40 of each) who are disabled due to chronic alcoholism or past abuse of drugs. All of the residents of the facility will be graduates of the Teen Challenge one-year residential chemical dependency treatment program. Because re-entry into mainstream society can be difficult many graduates of this program need a safe place to stay after graduation to help them maintain sobriety and transition into the community. The Planning Division has received no information contradicting a conclusion that the people being served in the proposed facility qualify, under the Act, as being handicapped.

Is the Accommodation Necessary to Afford Such Person Equal Opportunity to Use and Enjoy a Dwelling?

The use of the building in question as a multiple-family dwelling unit would not be subject to a spacing requirement under the zoning code, except for the fact that support services will be provided on site. Thus, a threshold question in this analysis is whether "supportive" housing (as opposed to simply "housing") is necessary to ameliorate the effects of the residents' disabilities. It should also be noted that offices (supportive services) would not be subject to a spacing requirement under the zoning code.

The applicant has said that supportive services are necessary for this facility in order for the residents to maintain sobriety and transition into the community successfully. Residents will be required to participate in activities that focus on relapse prevention, self acceptance and spirituality. Counselors and other staff will be on-site to help residents with finding training and permanent housing, legal assistance and employment.

Another question for the Commission to consider is whether the provision of supportive housing in the location requested is necessary to provide the intended residents with an equal opportunity to use and enjoy a dwelling. The applicant has indicated that this location was picked for several reasons. First, this location is in close proximity to other MN Teen Challenge facilities which will allow for better management and supervision of the facility. For example, hot meals for the residents of the facility will be prepared at 1619 Portland and transported to the site on a daily basis. Second, the site is well served by public transportation. The applicant has indicated that due to a history of drug and alcohol abuse many of the residents are not able to obtain a drivers license and therefore it is important to be located near public transportation. Third, the fact that the building was a former hospital provides a floor plan that can easily be converted to a supportive housing facility. The third floor of the building was originally designed with 45 double occupancy rooms and eight single occupancy rooms. Converting this space into 40 double occupancy rooms and two single occupancy rooms for the staff will require minor modifications. Lastly, the property owner has offered to pay for the cost of the renovation. MN Teen Challenge has indicated that because of development costs they would not be a position to build such a facility elsewhere.

Reasonableness

Refusal to make a reasonable accommodation is discrimination under the federal law. Case law has established the following test for when an accommodation is unreasonable: an accommodation is not reasonable if it would 1) impose an undue financial hardship or administrative burden on a local government or 2) if it would create a fundamental alteration in a local government's land use and zoning scheme or otherwise undermine the basic purpose which the requirement seeks to achieve.

The Planning Division has not identified any financial or administrative burdens that would incur to the City as a result of granting a waiver of the spacing requirement, so that factor will not be considered further in this report.

Purpose of the Spacing Requirements for Supportive Housing facilities

The basic purpose for having a spacing requirement in the zoning code is to prevent the undue concentration of specific types of uses. Up until 1995, supportive housing was not even a term that was recognized in the Minneapolis Zoning Code. In 1995, the term "supportive housing" was added to the list of definitions in the code in order to allow the People's Lodge on Franklin Avenue to proceed with a housing program for American Indians who were considered chronically chemically dependent and considered handicapped under the Federal Fair Housing laws. At their inception, supportive housing facilities were not subject to any spacing requirements.

In 1996, the term "supportive housing" was redefined to include a variety of program types such as board and lodging facilities, emergency housing, shelters for battered persons and some types of transitional housing programs. Many, but not all, of the uses that became supportive housing under the new definition were subject to an existing half-mile spacing requirement. In the 1996 amendment, supportive housing facilities were required to be spaced at least a quarter mile from all other existing supportive housing facilities as well as from community correctional facilities, community residential facilities, inebriate housing facilities, motels and overnight shelters. Supportive housing facilities became subject to a quarter-mile spacing requirement in

order to become more consistent with the spacing requirement for state licensed facilities. Please note that state licensed community correctional facilities are required to be spaced a quarter-mile from other community correctional facilities. State licensed community residential facilities are required to be spaced a quarter-mile from other community residential facilities. Motels are not subject to a spacing requirement nor are overnight shelters. And inebriate housing facilities are required to be spaced at least a quarter mile from all other existing inebriate housing facilities as well as community correctional facilities, community residential facilities, supportive housing facilities, motels and overnight shelters.

Impact on Land Use and Zoning Scheme

The property is zoned OR3 which allows for offices, institutional uses such as museums, hospitals and college campuses and residential uses including supportive housing facilities. In the OR3 District, residential uses require a minimum of 300 square feet per dwelling unit. The site in question is 147,577 square feet in size. A site of this size would allow up to 491 dwelling units. There is a wide mix of uses located throughout the area including residential uses of varying densities, commercial businesses, supportive service uses, cultural destinations and churches.

The applicant has indicated that converting the third floor of the former Mt. Sinai hospital complex into a supportive housing facility would be compatible with the surrounding mix of uses and zoning scheme. They believe that the nature of the supportive services provided in the facility would be compatible with other services in the neighborhood. Further, they believe that the impact of one additional supportive housing facility is mitigated by the size of the Mt. Sinai complex itself.

CONDITIONAL USE PERMIT - for a supportive housing facility

Findings as Required by the Minneapolis Zoning Code:

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

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

The Planning Division does not believe that a supportive housing facility will be detrimental to or endanger the public health, safety, comfort or general welfare. The applicant is proposing to convert the third floor of the former Mt. Sinai hospital complex into an 80-bed supportive

housing facility. The applicant has indicated that the residents of the supportive housing facility would be 80 adult men and women (40 of each). All of the residents of the facility will be graduates of the Teen Challenge one-year residential chemical dependency treatment program. Because re-entry into mainstream society can be difficult many graduates of this program need a safe place to stay after graduation to help them maintain sobriety and transition into the community. Supportive housing facilities, such as the one proposed, help individuals gain the skills they need to live productive lives.

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

While the Planning Division has some concern about concentrating supportive housing facilities in one particular area of the city, the Planning Division believes that the applicant has demonstrated that the proposed supportive housing facility would not be injurious to the use and enjoyment of other property in the vicinity. Located on the same block as the proposed use is the Phillips Eye Institute and the Minneapolis Park and Recreation building for Peavey Park. The supportive housing facility will occupy the third floor of the former Mt. Sinai hospital complex that has been primarily vacant since 1990. Reusing vacant floors of the building will increase activity on the property which will then produce more activity in the neighborhood and more eyes on the surrounding area.

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

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

The parking requirement for a supportive housing facility is one parking space per four beds. However, in the OR3 zoning district, residential uses are required to provide only 90 percent of the number of spaces required by the zoning code. With 82 beds the parking requirement is 21 spaces. The applicant is providing a bicycle rack near the entrance to the supportive housing facility which further reduces the parking requirement by one space (per Section 541.220). After subtracting one space in lieu of a bicycle rack the parking requirement is 20 spaces. Therefore, the parking requirement is 18 parking spaces. The applicant has applied for a variance to reduce the required number of off-street parking spaces for the supportive housing facility to zero.

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

The property is located along Chicago Avenue which is a designated Community Corridor. The site is also located one block south of East Franklin Avenue which is a designated Commercial Corridor. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Minneapolis will take steps to eliminate discrimination against protected classes and promote a wider understanding of the value of diversity in our community (Policy 1.8).
- Minneapolis will coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets (Policy 4.2).
- Minneapolis will improve the availability of housing options for its residents (Policy 4.11).
- Diversify the location distribution of affordable housing in order to allay the historic patterns of concentration of poverty that characterizes some neighborhoods (Implementation Step for Policy 4.11).
- Support the development of housing with supportive services that help households gain stability in areas such as employment, housing retention, parenting, mental health and substance challenges (Implementation Step for Policy 4.11).

The Planning Division believes that the proposed use is in conformance with the above policies of the comprehensive plan. The applicant is proposing to convert the third floor of the former Mt. Sinai hospital complex into an 80-bed supportive housing facility. The applicant has said that supportive services are necessary for this facility in order for the residents to maintain sobriety and transition into the community successfully. Residents will be required to participate in activities that focus on relapse prevention, self acceptance and spirituality. Counselors and other staff will be on-site to help residents with finding training and permanent housing, legal assistance and employment.

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

If the Planning Commission finds that reasonable accommodation is warranted for this specific use in this location and with the approval of the conditional use permit, the variances and the site plan review application the project will be in conformance with the zoning code.

VARIANCE - to increase the number of persons served in the supportive housing facility from the maximum 32 to 80

Findings as Required by the Minneapolis Zoning Code for the Variance:

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

Increase in the number of persons served: The applicant is seeking a variance to increase the number of persons served in the supportive housing facility from the maximum 32 to 80. The applicant has noted that because the building was a former hospital that it provides a floor plan that can easily be converted to a supportive housing facility. The third floor of the building was originally designed with 45 double occupancy rooms and eight single occupancy rooms. Converting this space into 40 double occupancy rooms and two single occupancy rooms for the staff will require minor modifications.

The density requirement for a supportive housing facility in the OR3 zoning district is 300 square feet per rooming unit. The site in question is 147,577 square feet in size. A site of this size would allow up to 491 rooming units. The Planning Division believes that because of the number of units the applicant could provide on this site that a hardship is demonstrated.

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

Increase in the number of persons served: The Planning Division believes that the circumstances are unique to warrant the granting of the variance. The parcel of land is unique in that based on the zoning district and the allowable density, the applicant could potentially have up to 491 rooming units on this site. This parcel of land is also unique in that the building on it is a former hospital that can easily be converted to a supportive housing facility.

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

Increase in the number of persons served: The Planning Division believes that the granting of the variance would be in keeping with the spirit and intent of the ordinance. When the site was used as a hospital this floor of the building accommodated up to 98 persons. Given this, the Planning Division believes that MN Teen Challenge will be able to provide housing for 80 individuals without being injurious to the use or enjoyment of other property in the vicinity.

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

Increase in the number of persons served: The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

VARIANCE - to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero

Findings as Required by the Minneapolis Zoning Code for the Variance:

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

Parking variance for the supportive housing facility: The applicant is seeking a variance to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero. The applicant has indicated that due to a history of drug and alcohol abuse many of the residents are not able to obtain a drivers license or afford auto insurance and therefore most of the residents of the facility will not have cars available to them. One reason why the applicant chose this location for this particular use is because the site is located along a bus route which is the mode of transportation most of the residents will utilize to get around. In addition, MN Teen Challenge will transport residents to other facilities via the MN teen Challenge van.

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

Parking variance for the supportive housing facility: The zoning code authorizes a variance to reduce the applicable off-street parking requirement up to 100 percent provided the proposed use or building serves pedestrian or transit-oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guests of the use. The Planning Division believes that the circumstances are unique to warrant the granting of the variance. Based on past applications similar in use to this the Planning Division believes that a very low number of the residents will in fact have automobiles that will need to be parked on site. For those residents and staff that do have automobiles, there is a parking ramp located across East 24th Street that is available for use on a pay-per-day basis.

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

Parking variance for the supportive housing facility: The Planning Division believes that the granting of the variance would be in keeping with the spirit and intent of the ordinance. The

zoning code authorizes a variance up to 100 percent where the applicant can demonstrate that parking will not be an issue for the particular use. As stated above, the Planning Division believes that most of the residents will not have automobiles and for those residents and staff that do have automobiles, there is a parking ramp located across East 24th Street that is available for use on a pay-per-day basis.

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

Parking variance for the supportive housing facility: The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

VARIANCE - to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193

Findings as Required by the Minneapolis Zoning Code for the Variance:

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

Parking variance for the mixed-use building: The applicant is seeking a variance to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193. The parking requirement for the building, excluding the supportive housing facility, is as follows: Hope Academy requires 31 spaces, the park building requires four spaces and the office space on floors 2 and 4-6 requires 206 spaces. There are 11 parking spaces located in the parking area on the northeast corner of the site, 21 parking spaces located in the southeast corner of the site and a total of 174 leased parking spaces in the parking ramp located across East 24th Street from the site. The applicant has indicated that although they are 48 parking spaces short of their total requirement that the site is well serviced by transit and that additional parking spaces are available in the parking ramp located across East 24th Street for use on a pay-per-day basis.

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

Parking variance for the mixed-use building: The Planning Division believes that the circumstances are unique to warrant the granting of the variance. Being located so close to

mass transit and a parking ramp that is available for use on a pay-per-day basis is unusual for sites located outside of Downtown Minneapolis.

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

Parking variance for the mixed-use building: The Planning Division believes that the granting of the variance would be in keeping with the spirit and intent of the ordinance. The Planning Division believes that between the parking provided by the applicant, the fact that the site is located near mass transit and that there is a parking ramp located across East 24th Street that is available for use on a pay-per-day basis that there will not be a shortage of parking in the area.

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

Parking variance for the mixed-use building: The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.**
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning**

ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.

- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances and windows:
 - Residential uses:
 - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - Nonresidential uses:
 - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
 - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.

- e. **First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.**
- **Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.**
- **Minimum window area shall be measured as indicated in section 530.120 of the zoning code.**
- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

PLANNING DIVISION RESPONSE:

- The majority of the existing building will not be altered as part of this development project. Only a small two-story addition with a link that will connect the entry to the upper levels of the building is being added. The addition is located on the south side of the building. The addition does not reinforce the street wall as it is setback approximately 52 feet from the property line along East 24th Street and approximately 142 feet from the property line along Chicago Avenue. Although setback more than 8 feet the addition does facilitate pedestrian access as there would be walkways leading from both East 24th Street and Chicago Avenue to the entryway. Also, the addition maximizes natural surveillance as the entryway addition, including the link, will primarily be made out of glass.
- The site is located on a corner lot which requires that both walls abutting the streets be located within eight feet of the property line. The existing building is setback approximately 80 feet from the property line along East 24th Street and approximately 74 feet from the property line along Chicago Avenue. The addition will be approximately 28 feet in depth by approximately 33 feet in width and located approximately 52 feet from the property line along East 24th Street and approximately 142 feet from the property line along Chicago Avenue.
- The area in between the addition and the property line along east 24th Street will be used for bicycle parking, automobile parking, a walkway and landscaping. The parking areas will be screened by the landscaping. The area in between the addition and the property line along Chicago Avenue will be used for automobile parking, a walkway and landscaping. The parking areas will be screened by the landscaping.
- There are several entrances leading into the building. The principal entrance for Hope Academy is located along Chicago Avenue. The principal entrance for the supportive housing facility and the office portion of the building is located along East 24th Street. The shared entryway for the supportive housing facility and the offices will be key-carded for the individual uses. Both uses will use the entrance and the link that runs along the roof of the existing building. Once you get to the north end of the link the office tenants will use their key card to enter the second floor of the building and the supportive housing staff and residents will use their key cards to access a separate elevator and stair tower that leads to the third floor of the building.

- There are two separate on-site parking areas on the property. One is located on the northeast corner of the site between the building and the property line along Chicago Avenue. This parking area is currently enclosed by a 12-foot high fence and is visible from the public sidewalk. As part of this development project the fence will be removed and landscaping will be added between the edge of the parking area and the sidewalk to help screen the parking lot. The second parking area is located on the southeast corner of the site between the building and the property line along East 24th Street. This parking area will be enlarged and screened as part of this development project.
- The primary exterior materials of the existing building include brick, cement based siding and glass. The exterior materials of the addition include metal panels, cement based siding and glass. All sides of the addition are similar to one another. The Planning Division believes that the addition will blend in with the existing building.
- There are no areas of the addition that are over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements.
- At least 30 percent of the first floor and at least 10 percent of the upper floors of the East 24th Street and Chicago Avenue sides of the addition are required to be windows. The analysis of the project's compliance with these requirements follows:
 - East 24th Street: the percentage of windows on the first floor is 33 percent and the percentage of windows on the second floor is 40 percent.
 - Chicago Avenue: the percentage of windows on the first floor is 48 percent and the percentage of windows on the second floor is 38 percent.
- For non-residential uses, the zoning code requires that at least 30 percent of the windows allow views into and out of the building and be free of shelving, mechanical equipment or other similar fixtures that block views.
- The windows in the addition are vertical in nature and are evenly distributed along the building walls.
- The principal roof line of the addition will be flat; similar to the roofline of the existing building.

ACCESS AND CIRCULATION:

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

PLANNING DIVISION RESPONSE:

- All of the principal entrances leading into the building are directly connected to the public sidewalk via a walkway.
- No transit shelters are proposed as part of this development. The existing Metro Transit shelter on the southeast corner of the site will remain intact.
- The parking area located on the northeast corner of the site is accessed from Chicago Avenue. Currently there is one way into and out of the parking lot but as part of this development project the parking area will be reconfigured into a one-way parking situation.

The number of curb cuts will not increase to accommodate the one-way movement as existing curb cuts will be utilized. The second parking area is located on the southeast corner of the site and will retain its existing access point from East 24th Street.

- There are no public alleys adjacent to the site.
- The maximum impervious surface requirement in the OR3 zoning district is 85 percent. According to the applicant's submittal 80 percent of the site is impervious.

LANDSCAPING AND SCREENING:

- The composition and location of landscaped areas shall complement the scale of the development and its surroundings.
- Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).
- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.
- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.
- All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.

PLANNING DIVISION RESPONSE:

- The zoning code requires that at least 20 percent of the site not occupied by the building be landscaped. The lot area of the site is 147,577 square feet. The footprint of the building is 78,132 square feet. When you subtract the footprint from the lot size the resulting number is 69,445 square feet. Twenty percent of this number is 13,889 square feet. According to the

applicant's landscaping plan there is 21,825 square feet of landscaping on the site or approximately 31 percent of the site not occupied by the building.

- The zoning code requires at least 1 canopy tree for each 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space be planted on the site. The tree and shrub requirement for this site is 28 and 139 respectfully. The applicant is proposing to have 31 canopy trees and 139 located shrubs on the site. Of the 39 trees, 13 of them are existing trees that will remain.
- A seven-foot wide landscaped yard is required between the two parking areas and the adjacent streets. The parking area on the southeast corner of the site has an 8-foot landscaped yard along East 24th Street and a 28-foot landscaped yard along Chicago Avenue. The parking area on the northeast corner of the site has an 8-foot landscaped yard along Chicago Avenue.
- Both of the on-site parking areas will have a canopy tree located every 25 feet along the perimeter of the lot. In addition, every parking space within the two parking areas is located within 50 feet of an on-site deciduous tree.
- Both of the on-site parking areas will be enclosed with a 3-foot high ornamental metal fence.

ADDITIONAL STANDARDS:

- All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.
- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260 related to:
 - Natural surveillance and visibility
 - Lighting levels
 - Territorial reinforcement and space delineation
 - Natural access control
- To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

PLANNING DIVISION RESPONSE:

- As part of this development project the roof drains will be disconnected from the sanitary sewers as required by the City of Minneapolis. The applicant has indicated that stormwater runoff from the parking areas will be directed to catch basins in the parking lots and routed to the storm sewers.
- This building addition will not block views of important elements in the city.
- This building addition will not cast minimal shadows on surrounding properties.
- This building addition should have minimal wind effects on the surrounding area.
- The site plan complies with crime prevention design elements as there are walkways that direct people to the building entrances, there are windows where people can see in and out along all levels of the building and there are lights located near all of the pedestrian entrances and throughout the parking lot.
- This site is neither historically designated nor located in a historic district.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE:

- **Use:** Schools, grades K-12, public parks and offices are permitted uses in the OR3 zoning district. Supportive housing facilities are conditional uses in the OR3 zoning district.

- **Off-Street Parking and Loading:** The parking requirement for a supportive housing facility is one parking space per four beds. However, in the OR3 zoning district, residential uses are required to provide only 90 percent of the number of spaces required by the zoning code. With 82 beds the parking requirement is 21 spaces. The applicant is providing a bicycle rack near the entrance to the supportive housing facility which further reduces the parking requirement by one space (per Section 541.220). After providing a bicycle rack in lieu of one automobile space the parking requirement is 20 spaces. Therefore, the parking requirement is 18 parking spaces. The applicant has applied for a variance to reduce the required number of off-street parking spaces for the supportive housing facility to zero.

The parking requirement for a school, grades K-12, is one parking space per classroom and other rooms used by students and faculty. Within the school there are 26 such rooms so the parking requirement is 26 for this use. The applicant is providing a bicycle rack near the entrance to the school which further reduces the parking requirement by one space (per Section 541.220). After providing a bicycle rack in lieu of one automobile space the parking requirement is 25 spaces. A part of but separate from the school is the affiliated child care center. The parking requirement for a child care center is one space per every two employees plus two drop off spaces. The child care center has eight employees. The parking requirement for the child care center is 6 spaces.

The parking requirement for a public park is based on the use of the facility. The portion of the park that is on this site is the office component. The parking requirement for this is one space per 300 square feet in excess of 4,000. Since the parking building is smaller than 4,000 square feet a minimum of 4 spaces is required for this use.

And the parking requirement for offices is one space per 300 square feet in excess of 4,000. The office space totals 66,050 square feet so the parking requirement 207 spaces. The applicant is providing a bicycle rack near the entrance to the offices which further reduces the parking requirement by one space (per Section 541.220). After providing a bicycle rack in lieu of one automobile space the parking requirement is 206 spaces.

In total, the parking requirement for the building, excluding the supportive housing facility, is 241 spaces. The applicant is seeking a variance to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193.

- **Maximum Floor Area:** The maximum FAR in the OR3 district is 3.5. The lot in question is 147,577 square feet in area. The applicant proposes a total of 234,455 square feet of gross floor area, including the proposed 2,900 square-foot addition, for an overall FAR of 1.59.
- **Building Height:** Building height in the OR3 district is limited to 6 stories or 84 feet, whichever is less. The existing building is 6 stories. The building addition is 3 stories.

- **Minimum Lot Area:** In the OR3 district the minimum lot area for a supportive housing facility is 300 square feet per rooming unit, the minimum lot area for a school is 20,000 square feet and the minimum lot area for an office is 4,000 square feet. Child care centers and parks do not have a minimum lot area requirement. The lot in question is 147,577 square feet in area.
- **Dwelling Units per Acre:** The site is 3.388 acres in size. There are 12.397 rooming units per acre proposed on the site.
- **Yard Requirements:** This development is located in the OR3 district. The front yard setback along Chicago Avenue is 15 feet, the corner side yard setback along both vacated East 22nd Street and East 24th Street is 15 feet and the rear yard setback is 15 feet. In addition, the enlarged parking area on the southeast corner of the site is subject to an 8-foot corner side yard setback. All setbacks are being met on site.
- **Specific Development Standards:** Supportive housing facilities, schools and child care centers are subject to specific development standards:

Supportive housing

- Supportive housing shall be located at least one-fourth (1/4) mile from all existing supportive housing and from all of the following uses, except in the B4H Overlay District:
 - Community correctional facility.
 - Community residential facility.
 - Inebriate housing.
 - Motel.
 - Overnight shelter.
- The maximum number of persons served shall not exceed thirty-two (32), except in the B4H Overlay District.
- On-site services shall be for residents of the facility only, except where part of a regimen of scheduled post-residential treatment.
- To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.
- An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, and other site improvements consistent with the character of the neighborhood.
- The operator shall submit a management plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms.

School, grades K--12

- The use shall include a regular course of study accredited by the State of Minnesota.
- To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.

- An appropriate transition area between the facility and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.

Child care center

- In the residence and OR1 Districts, the use shall be located in a nonresidential structure existing on the effective date of this ordinance, or nursing home.
 - The use shall provide a designated area for the short-term parking of vehicles engaged in loading and unloading children, as specified in Chapter 541, Off-Street Parking and Loading. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.
 - Play equipment shall not be located in required front, side or rear yards and shall be effectively screened from any adjacent residential use located in a residence or office residence district or from a ground floor permitted or conditional residential use, as specified in Chapter 530, Site Plan Review.
 - To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.
 - An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.
- **Hours of Operation:** Except for residential uses the hours of operation in the OR3 district are Sunday through Thursday, 7 am to 10 pm and Friday and Saturday, 7 am to 11 pm.
 - **Signs:** Signs are subject to the requirements of Chapter 543 of the Zoning Code. The existing signs for the school will remain. No specific sign plans for the proposed uses in the building have been proposed.
 - **Refuse storage:** The trash room is located in the basement of the building and is accessed off of Chicago Avenue.
 - **Lighting:** A lighting plan showing footcandles was not submitted as part of the application materials.

MINNEAPOLIS PLAN:

The property is located along Chicago Avenue which is a designated Community Corridor. The site is also located one block south of East Franklin Avenue which is a designated Commercial Corridor. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Minneapolis will support efforts that recognize both the increased visibility and importance of corner properties and the role of gateways in enhancing traditional neighborhood character (Policy 9.10).
- Minneapolis will support urban design standards that emphasize a traditional urban form in commercial areas (Policy 9.11).
- Orient new buildings to the street to foster safe and successful commercial nodes and corridors (Implementation Step for Policy 9.11).
- Require storefront transparency to assure both natural surveillance and an inviting pedestrian experience (Implementation Step for Policy 9.11).

- Minneapolis will promote design solutions for automobile parking facilities that reflect principles of traditional urban form (Policy 4.12).

The Planning Division believes that the proposed development is in conformance with the policies of *The Minneapolis Plan*. The applicant is proposing to construct an addition on the south side of the existing building that will be constructed primarily out of glass. The two on-site parking areas will be reconfigured and will be screened from the public sidewalk with landscaping and a decorative fence.

ALTERNATIVE COMPLIANCE:

- **The Planning Commission or zoning administrator may approve alternatives to any site plan review requirement upon finding any of the following:**
- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

PLANNING DIVISION RESPONSE:

Alternative compliance is requested by the applicant to meet the following standards:

- Building placement within eight feet of the lot line adjacent to a street:

The building addition is being constructed more than eight feet from both East 24th Street and Chicago Avenue. The existing building is setback approximately 80 feet from the property line along East 24th Street and approximately 74 feet from the property line along Chicago Avenue. Given the placement of the existing building the Planning Division is recommending that alternative compliance be granted to allow a setback greater than 8 feet.

- Parking between the building and the property lines:

There are two separate on-site parking areas on the property. Both of them are existing and both of them will be reconfigured as part of this development project. One of the parking areas is located on the northeast corner of the site between the building and the property line along Chicago Avenue. This parking area is currently enclosed by a 12-foot

high fence and is visible from the public sidewalk. As part of this development project the fence will be removed and landscaping will be added between the edge of the parking area and the sidewalk to help screen the parking lot. The second parking area is located on the southeast corner of the site between the building and the property line along East 24th Street. This parking area will be enlarged and screened as part of this development project. The Planning Division is recommending that alternative compliance be granted to allow the parking areas to remain in their current locations given that they will be landscaped and screened from the public sidewalk as part of this development project.

RECOMMENDATIONS

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:

If the City Planning Commission finds that reasonable accommodation is warranted for this specific use in this location then the Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a supportive housing facility located at 2300 Chicago Avenue South.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to increase the number of persons served in the supportive housing facility from the maximum 32 to 80 located at 2300 Chicago Avenue South.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the required number of off-street parking spaces for the supportive housing facility from 18 to zero located at 2300 Chicago Avenue South.

**Recommendation of the Department of Community Planning and Economic Development
– Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the required number of off-street parking spaces for the mixed-use building from 241 to 193 located at 2300 Chicago Avenue South.

**Recommendation of the Department of Community Planning and Economic Development
– Planning Division for the site plan review:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review for the property located at 2300 Chicago Avenue South subject to the following conditions:

1. Approval of the final site, landscaping and elevation plans by the Community Planning and Economic Development Department – Planning Division.
2. All site improvements shall be completed by May 7, 2008, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Attachments:

1. Statement of proposed use and description of the project.
2. September 14, 2001, memo from former City Attorney Carol Lansing regarding the requirement of the Federal Fair Housing Amendments Act
3. March 23, 2007, letter from Blake Graham regarding the waiver of spacing requirements for a supportive housing facility
4. Conditional use permit and variance findings, including copies of the parking lease
5. Preliminary development review report from March 7, 2007
6. March 23, 2007, letter to Council Member Lilligren
7. March 23, 2007, letters to the Phillips West Neighborhood, the Midtown Phillips Neighborhood and the Venture Village Neighborhood
8. Comments from surrounding property owners
9. Zoning Map
10. Site plan, landscaping plan, floor plans and elevations
11. Photographs of the site and surrounding area