

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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

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MEMORANDUM

DATE: July 17, 2009

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 June 22, 2009

The following actions were taken by the Planning Commission on June 22, 2009. 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, Bates, Cohen, Gorecki, Huynh, Luepke-Pier, Norkus-Crampton, Schiff and Tucker – 9

Not present: Nordyke

Committee Clerk: Lisa Baldwin (612) 673-3710

5. Karmel Village (BZZ-4390, Ward: 6), 2848 Pleasant Ave and 2825 Grand Ave S ([Hilary Dvorak](#)).

A. Conditional Use Permit: Application by Scott Nelson with DJR Architecture, Inc, on behalf of Karmel Village, LLC, for a conditional use permit to increase the size of the building by approximately 26,000 square feet for the properties located at 2848 Pleasant Ave and 2825 Grand Ave S compared to the building addition that was approved by the City Council in March of 2008.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application for 77 dwelling units located at 2848 Pleasant Ave and 2825 Grand Ave S subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. There shall be no more than 77 dwelling units located within the building.
3. The applicant shall work with the City of Minneapolis to explore the best possible solutions to minimize traffic egress/ingress issues around the building.

B. Site Plan Review: Application by Scott Nelson with DJR Architecture, Inc, on behalf of Karmel Village, LLC, for a site plan review for the properties located at 2848 Pleasant Ave and 2825 Grand Ave S.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for a 77-unit residential building located at 2848 Pleasant Ave and 2825 Grand Ave S subject to the following conditions:

4. The alley shall be reconfigured per the approvals from the 2004 City Council resolution.
5. Approval of the final site, landscaping, lighting and elevation plans by the Community Planning and Economic Development Department – Planning Division.
6. All site improvements shall be completed by June 22, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Staff Dvorak presented the staff report.

President Motzenbecker: It was four stories previously, correct?

Staff Dvorak: Correct, and it still is.

Commissioner Norkus-Crampton: That was my question too. My other question is, is any of this sort of a retroactive review or is this what we're approving here tonight, this increase, is it what's been built and we're approving it after the fact or how is this working?

Staff Dvorak: This is the fourth floor of the building. What is highlighted in red is what is going to be added. That portion in red was not approved. My last site visit to this site it was not constructed either. One area of the building that has been constructed that was not approved as part of our original review was this stair tower here in the northwest corner of the site. It previously stopped at the third level of the building. It currently goes to the fourth level of the

building. In the original approvals, this piece here stopped at the third floor, it was constructed to the fourth floor.

President Motzenbecker opened the public hearing.

Scott Nelson (2826 Pleasant): I'm with DJR working with the applicant on this project. I'd just like to make a few quick comments speaking specifically towards the addition of the 26,000 square feet, why we're requesting and how we propose to achieve it without adding to the 77 units. One minor correction to Hilary's plan is we're actually adding to the west side of the fourth floor as well. There's only a fourth floor on the east side of the corridor there, we'd actually be increasing it on the west side as well. The entire fourth floor would be like a donut with circulation all the way around. We weren't the original project architects on this. We were retained by Sabri Properties a couple months ago to help them improve the building. They'd seem some issues in unit plans and unit mix and layout and some of the locations so one of the first things we did was eliminate the units along the Grand Ave side, it's not a great place right on the sidewalk, not a safe place for units with sliding glass doors, and we increased the number of amenities for the project, an exercise room, two common areas, meeting rooms, a much larger laundry and [tape ended]...they were four and six feet at the entries, we made them six and eight feet at the entries. Those two improvements alone accommodated about 13,000 square feet of additional space. The third thing we did was change the unit mix from being kind of something the market wasn't receiving very well. We decreased the previous project at 16 four and five bedroom units, we reduced that down to three four bedroom units, increase from 28 to 40 the number of three bedroom units and at the same time increased the average square footage of those by almost 300 so that the market rate units, the things that they were getting requests for to rent were much more in line with one another. We feel the average size of the unit is much more standard. That accommodated for the approximately the other 13,000 square feet. We were able to do all that within the allowable floor area ratio. We're still less than the two that we would see in a building. Typically you'd want to mass that out as close as you could. We've been able to do all these things within that allowance, keeping with the 77 units and with our 102 parking spaces we feel would be a very reasonable and responsible development.

Bobbie Fern (4135 W Broadway): I have owned 18 buildings starting with \$12.35 and have been very successful in my life which I'm proud to say. It was brought to my attention about Sabri and what he was doing. I went over there, extremely impressed, taking used bricks and built a building. Taking steel pillars along with this building. So impressed I shared this with Fred Hahn, which is a famous marketing man out of Chicago who lives here now. I showed him and he was so impressed he said "why hasn't this man had a write up about what he's doing?" I would be very proud to support him anyway I can. Also, could we entice him to come on the north side and do some of the same thing? That'd be great.

Kristine Martinson (2930 Harriet Ave): I'm glad to hear about the discussion from you guys that you have authority, that you acknowledge that. During the last meetings when this was all going through with you guys, you absolutely, 100% assured our neighborhood that this building would not exceed 46 feet in height, which is four stories, which was a flat roof. The original plan that you approved had a flat roof with four stories. The original building that was supposed to be rehabbed had a 36 foot roof. Now we're going towards 56. What Karmel Village is building right now, they have started building the fifth story which is like a hip roof they're calling a roof. It's essentially a fifth story. You can completely see it. I looked you in the eye at the last meeting and said "who do we call if it's going against" and you said to call 311. The

neighborhood has been observant of the goings on. I disagree with the Planning division's report, number two where it says "this will not impede the normal and orderly development and the enjoyment of a neighborhood." Our neighborhood has been greatly impacted by very large buildings being built. It devastates our residential neighborhoods. People are literally in the shadows of these too tall of buildings. Me, personally, I can see the fifth story development right out my bedroom, second story window. It doesn't sound like ten feet makes a big difference but it makes a huge difference when you're looking out across the horizon. My neighbors across the street can see the structure that's being built, that's the full height that they've been illegally doing. I have other neighbors that are completely in the shadows, completely shadowed out, from the height of this building. I am asking you to reject, or at least adhere to the original plan that you, through all the discussion, we went through this, most of you were here, we greatly discussed this on both sides and you approved what you approved and I'm asking you to adhere to it please.

President Motzenbecker: Hilary, can you clarify that for us? I don't know what happened then at City Council as they took it over. Was it 44 flat when we...just refresh our memory because we don't have the old packet.

Staff Dvorak: The previous plan, it wasn't a flat roof. These were the approved plans. You can see that this was the approved plans that we had stamped off on. You can see that there was a pitched roof on that building.

President Motzenbecker: And the height?

Staff Dvorak: The height of the building...to the top of the fourth level it read 38 feet.

President Motzenbecker: Then at City Council did they change any of that?

Staff Dvorak: At City Council that wasn't changed.

President Motzenbecker: Now, currently?

Staff Dvorak: It's reading 39 feet, four inches to the top of the fourth floor. That was not including the hip roof. How we measure height, and I believe in my staff report I said to the mid-point which is where we actually measure height to...I called out the number to the pique but for everyone's understanding, we actually measure height to the midpoint of the roof so it's between that eve line and then the pique.

President Motzenbecker: So if the hip roof were to have been the same it would have been three inches difference?

Staff Dvorak: The building measures 45 feet in height when measured to the mid-point and it's 52 feet to the pique of the roof. I measured that off of the Pleasant Ave side of the building using the principal roofline here, which is the same on all three sides.

Abdi Mohamed (351 Mark Andrews Road, Burnsville): I have a small business on East Lake. I have a business with Sabri Properties. I know they are not liable. What they do is when they get permission from your committee; they are going to change everything. My problem is, they attack the Somali community. Those who are suffering would be the Somalis. They also tried to

create problems between the Somalis and other communities by saying the city doesn't like Muslims and blacks and that why we are disapproved. In fact, what they do is, from my experience, they are the one doing buildings without permission from the city. I strongly request that you stop them from doing what they're doing because we are the people who are suffering. They have some guys working for him who always testify on his behalf and that's why I'm here. They're doing bad business with us and we cannot win all the time. Each time, the owner, says he can do anything with the city and that he's a rich man and people hate me because I'm Muslim that that's why we're not getting permission for anything. He's the one who's doing bad things to us. Thank you.

Mark Wetsch (207 E Lake St): I'm a property manager with Sabri Properties and I happen to be married to a Somali lady and a Muslim myself. I'm here to really speak to the unit dwelling changes. The initial application talked about, we wanted increased four and five bedroom units. In receiving the actual applications, to date we're in receipt of about 250 applications for housing at this particular property. With the conditional use application, the changes that we're proposing that will actually reduce the number of bedrooms, I think the initial application called for about 210 individual bedrooms that were made up of the two, three, four and five bedroom units. The proposed changes, we're actually increasing the number of three bedrooms, reducing the number of four bedrooms and we're bringing the actual bedroom count down by about 16 so we're bringing it down to about 194. I'm primarily here to speak to the fact that the applications really speak for themselves and there's really an increased need for the number of three bedroom units at this particular address.

Commissioner Tucker: So we have more square footage for the project, but fewer bedrooms? What's happening?

Mark Wetsch: There's going to be additional common space.

Commissioner Tucker: Does that take care of the entire difference?

Mark Wetsch: The architect could probably speak to that, but I believe that will make up for the additional square footage.

Rashid Omar [not on sign-in sheet]: What they're asking for, which is an increase in size, based on the demand in south Minneapolis. I don't see any problem. I've been selling real estate since 1999 in this area. I've seen families out there with no place to rent because of all the foreclosures and things taking place. Now we have a nice place where they can rent. It makes sense based on supply and demand in that specific area. I'm speaking on the facts here. I've been selling real estate in this specific area. I know what this area specifically needs. What they are asking for, there is a need for it and I urge you to look at the facts not the politics and who's what. Look at the facts and needs of this area and this community. I'm not for one group, but for all people that live in that specific area.

Mohammad Isse (425 20th Ave NE): I have a business in Karmel. I'm supporting this conditional use permit because I want to also move to that place and live there very close. This building is beautiful. Drive by and you will see. I asked him to make the living room and bedroom bigger so we can live better and move my family there. I wish you'd approve it. I'd like to live better and raise my family. If you look at it you'd be surprised. It's one of the most beautiful buildings in the city. Thank you.

Todd Schwartz [not on sign in sheet]: My job throughout the construction process for this building has been to monitor the quality of the construction materials that have gone into it and the special inspections for the reinforced concrete, the structural steel and masonry work. In every instance that my team has been out to the site, the quality of construction, as laid out by the engineering firm has either been met or exceeded and often exceeded. I personally like being involved with projects that I can look at with a little bit of pride and then I can go back ten years down the road and say “I was a part of that.” This is a project that I will be able to do that with. It’s far enough along in construction to look at the building and say aesthetically this building is a nice looking building. It’s constructed very well. It’s made a really efficient use of historic materials that were reclaimed from the site. It’s made an innovative use of reclaimed steel I beams. When I first saw the building it was just a dilapidated old warehouse and it is really something that you can look at now. I’m proud of it. That’s about all I have to say.

Yuyudhan Hoppe (2826 Pleasant Ave): I live in the shadow of this building. I hate to disagree with the previous guy, I am an engineer myself, mechanical and electrical. I also rehab foreclosed buildings in north Minneapolis and the Whittier neighborhood. I have been here since 1995. The project has taken many turns. It started off as Midwest Machinery. It then was sold to Cornerstone and they came in with a conditional use permit of building 48 units. Once they got it, they said “we can’t make money”...

President Motzenbecker: Let’s focus on this one.

Yuyudhan Hoppe: I am. What happened is, it got approved to stay at 77 and square footage was kept to a certain extent. They went out because of the economy. Sabri came in, picked it up, talked exactly what he heard that the neighborhood requested. Now as soon as he gets in it’s the same thing, “we need it bigger.” That’s what we’re complaining about. This thing keeps getting bigger and bigger in scope. It’s always the same. They come in and say “here’s what we want, it’s small” and it gets bigger. Sabri has talked to me, personally, about the building and how he doesn’t give a damn about what the city says. City Planning says that he can build up to however many units, he’s going to do it. He has the money and he’s going to put you guys into court and he’s going to win. You guys can’t afford it. He’s told me that. He cut down every tree along their property line, never asked. He has the money; he’s going to do it. I request that you deny this. You can’t reinforce negative behavior and that’s what I see Sabri doing. He already built stuff he shouldn’t be building. He’s starting work at 6:30 in the morning. He is a high maintenance developer. I’m living there in a shadow, I don’t get sun anymore. Thank you.

President Motzenbecker: We’ve heard about quality, we’ve heard about behavior assumptions of the developer, we’ve heard about concerns about too much building for what’s going on, even though I’m still trying to struggle with that since it’s the same as what was approved before for units so new information and information that relates directly to my findings that we need to decide on. While I appreciate your concerns about character and behavior and quality, unfortunately, we are bound by the findings here that we need to decide upon and those don’t really fall into these findings. I sympathize with you and I understand your plight, but if you could sympathize with us and understand how we have to decide that would help us too.

Hasse Hadid (2910): I have a business in Karmel. If I can live in this building, it would be close to where I do my business. Two years ago that building looked like a warehouse. It’s very beautiful now. A lot of families are going to benefit and I don’t see the reasons it’s going to be rejected. Thank you.

President Motzenbecker: Ok, I will take two more.

Doreen Hartzell (218 W 29th St): I wanted to specifically address two issues from the CUP. The first one, whether the site plan as it's sitting here right now, is going to adequately address the traffic congestion. I know those parking numbers were based on the zoning code and the original TDMP that was submitted. In the interim time, parking transportation services has done another parking study in that area and they're showing up to twice the amount of traffic passing by on Pleasant Ave by the entrance to this facility that was in the original proposal that was given to the City Planning Commission. I think there does need to be a question about whether the access and the egress to this site is really going to be sufficient given those numbers that the city has calculated and whether the parking provided, although it meets the one per unit, whether that's really going to be sufficient to address the number of vehicles on the street. We've worked with traffic since the original plan critical parking has been put in because Public Works has agreed that it was overcrowded. We as neighbors are paying the city money to solve this problem and I've not seen a lot of indication that this commission has found it to be a serious issue. We're talking about this being injurious to the use and enjoyment because of the traffic flow in this area. There are currently proposals with Public Works that's talking about turning Pillsbury and Pleasant by this site into one-way streets at least partially, about making that very tiny section of dead-end 29th St become the only connection between 28th, Lake and two other high volume one-way streets and part of that is anticipating traffic that's going to be coming from this site. So for us to go from what's pretty much a dead-end street to having a major connecting road between a bunch of one-ways is obviously going to affect our properties very significantly. We're not talking about a few extra cars; we're talking about radically shifting the amount of traffic and its flow through that neighborhood. I know that the traffic and things around this site have also made it difficult for other projects coming before this commission to be approved because they were having trouble meeting the conditions of a CUP for granting traffic and granting congestion. I know this came up last year and I question whether it's possible to meet that condition of the CUP where you're not impeding the normal and orderly development if the issue has gotten to the point where it's difficult for other projects to come in and meet those terms. This one, from all indications we've heard, is going to make that congestion issue worse. I'm not sure that staff reviewed those plans again. Thank you.

Marian Biehn (Whittier Alliance): Just a refresher, on October 29, 2007, the request was for 92 units, 125,000 square feet, four stories and that was denied by the Planning Commission. March 17, 2008, 77 units, 103 parking places, 109,000 square feet, four stories at 43 feet was approved. According to Mr. Nelson, some of the adjustments they've already made, they are able to accommodate larger hallways and larger units reducing the sleeping rooms. I'm not quite sure that the additional square footage is necessary. Did you receive the letter from the Whittier Alliance? It was delayed in getting here.

President Motzenbecker: Yes, it is here. June 18th.

Marian Biehn: The Whittier Alliance asks that the Planning Commission deny the Sabri Property request to increase the square footage at Karmel Village at 2848 Pleasant Ave by adding an additional 26,000, approximately, square feet. The additional 26,000 square feet will bring the total square footage to 135,000 for this development. In October 2007 the Planning Commission denied the developer's request for 125,000 square feet. Whereas the proposal was for 92 units, the square footage was approximately 10,000 square feet less than what is currently being requested for what is assumed to be 77 units. A denial would be consistent with the Planning

Commission's original decisions and findings of October 2007. It's no secret that this development has had several stop work orders and unpermitted work. Some of the additional square footage that is being requested is already in place. Allowing the additional square footage would leave the door open for the developer to build out the space for 92 units despite the conditions recommended by the Planning staff. You might note that the parking is already in place for the...there is 103 parking places which is great, but it would accommodate additional housing. You know the history of the multiple developments and the neighborhood is diligent reporting some of the conflict and the unpermitted work and things like that. We are losing faith in the ability of the city to keep up with this. Case in point is Karmel Village which was developed as a farmer's market in industrial usage and it has developed well beyond the scope of its intended use and ability to contain itself and has caused a lot of stress in the neighborhood which the traffic congestion committee task force has not been able to resolve yet. Opening the door to potential additional units, which I know you can't believe rumor, but rumor is that they are going to be installed in the additional square footage, is going to create distress for the neighborhood. It will create living conditions that will be intolerable. It will be injurious to the neighborhood. It will impede future development. The area is currently under traffic and parking stress and the task force has not been able to resolve that. The more square footage that is there, the more people it will attract. I think we have an opportunity to...the square footage that's being requested, it's already partially built. If it's going on the greenway, we'd lose the green roof that was recommended and highly touted for that area and the people who are living on the west side have severely impeded morning sun and I guess visa versa for the west side. On the positive side, the reduction of bedrooms is an asset. The enlargement of the living room, dining room and hallways is an asset. The fountain is very nice. On the core issue, we ask that you deny the request for a CUP for the additional square footage for the development at 2848 Pleasant and the site plan and that the redistribution of space for fewer bedrooms and larger living space in the units be accomplished within the March 2008 approved 108 or 109,000 square feet. It sounds like they are achieving that currently and for the benefit of the neighborhood and I guess the footprint as it is, it seems like it could be a usable building if it's managed correctly and everybody has leases. Thank you.

Commissioner Tucker: I want to clarify, where to you fear these additional units might be put in the common space that's been designated?

Marian Biehn: The common space that has been designated is on the first floor Grand Ave side where there had been one bedroom units and they would be at street level. I think the additional 26,000 square feet would be built into units. I lack confidence that the developer will do what he is charged to do and the city has the ability to enforce him to do it.

Commissioner Tucker: I'm trying to discover the findings, if we chose to deny this, what we would say because the project is within the FAR allowed, it's within the maximum or minimum lot area, the height seems to work, we need something to grab on to, to say that not that we don't trust the developer.

Marian Biehn: It was denied in 2007. The square footage was denied in 2007.

Commissioner Tucker: That was at a higher unit number wasn't it?

Marian Biehn: It was a higher unit number and a smaller square footage number but it was denied.

Commissioner Tucker: Because the equation has changed the findings may also have to change with that. I'm looking for whatever help you might have with findings on the new equation.

Marian Biehn: The additional space will attract additional population because there is limited...the community space is the area along Grand Ave. It's a laundry, it's a party room and one other room. Losing those units...I don't know what the count was along that space...let's say it was eight, doesn't account for 26,000 more square feet. It's not an equal exchange.

Commissioner Tucker: That's part of what I was asking before, where that 26,000 square feet went and you're thinking it's not all in common space. We've also heard it's in wider halls and larger bedrooms.

Marian Biehn: Larger bedrooms, larger units can be accomplished within the 109,000 square feet.

Commissioner Cohen: You testified that some of what is being requested here is already in place, specifically what?

Marian Biehn: There's a part on the northwest corner that has been built out. It does appear, and I know that the city planner and developer will argue, but everybody who goes over there to the west side says there is a fifth floor. It looks like a fifth floor, but some the requested 26,000 square feet is already there.

Commissioner Cohen: Let me transfer my question to Hilary if I may. Hilary, is this true?

Staff Dvorak: As I had alluded to in my staff report, there are portions of the building that weren't approved and have been constructed.

Commissioner Cohen: That's an answer. Now I have another question, what are our rights in this matter? Can we ask for a stop order to be issued? What can we do when we have a developer that proceeds without legal authorization to construct?

Staff Dvorak: This has been a difficult project for staff as well as the neighbors. Between the Inspections staff, myself, our zoning administrator, my supervisor and another zoning staff, we have spent countless hours going out to the site, investigating the site, comparing the plans from what was originally approved to what was denied to what was approved again and here we are tonight. There has been a stop work order issued. The Police department went out there five consecutive days to ensure...

Commissioner Cohen: When did this happen?

Staff Dvorak: I don't have the timeline. Within the last few months this has happened. The Police department went out there and there were no workers there on site. Through the City Attorney's office and Regulatory Services, they have come to an agreement of what can be done right now at this site and it's my understanding that they are in compliance with what that agreement is. The issues of work being done that wasn't permitted is being addressed, but it's not addressed through the Planning office, it's addressed through our Regulatory Services and Inspections staff, which Planning is providing input and feedback on about what was approved and what wasn't approved. In fact, it was this northwest stair tower fourth floor addition that was

ultimately the trigger to issue the stop work order because it was not part of the permitted work and that is how we've gotten to this point.

Commissioner Cohen: Has the work stopped?

Staff Dvorak: Again, there has been an agreement made between the Attorney's office and Regulatory Services and the developer as far as what can be done, including brick being put on the outside, things such as that nature?

Commissioner Cohen: What's the agreement?

Staff Dvorak: I don't have the specifics of that agreement.

Commissioner Cohen: Shouldn't we have the specifics of that agreement before we proceed with any further permits in this matter?

Staff Wittenberg: Commissioners, I guess I'd suggest that the issue before you is not the status of the current construction, but the plans in front of you and whether they comply with the findings in question.

Commissioner Cohen: What? Would you explain what you just said?

Staff Wittenberg: I'd suggest that rather than focusing on whether the applicant is in conformance with previously approved plans that we examine whether the plans in front of you are in conformance with the findings that you're required to make.

Commissioner Cohen: But what is the status of the previously approved plans that were violated by the developer proceeding without having permits? I'd like to know what the status of that is.

Staff Dvorak: The status is that all of the work, interior to the building, has stopped. The applicant's attorney is standing in back of me. A few of the things that were able to move forward were exterior materials and windows were allowed to be put in because of rain elements and whatnot. Landscaping was allowed to go in. The developer was allowed to paint the greenway levels of the building. Some exterior cosmetic things, all interior work, is my understanding, was supposed to have stopped.

Commissioner Cohen: How about this fifth story that the very first witness testified on? We still have a fifth story there?

Staff Dvorak: It's being addressed. This is looking at the site from the north. This is the fourth floor of the building. This is what people are calling the fifth floor of the building. It is a roof access area. It is larger than what it can be for a roof access area so the developer has been told that it needs to be reduced in size. The plans that you have reflect an accurately sized roof access area. The applicant's representative is telling me that it's been reduced in size.

Commissioner Cohen: It has been or is it been ordered to? It has been. So that isn't a picture of what exists now, right?

Staff Dvorak: Right. These photos were taken a few weeks ago. I don't think I have a photo that shows that any smaller, or having it been reduced in size.

Commissioner Cohen: How many square feet has been added? Over the permitted size?

Staff Dvorak: I don't know the exact size of the square footage.

President Motzenbecker: Commissioner Cohen...

Commissioner Cohen: We've got a developer here that's running wild and I think these are relevant questions and I think I'm...

President Motzenbecker: I'm asking you where you're going with your questioning.

Commissioner Cohen: Trying to find out if we've got an honest man here and somebody that we should have doing business with us or we've got a guy that's running wild.

President Motzenbecker: And that relates to our findings how, sir?

Commissioner Cohen: It relates to the health, welfare and benefit to the city of Minneapolis.

President Motzenbecker: How?

Commissioner Cohen: That's how.

President Motzenbecker: I'm just clarifying for the record. We need to know.

Commissioner Cohen: That's how.

President Motzenbecker: Ok, so I haven't got an answer from Commissioner Cohen.

President Motzenbecker: You have. Your answer is that when you have a developer that is in violation of what was permitted to be done, we have an obligation to see to it that he conforms to what is allowed.

President Motzenbecker: That is why we have Regulatory Services and Inspections.

Commissioner Cohen: That's why we have a Planning Commission too.

President Motzenbecker: Thank you for your comments. Do we have any other questions for Hilary or Ms. Biehn?

Commissioner Cohen: Not at the moment.

President Motzenbecker: I'm going to have my last public testimony and then we're going to close it and you guys can hash this out all you like.

Robert Speeter (1515 One Financial Plaza): I'm the attorney for Sabri Properties. There is no fifth story. There is that roof access. That is all it is. It's been reduced as requested. It was

reduced as soon as it was brought to the developer's attention. The roof is constructed. It stops at the point where we went to get this extra approval of. There is no way to put another story on. Here is where I think people are really confused. The developer is going above and beyond the call of duty. This brick down here, that couldn't be rebuilt, is what the upper floors look like. He tore down from there and recycled the good brick that he could and rebuilt it. There are things that weren't required and he's doing them. Look at the landscaping, this is going way above and beyond what's required. I know there's some bad blood. If he wants to build more than 77 units, if that was his secret plan, he'd need to come back in front of you and try to get another permit and I'm sure all of you commissioners would say it isn't going to happen. For us to sit here and worry about what he's going to do a week or month or five years from now is really kind of much ado about nothing because he can't do it without a CUP and we all know that. They have taken all the brick off where they can and redone it. That's not what we were looking at doing before. We were just going to put a cement coating on that brick. He's making a much better building. This isn't smoke and mirrors and isn't a bad developer run amuck. The problems with regard to where we're at with the building is actually much deeper and involved many discussions with the City Attorney's office and a lawsuit that is now settled. It's part of that and we'd be here for 45 minutes if I were to get into all that. The City Attorney's office is well aware of where we're at, so is the Planning department as the uppermost levels and we've dealt with these issues as a holistic way. There is work that can be done right now and that's all he's doing. He's doing things like putting this beautiful brick up and doing the landscaping and putting up a fence that certainly wasn't required. These are wonderful amenities. Let's look at what Whittier Alliance wanted. In that last paragraph, it says it was noted that the original recommendation from Whittier Alliance in 2008 was to reduce the number of bedrooms and provide more living space. That's why we're here. We've reduced the number of bedrooms, we're providing more living space. That's exactly what Whittier Alliance wanted, but because it's Sabri Properties, they don't want it. That's what it comes down to. It comes down to politics and personality. This developer wants a beautiful building here and that's what he's giving the city. How it is going to help public safety is in several ways. The fourth floor as it sat with the old architect, we started laying out some of these out...first of all they weren't equidistantly spaced and the living area wasn't enough. They're increasing, on average, about 200 or 250 square feet a unit. You do that times 77 and that's the majority of this extra square feet. The other is the 8000 that comes from Grand Ave and that's going to be common area. To work with appropriate sized units as with the square footage that's presently on the site plan, we'd be at about 60 or 64 and this building would not be viable. This developer is not getting a public penny in this. He's doing it all on his own nickel in dire economic times and he's employing people. You put stop work orders on and they can't make their car payment, their house payment and can't feed their kids. This guy's out there feeding people, helping people out. The reason it's a safer building too is because the fourth floor, it stopped. It had a dead-end. It's a ring around the fourth floor, it's a much safer fire...if there was every a fire there, it's much safer to have corridors go both ways. It does not affect the neighborhood like they say it does because the additional square feet doesn't affect the neighbors like they say it will because the additional square feet is on the greenway side, 40 feet back from the greenway, you really can't see it from the greenway.