

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

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MEMORANDUM

DATE: December 15, 2010

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 December 13, 2010

The following actions were taken by the Planning Commission on December 13, 2010. 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, Carter, Cohen, Gorecki, Huynh, Luepke-Pier, Schiff and Tucker – 9

Not present: Bourn

Committee Clerk: Lisa Baldwin (612) 673-3710

1. Ian McNamara (Vac-1575, Ward: 6), An alley in Block 1, J.L. Johnson's Addition to Minneapolis (Kimberly Holien).

A. Vacation: Application by Ian McNamara to vacate a portion the alley that extends north of 22nd St E, between 11th Ave S and 12th Ave S, and connecting to 12th Ave S.

Action: The City Planning Commission recommended that the City Council accept the findings and **approve** the vacation subject to the legal description prepared by Public Works and the provision of an easement to Xcel Energy.

President Motzenbecker opened the public hearing.

No one was present to speak to the item.

President Motzenbecker closed the public hearing.

Commissioner Tucker moved approval of the staff recommendation (Huynh seconded).

The motion carried 8-0.

2. 3104 45th Avenue South Rezoning (BZZ-4997, Ward: 12), 3104 45th Ave S (Shanna Sether).

A. Rezoning: Application by Marlin Frank for a rezoning petition to change the zoning classification for the property located at 3104 45th Ave S from R1A Single-Family District to R2B Two-Family District to allow for the legal conversion of a single-family dwelling to a two family dwelling.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to change the zoning classification for the property located at 3104 45th Ave S from R1A Single-Family District to R2B Two-Family District to allow for the legal conversion of a single-family dwelling to a two family dwelling.

President Motzenbecker opened the public hearing.

No one was present to speak to the item.

President Motzenbecker closed the public hearing.

Commissioner Tucker moved approval of the staff recommendation (Huynh seconded).

The motion carried 8-0.

11. Farmers' Market Annex Rezoning (BZZ-5010, Ward: 5), 200 E Lyndale Ave N and 250 Lakeside Ave (Aly Pennucci).

A. Rezoning: Application by Jackie Cherryhomes-Tyler, on behalf of Scott Barriball of the Farmers Market Annex, for a rezoning from I2 to C3A to allow for an indoor farmers market (grocery store) and an outdoor reception or meeting hall at 200 E Lyndale Ave N and 250 Lakeside Ave.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to rezone the properties of 200 E Lyndale Ave N and 250 Lakeside Ave from I2 Medium Industrial District to C3A Community Activity Center District.

B. Variance: Application by Jackie Cherryhomes-Tyler, on behalf of Scott Barriball of the Farmers Market Annex, for a variance to the enclosed building requirement to allow for an indoor farmers market (grocery store) at 200 E Lyndale Ave N and 250 Lakeside Ave.

Action: The City Planning Commission adopted the findings and **approved** the variance of the enclosed building requirement to allow for outdoor reception or meeting hall use for the property located at 200 E Lyndale Ave N and 250 Lakeside Ave.

President Motzenbecker opened the public hearing.

No one was present to speak to the item.

President Motzenbecker closed the public hearing.

Commissioner Tucker moved approval of the staff recommendation (Huynh seconded).

The motion carried 8-0.

12. Recycle America (Waste Management) (BZZ-5022, Ward: 1), 1700, 1712 and 1712 ½ Broadway St NE (Jim Voll).

A. Rezoning: Application by The Gacek Family Partnership for a rezoning from the I1 Light Industrial District to the I2 Medium Industrial District to allow Waste Management to operate a recycling facility at 1700, 1712, and 1712 ½ Broadway St NE.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning from the I1 Light Industrial District to the I2 Medium Industrial District for property located at 1712 and 1712½ Broadway St NE.

B. Conditional Use Permit: Application by The Gacek Family Partnership for a conditional use permit for a recycling facility located at 1700, 1712, and 1712 ½ Broadway St NE.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit for a recycling facility for property located at 1712 and 1712½ Broadway St NE, subject to the following condition:

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.

C. Site Plan Review: Application by The Gacek Family Partnership for a site plan review for properties located at 1700, 1712, and 1712 ½ Broadway St NE.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for property located 1712 and 1712½ Broadway St NE, subject to the following conditions:

1. CPED Planning staff review and approve the site plan, lighting plan, landscaping plan, and elevations before permits may be issued.

2. All site improvements shall be completed by January 28, 2012, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
3. The site plan shall be amended to show the required accessible parking spaces.
4. Provision of a four foot wide walkway that connects the public entrance on the west side of the building with the public sidewalk along Broadway Street NE as required by Section 530.130 of the zoning code.
5. Provision of the parking lot screening at the northwest corner of the site as required by Section 530.170 of the zoning code. The screening shall be provided at the north end of the parking row along the west side of the site and in the landscaped area south of the existing freestanding sign.
6. The final site plan shall show refuse storage locations and any outdoor storage shall be screened per code.

Staff Voll presented the staff report.

President Motzenbecker opened the public hearing.

Libby Payne (500 Washington Ave): Our property is right across the street from what we're proposing. Our concern is changing the zoning to the I2. We surveyed the area and we noticed that there's quite a few other properties in the area that are vacant and looked like they're available to lease or for sale. One of our other concerns is though the picture you have there of another facility is not waste management, it's a property we have in Denver but it is a recycling facility so our concern aesthetics. With the rezoning, Waste Management might do a wonderful job but if they move out and another use comes in, we have a concern for that. If the commission does decide to approve this, we would ask that you do enforce all of the regulations as far as screening and landscaping. We just wanted to voice our concerns with that being rezoned and if it is rezoned that nothing is waived as far as the landscaping and screening requirements.

President Motzenbecker closed the public hearing.

Commissioner Gorecki: I just wanted to ask Jim to follow up on that comment regarding the landscaping and the visual piece of it. There hasn't been any waiver of standard landscaping that I see.

Staff Voll: If you look at the site plan, we're recommending that they add landscaping up there to screen the parking lot. Some of these parking spaces in the middle aren't within 15 of an onsite deciduous tree so they could bring those into compliance by adding a tree island, but the only place to me that wouldn't interfere with truck maneuvering is right here and there's a catch basin there for the drainage so it's technically possible but it seems like a lot of work to put a tree island there where they've got an established drainage plan. Otherwise, there are trees all the way around the perimeter. That was the one thing we were saying alternative compliance for, on everything else they would meet the standards.

President Motzenbecker: Is there a fence there as well or just the trees?

Staff Voll: It's trees and a little bit of a grade separation. I can't remember if there's a fence but there are some retaining walls and such there. The other waste management property to the south is up a little bit higher.

Commissioner Gorecki: I will move staff recommendation of item A (Huynh seconded).

Commissioner Huynh: It's unfortunate that you've had that experience with other neighbors with your business in Colorado. I do know of local businesses that are recycling centers such as Atomic Recycling that have been maintaining their operations fairly well with screening their debris and items. Hopefully you can look at monitoring if there noncompliance with screening and debris onsite but that's more of an enforcement issue. As we see it, it seems to be a fairly good project.

Staff Wittenberg: This type of recycling scenario would not be allowed in Minneapolis in the I2 district. This is something that we'd call a scrap yard which requires more intensive zoning than is requested here this evening.

President Motzenbecker: Just to clarify, almost all this would be happening within the building, correct? There would just be the loading docks.

Staff Voll: The ordinance requires that a recycling facility has all the activity take place within the building. If it doesn't, like you see in those pictures, then it becomes a scrap yard.

President Motzenbecker: Any further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

Commissioner Gorecki: I will move item B, staff recommendation (Huynh seconded).

President Motzenbecker: Any further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

Commissioner Gorecki: I will move staff recommendation for the site plan review (Huynh seconded).

President Motzenbecker: Any further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

15. De Colores Child Care Center (BZZ-5001, Ward: 13), 5101 and 5103 (5105) France Ave S (Becca Farrar).

A. Rezoning: Application by Aspen Builders, on behalf of Natalie and Javier Lopez, for a petition to rezone the parcel located at 5103 (5105) France Ave S from the R1A (Single-family) district to the OR1 (Neighborhood Office Residence) district.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to change the zoning classification of the property located at 5103 (5105) France Ave S from the R1A district to the OR1 district.

B. Conditional Use Permit: Application by Aspen Builders, on behalf of Natalie and Javier Lopez, for a conditional use permit for a new child care center for properties located at 5101 and 5103 (5105) France Ave S.

Action: The City Planning Commission **approved** the conditional use permit application for a child care center on the properties located at 5101 and 5103 (5105) France 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. The applicant shall pursue designation of two on-street loading spaces.
3. The child care center shall comply with the specific development standards as outlined in Section 536.20 of the Zoning Code.

C. Variance: Application by Aspen Builders, on behalf of Natalie and Javier Lopez, for a variance of the front yard setback requirement along France Ave S from approximately 49 feet, 4 inches to approximately 23 feet to allow the proposed building addition located at 5101 and 5103 (5105) France Ave S.

Action: The City Planning Commission **approved** the variance application of the front yard setback requirement along France Avenue South from approximately 49 feet, 4 inches to approximately 22 feet, 10 inches to allow the proposed building addition on the properties located at 5101 and 5103 (5105) France Ave S.

D. Variance: Application by Aspen Builders, on behalf of Natalie and Javier Lopez, for a variance of the off-street parking requirement from 20 spaces to 4 spaces for property located at 5101 and 5103 (5105) France Ave S.

Action: The variance of the off-street parking requirement has been **returned**.

E. Site Plan Review: Application by Aspen Builders, on behalf of Natalie and Javier Lopez, for a site plan review for a 2-story addition to an existing 2-story structure for a new child care center in the OR1 district located at 5101 and 5103 (5105) France Ave S.

Action: The City Planning Commission **approved** the site plan review application for a new 2-story addition to an existing building for a child care center on the properties located at 5101 and 5103 (5105) France Ave S subject to the following conditions:

1. Planning Staff review and approval of the final site, elevation, lighting and landscaping plans.
2. All site improvements shall be completed by December 13, 2011, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. All ground level windows must be transparent (non-reflective) as required by Section 530.120 of the Zoning Code.
4. Final plans should incorporate screening as required by Section 530.170 of the Zoning Code along the north and east property lines.
5. Solid fencing shall be provided in lieu of the proposed wrought iron fencing adjacent to the surface parking lot along the south property line in order to mitigate the impacts of headlights and the visibility of vehicles.
6. All fencing shall comply with Section 535.420 of the Zoning Code.

7. Final plans shall be in compliance with the bicycle incentive for nonresidential uses as outlined in Section 541.220 of the Zoning Code.
8. Any changes to the site plan as a result of Preliminary Development Review may result in another public hearing by the City Planning Commission if the Zoning Administrator deems such changes significant under sections 525.360 and 530.100 of the Zoning Code.

Staff Farrar presented the staff report.

President Motzenbecker opened the public hearing.

Richard Steele (5057 Ewing Ave): The piece of property in question was originally built as a house. The owner passed away and his daughter wanted to have a salon, which is the true definition of OR1. It was office and residential and she lived there. The house itself is quite large for the neighborhood, probably three times as large as the average house in the area. I'm not sure if it's two and a half lots, but it has three addresses. When she came into some money, she wanted it to be built into a spa. It was accepted, but they had to use the original footprint of the building. Now they want to take these other lots and also turn them into OR. The daycare center will not have a residence in it so it's not anything to do with that. They're basically making a 7000 square foot house in a neighborhood where the average is about 1100. The only access by vehicles is on West 51st, it's a residential street, which gets an awful lot of traffic. I'm sure you've seen the issues at that intersection before. The parking lot down here, was denied having an alley access because of the problems it would cause coming out here. At 50th and Ewing, they have restricting parking because it's a critical parking. Right now there are plans to make no parking on France Ave which is a county highway. In front of the building you've got a bus stop and all the driveways that come out. Parking is critical in this area. Their parking lot as it currently exists was plowed out at about 2:30 this afternoon. Nobody has been able to give me a number high or low, they said about 60 clients at a time, could be more or less. Over the last weekend, there were probably about 30 cars a day stuck in that area and people out there pushing them out. This morning at 7:00, the city recycle truck was stuck there. This area is no parking, this area is no parking and this area is no parking. It should be no parking on the other side right now because if somebody parks there, it's a one vehicle land situation. Essentially, they want to get the conditional use permit and turn it into a commercial piece of property. You have a letter in front of you from the neighbor to the south saying he doesn't care. Of course not, he's a landlord and not a resident. You turn this into a commercial piece of property and what does that do to his value? They have staff and probably have 20-25 staff between the caregivers, the cooks, maintenance and others. They have 17 parking spots back here which they are not going to use for staff, that means the neighborhood has to absorb some. I live across the street from the city parking lot, it's full. People park there illegally. The neighborhood does have concerns as far as the use of the property. If they're not successful then what do we end up with?

President Motzenbecker: I hear your concerns on the parking and the success, are there any other pieces?

Richard Steele: They restricted access to West 51st before, I think they should continue to restrict it. They are looking at 60-80 people trying to get to this parking lot within an hour or hour and a half, that's one a minute. Usually, West 51st going westbound is backed up to Ewing.

President Motzenbecker: Unfortunately, we don't have Public Works authority or we may be able to do something about that.

Richard Steele: If the parking is not accessible...they don't have enough parking for their employees. They told us the employees will use the bus but they can't require that. Those are the biggest concerns the neighborhood has.

Natalie Lopez [not on sign-in sheet]: I'm one of the owners of the daycare. We do see this as a logical use for the OR1 that is attached to the residential lot that is being recommended to be rezoned as OR1. The block directly above is quite commercial and the area surrounding behind is residential. We do operate two locations of the daycare currently and they are imbedded in neighborhoods just as this is there, bordering OR areas and also bordering homes and they've been very well received by the neighborhoods. We're not trying to disrupt anybody's neighborhood or the enjoyability of where they live. We've been present at all the of the neighborhood meetings that we've been invited to from the Fulton Neighborhood Association and we've been very receptive to their concerns. They did have a concern that we were originally applying for a parking variance and we have completely redesigned our expansion to keep the parking lot behind the building intact and are no longer applying for a parking variance so the parking concern is a moot point. The variance we are applying for is a setback variance. The letter from Frank, the next door neighbor, helps show that this is not a concern. The way it's laid out is that the setback is proposed to be less than what's required because the next door neighbor is a house and this is the owner of that house saying it makes a lot more sense to match the front of the existing building and keep that parking lot intact than it does to match the next door neighbor, which means having an addition that's just a little sliver which is not a viable use. We would like to provide a service to the neighborhood and increase the enjoyability of the neighborhood. We don't plan to apply for the parking variance. We'd like to give a major facelift to this building and also the landscaping surrounding it.

Commissioner Luepke-Pier: It looks like there are playgrounds on the roof, is that true?

Natalie Lopez: Yes.

Commissioner Luepke-Pier: That was my only concern was that I didn't see enough play space on the site.

Natalie Lopez: It was going to be in half of the parking lot so we were recommended to keep all the parking intact and that's what moved it up to the roof.

Commissioner Luepke-Pier: What percentage of your staff do you think uses public transportation?

Natalie Lopez: Easily 80% and the rest car pool. It's not a lie.

Commissioner Carter: I just noted in your proposal that it will include but not limited to toddler care, preschool, daycare services mainly childcare and activities for kids and I'm just wondering what those other services might be.

Natalie Lopez: It's only daycare and preschool, infants to five years old. No after school, no extended hours. We're always within 7:30-5:30. We have pretty limited hours for a daycare.

President Motzenbecker closed the public hearing.

Commissioner Tucker: I will move staff recommendation for the rezoning to approve from R1A to OR1 (Gorecki seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

Commissioner Tucker: I will move conditional use permit for the child care center, item B (Huynh seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

Commissioner Tucker: I will move approval of variance C (Huynh seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

Commissioner Tucker: On item D, I'm glad that the variance is not asked for so I will move that we return item D (Carter seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

Commissioner Tucker: I will move the staff recommendation for the site plan approval with its eight conditions (Huynh seconded).

President Motzenbecker: Further discussion? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).

17. Zoning Code Text Amendment (Ward: All), (Jason Wittenberg).

A. Text Amendment: Amending Title 20 of the Minneapolis Code of Ordinances as follows:

Amending Chapter 535 relating to Zoning Code: Regulations of General Applicability

Amending Chapter 537 relating to Zoning Code: Accessory Uses and Structures;

Amending Chapter 546 relating to Zoning Code: Residence Districts;

Amending Chapter 547 relating to Zoning Code: Office Residence Districts;

Amending Chapter 548 relating to Zoning Code: Commercial Districts;

Amending Chapter 550 relating to Zoning Code: Industrial Districts.

The purpose of the amendment is to revise standards for installation of solar energy systems.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the zoning code text amendment.

Staff Wittenberg presented the report.

President Motzenbecker opened the public hearing.

No one was present to speak to the item.

President Motzenbecker closed the public hearing.

Commissioner Gorecki moved approval of staff recommendation (Luepke-Pier seconded).

President Motzenbecker: I have one question on the freestanding solar energy systems, number two, I'm just curious if the exceeding three percent, exceeding five percent would in any way jeopardize someone using it to its fullest ability.

Commissioner Huynh: If you're doing a commercial development and you're relying on the energy within the site to operate the building, then that would infringe upon it but you'd have to have a pretty large development site to be able to do that. If you have a two acre site, you're going to need at least half of your site to be able to develop enough zero building (tape unclear) so I see that as an issue. If we're all moving towards that direction, this is going to uphold the 20-30 architecture standards with going to net zero with being self sufficient.

President Motzenbecker: So would that cause us to see a lot of CUPs or things like that?

Staff Wittenberg: To date we've seen very few proposed ground mounted systems, almost all of the ones we've been seeing have been on rooftops.

Commissioner Huynh: My only comment to add to that is if the only way you can get to it is by wind turbine or (tape unclear). Because the wind capacity in Minnesota isn't that great, our only reliance is on solar panels to be able to generate that energy to be able to become a net zero development. I think that as long as we allow a conditional use permit to make exceptions to this then I think it's fine.

President Motzenbecker: I will move approval of this (Huynh seconded). Any other questions? All those in favor? Opposed?

The motion carried 7-0 (Schiff not present for the vote).