

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES
Minneapolis Community Planning & Economic Development (CPED) Planning Division
350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD**

MEMORANDUM

DATE: December 15, 2004

TO: Blake Graham, Manager, Community Planning & Economic Development -
Planning Division; Phil Schliesman, Licenses

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

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

SUBJECT: Planning Commission decisions of December 13, 2004

The following actions were taken by the Planning Commission on December 13, 2004. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

ATTENDANCE

Present: President Martin, Vice President Hohmann, G. Johnson, Krause, Krueger, Kummer, LaShomb and Schiff – 8

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

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

The Minneapolis City Planning Commission, at its meeting on December 13, 2004, took action to **submit the attached comment** on the following items:

14. Kelly Phillips (BZZ-2036, Ward 5), 201 – 6th Street SE (Jason Wittenberg). This item was continued from the November 8, 2004 meeting.

A. Rezoning: Application by Kelly Phillips for a rezoning to add the Industrial Living Overlay District to the existing I1 District for property located at 201 – 6th Street SE.

Recommended Motion: The City Planning Commission recommended that the City Council **approve** the application for a zoning amendment (rezoning) to add the IL (Industrial Living) Overlay District to the existing I1 District at 201 6th St. SE.

Commission President Martin opened the public hearing.

No one requested to speak to the item.

Commission President Martin closed the public hearing.

Commissioner Krause moved approval (Schiff seconded).

The motion carried 6 – 0. (Commissioner Kummer not present for vote)

16. Ackerberg Group (BZZ-2108, Ward 5), 1915-1919 West Broadway (Jason Wittenberg).

A. Rezoning: Application by Agape Development Partners to rezone the property at 1915-1919 West Broadway from the R5 (Multiple-family) District to the OR2 (High Density Office Residence) District.

Recommended Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to rezone the property at 1915-1919 West Broadway from the R5 District to the OR2 District.

Commission President Martin opened the public hearing.

No one requested to speak to the item.

Commission President Martin closed the public hearing.

Commissioner Krause moved approval (Schiff seconded).

The motion carried 6 – 0. (Commissioner Kummer not present for vote)

18. Crescent Trace (BZZ-2076, Ward 3), 1101 Main Street NE (1108 & 1112 Main St. NE, 1109 & 1113 2nd St. NE, 101 & 117 Broadway St. NE.) (Michael Orange).

A. Rezoning: Application by Union Land III for the rezoning of 1108 & 1112 Main St. from R3 to C2, Neighborhood Corridor Commercial District for the Crescent Trace project to be located at 1101 Main St. NE.

Recommended Motion: The City Planning Commission recommended that the City Council **approve** the rezoning of 1108 & 1112 Main St. from R3 to C2, Neighborhood Corridor Commercial District for the Crescent Trace project to be located at 1101 Main St. NE.

Commission President Martin opened the public hearing.

No one requested to speak to the item.

Commission President Martin closed the public hearing.

Commissioner Schiff added language to the conditions for the site plan.

Commissioner Krause moved approval (Schiff seconded).

The motion carried 6 – 0. (Commissioner Kummer not present for vote)

21. D C Sales (BZZ-2104, Ward 9), 2700 Minnehaha Avenue (Fred Neet).

A. Rezoning: Application by DC Sales to rezone 2700 Minnehaha Avenue from I1 to I2 to permit a contractor's yard.

Action: The City Planning Commission recommended that the City Council adopt the findings and **deny** the application to rezone 2700 Minnehaha Avenue from I1 to I2.

Staff Fred Neet presented the staff report.

President Martin opened the public hearing.

John Davolis (President, D C Sales): We've been in Minneapolis since 1947. We've been wonderful neighbors on Franklin Avenue. Then we moved to Seward. We've always followed whatever rules and regulations were required. And I find it a little confusing here because all our neighbors...have outside storage. We have pictures of our neighbors, we're not doing anything that's any different [than] what's going on in the neighborhood right now. What staff failed to say that when we went before the Seward Neighborhood, Seward Neighborhood recommended to Council Member Schiff that he do everything possible to help us get this done because we've been an excellent neighbor, both ourselves and Donnelly Stucco. So here we are sitting with maybe two to three trailers and some other items that nobody can really see anyway. We don't know if the bikeway is going to be passing through there either. There's been discussion of that being on the other side of us. That's the unknown entity, and we'd be happy to landscape it anywhere possible to make it a more friendly atmosphere. But we took some pictures to show you can't see it from Hiawatha. We know you can't see it from Minnehaha and there's no neighbors on either side of us that would find it unpleasant anyway. We don't make dust, we don't make noise, we don't do any of the things that would probably qualify for being a nuisance business which we haven't been in the past. And I think Tom, his trucks have always been very well taken care of. I'm sure everyone has seen his trucks in the past. And there's very few of them. And when they talk about loaders or dumpsters, they're no more than 3 or 4 feet high at the most which would be well underneath any fencing. So we feel this is a little uncalled for, the denial of this motion and we wish to appeal it.

Tom Donnelly (President, Donnelly Stucco): My wife and I, believe it or not, lived two blocks from this thing for a long time as you probably remember 10, 15 years ago, she was here and got a rezoning so we could build a home on top of an office building. Everyone thought we were nuts, but it worked and we liked it. We are going to move into the D C Sales building because I've exhausted myself for 3 ½ years, I've lost our lease where we're at and it's either there or Fridley and that doesn't make a lot of sense for us to move out of Minneapolis after 57 years we've lived here. That being said, I have a little difficulty understanding all of this. John and I have spent probably between the two of us, probably \$40,000 dollars trying to figure out who's on first and who's on second with all of this monkey business with the building. All we want to do is lease the thing, move in, store our equipment there, and have an office there for our people because we've got a fair amount of employees and it's a nice set up for us. We've been years looking for one that would accommodate everything in one spot. I can't handle the damage that's done to our equipment since they've built that storage unit right next to the locker we're in now.

This weekend, squad cars came flying over there when they're stealing equipment from us. We're used to it, I can put up with some, but I'm not going to put up with it much longer because they can't come as fast as we need them and it's just too difficult. This is an area where we can move everybody in a safe environment, we'll fix the place up so it'll look like Ringling Brothers when we get done with it, whatever it takes to make it right. We're in the business of making things look nice, your façade, that is our business. The Greenway doesn't bother me whatsoever, that's a piece of cake because I walk it too so I understand. I just don't understand, you know I don't know the difference between I1 and I2. And I say to myself if we've got a neater operation than D C Sales has got, as far as I'm concerned, at least we're going to go for that. The rest of the neighborhood, you know we lease space now from a lot of different people that keep the equipment in and out, we need a spot to put this stuff. It seems reasonable. You can see pieces of it if you get up high enough, you get on top of that bridge, just at the right spot, you can look down into that yard. But if that thing is moving, you're going to see it for less than 10 seconds. We'd like to be there, we'd like to stay in the city. And that's where we're at with it. The neighborhood groups said figure out a way. As far as I'm concerned, that's the business we're in figuring out how to get things done. But somehow I'd like to see us in there. If you don't want us in there, tell us because I can't keep this up any longer, to keep looking around for a spot to move in to and that's the best one we've found so far.

Commissioner Krause: Mr. Donnelly, the sand portion, is that something you could put inside or if you did have to have it outside, how would you store that outside?

Tom Donnelly: Well, we store sand outside because people use our sand all the time. Half of Seward Neighborhood is over there getting sand for every sandbox and that's the only thing that we don't have a security thing. So if you don't want them to do it, that's fine. If you want them, it's fine, I don't really care. I can have containers made and we can move them around with forklifts and we'll just have to load them to the loading dock and drop it in the truck. We'll figure out a way to do it. It cuts off the kids and it cuts off the neighborhood and we'll figure out a different way to do it. But that's the reason it's open now.

President Martin: OK. Thank you. Others who wish to speak to item number 21.

Lori Stone (Seward Neighborhood Group): We just wanted to let you know that the neighborhood has stated they wish to see Donnelly Stucco move to the DC Sales building because of their history that they are clean and their low-impact nature of having overnight vehicles and trailers parked. And at the same time the neighborhood wishes to remind the Commission that the community promoted the South Seward Industrial Park because the park was intended to be I1 zoning and the low-impact uses that Donnelly and DC Sales have. And it does not wish to see the more intensive uses permitted by the permanent I2 reclassification. I think that's the most important thing to say at this point that the community does not wish to see the reclassification of rezoning to I2 and they also believe that the license vehicles and trailers, that it's not heavy equipment – it is trailers primarily and vehicles described in the application, constitute exterior storage defined in the zoning guidelines and the use of the property meets the definition of the I1 zoning code. So the neighborhood also does not think it's necessary to change the I2 to accommodate Donnelly Stucco and it does not wish to see the zoning changed. It's a contractor's office which is permitted in the code and also just to mention once again – it was mentioned by staff that LRT and Greenway are coming through that area and there's a 4-story housing development coming up to the south in that area.

Noah Schuchman (Council Aide, Ward 9): To some degree to reiterate what Lori Stone said, for this application, Council Member Schiff asked me to pass along his request that the Planning Commission declare that for the purposes of this application, the application is for a contractor's office, not a

contractor's yard and the rezoning is not needed. The definition of a contractor's office is silent on vehicles, machinery and equipment are listed but it does not list over the road vehicles as what the primary use would be in terms of outdoor storage. It's a gray area there in the definition that would accommodate that.

Brian Miller (Seward Redesign): I have spoken both with Mr. Davolis and Mr. Donnelly on this and we've tried to work this out. In discussions with the Zoning Administrator, they've indicated that the outside covered trailers licensed to drive on the roadway would not bring this to the level of a contractor's yard so it is a little bit more than just the licensed vehicles from our discussion and I guess from the standpoint of the neighborhood and our desire to still accommodate these businesses. We don't believe that the vehicles and the covered trailers licensed to operate on the roadway should raise us to the level of a contractor's yard and there should be a recognition that that kind of use is a permissible use for a contractor's office and that the rezoning would not be required.

President Martin: Neil, I'm going to ask you to respond to that.

Staff Neil Anderson: Commissioners, just a few comments. We agree with the Seward Folks that we really don't want to rezone this from I1 to I2. However, a contractor's yard does require an I2 zoning and a contractor's yard is one that has open storage. Now staff would agree that enclosed trailers are considered a form of vehicle and not storage, but open trailers also could be considered vehicles if there's nothing in them – if you don't have anything...if they're just there vacant. If they have things stored in them, then they are considered open storage. Also, the dumpsters that they showed would not be allowed outside – they would also be considered open storage. And obviously sand, outside, is considered open storage. However, if this Commission decides that this is not a contractor's yard, but rather a contractor's office, then what would need to be done in this case is that the application for the rezoning would need to be returned to the applicant and the applicant would have to apply for a conditional use permit for a contractor's office. It's a conditional use in the I1, not a permitted use but a conditional use in the I1. So if sand could be stored inside the building and the dumpsters were placed inside, then in effect we could consider this to be a contractor's office and for the conditional use permit, we could take another look at this.

President Martin: Alright. Mr. Donnelly, was there something else you wanted to say?

Tom Donnelly: No ma'am, I appreciate everything you all said here today. If you need to get rid of the dumpsters, they're gone.

President Martin: OK, I'm going to close the public hearing.

Commissioner Krause: I'm trying to think of what the appropriate motion is here. I think we definitely want to deny the application for the rezoning, but then return rather than deny... To return the application for rezoning, do you want us to deny it or return it.

Staff Neil Anderson: Well, I believe we're into a 60 day rule here, I think the applicant could withdraw the application for rezoning at this point, and then apply for a conditional use permit which we could bring back. But in order for us to withdraw that, we need something in writing.

Commissioner Krause: So a denial really wouldn't be with any kind of prejudice either in the sense that they could still pursue the contractor's office under the current zoning. So with that understanding, I'll move the denial so it's clear and then expect that they will submit an application for a conditional use

permit for the office use. And that may mean inside storage of the dumpsters with the sand but it would not affect the ability to store the trailers or their licensed vehicles (Hohmann seconded).

Tom Donnelly (off microphone): We wouldn't have a problem with that.

Commissioner Krueger: I just wanted to clarify why this option wasn't presented to the applicant.

Staff Neil Anderson: Well we actually consider this to be outside storage with the sand and the dumpsters that are there. I don't know if this option was presented to the applicant or not. Fred could respond to that since he worked on that application.

Staff Fred Neet: Yes, the applicant indicated that they would be trying to pursue the conditional use permit, but the application...

President Martin: Had already been made?

Staff Fred Neet: No, they just didn't do it. They were advised that they preferred the rezoning that they should do the rezoning and they did not pursue the conditional use permit.

President Martin: OK. All those in favor of the motion to deny without prejudice with the understanding that there will be a CUP application to allow this business to stay in the neighborhood, please signify by saying aye.

The motion carried 6 – 0.

27. Flashback Vintage Clothing (BZZ-2089, Ward 9), 2222 35th Street East and 2222 ½ 35th Street East (Hilary Watson).

A. Rezoning: Application by Chelsea Miller for rezoning from C1 to C2 to allow for a secondhand goods store for the property located at 2222 35th Street East and 2222 ½ 35th Street East.

Action: The City Planning Commission recommended that the City Council adopt the findings and **deny** the rezoning petition to change the zoning classification of the subject property from C1 to C2 for the property located at 2222 East 35th Street and 2222 ½ East 35th Street and refund the rezoning application fee to the applicant.

Staff Hilary Watson presented the staff report.

Commissioner Krueger: Can you explain, is there specific language as this is a used clothing store or is it also...

President Martin: Secondhand goods.

Staff Watson: It's a secondhand goods store. The options were explored with the applicant on doing a consignment clothing store, but she would need to do all of the items that are sold for consignment clothing and I believe she has three or five thousand items already purchased to be sold here, so she can't bring in her own consignment items and sell them at retail because they're hers so that wouldn't meet the definition of consignment. Another one is antiques and collectibles, but these aren't antiques or collectibles – the classification has been made and we've discussed this zoning – the classification of this

use with the Zoning Administrator and it does come down to that it is a secondhand goods store and would require a C2.

So if they were selling new items, selling in the C1 would be fine.

Staff Watson: Correct, then it would be a general retail store.

President Martin: OK, I'll open the public hearing and ask if there's anyone wishing to speak to item number 27.

Chelsea Miller (applicant): Well just to clarify, it's a vintage clothing store, which like Hilary said does fall into the secondhand goods category I guess. And nothing would be on consignment and we would not be accepting any donations so it would really be a minimal amount of clothes and other accessories and that is what it is limited to. I guess I would just say that it is hard to argue since you are not arguing that the store itself is injurious and it is a good thing for the neighborhood, I was raised in that neighborhood, I came back, I bought a house, I'm raising a family in that neighborhood and my mother lives in that neighborhood too. So we definitely are for doing things that are good for the neighborhood and we just believe that this is something that's good for the neighborhood and we hope to be there for a really long time. I also need to clarify that Hilary said we're the owner – we're not the owner of the property, Melvin Petris is the owner of the property and he lives in the house next to 2222 ½ and he backs us up a hundred percent because he believes in our store, he doesn't necessarily want other things that might be injurious to the neighborhood as we don't either.

President Martin: Others who wish to speak to item number 26.

Margaret Vallancourt (co-owner): I've lived in that neighborhood for 15 years and I too would not want to see the things that would be possible with a rezone to C2. I just have one kind of idea that it is a vintage clothing store and I don't know when this zoning thing happened, so vintage clothing is a new thing. Like people come in and they say...

President Martin: You mean like vintage clothing from the 80's?

Margaret Vallancourt: Yeah, it's from the 60's and the 70's and the 50's and we have some 40's stuff. And it's not what you would typically think of as a used clothing store. Everything, we have a special tailor that will fix things, we clean things, we have displays, and people actually, when they see us working in there – and by the way, I've put \$11,000 dollars we've refinanced, we've re-mortgaged our house, which is hey, you know you got to stick your neck out... But anyway, so as we're working on it, people come off the street and they go, oh, is this a used clothing store? And we go no, it's vintage, and they know right away what we're talking about. There is a huge, huge difference between Savers and plus the fact we're no bigger hardly than this table and we have very classy clothes. I mean if you go to, people stopped in and they watched us fixing it up and they say, 'Oh my God, things in Seattle, stores like this, things cost a fortune – what kind of prices?'. And we tell them what prices and the whole neighborhood is so excited and so I know, you know we believe in revitalization, we believe in our neighborhood, and we don't believe there should be an auto mechanic store or a car wash or anything, but I don't really truly believe it's a secondhand used clothing store. I think it's a category that you haven't dealt with really in the zoning law. I would quickly want to end by just reading... We didn't find out that it was being denied until Friday and we were just sort of in a state of shock. We ran over and told our landlord and he wrote this letter and we didn't have time to submit it, if I could just quick read it: 'I am the owner of the above mentioned property. It has been brought to my attention that the Minneapolis Planning Commission is recommending that the application by my tenant, Chelsea Miller to

rezone this property be denied. This is disappointing news. While my tenant and her family have been working hard physically and financially to prepare the space to open a vintage clothing store, Flashback, I have noticed a great deal of positive excitement from passerby's and others in the neighborhood. To deny this application would be a great disappointment, not only to me, but to the people who live in this neighborhood including Chelsea and Greg Miller and Chelsea's parents Buzz Mandell and Margaret Vallancourt. Like most of the people in our neighborhood, Chelsea and her family are committed to helping make Corcoran neighborhood an attractive, thriving friendly community. The use of my property for a small store like Flashback is in keeping with my philosophy of what I think is appropriate to this neighborhood which is also my neighborhood. You can be assured that if my current tenant would move, I would not want to rent or sell my property to any business that would clash with the values of the people in this neighborhood including a carwash, liquor store or automobile repair shop. I urge you to approve this application. Thank you. One message from my husband who had to go to work, he was here too. He's the one who fixed up the store and everything and he works at the YWCA which is in the neighborhood. We all work in the neighborhood. And he has a nonprofit theater company at the Y and we're all just such an old community of activists. I would never do anything – there are a lot of things here that I would have been protesting, but not this clothing store. Vintage. Thank you.

President Martin: Others who wish to speak to item 27. OK, I'm going to close the public hearing.
Commissioner Schiff.

Commissioner Schiff: Madame Chair, I'm just going to read the definition of an antiques and collectible store: 'An establishment where used property or cultural or collectible objects such as stamps, coins, sports memorabilia and artworks are sold for collective purposes where all or a substantial part of the value of the property is derived from its age, uniqueness or historical association'. I have a few vintage ties. I don't hang them on a wall, I wear them. I think we've seen this before and I think this application was taken in error and I think this should be considered under the definition of antiques and collectibles store and we should approve the CUP that's been applied for, but that we rule that the rezoning is not necessary and that they should be allowed to operate in the C1 district.

President Martin: Is that a motion?

Commissioner Schiff: Yes (Krueger seconded).

President Martin: Alright. Any discussion? Commissioner Krause.

Commissioner Krause: This secondhand goods ordinance was passed I believe six or seven years ago and frankly, I hate this more than anything else in the code. It is such a meat axe approach to what was trying to be fixed at the time that we find ourselves in these kinds of situations all the time. I hope somebody repeals this. We don't need this anymore, it isn't accomplishing anything. It's an absurd result 90 percent of the time...

President Martin: Mr. Graham, would you like to weigh in?

Staff Blake Graham: I feel compelled to respond. Because since 1963, secondhand goods stores were allowed only in the second most intensive district in the entire city. The '99 code really ratcheted down and allowed them in the C-2 district over the kicking and screaming of a number of Council Members. So we have gone in the right direction, and we distinguish between antiques and consignment clothing, both of which would be allowed in C1 and the secondhand goods store is still allowed only in C2. That all being said, I think we ought to readdress it. And I really believe that if there's a good argument to be made for amending the code and allowing permitted as of right antiques, consignments and secondhand

goods stores in C1 district. I'm seeing the Chair of Z & P nod his head there, so Barb, there's another one we want to put on our list.

Director Sporlein: I'm adding it to the list.

Staff Blake Graham: Because I agree with you. I think the C1 district will control the size and scale. You won't have large Goodwill type of stores in our C1 districts. There won't be drive through drop-off facilities because we don't allow drive-through's in C1. So I think in retrospect, we wouldn't have gotten it through in '99, but I think this is a good time to revisit that, so I appreciate your comment, in spite of the fact that you overstated it.

Commissioner Krause: Yes, I did overstate it a little bit. But still, that's the thing I hate the most.

President Martin: Then, if you fix that, we'll have to find out what Commissioner Krause hates most next.

Commissioner Krause: I get one every 10 years - that would be it.

Staff Watson: I just have a question or a comment, if I could just make this known, especially to the applicant that we may define it as an antique collectible store, but licensing has a different view, so I just want them to understand that they may still have an issue of licensing in getting a business license approved because of how they define the difference between antiques and secondhand. Because I know that they were told they needed a secondhand good license and that's what they've applied for and then they came here because they needed the rezoning.

President Martin: You're going to help them?

Commissioner Schiff: Yes.

Staff Watson: So we may have a circular issue down the line, but I wanted everyone to be aware.

Commissioner Schiff: Good point. I'll follow up with the applicant.

President Martin: OK, the motion is to regard the rezoning as null and void because it's not necessary and approve the CUP for all of the reasons that have been stated.

Commissioner Schiff: I'll just add on to that as another amendment to refund the fees for the rezoning.

Staff Anderson: Returning the rezoning application...

Commissioner Schiff: Yes.

President Martin: Returning, refunding fees and approving the CUP so that Commissioner Krause can find something else to hate the most.

Staff Blake Graham: I would recommend the Commission treat this one as we did the earlier one and deny the rezoning because of the 60 day law. Then it's not floating out there as a file that you said you returned but you never denied it.

President Martin: Do you want to amend your...

Commissioner Schiff: So we're denying the rezoning?

President Martin: We're approving the staff recommendation to deny the rezoning and approving the CUP because we think that this is a sensible use: antiques store, not a secondhand goods store.

Commissioner Schiff: Also refunding the fees because this shouldn't have been classified as this in the first place.

President Martin: OK, all those in favor of that motion please signify by saying aye.

The motion carried 5 – 0 (G. Johnson and Kummer not present for vote).

28. Pedestrian Oriented Overlay District Text and Map Amendments (Title 20, Chapters 521 and 551, Ward: Citywide) (Michael Larson).

A. Zoning Text Amendment: Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances related to the Zoning Code: Overlay Districts. The purpose of the amendment is to amend the Pedestrian Oriented Overlay District to include specific zoning regulations and incentives that would apply in and around light rail stations.

Action: The City Planning Commission recommended that the City Council **adopt** the alternative text amendment for the Cedar Riverside, Franklin Avenue, Midtown, 38th Street and 46th Street station areas only, subject to:

1. The alternative FAR language of all new development shall be 1.0
2. Staff direction to consider prohibiting surface parking lots as a principal use.

B. Zoning Map Amendments: Amending Title 20, Chapter 521 of the Minneapolis Code of Ordinances related to the Zoning Code: Zoning Districts and Maps Generally. The purpose of the amendments is to change the zoning map to include the Pedestrian Oriented (PO) Overlay District in and around neighborhood light rail transit stations.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the zoning map amendments for the Cedar Riverside, Franklin Avenue, Midtown, 38th Street and 46th Street station areas only.

Staff Michael Larson presented the staff report and the modified motions 28A and 28B.

Commissioner Hohmann: Question, Michael. We discussed the FAR minimums a couple of times in Committee of the Whole, it passed the last time. We had a real good discussion and my memory might be a little loose here, but Commissioner LaShomb and I were there, I think you were in and out, Commissioner Schiff, I can speak for myself, initially I was a proponent of a higher minimum FAR, and as a result of this discussion we had at the last get together to go over this material, as a result of the discussion and the input by different people, I came to question my assumed need for a higher FAR blanket. I don't know if everybody has read what Commissioner MacKenzie sent in as far as an option using your suggested format there, but since some people weren't there, maybe you could just kind of go through and refresh my memory and everyone else's memory on the gist of that discussion and if anybody hasn't read what Commissioner MacKenzie sent in, maybe you can take a look at it while Michael is reviewing the material.

Staff Larson: I could do that. The primary, I think, concern, in terms of implementing transit oriented development and specifically the station area plans is a concern that a .5 minimum FAR would not result in the intensity in use, the kind of use that a mixed use building, say primarily – I think we're talking station areas about residential buildings with ground floor commercial or simply residential building, although the FAR minimum is not proposed to apply to the residential districts. The concern about key or large sites where because of the size of the site, the proximity, the real estate economics may be present for mixed use development in that a commercial owned development would preclude such an opportunity. I think staff generally feel that given the broad area that a .5 FAR...the judicious application of a minimum FAR, especially something that is new for the city in that there is some reticence to apply something that is greater. However, we do recognize interest in a higher minimum FAR and we've had discussions like two story minimum height building is more reflective of appropriate development. We do have some examples of .5 FAR to get an overview of urban form. In the staff report, as we had discussed, we were interested in urban form and context – about the size of particular sites, what might be the market on specific sites, impact on a commercial corridor, so I'm giving you some examples in response to that for let's say the size of a reverse corner single family lot which is sometimes what we see in an adjoining lot. You'll see that in the list of mixed-use projects that we're seeing mixed-use development on a number of smaller scale sites. I would ask you to consider the marketplace and the size of the site – what is an appropriate implementation of policy in this regard. I think the primary concern is about a broad application of a higher FAR throughout these newly mapped districts and having a meaningful minimum requirement and not create an unnecessary number of variances for that. On page 18 is both a list of sizes of some typical sites half of a block frontage, a full block frontage, that type of thing, and then underneath that, have some variety of both commercial and mixed use projects and what their FAR's are. And you'll notice that when we do see mixed use projects we do see obviously above .5, we see much above 1.0. It's that range of whether we want to apply this to commercial districts is the question.

President Martin: That take care of it Commissioner Hohmann?

Commissioner Hohmann: Yes, that helps a lot.

President Martin: I'm going to open the public hearing – see if there's anyone who is still able to walk despite the cold.

Doug Walter (3000 East 50th Street, Nokomis East Neighborhood Association): I'd like to look at this from two different perspectives. The first is professional and the second is personal. We held a public meeting last week, got input from our residents as part of about a two-month long education program that we've done in trying to get people involved and keep them up to speed on what this is all about. Mike has been a lot of help with that. This has been a difficult subject for all of us that are not planners and not developers to understand. I'm still not sure we do. At the meeting, and since then, in feedback we've had some support for the pedestrian overlay and we've had a lot of opposition. Most of the opposition has been about density and the potential for large projects in a residential neighborhood. Part of that is because people don't understand it. We don't have a plan in place down in that area yet and until we have a plan, there's nothing for people to particularly look at. The examples that they have like Hiawatha Square has generated a lot of feedback. Examples like 50th and France and the project sometime used of Grand on Excelsior which are way too big – the scale is too high and people are very afraid of it, especially down on Minnehaha or the VA section, what we call the triangle locally. I don't have... But between Minnehaha and the new Hiawatha, north of the VA, along Minnehaha Avenue where the tracks run down the street – much of that area is probably ripe for redevelopment. And then some cases, with the right amount of work, it would be fairly pedestrian friendly and most of us support that. The problem

is that the people down there have already seen 250 new housing units that are underway right now, or will be in the next year, and they're thinking about large projects coming down the road and we can't tell them that's not going to happen. None of us understand it well enough to know and I don't think any of us are clairvoyant enough [tape end]...Based on what has happened at our meetings. I have some personal observations, two of which, on the 50th Street side of this plan, we have virtually no parking for the commercial that's there now. We have two commercial buildings and two residential or two apartment buildings. If we add more commercial to the area, there is no place for any parking. If we decrease the FAR, we keep it as low as it is, I'm concerned that we would not have enough parking for those buildings, especially off-street parking. As it stands, I think it would make it very difficult for a developer to come in and do it. The other is setbacks and this is personal on my part. My personal observation, having grown up on the East Coast, moving here later in life, promenades are important to people. The 8 foot setback from the city line is kind of an abstract number at this point, wherever the city line is. But I'm thinking of it differently, or in terms of from the curb, the way we are building buildings right now and two examples would be 50th and France and Hiawatha Square at 38th and 28th. We're so close to the curb that there's no space for people to feel like there's a promenade or a place to walk. We aren't going to make it pedestrian friendly which would be against what we're trying to accomplish. So I'd like to see the setbacks – the minimum setbacks, moved back away from the street. I realize in some cases this would be a problem, I know 46th and 46th was an issue, a very difficult one, but I'd like to see it changed so that rather than go by the 1910, 1920 setbacks that are currently there, using Hiawatha Square at 38th and 28th again as an example, those setbacks were built at a time when the street was probably 15 feet narrower than it is now. So we're looking at those lines. If you go back and you look at the old pictures taken from the archives of the city, along 34th in our commercial node in our area for instance, the streets were considerably narrower, the promenade was wider, and it was more pedestrian friendly. Granted we can't go back to that horse and carriage street width, but we could start with moving things back farther and give a couple feet for signs, meters, hydrants and so on, and then a little wider width than the 3 people walking shoulder to shoulder jammed in and then room for street furniture. Even though it would mean a few less feet for the developer. The FAR – again, none of us really understand that. It's, again, so abstract, and I'm not sure that the public has had a chance to really comment on what that FAR means. We've used a few examples in here. I don't have a problem with them because I can't see them. One of the examples again would be the Chipotle's that went in at the old Ember's site on Hennepin Avenue at 26th which has a very high FAR, but that site has been existing for a long time...

Commissioner Krause: Very low FAR.

Doug Walter: Sorry, I've got it backwards. That's the kind of business that we probably want to see at low FAR, so the minimums may change on that.

Martha Head (1616 West 22nd Street, owner of the Dairy Queen at Nawadaha and Minnehaha Avenue): I don't understand these circles because the map I have says that I'm not in a circle.

Staff Larson: It has been confusing for a number of people. The circles were there I guess for reference points. It's identified in the legend as a quarter mile from the station, half mile... it does not have any regulatory implications, just to reference proximity to the station.

Martha Head: So am I going to be part of the pedestrian overlay?

Staff Larson: Yes, you are proposed to be part of that district.

Martha Head: I'd like to either be excluded from the pedestrian overlay or I'd like to discuss this because there's a couple of things. One is that the store is not that close to the station. They're not walking to the

Dairy Queen store from the station. You're stopping at the station and you're either getting in your car and driving home, or, as a Met Council member when I was on the Met Council, one of the things that was really surprising to me is that we got a report shortly before I left that said the number of stops people are making on their way home has now doubled and it used to be 2 stops on the way home – it's now up to 5 and growing. So that you get off the bus or light rail, you get in your car and you stop at the cleaner's the grocery store, the daycare center, hopefully the Dairy Queen store to pick up your birthday cake, and you move on. I think it's very unrealistic to eliminate drive-through's which are the complement to surface parking. If I could have a drive-through, I have been rezoned for C2 which without the pedestrian overlay allows a drive-through. And I have gas tanks under my store so what I would like to do is tear down the building, get the gas tanks out of there, fix up the land, put a new building on there with some greenery on the lot (which it currently has just about zip because we're grandfathered in) and put a drive-through in there which would greatly lower the need for surface parking which would fit the need of the city and the Planning Department. But if I'm part of this overlay, and not allowed on a variance level to do a drive-through, then it makes it in essence kind of a taking of my land because it's a C2, but it's not a C2 anymore because I can't get a drive through. So, I think there's an issue there and I appreciate the fact that it's my problem, but it's a problem that all of you are sort of making for me.

Commissioner Hohmann: I think it could be grandfathered.

Commissioner Schiff: Not if she tore it down.

Martha Head: No, if I tear it down, I'm not grandfathered. And I currently don't have a drive-through so the question is when I bring my site plan back to you to be reviewed, will I be able to get a variance on this?

President Martin: Put on a green roof and Commissioner Krause will go for it.

Commissioner Schiff: To answer the question, and the Planning staff won't like to hear me say this, but if a new development is proposed, you could go through another rezoning and we do see from time to time people removing pedestrian overlay districts on their property when they come forward with a new development plan.

President Martin: We do?

Commissioner Schiff: We do. I just removed one last week. Well, we all removed one at the last Planning Commission and it went through the Council last week.

Martha Head: Under what criteria?

Commissioner Schiff: Under a new development and under consideration of the new development and all of its goals.

Martha Head: So it's humanly possible.

Commissioner Schiff: It's humanly possible like a rezoning. I think it was Steve Minn's project. He removed the pedestrian overlay district...

Staff Blake Graham: It was the ILOD.

Commissioner Schiff: It was an ILOD. He removed an ILOD. Thank you for that. But it's an overlay district so they can be removed.

Martha Head: Because that is my concern. Because I think there should be a difference between the ones that are on the inside circle and the ones that are on the outside circle because there are different needs. And I think...I mean, I'm in the fast food business. Let me tell you how much that makes me attractive walking around City Hall, but it's a good business and if people didn't go there, we wouldn't be in business. So it's a business that society wants and uses and to continually to make it more and more difficult to make money in this business by taking away what really allows us to have less blacktop which is what we all kind of want, by having a drive-through is a conflict. It's kind of a Planning conflict and I would urge you to please reconsider that. Also kind of as an aside, narrow sidewalks for women are very threatening and I think when you build a building right up on the street there are very few places for a woman who feels threatened to move aside and get some distance between her and the person who feels threatening just instinctively. So I would really urge you to think seriously about setbacks because it's a personal safety issue. I hope you will also think seriously about doing other rights other than rezoning possibly to allow what's really kind of an appropriate use near a transit stop. Thank you.

Rita Ulrich (Nokomis East Neighborhood Association): I want to add a little bit to what Doug Walter and also Mike Larson said specifically about the FAR. It isn't really just the size of the site I think that should be taken into consideration. It's also what's next to the site. Along Minnehaha Avenue we have some C4 and some C2 lying right next to single-family residential. That would be a really abrupt change and doesn't allow for any kind of transition, so I think we would be very concerned about that. The other part is that the neighborhood doesn't even know that there is consideration to go from a .5 FAR to a 1 or higher, so I don't think it's really fair to change that at this point. Residents at our meeting were fairly comfortable with the .5 FAR in a commercial area so that made sense to them. I'm not at all sure that a 1.0 or higher would.

Council Member Sandy Colvin Roy (12th Ward Council Member): Good evening. I am rising to ask given that there is no Master Plan and has not been any plan in the process yet down by the 50th Street station and the VA station, so that community has not had the chance to engage in a discussion of what they want there in the future. Everything we go through when we create a plan. Doug referred to it earlier, because they haven't been in that discussion, many of the people who came and were having difficulty visualizing or understanding the concepts in the overlay district and I'm going to request that you seriously consider delaying the overlay on those two districts that do not have a master plan yet. Mr. Larson is here and will respond. I asked him if it would blow anything up. He said, 'Well, it's not my recommendation, but it wouldn't blow anything up', so I'm sure you'll give him time to react. But the 50th Street and then the VA station, for those areas, I think when Doug said something earlier about we're afraid that it will get developed piecemeal, well that's why we want the Master Plan. The community did have the opportunity to watch a Cub store make a pretty strong pitch to go in at 46th Street and the fact that we had an adopted plan in the area that did not call for very large retail helped to stop that. So they're anxious to get going and I heard this from many of the people out at the community meeting the other night and I'll just mention that at least half of the people who attended the staff presentation up at Lake Street of this whole overlay were from the Nokomis area. So there is a lot of interest among these folks in getting a Master Plan going so that's my chance to let everyone on the Planning staff know that we're going to be pushing to get that done next year. But without that in place, their fear is if you put in an overlay that is somewhat attractive to developers and we have a Master Plan in place, there might be some, I don't know, leap-frogging maybe you could call it, so please consider that.

Judd Fenlan (Wellington Management, 1625 Energy Park Dr., St. Paul; not on sign-in sheet): We recently acquired managing Hi-Lake Shopping Center. It's currently under renovation. We have viewed that site

as a possible housing site, office site and retail site, with mixed use. We're not opposed to this overlay district although there are some components with it via FAR or drive-through facilities that can be somewhat detrimental towards development and we look at some specific to Hi-Lake, we've got so many long term leases in there that protect certain retailer's rights to visibility from Lake Street and whatnot, so there are certain limitations that we have on development. I think the longest lease runs through 2022, so we're a bit limited on what we can do up front there. So there are certain potential development opportunities out there that are difficult to have them meet the FAR or not have drive-through facilities, but could be viewed as assets to the community and could be in demand. So I guess one note that I was encouraged to see the action you took on the vintage store. That shows that the Council is open-minded towards these issues but I would like to encourage that too with some of these FAR and drive-through issues involved in the future.

President Martin: I'm going to close the public hearing.

Commissioner Schiff: Madame Chair, I'm going to move approval of the Cedar Riverside, Franklin Avenue, Lake Street Midtown, and the 38th Street Station area, and just those. And I would like to thank the neighbors who came to the open house at the yWca and came here tonight.

President Martin: Why not 46th?

Commissioner Schiff: I thought 46th was on the hold list. No? [comment, off microphone] Oh you want 46th? Thank you. So I'll move 46th as well. And I think for 50th it's important that we move with the neighborhoods and if they haven't done planning, that we allow them to have those discussions in a thoughtful way and know that we're working with them and this overlay district is not something we're doing to the neighborhood. And then I'd like to make some amendments to the staff recommendation as well (Krueger seconded).

President Martin: I want to see the way in which the pedestrian overlay is going to make the Franklin Avenue area pedestrian friendly. I can't wait.

Director Sporlein: To provide some additional information about funding for the planning in which a discussion in which the last time I met with Chuck Ballentine who is the Director of Housing, Transit and Community Works for Hennepin County. He indicated they have the planning funds available as they have in one or two previous stationary plans to fund that planning effort with the city and the neighborhoods as partners in that process and so I'd be happy to see where that's at and see if we can't get that queued up.

President Martin: Let's call him tonight.

Director Sporlein: Not tonight. I have 5 stops to make.

Commissioner Schiff: The discussion on the FAR is interesting. I'm going to move...what I've heard from my community is that FAR at 1.0 is preferable and that is definitely what the neighborhood associations are looking for to get the kind of development that they want near the commercial corridor, so I'm going to move an amendment.

President Martin: Anything else?

Commissioner Schiff: We can just have discussion on that first.

President Martin: Discussion?

Commissioner Hohmann: Over the last couple of months I've heard a couple of different perspectives as far as the FAR, one being the higher FAR will get us more density in the transit areas and another concept being that the market is going to be the prime mover in determining what is happening or not happening. A FAR that is excessively high [tape unclear] would push development elsewhere because of the restrictions. The mid-route between that would be coming in for variances on a continual basis.

Commissioner Schiff: I just want to point out the FAR can be very down and the neighborhoods that are speaking in favor of Lake Street are the ones that have been ignored the most for development in the past couple of decades and yet are craving it the most. So they would be very, very sensitive if they thought FAR 1.0 would scare away development and it's the opposite – they want to make sure that the development that they've been waiting for actually happens in the right way. And it can be varied down, it's not a hard and fast rule and I think we should consider those on a case by case basis.

Commissioner Krause: I just secondhand just got some information about a presentation that was done last week to some CPED staff I think about what the pattern has been in other areas that have had transit corridors like this for longer periods of time and over time, what's happened is that 20 percent of a region's density has clustered in the transit corridors. So unless we are somehow unique, then that's what we have to expect. So I think we're doing something here that's a delicate thing and we're trying essentially to send certain market signals because I think you're right – the market will primarily drive this equation. My concern is that too low an FAR is going to give someone an incentive to buy a piece of property and put it into a use at that lower FAR in a holding pattern and speculate until that greater density point comes in time. That's already happening. It's already happening within a block or two of the stations – I can cite a particular piece of property where it's occurring. It's not unlike what we had downtown at a period of time where people would buy a piece of land, they'd do a surface parking lot which wasn't prohibited at the time. It was enough revenue to kind of hold it and not have a lot of caring cost and wait for the development to catch up to it. And I think that's what could happen here. The only difference I would have with Mike's otherwise fine presentation – I think there may actually be some significant demand in the market for office space, or certainly space that is flexible that need not be just residential or just office, but actually goes back and forth depending on certain market conditions. I think it's really important to get the market signal right and I would rather be varying from a 1.0 FAR down on occasion where it makes sense than trying to push people to go a little bit above the .5.

Commissioner LaShomb: Well, I'm going to support this because some of us who were back involved in the light rail days when legislators loved to beat us up and do all sorts of stuff, I recall that the former Mayor of Minneapolis and perhaps the next Mayor of Minneapolis and the former Chairman of the Metropolitan Council went down to Washington and did a big sales job with the current Congressman and others on the basis of light rail was a development tool – it wasn't just a transportation tool. It was a development tool. And we all said that and I remember being in this very room when we showed slides and everything else. The point I'm trying to make is that if transit is going to be effective, if that investment's going to be worthwhile, you have to have the appropriate destinations and starting points for people to get on and off the system. Last Monday I had to pay \$1.25, it was a terrible experience, but I got on at 46th and went to the Mall of America in 16 minutes or less. While there were tons of people on there because there was a destination and it was kind of fun, but the fun is going to wear off after some point so we have to have some density so people have a reason to use the system. So I think in fairness to the people who paid for light rail and I know this has always been a controversial point in the communities, but in fairness to the people who paid for the light rail, we have to have a density around these station areas that is appropriate for supporting of that infrastructure. I wish the Minnesota

Legislature in its wisdom every time they approved a highway project would require certain kinds of density along highways, I think that would be a tremendous public policy. Instead of saying, 'Lakeville, you can have a 4-lane highway going to Lakeville' and still allow 3 acre lots. Anyway, I think we can always go down if it looks ugly, but I think basically to support that infrastructure, that communities need to recognize that you're going to have to have a higher level of density, and that's what this is about.

President Martin: I think it's instructive when you look at the table that Mike provided of the...the one on page 18 that has the varying uses and the very different ratios that come out, that most of the stuff we'd consider pretty successful is pretty high. And if that's what the market is going toward absent of requirement, that to me sends a pretty strong signal that 1 is not outrageous.

Commissioner Schiff: 2-story buildings can be 1.0.

President Martin: Exactly.

Commissioner Krueger: Just a question on the time frame when we might see the VA and the 50th stations come back.

Director Sporlein: Well it would take some time to go through the planning process I suspect and could be completed by 2005-06 perhaps.

Staff Larson: The money is available, we just need to develop a work plan. I guess our staff is concerned about development timing and what are the allowed uses in the C4, C2 districts that are there.

Doug Walter: If I could I would like to point out that the neighborhoods down there are very much in favor of the pedestrian private usage but the master plan part, we started a couple months ago approaching Mike about wanting to with this first [tape unclear] but it's a lot of inertia already there to get a Master Plan in place. We've already had two projects in the area that have been controversial. One especially that jumped between a senior housing and regular market rate housing and we don't want to see that type of thing happen again so we want to make sure the zoning is in place. But what we'd like to do is keep in mind that we have that pedestrian overlay to work towards as we have a Master Plan but maybe not precisely...

Commissioner Schiff: It's a goal. It's an aspiration.

Commissioner Krause: Martha Head's comment about the trade-off's. I think you're right about that today, but I actually had this debate with Manny Perez who's at the Hi-Lake shopping center where he has a drive-through and he was concerned about the impacts to his business. As we talked about it, he realizes that the business actually can get better and often does get better, but it changes. The mold split between how people are getting there changes. So you may have less people coming by car, but if you're building higher density housing in the vicinity, there are more people walking around that come to the store. So the business changes over time, the whole character and movement of people around these stations changes over time. Nothing is ever static in a city and these station areas will change, the character will change fairly dramatically over the next even 5 years, let alone 20 years and that's essentially what we're doing. We're creating something that will probably be more or less here for the next 20 years.

[comment from audience, unclear]

President Martin: No, no debate, the public hearing is over. Sorry.

Commissioner Schiff: My question and I guess then I'll make it a motion, are parking facilities or paved lots, are they prohibited under the current staff report.

Staff Larson: No.

Commissioner Schiff: So why wouldn't we want to prohibit paid lots and parking facilities if they are primary uses, not if they're adjacent, attached.

Staff Larson: Because I think it may be prudent to allow as a conditional use parking at facilities that serve district-wide needs, especially as we are reducing the accessory parking requirement, placing caps on particular uses, I think also it may be prudent to allow shared views. It also allows us... the Metropolitan Council has jurisdiction over the land it wants to use for a park and ride lot, but there would be some kind of arrangement for a shared use for a park and ride that wouldn't have to be prohibited.

Commissioner Schiff: I guess if the FAR is 1.0 it would be prohibited if they try to pull a building permit to put in an asphalt lot.

Staff Larson: Well I don't think under the definition of development, I'm not sure about surface lot constitutes development.

Commissioner Schiff: Because I do know developers on Lake Street are looking to tear down small one-story buildings and then paving the lot over and opening up a paid park and ride for light rail. We know from downtown, we've still got surface parking lots from the 1950's that were created when people tore down buildings, so I would think we need to address that in a way really seriously, otherwise we could find 30-year parking lots.

Staff Larson: I guess I'd ask Blake whether a principal use parking structure as I believe [tape unclear]. Accessory parking in a structure would not count towards FAR, but a principal use parking structure would – there would be an FAR calculation.

Commissioner Schiff: OK, so for our principal use, someone's going to pull a business license for a surface parking lot and no other structures on the property, would that be allowed? It's not development, so it doesn't get captured by the FAR, there's no structure so they don't need to do 1.0.

Staff Larson: At this point I guess it's an interpretation if a surface parking lot constitutes development. We haven't addressed that.

Commissioner Schiff: This still has to go to the Council, so I'll direct staff to come up with the language for the purpose of prohibiting paid parking lots as a principal use. So if it's just accessory parking to another retail use, that's fine, but if it's a principal use that would be prohibited.

President Martin: Alright, your third one?

Commissioner Schiff: And then parking ratios. Why don't we want to put a cap on a parking ratio – say at 100 percent? So people don't go above and beyond what's required by the district.

Staff Larson: Traditionally, the zoning code establishes accessory parking requirements that are seen as the minimum requirements for a use – what's an appropriate amount. Except in the pedestrian overlay district, it establishes a cap at 150 percent. I guess we don't have rationales determined. A different

appropriate maximum. It's not something...we haven't done parking usage studies. Our conventional wisdom is that the largest uses have more parking than they need. So if we have larger commercial field development, 150 percent might not be a meaningful cap – it's probably a more meaningful cap through smaller scale uses.

Commissioner Schiff: OK, I won't raise that because that's a can of worms once you're still talking about grandfathered rights, so I'll leave that one off the table.

President Martin: OK, so the motion is to approve the amendment with the condition that the FAR be 1.0 and the VA station and 50th are taken out, and staff direction to work on the principal parking lot problem.

The motion carried 4 – 1 (G. Johnson and Kummer not present for vote).

29. Text Amendment (Chapters 4 and 9 of *The Minneapolis Plan*, Ward: Citywide) (Jennifer Bever).

A. Text Amendment: Amending text for Chapters 4 and 9 of the *The Minneapolis Plan* to correct document text in the land use tables for Commercial Corridors, Community Corridors, Neighborhood Commercial Nodes and Major Housing Sites to accurately reflect what was originally designated on the land use map when the comprehensive plan was approved in 2000.

Community Corridors

- 49th Avenue North from Humboldt Avenue North to Lyndale Avenue North
- Fremont Avenue North – West Broadway to 44th Avenue North
- 44th Avenue North – Lyndale Avenue North to Penn Avenue North
- Dowling Avenue North – I-94 to Penn Avenue North
- Humboldt Avenue North – 44th Avenue North to Northern City Boundary

Commercial Corridors

- Lyndale Avenue North – 42nd Avenue North to 49th Avenue North

Neighborhood Commercial Nodes

- Penn Avenue South & Cedar Lake Road
- Penn Avenue North & West Broadway Avenue

Major Housing Site

- Humboldt Greenway

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the proposed text corrections to *The Minneapolis Plan*, as identified in the attachments.

Commission President Martin opened the public hearing.

No one requested to speak to the item.

Commission President Martin closed the public hearing.

Commissioner Krause moved approval (Schiff seconded).

The motion carried 6 – 0. (Commissioner Kummer not present for vote)

