



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

Date: April 16, 2009

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

Referral to: Zoning and Planning Committee

Subject: Appeal of the Decision of the City Planning Commission by Bluff Street Development, LLC.

12. Bluff Street Development (BZZ-4319, Ward: 3), 600 Main St SE.

A. Rezoning: Application by Bluff Street Development LLC for a rezoning from the I2 Medium Industrial District to the C3A Community Activity Center District and to remove the IL Industrial Living Overlay District for property located at 600 Main St SE.

Action: Notwithstanding the staff recommendation, the City Planning Commission recommended that the City Council **deny** the rezoning application from the I2 Medium Industrial District to the C3A Community Activity Center District and to remove the IL Industrial Living Overlay District for property located at 600 Main St. SE based on the following findings:

1. There is guidance within adopted plans to not unduly intensify the use of land on the river side of Main St.
2. This land is listed in the Minneapolis Plan for Sustainable Growth and Marcy Holmes Plan as park use.
3. The site is outside of the boundaries of the East Hennepin Activity Center and is would be extending C3A zoning too far away from the central node of the Activity Center on East Hennepin.
4. The existing zoning allows for reasonable development, both commercial and housing.

B. Conditional Use Permit: Application by Bluff Street Development LLC for a conditional use permit for 98 dwelling units for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application for 98 dwelling units for property located at 600 Main St. SE based on the following finding:

1. With the denial of the rezoning to C3A District, the amount of units proposed is in excess of the amount that would be allowed under the existing I2 District and Industrial Living Overlay District.

C. Conditional Use Permit: Application by Bluff Street Development LLC for a conditional use permit to increase the height to 6 stories or 68 feet from 2.5 stories in the SH Shoreland Overlay District for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application to increase the height to six stories or 70 feet for property located at 600 Main St. SE based on the following finding:

1. The much higher building on the river side of Main St is inappropriate. With the denial of the rezoning this project would not be possible in its present configuration.

D. Variance: Application by Bluff Street Development LLC for a variance to reduce the south interior side yard setback from 15 feet to various distances down to zero feet at the closest point to the property line for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the south interior side yard setback from 15 feet to various distances down to zero at the closest point to the property line for property located at 600 Main St. SE based on the following finding:

1. With the denial of the rezoning this project would not be possible in its present configuration.

E. Site Plan Review: Application by Bluff Street Development LLC for a site plan review for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review application for a mixed use 98 unit residential building located at 600 Main St. SE based on the following finding:

1. With the denial of the rezoning this project would not be possible in its present configuration.

Prepared by: Jim Voll, Principal Planner, 612-673-3887 Approved by: Jason Wittenberg, Planning Supervisor, 612-673-2297 Presenters in Committee: Jim Voll

Community Impact

- Neighborhood Notification – The Marcy-Holmes neighborhood was notified of this application. Please see the letter from the neighborhood group in the original staff report to the City Planning Commission.
- Comprehensive Plan – See staff report.
- Zoning Code – See staff report.
- End of 60/120-day decision period – On March 20, 2009, staff sent a letter to the applicant extending the 60/120 day decision period to no later than June 19, 2009.

Supporting Information

Bluff Street Development, LLC applied for a rezoning from the I2 Medium Industrial District and the Industrial Living Overlay District to the C3A Community Activity Center District, a conditional use permit for 98 dwelling units, a conditional use permit to increase the height of the building to six stories or 70 feet, a variance of the south side yard setback, and a site plan review to allow a new residential building with a small first-floor retail space at 600 Main Street SE. The City Planning Commission recommended that the City Council deny the rezoning and denied the other applications 5-2 at its meeting on March 23, 2009. Please see attached memo with the City Planning Commission findings for denial.

Community Planning and Economic Development Planning Division Report

Rezoning, Conditional Use Permits, Variance, and Site Plan Review
BZZ-4319

Date: March 23, 2009

Applicant: Bluff Street Development

Address Of Property: 600 Main Street SE

Project Name: 600 Main Street

Contact Person And Phone: Gretchen Camp – BKV Group 612-373-9122

Planning Staff And Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: February 19, 2009

End of 60 Day Decision Period: April 20, 2009

Ward: 3 **Neighborhood Organization:** Marcy-Holmes

Existing Zoning: I2 Medium Industrial District

Existing Overlay District: IL Industrial Living Overlay District, SH Shoreland Overlay District, and MR Mississippi River Critical Area Overlay District.

Proposed Zoning: C3A Community Activity Center District and to remove the IL Industrial Living Overlay District.

Plate Number: 15

Legal Description: See attached sheet.

Proposed Use: Multi-story building with 98 dwelling units and ground floor commercial.

Concurrent Review:

Rezoning: From the I2 Medium Industrial District and ILOD Industrial Living Overlay District to the C3A Community Activity Center District.

Conditional Use Permit: To allow 98 dwelling units.

Conditional Use Permit: To increase the height from 2.5 stories in the SH Shoreland Overlay District and from 4 stories in the C3A District to 6 stories 70 feet.

Variance: To reduce the south interior side yard setback from 15 feet to various distances down to zero feet at the closest point to the property line.

Site Plan Review.

Appropriate Section(s) of the Zoning Code: Chapter 525, Article VI Zoning Amendments; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, specifically Section 525.520(1) “To vary the yard requirements”; and Chapter 530 Site Plan Review.

Background: The applicant proposes to build a six-story multi-family residential apartment building with a small first-floor retail space facing 6th Avenue SE. The site is just outside of the St. Anthony Falls Historic District. The eastern boundary of the district is 6th Avenue SE. It is within the boundaries of the University Area Moratorium, but is not subject to the moratorium as it has more than four dwelling units. The applicant is requesting a rezoning to the C3A Community Activity Center District. The development also requires a conditional use permit for 98 units, a conditional use permit to increase the height to 6 stories, and a variance of the south side yard setback. On March 3, 2005 the Board of Adjustment approved a nonconforming use certificate (BZZ-2201) for vehicle parking.

As of the writing of this report, staff has not received any correspondence from the neighborhood group, but will forward comments, if any, at the Planning Commission meeting.

REZONING (from I1 Industrial to C3A Commercial and to remove the ILOD)

Findings As Required By The Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The C3A Community Activity Center District was established to provide for the development of major urban activity and entertainment centers with neighborhood scale retail sales and services. In addition to entertainment and commercial uses, residential uses, institutional and public uses, parking facilities, limited production and processing and public services and utilities are allowed. The C3A districts are mapped in areas designated as Activity Centers in the comprehensive plan and occasionally adjacent to Activity Centers. The East Hennepin Activity Center is to the west of this site within a triangle created by Central and East Hennepin Avenues and extends along Main Street.

The Minneapolis Plan defines Activity Centers as follows:

- Activity Centers generally have a diversity of uses that draw traffic from citywide and regional destinations, but do not generally support automobile uses.
- Activity Centers are complimented by medium and high density residential uses, and also accommodate retail and commercial services, entertainment uses, educational campuses, or other large-scale cultural or public facilities.
- Activity Centers have a traditional urban form (building siting and massing).
- Activity Centers have a significant pedestrian and transit orientation, as service and features of these areas are already good.
- Activity Centers have uses that are active all day long and into the evening.
- A mix of uses occurs within structures and within the larger boundaries of Activity Centers.
- Activity Centers have a unique urban character that distinguishes them from other commercial areas because of the mix and complementary type of uses as well as the traffic the area generates.

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Activity Centers are destinations that attract large numbers of visitors, workers, and residents. They include a concentration of activities throughout the day and into the evening that includes high pedestrian, automobile, and transit traffic, and a mix of uses located that result in a well-defined sense of place. While this site is just outside the recently drawn east boundary of the Activity Center along 6th Avenue SE, many of the characteristics of an Activity Center are applicable to this parcel as well, so the C3A zoning would not be unreasonable for this parcel. In addition, it is unlikely that the zoning would be requested on the parcels to the east due to physical conditions limiting development potential. Also, C3A zoning has been applied to other parcels adjacent to Activity Centers.

The Minneapolis Plan for Sustainable Growth (not fully adopted yet) designates this parcel as parkland, as the plan incorporates the land use maps of adopted small area plans.

This site is in the MR Mississippi River Critical Area Overlay District. *The Mississippi River Critical Area Plan* was approved by the City Council on June 16, 2006. The plan states that “the City will follow the land use guidelines of *The Minneapolis Plan* except where modified by small area plans...”

The Master Plan for the Marcy-Holmes Neighborhood is the approved small area plan for this area. It was approved on December 29, 2003. The plan shows the parcel as parkland, so the rezoning would not be in conformance with this goal of the plan; however, staff is not aware of any plans by the City or the Park Board to purchase the parcel. While the *Minneapolis Park and Recreation Board Comprehensive Plan*, adopted by the Park Board, encourages the acquisition of parkland in the central riverfront area, it does not specifically identify this parcel as future park land.

Absent a specific plan to purchase the land staff relies on the other relevant policies of *The Minneapolis Plan*, listed above, and adopted small area plans. The *Marcy-Holmes Plan* states that land to the river side of 4th Street SE may be considered for multi-family development and that industrial properties on the river side of University Avenue should be considered for mixed use development (page. 1-2).

The C3A District is consistent with the above noted policies and goals of the comprehensive plan.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The rezoning is in the interest of the applicant. While the redevelopment of the site will be an improvement to the area and will provide housing, this can be accomplished to a smaller scale under the existing zoning.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The surrounding area is a mix of residential, commercial, and industrial uses including offices, commercial uses, apartment buildings, and large industrial buildings. The area directly to the northwest of the site covering the East Bank Mills project area is zoned C3A and this rezoning would essentially be an extension of that area. This should be compatible with the surrounding area.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

The existing I1 District, with the ILOD, allows a range of industrial, commercial, and residential uses.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

This area has been undergoing a transformation from industrial uses to a mix of residential, commercial, and park uses.

CONDITIONAL USE PERMIT (for 98 residential units)

Findings as required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

The proposed development will replace a surface parking lot with a 98 unit residential building. There are residential and mixed-use projects built or approved to the north and northwest of the site, so the development will not be out of character with the area. With staff recommended conditions of approval the development should not be detrimental to the public health, welfare, comfort, or safety.

Two issues that should be considered in this area are noise and air quality. There is noise generated from Metal-Matic, Interstate 35W, and the University of Minnesota steam plant in this area with the closest source being the steam plant. There are two major sources of noise from the steam plant. One is from the stacks and the other is from the building. An EIS was completed for the adjacent property to the northwest for the East Bank Mills development. The Environmental Impact Statement (EIS) is a disclosure document that is intended to be used to inform regulatory decisions. It is made up of several documents including, but not limited to, the Environment Assessment Worksheet (EAW), the Draft EIS (DEIS), and the Final EIS (FEIS). One issue that was identified in the East Bank Mills DEIS is that the taller buildings may be at risk for exposing residents to noise levels at the upper floors. The EIS identified buildings approaching 140 feet as at risk for exposure to noise from the stacks. The proposed building will not exceed 70 feet, so this noise will not be a factor for the proposed development. (see pages 59, 61-63 of the EAW, 20-23 of the DEIS, and page 14 of the Findings of Fact for EAW for the East Bank Mills development).

The other building noise from the steam plant is from other building operations and is around 65 decibels. Under Minnesota state law it is the City's responsibility to make sure that residents are not

exposed to noise levels that exceed state standards. To discharge the City’s responsibility under state law, staff is recommending that a condition of approval be added that addresses noise issues and to assure compliance with state statutes. Staff recommends that permissible interior noise levels meet the standards as outlined by the City’s Environmental Health Division in the attached PDR report.

The East Bank Mills EIS also indicates that the pollution concerns are relevant for taller buildings approaching the 140 foot height near or in the plume leaving the stacks. At 70 feet the proposed building will not meet this threshold.

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

The Stone Arch Apartments are to the north of the site and the University of Minnesota steam plant is to the south of the site. There are plans to redevelop various parcels near the site to the northwest in the future for the East Bank Mills project. Main Street SE is proposed to connect to the future East River Road connection to the east. In addition, a bike trail is planned to connect through this area on Main Street SE or along the railroad corridor to the south of the site. The proposed development should not hinder these plans. In the context of surrounding development, this building should not be detrimental to nearby properties if it complies with applicable site plan review conditions of approval.

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

Utilities and access are existing and adequate. Public Works and the Fire Department have reviewed the plans for access and circulation and they find the plans acceptable. The final drainage plan is required to be approved by Public Works before any permits may be issued.

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

Access to the enclosed parking is on the north side of the building from Main Street SE. The required parking is provided within the building. The zoning code requires 98 parking spaces and the development will provide 112 spaces. This building also conforms to the .5 spaces per bedroom standard recommended by the *Marcy-Holmes Plan* for developments that have student housing. Due to the close proximity to downtown, bike routes, and transit this should be adequate parking. A Travel Demand Management Plan has been completed and approved by Public Works staff for this project (please see attached sheets from the TDMP for implementation steps).

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

The Minneapolis Plan designates this area adjacent to the site as an Activity Center. *The Minneapolis Plan* has the following goal and relevant implementation steps for Activity Centers:

4.7 Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban

character.

Implementation Steps

Ensure that land use regulations support diverse commercial and residential development types which generate activity all day long and into the evening.

Promote the incorporation of residential uses within the same structure as other commercial uses.

Preserve traditional urban form in buildings where it currently exists, and encourage new development to relate to traditional siting and massing, where it is already established.

Discourage automobile services and drive-through facilities from locating in these designated areas.

Develop parking facilities and management strategies that accommodate high customer demand, promote shared facilities and minimize visual impact and adverse effects on pedestrian and sidewalk traffic.

Ensure that regulations balance the transition between high traffic land uses and adjoining residential areas.

Require that buildings in Activity Center districts incorporate a pedestrian orientation at the street edge.

Apply street design criteria that incorporates a pedestrian orientation and accommodates a variety of traffic (pedestrian, cyclist, transit, automobile).

The Minneapolis Plan has the following relevant policies and implementation steps from the housing chapter:

4.9 Minneapolis will grow by increasing its supply of housing.

Implementation Steps

Support the development of new medium- and high-density housing in appropriate locations throughout the City.

Support the development of infill housing on vacant lots. Use partnerships and incentives to reduce city subsidy level and duration of vacancy.

4.10 Minneapolis will increase its housing that is affordable to low and moderate income households.

Implementation Steps

Provide regulatory incentives for affordable housing development.

Foster partnerships with housing developers, financial institutions, faith communities and others to extend the City's capacity to create affordable housing.

Support mechanisms such as community land trusts and housing cooperatives to create long term affordable housing.

4.11 Minneapolis will improve the availability of housing options for its residents.

Implementation Steps

Increase the variety of housing styles and affordability levels available to prospective buyers and renters.

Provide and maintain moderate and high-density residential areas.

Promote mixed-income housing development that offers a range of dwelling unit sizes and levels of affordability.

Diversify the location distribution of affordable housing in order to allay the historic patterns of concentration of poverty that characterizes some neighborhoods.

Please see finding number five under the rezoning portion of this staff report regarding conformance with the adopted small area plans. In addition to those findings, the *Macy-Holmes Plan* has the following

relevant policy and information:

The plan states the following about parking, “the neighborhood strongly supports...student housing developments...to have 0.5 parking spaces for each bed proposed in a development. The neighborhood has unique challenges with respect to the new type of apartment buildings with four or more bedrooms per apartment compared to the old model of one and two bedroom apartments. These new apartments have far more people living in them, sometimes two or more people per bedroom, than old apartments and require more parking (page 7-4).” The building has a mix of studio, one bedroom, or two bedroom units with a total of 105 bedrooms. At a parking standard of 0.5 per bedroom this site would still have adequate parking ($105 * 0.5 = 53$ spaces) if the building were all student housing.

It is staff’s opinion that the proposed development, while not in conformance with the parkland designation, is in conformance with the other applicable policies for land use in the *Marcy-Holmes Plan* for this area.

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

The proposal will conform to the applicable regulations of the C3A District upon the approval of the rezoning, conditional use permits, variances, and site plan review.

CONDITIONAL USE PERMIT (to increase height to six stories or 70 feet)

Findings as required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

The C3A District limits the height of multiple-family dwellings to four stories, or 56 feet, whichever is less. In the SH Shoreland Overlay District the height is limited to two and one-half stories or 35 feet, whichever is less. The Shoreland Overlay District is measured as 300 feet from the Mississippi River. Part, but not all, of this site and the proposed building is in the Shoreland Overlay District (please see map attached to this staff report).

The height of structures or buildings are measured as the vertical distance from the natural grade either at the curb level or at a point ten (10) feet away from the front center of the structure or building, whichever is closer, to the top of the highest point of the structure, or to the top of the highest point of the roof on a flat or shed roof, the deck line on a mansard roof, or the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

A story is measured as that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or fourteen (14) feet, whichever is less, except that the topmost

story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under floor space is more than six (6) feet above grade, for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade at any point, such basement, cellar, or unused under floor space shall be considered a story.

Measured from 6th Avenue SE the height of the building is six stories or 70 feet. To the north of this building is the Stone Arch Apartments, which is five stories. To the northwest the East Bank Mills development is approved to allow four new towers ranging in height from 17 to 27 stories. To the south is the University of Minnesota steam plant, which is approximately two to three stories, but the stacks rise to 140 feet above Main Street SE. The proposed height of the new building will not be out of character with surrounding development and should not be detrimental to the health, safety, comfort, and general welfare of the area.

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

The Stone Arch Apartments are to the north of the site and the University of Minnesota steam plant is to the south of the site. There are plans to redevelop various parcels near the site to the northwest in the future for the East Bank Mills project. Main Street SE is proposed to connect to the future East River Road connection to the east. In addition, a bike trail is planned to connect through this area on Main Street SE or along the railroad corridor to the south of the site. The proposed development should not hinder these plans. In the context of surrounding development, this building should not be detrimental to nearby properties if it complies with applicable site plan review conditions of approval.

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

Utilities and access are existing and adequate. Public Works and the Fire Department have reviewed the plans for access and circulation and they find the plans acceptable. The final drainage plan is required to be approved by Public Works before and permits may be issued.

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

Access to the parking is on the west side of the building from Main Street SE. The required parking is provided within the building. The zoning code requires 98 parking spaces and the development will provided 112 spaces. This building also conforms to the .5 spaces per bedroom standard recommended by the *Marcy-Holmes Plan* for developments that have student housing. Due to the close proximity to downtown, bike routes, and transit this should be adequate parking. A Travel Demand Management Plan has been completed and approved by Public Works staff for this project (please see attached sheets from the TDMP for implementation steps).

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

While the comprehensive plan does not indicate appropriate heights for specific sites, there are several

policies in Chapter 9, City Form, that refer to traditional urban form and building form and context especially regarding how buildings relate to their surroundings. This building height should not be out of character with the surrounding area if it complies with the site plan review conditions of approval.

The Mississippi River Critical Area Plan states the following about building height: “In general, structures within the Critical Area should be shorter when located closer to the river. Taller structures are possible within the Critical Area as distance from the river increases or measures are taken to provide some level of screening, buffering and/or enhancement of views of and from the river. This plan recognizes that many existing structures in the Critical Area exceed the height limit contained in the zoning code, and that these structures are either allowed due to the provisions of the 1999 zoning code for legally nonconforming uses, or were specifically approved through a prior conditional use permit or variance. In addition, exceptions to the established height limit may be allowed in the case of development proposals deemed to warrant exception by the Planning Commission in order to meet the development goals of the City contained in the Comprehensive Plan and other adopted small area plans. Such exceptions may be granted in keeping with Executive Order 79-19, Section C.2.c., which states under the heading of "Clustering" that: The clustering of structures and the use of designs which will reduce public facility costs and improve scenic quality shall be encouraged. The location of clustered high-rise structures may be proposed where public services are available and adequate and compatible with adjacent land uses (page 27).”

The Marcy-Holmes Plan does not make a specific height recommendation for this parcel as it is contemplated as parkland, but allows for taller buildings between University Avenue SE and Main Street SE to approximately 190 feet, or the height of the Red Tile Elevator (page 8-6).

It is the staff’s opinion that in the context of surrounding development the increase in height is in conformance with these goals and policies of the comprehensive plan and adopted small area plans.

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

The proposal will conform to the applicable regulations of the C3A District upon the approval of the rezoning, conditional use permits, setback variances, and site plan review.

In addition to the conditional use standards contained in Chapter 525 and this article, the city planning commission shall consider, but not be limited to, the following factors when determining maximum height:

(1) Access to light and air of surrounding properties.

The increase in height will not prevent access to light and air for surrounding properties. The building is located back on the southerly part of the lot, which will allow access to light and air for properties to the north. There is little chance of development to the south of the building due to the steam plan, possible bike trails, and SH Shoreland Overlay District regulations.

(2) Shadowing of residential properties or significant public spaces.

The building will be setback on the south part of the site, so it should minimize the shadow cast on Main Street SE and 6th Avenue SE, except for during the winter months. It will not shadow any future bike trail to the south on the railroad right-of way. Please see the attached shadow study.

(3) The scale and character of surrounding uses.

There are or will be buildings of similar or greater height in the immediate area, including the Stone Arch Apartments to the north, the East Bank Mills (proposed) to the northwest, and the University of Minnesota steam plant to the south.

(4) Preservation of views of landmark buildings, significant open spaces or water bodies.

The building will block views of the river and downtown from the north, but not significantly more than it would if it were limited to four stories. It has been located to the south part of the lot, which will preserve views from the Stone Arch Apartments of the Stone Arch Bridge. It will affect views of the Red Tile Elevator from the east, but these views will be blocked with the construction of the East Bank Mills towers.

In addition to the conditional use and variance standards contained in Chapter 525, Administration and Enforcement, the city planning commission and board of adjustment shall consider the following for conditional use permits in the SH Shoreland Overlay District:

(1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

An erosion control plan and a drainage/stormwater management plan will be required by Public Works at the final site plan stage before permits may be issued.

(2) Limiting the visibility of structures and other development from protected waters.

While the structure may be visible from the river it will not have a more significant impact than other buildings existing or approved for this area of the central riverfront.

(3) The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

No watercraft are proposed as a part of this development.

VARIANCE (to reduce the south interior side yard setback)

Findings Required by the Minneapolis Zoning Code:

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

In general, setbacks are not required for properties in the commercial or industrial districts, except where adjacent to residential districts and for residential uses that contain windows facing an interior side lot line. Along the south side a 15 foot setback is required (5 feet, plus 2 feet for every floor above the first, not to exceed 15 feet), because there are windows facing that property line. The front part of the lot has an easement for overhead power lines running across it from west to east, so the building is planned to be located on the southerly part of the lot. The lot is triangle shaped with the south line running diagonally and curved from west to east in relation to the front lot line. The building encroaches into the south interior side yard setback to various distances to zero feet at its closest point. The physical characteristics of the lot including the triangle shape and power line easement are conditions that make it difficult to place a residential building on this site in a way that will not encroach into setbacks. This is a hardship.

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

The lot is triangle shaped and is crossed by a power line easement. This is a condition that is not generally applicable to other properties. The proposed use will allow development similar to other properties in the area and is a reasonable use of the property.

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

The intent of the ordinance is to provide a setback for elevations with windows facing an interior side yard where a building could be built along the property line on an adjacent parcel. This is to meet building code requirements for fire protection and to prevent a situation where a building would be built on the adjacent parcel blocking the windows. There is a railroad right-of-way to the south that has a low probability of being developed and may be the future site of a public trail. This will allow access to light and air for these units and therefore should not circumvent the intent of the zoning code.

Normally, staff would not recommend approval of this variance as it would not meet the requirements of the building code for window openings facing an interior lot line. The applicant has a request into the Building Plan Review Office to allow the windows facing this property line at the setback proposed based on the area to the south being a “public way.” At this time Building Plan Review has not ruled on this request. If this variance is approved, it does not supersede any building code requirements for openings facing an interior lot line and does not oblige the building department to issue any permit.

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

The proposed variance should have no effect on congestion in the public streets. Adequate parking is provided. The variance should not endanger public health or safety or increase the danger of fire.

SITE PLAN REVIEW

Required Findings for Site Plan Review

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

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND DESIGN:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances and windows:
 - Residential uses:
Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
 - a. Windows shall be vertical in proportion.

- b. **Windows shall be distributed in a more or less even manner.**
- **Nonresidential uses:**
 - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**
 - a. **Windows shall be vertical in proportion.**
 - b. **Windows shall be distributed in a more or less even manner.**
 - c. **The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.**
 - d. **First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.**
 - e. **First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.**
 - f. **Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.**

Minimum window area shall be measured as indicated in section 530.20 of the zoning code.

- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

The building is up to the property line on 6th Avenue SE except at the southwest corner, at the building entrance, where it setback up to 24 feet, on the first floor, to provide a covered entrance. The building is not within eight feet of the property line along Main Street SE. It is setback 102 feet at its furthest point on the west side tapering to 30 feet at its closest point on the east side of the site. There will be a large landscaped area between the building and the public sidewalk and public art on the retaining walls along Main Street and 6th Avenue as amenities in lieu of the building wall. In addition there is a power line easement running across the northerly part of the site that restricts the building location to the southerly part of the site. Staff recommends alternative compliance for the building location because the site conditions make strict adherence impractical and because the site plan has amenities to mitigate the adverse effect of the alternative.

The principal entrance opens onto the public sidewalk on 6th Avenue SE. The principal entrance is clearly defined at the front of the building with a recessed arcade. There is also an entrance facing Main Street SE that is not clearly defined or emphasized with architectural features. Staff recommends that additional architectural detail be provided to emphasize the entrance location on Main Street SE.

Parking is located within the structure.

The exterior materials are durable and are made of cement panels, metal, and glass. Future changes in material may require review before the City Planning Commission. The new building walls will contain architectural detail including, varied window designs, articulated elevations, and a varied roof line

There are no blank walls without a change in material for lengths of more than 25 feet.

Residential uses are required to provide 20 percent windows on the first floor and 10 percent windows on the upper floors of elevations facing a public street, sidewalk, or pathway. Commercial uses are required to provide 30 percent on the first floor. The north elevation of the residential structure facing Main Street SE and southerly elevation facing the railroad corridor both provide 48 percent windows on the first floor and 48 percent on the floors above. The east side elevation provides 47 percent windows on all floors. The west side elevation provides 48 percent windows for the residential and 100 percent for the commercial on the first floor and 52 percent on the floors above.

ACCESS AND CIRCULATION:

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

The entrance to the building is connected by a small arcade to the public sidewalk on 6th Avenue SE and by a 15 foot wide walkway to the public sidewalk on Main Street SE. Staff recommends that a walkway at the east side of the site be constructed to connect the public walkway between the Stone Arch Apartment buildings to the possible bike trail to the south of the site.

There are no integrated transit shelters on site.

Vehicular access and circulation has been designed to minimize conflict with residential properties. There is no alley adjacent to the site.

Public Works and the Fire Department have reviewed the site plan for access and circulation and find them acceptable.

The site has been designed to minimize impervious surfaces and all areas that are not covered by buildings, pedestrian access, and drives are pervious surfaces used for landscaping and stormwater management. There will also be landscaping on the roof of the parking structure.

LANDSCAPING AND SCREENING:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**

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

The site plan has 22 percent landscaping. The lot area is 36,377 square feet and the footprint of the building is 16,525 square feet. This leaves 19,852 square feet, of which 20 percent (3,970 square feet) is required to be landscaped. The applicant is providing approximately 4,383 square feet of landscaped area on site. In addition there is 8,280 square feet over the roof of the parking garage, which if included brings the total percentage of on-site landscaping to 63 percent.

The development is required to provide eight trees and 40 shrubs. The site plan shows zero on-site trees and approximately 479 shrubs. The applicant is providing nine trees and another 500 shrubs in the public right-of-way as an amenity in lieu of the on-site tree requirement. Staff recommends granting alternative compliance for the required trees as there is no place on site where a tree could grow that is not under the power lines or over the parking garage. The site conditions make strict adherence impractical. The applicant is providing an amenity of boulevard trees and shrubs to mitigate the adverse effects of the alternative. Staff recommends that the landscaped tree boulevard along Main Street SE be increased in area to connect the two islands to create a larger planting area. Also the easterly portion of this planting area should be moved west to be located to allow a six-foot wide walkway. In addition, staff recommends the addition of at least four ornamental trees on-site along the public sidewalk on Main Street SE.

There are no parking areas that are required to be screened. All other areas not occupied by buildings, walks, plazas, parking, loading, and associated drives are landscaped. The landscaped area in front of the building contains only one plant species. There are 428 Honeysuckle shrubs in a large landscaped area. Staff recommends that a more diverse landscaping plan be created with additional plant types.

ADDITIONAL STANDARDS:

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

There are no surface parking areas on the site.

The building will partially block some views of the historic Red Tile Elevator to the west from the east, but no more than the approved towers of the East Bank Mills project that are proposed to be constructed between the Red Tile Elevation and the building. It will block some views and of the river for properties to the north, but no more than the University of Minnesota steam plant to the south of the proposed building already does.

The building should not significantly generate wind currents at ground level. The applicant has stepped the building back in various areas, which will help to break up wind currents at ground level.

The plan meets the CPTED guidelines. The site is designed with landscaping, fencing, and architectural features to delineate space and control access while allowing views into and out of the site. Staff recommends that proper lighting be provided and that the landscaping follow the three-foot seven-foot rule to allow proper views into and out of the site.

There are no historic structures on the site.

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

ZONING CODE: Multiple-family dwellings of five units or more require a conditional use permit in the C3A District.

Off-Street Parking and Loading: The zoning code requires a minimum of one space per dwelling unit for a total of 98 parking spaces. There is no maximum requirement. The commercial tenant space has an area less than 1,000 square feet, so it is exempt from minimum parking requirements. Two van accessible spaces are required. The building will have 112 spaces, of which 24 are compact, and four are

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accessible. There will be an additional 16 tandem spaces provided that are allowed for residential uses, but that do not count toward fulfilling the minimum off-street parking requirement.

No loading space is required for a residential use under 100 dwelling units. The applicant will provide loading on 6th Avenue SE in front of the building on a temporary basis as necessary and as allowed by Public Works.

Multiple-family dwellings of five units or more are required to provide one bicycle parking space per every two dwelling units for a requirement of 49 spaces. Ninety percent of these spaces shall meet the standards for long-term bicycle parking, which requires that they are located in enclosed or supervised areas providing protection from theft, vandalism, and weather and are accessible to intended users. The commercial tenant space has an area less than 1,000 square feet, so it is exempt from minimum bicycle parking requirements. One space per each unit is provided in the parking garage via raised bike racks mounted above vehicles. For those residents that do not have vehicle parking, several bike racks will be mounted within an accessible area of the garage. An additional 14 spaces are proposed for 6th Avenue SE for visitors and guests.

Maximum Floor Area: The maximum FAR in the C3A District is 2.7. The lot in question is 36,377 square feet in area. The applicant proposes 91,843 square feet of gross floor area, an FAR of 2.52.

Building Height: Building height in the C3A District is limited to four stories or 56 feet, whichever is less. The southerly part of the site is located in the SH Shoreland Overlay District, which limits building height to 2.5 stories or 35 feet, whichever is less. The building is proposed to be six stories or 70 feet. A conditional use permit is required to allow the increase in height and staff is recommending approval of the CUP.

Minimum Lot Area: The C3A District requires not less than 400 square feet of lot area per dwelling unit. With a density of 20 percent for enclosed parking this can be reduced to 320 square feet per dwelling unit. With 98 proposed dwelling units on a lot of 36,377 square feet, the development will have a density of 371 square feet of lot area per dwelling unit.

Dwelling Units Per Acre: The applicant proposes 117 dwelling units per acre.

Yard Requirements: In general, setbacks are not required for properties in the commercial or industrial districts, except where adjacent to residential districts and for residential uses that contain windows facing an interior side lot line. This structure is bordered on the north and west by public streets, so no setback is required on those sides. Along the south side a 15 foot setback is required (5 feet, plus 2 feet for every floor above the first, not to exceed 15 feet), because there are windows facing that property line. The applicant is requesting a variance to allow the patio encroachments and staff is recommending approval of the variances.

Specific Development Standards: No specific development standards are applicable for this project.

Hours of Operation: Not applicable for a residential building.

Signs: Signs are subject to Chapters 531 and 543 of the Zoning Code. All new signs are required to

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meet the requirements of Chapter 543 of the zoning code and permits are required from the Zoning Office. No signage is proposed at this time, but the applicant is aware that signs require zoning office approval and permits.

Refuse storage: Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. Trash is stored inside the building, but if dumpsters are utilized in the future they are required to be screened to the standards of the zoning code.

Lighting: The lighting will comply with Chapters 535 and 541 including the following standards:

535.590. Lighting. (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance. (b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.
- (3) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

MINNEAPOLIS PLAN: Please see finding number one under the rezoning section and finding number 5 under the conditional use permit sections of this report.

SMALL AREA PLANS ADOPTED BY COUNCIL: *The Master Plan for the Marcy-Holmes Neighborhood* has the following relevant policies and information:

The plan supports mixed use developments including multi-family housing for the industrial properties on the river side of University Avenue (see pages 1-2, 1-3, 4-1, and 4-3). Sixth Avenue SE is designated as a Gateway Corridor that is intended to be more landscaped and pedestrian friendly (see page 5-7). Chapter eight outlines various design guidelines including appropriate landscaping, rooflines, and building materials. The plan indicates that height limits in this area should be per the zoning code and may be relaxed in certain cases (see pages 4-2 and 8-6). In general, the plan calls for building heights to gradually increase from University Avenue to Main Street not to exceed the Red Tile Elevator.

The Mississippi River Critical Area Plan states that “the City will follow the land use guidelines of *The Minneapolis Plan* except where modified by small area plans...” Development in the Urban Diversified District should have a high degree of visual compatibility with the river and should not block or impact key scenic views. Walls of tall buildings should be avoided and accessibility points through the river corridor development should be designed (page 25). It is the opinion of staff that with the staff recommendations the proposed site plan is in conformance with these goals. Further, the building is setback a significant distance from the river and has the steam plant development between it and the river.

It is staff’s opinion that the proposed development, with the recommended conditions of approval, is in conformance with the small area plans.

Alternative Compliance. The Planning Commission may approve alternatives to any site plan review requirement upon finding any of the following:

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

The building is up to the property line on 6th Avenue SE except at the southwest corner, at the building entrance, where it is setback up to 24 feet on the first floor to provide a covered entrance. The building is not within eight feet of the property line along Main Street SE. It is setback 102 feet at its furthest point on the west side tapering to 30 feet at its closest point on the east side of the site. There will be a large landscaped area between the building and the public

sidewalk and public art on the retaining walls along Main Street and 6th Avenue as amenities in lieu of the building wall. In addition, there is a power line easement running across the northerly part of the site that restricts the building location to the southerly part of the site. Staff recommends alternative compliance for the building location because the site conditions make strict adherence impractical and because the site plan has amenities to mitigate the adverse effect of the alternative.

- Principal entrance.

The principal entrance opens onto the public sidewalk on 6th Avenue SE. The principal entrance is clearly defined at the front of the building with a recessed arcade. There is also an entrance facing Main Street SE that is not clearly defined or emphasized with architectural features. Staff recommends that additional architectural detail be provided to emphasize the entrance location on Main Street SE.

- Number of trees.

The development is required to provide eight trees and 40 shrubs. The site plan shows zero on-site trees and approximately 479 shrubs. The applicant is providing nine trees and another 500 shrubs in the public right-of-way as an amenity in lieu of the on-site tree requirement. Staff recommends granting alternative compliance for the required trees as there is no place on site where a tree could grow that is not under the power lines or over the parking garage. The site conditions make strict adherence impractical. The applicant is providing an amenity of boulevard trees and shrubs to mitigate the adverse effects of the alternative. Staff recommends that the landscaped tree boulevard along Main Street SE be increased in area to connect the two islands to create a larger planting area. Also the easterly portion of this planting area should be moved west to be located to allow a six-foot wide walkway. In addition, staff recommends the addition of at least four ornamental trees on-site along the public sidewalk on Main Street SE.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department – Planning Division for the rezoning from I2 to C3A and to remove the ILOD:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning application from the I2 Medium Industrial District to the C3A Community Activity Center District and to remove the IL Industrial Living Overlay District for property located at 600 Main Street SE.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the conditional use permit application for 98 dwelling units for property located at 600 Main Street SE subject to the following condition:

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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.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the conditional use permit application to increase the height to six stories or 70 feet for property located at 600 Main Street SE 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.
- 2) Permissible interior noise levels meet the standards as outlined by the City’s Environmental Health Division in the attached PDR report.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance to reduce the side yard setback:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the variance application to reduce the south interior side yard setback from 15 feet to various distances down to zero at the closest point to the property line for property located at 600 Main Street SE.

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

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for a mixed use 98 unit residential building located at 600 Main Street SE, subject to the following conditions:

1. CPED Planning staff review and approval of the final site and landscaping plans and elevations.
2. All site improvements shall be completed by March 23, 2009, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.
3. Compliance with the applicable standards of the SH Shoreland Overlay District and the MR Mississippi River Overlay District.

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4. Architectural detail shall be provided to emphasize the entrance location on Main Street SE.
5. The landscaped tree boulevard along Main Street SE shall be increased in area to connect the two islands to create a larger planting area. Also, the easterly portion of this planting area shall be moved west to allow a six-foot wide walkway.
6. The landscaping plan shall show the addition of at least four ornamental trees on-site along the public sidewalk on Main Street SE.
7. Additional plant types shall be added to the landscaped area in front of the building along Main Street SE to create a more diverse landscaped area.
8. A walkway shall be constructed at the east side of the site to connect the public walkway between the Stone Arch Apartment buildings to the possible bike trail to the south of the site.

Attachments:

- 1) Legal description.
- 2) Statements from the applicant.
- 3) PDR Report.
- 4) Zoning maps.
- 5) Site plan, floor plans, and elevations.
- 6) Photos and aerials.

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Legal Description:

That part of Government Lot 4, Section 23, Township 29, Range 24, and parts of Lots 11 and 14, AUDITOR'S SUBDIVISION NO. 44, Hennepin County, Minnesota, described as follows:

Commencing at the most Westerly corner of Block 52, ST. ANTHONY FALLS; thence Southwesterly, along the Southwesterly extension of the Northwesternly line of said Block 52, to the Southwesterly line of Main Street S.E.; thence on an assumed bearing of North 60 degrees 00 minutes West, along the Southwesterly line of said Main Street S.E., a distance of 0.71 feet to the actual point of beginning of the tract of land to be described; thence South 60 degrees 00 minutes East, along the Southwesterly line of said Main Street S.E., a distance of 482.70 feet; thence North 73 degrees 07 minutes 20 seconds West, a distance of 99.88 feet; thence along a tangential curve to the left having a radius of 1,769.03 feet, a distance of 107.87 feet; thence along a compound curve having a radius of 1,262.28, a distance of 348.85 feet, to its intersection with a line bearing South 40 degrees 14 minutes West from the point of beginning; thence North 40 degrees 14 minutes East, a distance of 197.89 feet, to the point of beginning. (Said last described course being the Southeasterly line of 6th Avenue S.E., as described in deed recorded in Book 10 of Miscellaneous, page 514, Office of the County Recorder, Hennepin County, Minnesota).

EXCEPT that part described as follows:

That part of Government Lot 4, Section 23, Township 29, Range 24, Hennepin County, Minnesota, described as follows:

Commencing at the most westerly corner of Block 52, ST. ANTHONY FALLS, Hennepin County, Minnesota; thence South 29 degrees 12 minutes 30 seconds West, assumed bearing along the southwesterly extension of the northwesterly line of said Block 52, 73.56 feet; thence South 55 degrees 52 minutes 10 seconds East 9.26 feet; thence southeasterly along a tangential curve concave to the southwest 27.46 feet, said curve having a radius of 405.00 feet and a central angle of 03 degrees 53 minutes 06 seconds; thence southeasterly along a reverse curve concave to the northeast 17.66 feet, said curve having a radius of 455.00 feet and a central angle of 02 degrees 13 minutes 26 seconds, to a point on the southwesterly line of vacated Main Street S.E. and the point of beginning of the property to be described; thence South 60 degrees 47 minutes 30 seconds East, along said southwesterly line, 427.43 feet; thence North 73 degrees 54 minutes 50 seconds West 13.21 feet; thence North 60 degrees 47 minutes 30 seconds West 362.40 feet; thence northwesterly along a tangential curve concave to the northeast 52.28 feet, said curve having a radius of 455.00 feet and a central angle of 06 degrees 34 minutes 59 seconds, to the point of beginning.

AND

That part of vacated Main Street S.E. in the plat of ST. ANTHONY FALLS, Hennepin County, Minnesota, described as follows:

Commencing at the most westerly corner of Block 52, ST. ANTHONY FALLS, Hennepin County, Minnesota; thence South 29 degrees 12 minutes 30 seconds West, assumed bearing along the southwesterly extension of the northwesterly line of said Block 52, 73.56 feet to the point of beginning of the property to be described; thence South 55 degrees 52 minutes 10 seconds East 9.26 feet; thence southeasterly along a tangential curve concave to the southwest 27.46 feet, said curve having a radius of 405.00 feet and a central angle of 03 degrees 53 minutes 06 seconds; thence southeasterly along a reverse curve concave to the northeast 17.66 feet, said curve having a radius of 455.00 feet and a central angle of 02 degrees 13 minutes 26 seconds, to a point on the southwesterly line of vacated Main Street S.E.; thence North 60 degrees 47 minutes 30 seconds West, along said southwesterly line, 53.99 feet to the southwesterly extension of the northwesterly line of said Block 52; thence North 29 degrees 12 minutes 30 seconds East, along said southwesterly extension of the northwesterly line of said Block 52, 6.44 feet to the point of beginning.

Being registered land as is evidenced by Certificate of Title No. 1086219.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2526 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: March 27, 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 March 23, 2009

The following actions were taken by the Planning Commission on March 23, 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, and Tucker – 8

Not present: Nordyke and Schiff

Committee Clerk: Lisa Baldwin (612) 673-3710

12. Bluff Street Development (BZZ-4319, Ward: 3), 600 Main St SE ([Jim Voll](#)).

A. Rezoning: Application by Bluff Street Development LLC for a rezoning from the I2 Medium Industrial District to the C3A Community Activity Center District and to remove the IL Industrial Living Overlay District for property located at 600 Main St SE.

Action: Notwithstanding the staff recommendation, the City Planning Commission recommended that the City Council **deny** the rezoning application from the I2 Medium Industrial District to the C3A Community Activity Center District and to remove the IL Industrial Living Overlay District for property located at 600 Main St. SE based on the following findings:

1. There is guidance within adopted plans to not unduly intensify the use of land on the river side of Main St.
2. This land is listed in the Minneapolis Plan for Sustainable Growth and Marcy Holmes Plan as park use.
3. The site is outside of the boundaries of the East Hennepin Activity Center and is would be extending C3A zoning too far away from the central node of the Activity Center on East Hennepin.
4. The existing zoning allows for reasonable development, both commercial and housing.

B. Conditional Use Permit: Application by Bluff Street Development LLC for a conditional use permit for 98 dwelling units for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application for 98 dwelling units for property located at 600 Main St. SE based on the following finding:

1. With the denial of the rezoning to C3A District, the amount of units proposed is in excess of the amount that would be allowed under the existing I2 District and Industrial Living Overlay District.

C. Conditional Use Permit: Application by Bluff Street Development LLC for a conditional use permit to increase the height to 6 stories or 68 feet from 2.5 stories in the SH Shoreland Overlay District for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application to increase the height to six stories or 70 feet for property located at 600 Main St. SE based on the following finding:

1. The much higher building on the river side of Main St is inappropriate. With the denial of the rezoning this project would not be possible in its present configuration.

D. Variance: Application by Bluff Street Development LLC for a variance to reduce the south interior side yard setback from 15 feet to various distances down to zero feet at the closest point to the property line for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the variance application to reduce the south interior side yard setback from 15 feet to various distances down to zero at the closest point to the property line for property located at 600 Main St. SE based on the following finding:

1. 1. With the denial of the rezoning this project would not be possible in its present configuration.

E. Site Plan Review: Application by Bluff Street Development LLC for a site plan review for property located at 600 Main St SE.

Action: Notwithstanding staff recommendation, the City Planning Commission **denied** the site plan review application for a mixed use 98 unit residential building located at 600 Main St. SE based on the following finding:

2. With the denial of the rezoning this project would not be possible in its present configuration.

Staff Voll presented the staff report.

Commissioner Cohen: It says here, “the building will block views of the river and downtown from the north, but significantly more than if it were limited to four stories.” Isn’t that a bootstrap argument? The real question is whether we should rezone it at all and the four stories would require a rezoning. Isn’t the question whether or not these views would be blocked if we moved from 35 feet to 70 feet? That’s the question, isn’t it? Not if we moved from 56 feet to 70 feet, but from 35 feet to 70 feet, which is the existing zoning? Will that significantly block views?

Staff Voll: There’s really two things we’re talking about; one is the height and the other is the zoning. The height is independent of the zoning in some respects because the C3A and the ILOD both allow four story buildings. The shoreland, regardless of what it’s zoned, limits the two and a half story. The rezoning wouldn’t give them any more height than what they’re allowed.

Commissioner Cohen: Eighty percent of that property is within the shoreland, isn’t it?

Staff Voll: No.

Commissioner Cohen: Seventy five percent? Sixty percent?

Staff Voll: I don’t know the percentage, but I tried to show in the drawing roughly how much of the building would be in the shoreland. It would be this easterly part of the building and this southwesterly corner. I don’t think the rezoning would affect the issue of height, but getting back to your original question about the standard for height...

Commissioner Cohen: It wouldn’t affect the issue of height? I don’t understand.

Staff Voll: Because the district we’re in right now, the Industrial Living Overlay District, allows four stories for the areas that are outside of the shoreland and the C3A allows four stories for the area that’s outside of the shoreland. All property that’s within the shoreland, regardless of what it’s zoned, is limited to two and a half stories unless you get a conditional use permit.

Commissioner Cohen: So you have to take two jumps here. You have to take a rezoning and you have to take a conditional use permit in order to get to the 70 feet. My question is, under existing zoning it’s limited to 35 feet; would that be detrimental to the views?

President Motzenbecker: Under existing zoning it’s not limited to 35; it’s four stories in either category we’re looking at. Only in the little pieces that are in shoreland is it 35.

Staff Voll: The shoreland is what we call an overlay district, it sits over the top of the zoning and that portion of the shoreland is where the more restrictive standard of the two and a half stories applies. Your question about the height is valid, but the zoning doesn’t affect that. Your question

about the height, we have the ability to increase the height and we use those conditional use permit standards to evaluate it and I think reasonable people can disagree about that, but what staff did is looked at the surrounding conditions of the other buildings. You have a five story building here, a 22 story building here, a steam plant with 140 foot high smokestacks. What we were trying to say in the staff report was that in light of those conditions the additional height of this building isn't going to have the impact that it would maybe in an area where those conditions weren't present.

Commissioner Cohen: What is the height of the Stone Arch Apartments?

Staff Voll: It's about five stories; I don't know the height in feet.

Commissioner Cohen: That matters, doesn't it? You have a general principal that as you start from the river and go backwards, the heights are supposed to start lower and go higher. Is the 70 feet here higher than the Stone Arch?

Staff Voll: I believe this building is higher than the Stone Arch, yes.

Commissioner Cohen: That's contrary to the general principal that it should be lower, isn't it? That's what appeared in this report.

Staff Wittenberg: Speaking to that issue of height stepping down, the adopted Marcy Holmes Master Plan actually inverts that suggestion and they actually suggest that heights closer to the river be higher and that the heights step down toward the center of the neighborhood and that was part of the basis for the approval of the taller buildings that you saw as part of the east bank Mills project.

Commissioner Cohen: Let me quote from page nine of this report, "The Mississippi River Critical Area Plan" states the following about building height: in general, structures within the critical area should be shorter when located closer to the river."

President Motzenbecker: Different plan.

Commissioner Cohen: Different plan? Then what's it doing in here?

Staff Voll: Everything along the river that's within the critical area is within the Critical Area Plan, everything in the city is in the Minneapolis Plan, this area is within the Marcy Holmes Plan and our job is to look at all of those layers of the onion and try to use them as policy guidance for this site. There is no clear rule that says this site is this, this site is this. The attempt in the staff report is to explain that the Critical Area Plan in general talks about the buildings being lower towards the river, but it also says that it supports this concept of clustering where you would allow taller buildings together rather than having a lot of development spread out.

Commissioner Cohen: Just with reference to Main St and this building, other than the steam plant, is there any building between Main St heading east towards the dead-end of Main St, is there any building on the south side other than this proposed building? Wouldn't this be the only one?

Staff Voll: Yes.

Commissioner Cohen: The only one, so it's an anomaly in that respect, isn't it?

Staff Voll: Yes.

Commissioner Cohen: To what extent would the views from Stone Arch be blocked? You said it wouldn't be blocked any more appreciably if it were four stories, but to what extent does that significantly amount to? To what extent are views of the skyline blocked by this building by these apartments?

Staff Voll: Around one more story or around 15 feet is the additional height you would have over the Stone Arch Apartments. In staff's opinion that wasn't significant.

Commissioner Norkus-Crampton: So there are no air quality issues with the steam plant adjacent to this property affecting the use of this property or residences or windows open or ventilation systems bringing air into the units on this site?

Staff Voll: I won't go that far to say that there are no air quality issues. What I can tell you is that the EIS that was done for the Pillsbury A-Mill, looking through that information and based on the conversations that I had with the consultants when I worked on the east bank Mills project and the Flour Sack Flats projects was that the majority of the pollution is in the plume at 140 so the concern is really taller buildings rather than buildings that are under that 140 foot length. The stuff you see coming out of the smoke stacks, according to that EIS, is up in the plume...

Commissioner Norkus-Crampton: Depending on which way the wind is blowing, that wouldn't affect at this height of this building and wouldn't affect the health and welfare of the people living in the building?

Staff Voll: My understanding is that the findings in the EIS as that the detriment to the people would be at the higher level. That's where taller buildings about the 140 foot mark...

Commissioner Norkus-Crampton: And there's no EIS being asked for on this particular proposal. One of the things we were talking about is green space and utilizing the access to the river and trying to incorporate it to things on here. I see on the bottom, under the Environmental Health section of the preliminary development review, where it says "recommend no exterior balconies or outdoor public space use." There was something about noise levels and things like that and I guess I don't recall other residential properties not allowing outdoor balconies because of noise levels and residential uses so I was just curious what that was about.

Staff Voll: That's the standard that our Environmental Health Division, for the part that says "recommended", that's recommended that they have residential developments within the Industrial Living Overlay District. Do they put that in the PDR report on every development in the Industrial Living Overlay District? I don't know. I know that we have addressed noise concerns and other issues on other projects in the ILOD and other projects in this area. We tried to use the standard that they have for properties in the Industrial Living Overlay District.

Commissioner Norkus-Crampton: So that is in the Industrial Living but not in regular residential?

Staff Voll: There may be standards for residential districts, I don't have those. There are different standards for commercial districts, but that's the standard that they use in the ILOD.

Commissioner Norkus-Crampton: The sense is that there is more sensitivity to noisy uses in the industrially zoned areas versus other areas?

Staff Voll: I think their concern is that you have more noise and then you also have residential uses locating next to industrial uses and then complaining to the city and then the city is in the position of having to go out and say to people that there isn't much they can do about it since the person lives next to an industrial use.

Commissioner Tucker: Commissioner Cohen, as you have noted, there are many different plans guiding this area. They overlap, sometimes they contradict, the entire site is in the critical area and only part is in the shoreland, guidance coming from the small area, the Comp Plan...they suggest different things to different people I guess. Jim, can you show where the different conditions that you suggest the site plan apply just to make sure I'm understanding.

Staff Voll: I'm going to use two maps to talk about the connection issue. If you look at this area right here, it's that walkway or plaza between the Stone Arch Apartments. The idea on this end of the site, some sort of plaza or attractive pedestrian connection be made from whatever happens on Main St and whatever happens to the south that I have a way if I'm walking along here to get to that bike trail.

Commissioner Tucker: So there's a clear view from that gap that's left in Stone apartments down to the coal road and that would be left by this proposal?

Staff Voll: There's a clear view because there's no building there. If I'm standing I would be able to see. This proposal would be for who's walking through the neighborhood, down through the...there's MetalMatic there now, but assuming that if MetalMatic were to go away at some point that that connection...and assuming that there would be a bike trail to the south, then you would have the ability to walk down that whole way to the bike trail.

Commissioner Tucker: So your arrows for a walkway double as a bike connection?

Staff Voll: I wasn't saying that it should be limited to pedestrians.

Commissioner Tucker: We could add a condition that it stay clear. It looks clear right now, but one would want to maintain that. That's the intent of this piece of space.

Staff Voll: What would you mean by "clear view"? To me it means no building there.

Commissioner Tucker: No building; nothing above a fence height, three feet or so.

Staff Voll: That was the intent. I don't know if this is too big or too small, but trying to get a green boulevard on Main St, there is a parking veil on here so it's difficult to do for this portion, but they have a green boulevard over here so trying to get a green boulevard in this area...that was the second condition, that that planter area be expanded to be a green boulevard.

Commissioner Tucker: How much is it proposed right now, what you show in green or is that your proposal?

Staff Voll: What I show in green is my proposal, but it certainly could be bigger. At the easterly end of that green area, we sort of wanted this green boulevard shifted a little bit over so there is a six foot sidewalk going through here so it's accessible so people with wheelchairs or walking or biking or whatever can get through there. It's not exactly as shown on this drawing. The goal was to get a green boulevard here that does not interfere with an accessible six foot clear walkway, which is normally what we'd want for a sidewalk.

Commissioner Tucker: So the part that's broken into squares, that's the walkway that you want to increase to six feet? What is it beyond that, is that a driveway or a ramp?

Staff Voll: This is a walkway.

Commissioner Tucker: Between the walkway and the other?

Staff Voll: That's landscaping.

Commissioner Tucker: So that could be green as well.

Staff Voll: It's supposed to be sod right now, but it could be greened.

Commissioner Tucker: So there's more green than what you're showing on that map.

Staff Voll: That's correct. I did the part that I was changing. I know it's difficult to put trees on there and we have power lines overhead. The idea was that there could still be some trees to green up this Main St. They are ornamental trees, which I know are not as nice as canopy trees, but we have the power lines so that was the reason for that.

Commissioner Tucker: So these would go in that boulevard space as allowed by the overhead transmission line.

Staff Voll: This landscaped area, part of it is over the parking garage and part of it is in front of the building and it's all the same plant type so staff recommendation was that they pick a diversity of plant types. I suppose people could argue that it looks nice with one plant type, but in general, our landscaping ordinance looks for seasonal interest and diversity of plant type. I didn't set any parameters other than the general idea that this area have more diversity of plant types.

Commissioner Tucker: Is that raised a little bit from the sidewalk?

Staff Voll: It is raised a little bit from the sidewalk.

Commissioner Tucker: It defines where a building would go.

Staff Voll: I might let the applicant explain that a little bit better, but my understanding is that it's about three feet high from the sidewalk. It can't be more than that. Some of it as you get closer to the building will be up tall but that will be because of the parking garage, but the area right along the sidewalk has to be at three feet.

Commissioner Tucker: You had a condition about enhancing the entrance on Main St somehow; do you have particular thoughts or a problem with what they proposed?

Staff Voll: I don't have a problem with it at all, but the zoning code says that you're supposed to emphasize principal entrances so it can be an overhang or canopy or if you don't think that makes sense that can be something you can tweak. There are two principal entrances; there's one at the corner by the Stone Arch Bridge and that has an arcade and building articulation which is a unique building design that shows that there's an entrance there, but on Main St the way I read the plan was that I couldn't see where the entrance was. You can see from the site plan that there's clearly a sidewalk. It's what the zoning code required.

Commissioner Tucker: I hope you're aware that currently the arrangement on Sixth Ave which was redone a few years back with the Historical Society and Public Works and Marcy Holmes NRP to create an entrance to the neighborhood. Part of that on this particular block was to use old cobbles from elsewhere on Main St that they were able to recover and reset them in there. Because they're very rough, an alternate bike lane was created on the east side of the curb. You have the roadway which is cobbles and then a curb going up six inches, a little space for car doors to open where they park and then an asphalt bike lane – one in each direction on each side of Sixth and then a concrete walkway. I'm wondering, is that preserved in this plan? It doesn't look like it to me.

Staff Voll: I'm going to leave that question for the applicant.

Commissioner Tucker: It should be on record with Public Works, the plan to which they redid this whole cul-de-sac. That is part of this bike route going from the Stone Arch Bridge up into the neighborhood and then beyond up into northeast. I don't think we want to overlook this little piece of the bike lane. Once you get up beyond Main St then the bike lane goes into the street because that's paved a much smoother surface and they're not trying to get across the cobblestone.

President Motzenbecker opened the public hearing.

Jack Borman [not on sign-in sheet]: I'm the partner for this project at BKV Group. With regards to the staff report, we are very comfortable with how the report went together and the findings. We feel there are a number of suggestions that Jim was talking that we're very comfortable with and would view those as good conditions for working out with staff and the engineering department because there are some discrepancies as to how this actually is and we just need to agree to the concept and work it out with staff. We're very appreciative of staff's work and would like to address a couple things that came out of our process with the neighborhood. Then also the letters that came in over the last week. We identified some items there that we want to be able to cover to help you because you've seen the design so we need to just elaborate on those issues, talk about Committee of the Whole issues and refinements, but what I'd like to do is start out with the general depiction of the site. This is the top floor roof of the Stone Arch project which is 56 feet high. This illustrates the very fundamental aspect of how the project is conceived. It is clearly a transition zone between Father Hennepin Park, between the river and the grid of buildings along Main St. It is clearly a unique parcel and it requires a unique building design that basically relates both to the building and to the park-like setting that it resides. The building lines up right along this edge and if you look at it in height, it would be about this high.

The reason we oriented the building this way is the Stone Arch project has very nice views of downtown and we wanted to maintain those. Rotating the building to align parallel to Sixth would have blocked those views. We were sensitive to the other half of our development which is Stone Arch. The height of the building here at 70 feet is 14 feet higher than the 56 foot Stone Arch project. At the same time, the power plant is really about parallel to the overall position. [went off mic to show model] One of the other points I would like to talk about with regards to the overall Shoreland Overlay District...we haven't figured it exactly, but I would just like to point out that this portion here in yellow and this portion here, the portion of our site that is in the Shoreland Overlay District is clearly under 25%. We can do a calculation and provide that for staff but this is Jim's plan and just looking at it, the overall site goes up to here so I'd say it's well below half. We could provide an exact calculation, but I think one can estimate that. The other thing we'd like to talk about is on the zoning, the C3A classification was a zoning that was selected because of the discussions and desire to have some mixed use, retail, restaurant functions at the bridge head of the Stone Arch Bridge to help facilitate the streetscape development in this area otherwise if we didn't want any streetscape retail we would have picked R6, both of which would've functioned for the same size project. The overall concept of what we're trying to develop and I think Jim has pretty much covered this, but the overall area and the context of higher buildings coming down to Main St and then that context as far as increased density was part of what we were looking for. We're obviously not looking for this scale but we are looking for something at 70 feet. The other aspect that we wanted to point out is that as we looked at the overall south setback, the south setback has a relationship directly to the coal haul road and the potential development of a bikeway that would extend across Stone Arch Bridge and extend up to Main St and that that bikeway...we've actually developed a plan for that to include in our project that illustrates a bikeway that would connect right at our property, run right north of the coal haul road and be incorporated into the construction of this project. That, in addition to the development of this retail and plaza area and then the development of the widening of the right-of-way and construction of a more extensive bikeway and seating area along Sixth and then extending that up and then adding green areas along here as Jim discussed works quite well for us. This green area is really a tilted plateau and we'd like to share with you some of those basic details. This illustrates the bikeway as you come up to the coffee shop area and as you're going down the bikeway along the coal haul road area and there along the outdoor sitting area there on Sixth. We show a plateau terrace for the residential units and then we show the open green area that could easily accommodate the additional landscaping that Jim was discussing. I think that's clearly in our plan to move in that direction. What is clearly the concept of this building design is to take the overall master plan for this area, which was the A-Mill concept, but what's also important is understanding the overall riverfront concept of this site. This illustrates a very early plan for the concept of a much more intensely developed recreation area right here; our site is right here. Clearly, the idea of our site that we own being a part of this overall recreational and open space concept has been a major part of how we look at setting a building in this location. I think this concept sketch here illustrates how we have a series of gridded buildings...and I think the point was made that at Main St there is a gridded fabric north of Main St and then there's much more of an open area south of Main St and we totally agree. This is our piece of private property right here and we view that as needed a building that relates to the bikeway road, the river and that frontage as opposed to the grid that's adjacent and north of Main. That's what drove the conceptual design of our building...

President Motzenbecker: Sorry to interrupt, but we got a lot of this previously so I think it would help us to address the things we had talked about like the changes you made and some of the things you were mentioning about the neighborhood discussions, that would be great.

Jack Borman: We had six meetings with the neighborhood group at different times. We finished with the land use committee and it was not a unanimous vote, but there was clearly a vote to support our project. I think at the board meeting we were not able to make a presentation but we did hear their findings, which I'm sure you'll hear again tonight, which was to vote to maintain this as a park without a building constructed within it. I think that that's clearly where the difference lies because we view this as a private parcel for construction. I think the basic issue is simply that we've made an effort. Part of our orientation of the building was to really take a concept of it being a park and designing a building that fit within that park-like setting rather than creating a contextual grid wall that would close it off from the river or from Father Hennepin Park.

President Motzenbecker: One of the things that had come up was a little more relief on the facades. You guys had some relief between those bars but we were looking at getting a little bit more so there was a little more rhythm. I didn't know where you were at with that.

Jack Borman: This illustrates a more accurate depiction of how the window framing would work. This is a larger view of the façade where you can actually see the windows. The overall concept of the building is to create it as a simple shape setting within the park. These are the three different solid material spandrels. This really depicts the tall vertical windows that are virtually floor to ceiling and the ability to create transparency during the various times of the day.

Commissioner Huynh: Since you have the materials up, item D addresses the variance setback for interior sideyard from 15 to zero. Mr. Voll addressed earlier that if we do grant this variance it's likely on the south elevation you're on the property line and you're not going to have that much glazing so how does your elevation on the south side change from what you have right there? On the elevations that are being proposed it shows operable windows, but if you're not allowed glazing unless you're doing fire rated glazing at the property line...I'm just curious then what's being proposed.

Jack Borman: Steve, do you want to talk about the discovery work that we've done for that area? We really consider it a quasi-public right-of-way like a street or an alley which has a different ruling on the windowing. It's like a no-build zone. We studied that extensively and feel that we can have our normal glazing on that property line.

Steve Minn (1701 Madison): I'm with Lupe Development; I'm the project manager for Bluff Street Development. To this point, we have had ongoing conversations with Loren Finseth from the building department, in fact, we hired a fact finder in the person of Michael Norton from the firm of Kennedy and Graven to independently go out and interview the Park Board, the university Public Works, Mr. Finseth, the council member and Public Works staff. There are four governmental entities that all want a bike path on the coal haul road north. There are also conveyor infrastructure owned by the University of Minnesota under the coal haul road, which is actually owned by the Burlington Northern Santé Fe and leased, long term, to the University of Minnesota. There's conveyor infrastructure under the road, there is also access to the lower hydro plant facilities of Xcel over the coal haul road. The fact that there are two public entities and one quasi-public entity, under state statute make this a definition of what's known as a public way. By code and by statute and by adoption of the IBC 2003 in 2007, a public way is adequate relief for the building official to provide a zero setback within the building code. Although the bike path has not been constructed, it is in four plans to be constructed. We have provided a

mechanism if this project is to move forward in which, provided the right funding mechanism is attached, we will participate and do the construction of the first 300-700 feet of bike path as far as the financing will permit. That is what we're relying upon. That memo was provided to Mr. Voll and he was able to make a finding on this report with the knowledge of that report.

Commissioner Huynh: In typical situations you do have the conflict between the building code and zoning code. Sometimes, although you have good intentions, building code dictates just because of health safety issues. Thank you.

Jack Borman: This is a view over the top of the Stone Arch looking back at the site. You can see the Stone Arch apartments behind and you can see the buildings. We really spent a lot of time trying to relate these views and the positioning of the buildings. We have 39.7 percent open space on this site. That's pervious space. It's really a significant amount of open space to put this building within a park.

Commissioner Tucker: How would this view corridor extend?

Jack Borman: Here's the gap right here and I think what we're hearing...this curb cut is actually down here now. I think we're quite comfortable with developing...

Commissioner Tucker: So that 40 foot could actually continue almost.

Jack Borman: Right. The grades are almost equal here.

Commissioner Tucker: Back to the 6th Ave SE side, where is the bike lane?

Jack Borman: I think there's some confusion on our part as to how that basically...it would either be right here or it would be right at the edge of the curb.

Commissioner Tucker: I walked it on my way here this evening just to double check my memory. I was part of the neighborhood team that worked this out with Public Works. Because of the cobblestones, the bike path was moved off the cobbles on to its own asphalt path which is about two feet away from the curb. I'm just surprised to see that disappear. I've read your sheet here that says you're interested in open space and street edge, but your first move is to change the plan drastically. I would hope that the plan as you see it on the other side would be matched.

Steve Minn: I think there might be a historical disconnect between what that two foot asphalt path is...

Commissioner Tucker: It's a four foot path, or six foot path.

Steve Minn: I can assure you that nobody at Public Works approved a bike path on a sidewalk. It's a violation of Minneapolis ordinance to ride a bike on a sidewalk in Minneapolis. I can assure you the same Public Works engineers who approved this plan without a sidewalk holding a bike path on it, which would conflict with wheelchair access and a curb cut, approved this plan because we're providing a bike path alternate to get to Main St. I'm not suggesting that your memory is faulty, just merely that you might be the only one who knows that that's supposed to be a bike path in that one block segment because it doesn't continue along any other remaining stretch of 6th Ave.

Commissioner Tucker: You are correct in that. There is cobblestone, a curb, a two foot strips which allows doors to open without interfering with cyclists going by and then this asphalt path and then a concrete sidewalk. That's the pattern that I'm talking about.

Jack Borman: Possibly, we just need to get the engineer at the table because that might be the person who kind of knows the history on this and that's just an oversight on our part or it's not how it might...

Commissioner Tucker: So you're not intending to disrupt that plan that was worked out.

Steve Minn: I think our plan speaks for itself and was approved by Public Works. If you can convince a Public Works engineer to put bicycles in conflict with wheelchairs, we'll do as the Public Works department directs.

Commissioner Tucker: I think you had a previous plan that showed the limitations on your footprint because of the overhead wires.

Jack Borman: It's right here.

Commissioner Tucker: The wires don't prevent you from building in that triangle.

Jack Borman: We are looking to do a recess in the building right here to create that sense of canopy entryway, just as a secondary point.

Commissioner Tucker: My question was, it's not the 30 foot setback from the wires that dictates the exact footprint. You could have moved it all up more parallel to Main St if you had chosen that for other reasons.

Jack Borman: We looked at an orientation that stopped here and went this way and this way. This orientation was clearly a function of all the various view issues and creating the largest amount of park area.

Commissioner Tucker: So you could've moved further out of the shoreland district for instance.

Jack Borman: Yes. Keep in mind, this area right here is what's in that 35 feet.

Commissioner Tucker: Which do you consider the main entrance to the building?

Jack Borman: There are two entrances; the café entrance is off of Sixth and that would have a secondary resident entrance. The guest entrance is off of Main Street. Our main roof deck and amenity space is at this end of the building.

Jo Radzwill (507 2nd St SE): I was surprised to find out that the Marcy Holmes Master Plan, although it was adopted by the city, was not part of the Minneapolis Comprehensive Plan. You have a copy of our letter. Despite our neighborhood preferring to have this as public land, the letter also states that we are opposed to the rezoning. I believe that there should be no C3A zoning on the river side of Main Street. That is inappropriate for the use and the current zoning that is there on the other side of 6th Ave SE. I also do not think it's appropriate to extend it into the residential area by the Stone Arch Bridge. Although they talked about the neighborhood

wanting a coffee shop and some sort of small restaurant, the land does not need to be rezoned. It can keep its present zoning and still have that use. I would like to make that abundantly clear.

Lance Heglund (701 Main St SE) [not on sign-in sheet]: One of my concerns is that as you look at this picture you see that there is approximately 62 parking spaces in that lot right now that's going to be eliminated. I talked with Jim Voll and he said that there had been a traffic study and parking study done. I'm not sure when the timing of that was done, but putting 62 cars in the street, I don't know where that's going to go. There's only parking on the south side of Main Street, half the block of the 600 block and then in front of the park. I don't see how the city can consume that without then blocking access to other visitors who come to the park, to the Stone Arch Bridge and also during the evenings in the St Anthony Main business district there is a lot of traffic and a lot of people park there and walk down to St Anthony Main and come back and walk across the bridge. I also think that the point that was made earlier about the bike paths along the sidewalk, I appreciate those greatly as a wheelchair user to be able to use that to and from so I can avoid the cobblestone. Another issue is the view. When you go along St Anthony Main from the St Anthony Main business district and you're travelling down, it is kind of a small town feel, a green feel, all along that river side. It seems like this would break that even in looking at the long-term plans having that building there, especially coming off the Stone Arch Bridge. It's such a beautiful view coming off the bridge and going into this neighborhood. I guess I'm also curious, being a resident in this neighborhood, the only way that I found out about this plan [tape ended]...neighborhood meetings in our two buildings, which I believe the gentleman also owns, and we frequently get notices on our doors two or three times a month so why couldn't we have been notified and asked for our input as 211 of the closest neighbors to this project. Thank you.

Cordelia Pierson (512 7th St SE): I want us to think about a positive thing about a positive future for our city, thriving city, and remind you that the controlling guideline for you is what plans exist. While plans are just that, they do not necessarily vest somebody in a property right, they are plans and they are what we owe our kids and grandkids and future generations to put into reality. We need to be patient about implementing our plans, but we have many plans in the city of Minneapolis for the upper river, central riverfront that we've had for generations and it might take another couple generations to get them done. Saying yes to more intensive development at a sight that is guided for park does not help us implement that plan. I remind you that the controlling plan is protecting the riverfront. I submitted a letter to the commission with extensive itemized comments. I will not take your time this evening to address those. I do want to say that the goal for the community as shown by this master plan for the community, when it was referenced earlier that the neighborhood supported more intensive and greater heights closer to the river that goes up to Main Street. As the gentleman before me mentioned, the public realm is so clear in this area as you're coming down from St Anthony Main you see the river and the public realm on the right and we encourage, invite and welcome development on the left as you're going downstream along the Mississippi River. We encourage you to look at the wonderful artwork in this room, the Mississippi River frames your discussion this evening and that is what draws residents to this great city and without protecting it we will not be able to pass that legacy on to future generations. As Mr. Cohen so aptly pointed out and that staff report was notably silent on this until the very end, this is called a critical area for a reason. It is a Mississippi River Critical area. It covers all of this site while the shoreland ordinance does not. The Mississippi River Critical Area does. I encourage you to honor the hours and hours of neighborhood and community and public commitment in dropping the master plan with a planner who was very developer friendly. Dahlgren Shardlow & Uban is well-known for working with developers. It's certainly a balanced plan that shows development where we want development

and conservation and other public uses where we don't. I've had several conversations today with the Park Board about this proposed development and the East River Road Parkway. As I understand, current Main Street does not necessarily meet the East River Road Parkway needs for right-of-way, there will need to be some further public investment in that area and it does not accommodate the bike lanes going two directions, car traffic as well as pedestrian accommodations. It's something for you to keep in mind that granting the rezoning, conditional use permits and variances is simply creating roadblocks for you down the line. The ILOD does allow coffee shop and retail uses. Article Six, industrial living overlay district, permitted uses includes many of the purposes listed, many of the things that the landowner cited that they wanted to use this property for. We welcome that. If that is the direction they would like to take, they can do it under existing zoning. It only obstructs public interest and long-term conservation of this land to increase the intensity of the zoning. Thank you.

Irene Jones (Friends of Mississippi River): I have a letter that is from our Executive Director that I'll pass out that does include some technical concerns where the particular proposal does not meet the Critical Area Plan. I'm going to comment on the fact that this particular piece of land is designated as park in so many plans. I know that there are issues around designated areas as park. It's obviously not zoned as park because that would be considered a taking. I think what I am going to ask you to consider is the difference between a taking and a gift. Zoning changes are a gift. They often increase the property value and sometimes that's good for the city, but it's a choice that the city makes. You don't have to give them this gift. By the same token, you cannot take the land from them. The place in between is where you stick with the zoning that is in place and you stick with the rules that are in place and you stick with the plans that are in place so that you can endure through the patience that Cordelia was talking about until you get to the point where you can realize the vision. I don't think anybody if asked in the right situation would disagree that it is the vision of the city of Minneapolis to have parks along the river and to have a parkway that delineates the public domain from the private domain. Clearly, some parts of that section on the river side of Main Street and a few other areas of Minneapolis are still in private hands, but it's the vision of this city that every part of the river will look like the lower gorge. That you will have a parkway delineating the public from the private. I want to really emphasize this point because I work a lot with suburban communities and they're trying to figure out how they can develop their land and how they can protect the park and there is often a lot of debate about this and we often bring up the Minneapolis example. Most of them feel like they will never be able to achieve that. It's very difficult to achieve. Minneapolis is fortunate to have that model, but that's the model that we sell up and down the corridor. Basically, this proposal is on the wrong side of Main Street. There was a mention of designing it to kind of flow with the bike path. That is not how we do things in Minneapolis, that is a suburban concept to have a residential development with a bike trail that goes right through a park right behind it and there's no road or any place that people can drive through that delineates it. Friends of the Mississippi River has a serious concern about allowing any kinds of zoning changes or any kinds of conditional use permits or variances for a place where we clearly have a different vision for what we want to have there. Obviously you can't take the land. It may not be for sale right now, but you don't have to give it away. In addition, we advocate to deny the zoning change and the conditional use permit and variances on the grounds that they are not in keeping with the Minneapolis Critical Area Plan and they are not in keeping with the shoreland ordinance. It was pointed out that the shoreland ordinance only covers parts of this building. It's been also pointed out that the critical area goes further; it goes all the way to University Avenue. It just so happens that Minneapolis only has this shoreland regulation to protect a critical area which goes much further. This may need to get fixed at some point. There may someday need to be a change so

that the rest of the critical area has protection, but just keep in mind that the Shoreland Overlay District is very narrow and the intent of critical area is to protect the whole area. We are looking at a spot where it's a gateway to and from the Stone Arch Bridge. It may be 350 feet away from the ordinary high water level of the river but it's right in front of that gateway and that is a really critical point. The city spent a lot of money to try to get the Stone Arch Bridge restored and get that whole area back to life. To stick a wall at the end of that bridge seems really like the wrong direction. I would strongly recommend that you have a lot of plans and rules but your critical area ordinance or your shoreland ordinance is a rule that you don't have to break. That two and a half stories needs to be honored. If you're not going to do it at this location, I don't know where you are going to do it. I look at the river and I look at the places where development can occur and where it really needs to be two and a half stories, this is the place. You have a lot of protection in the gorge, above the falls, it's a different environment. You have to stick to that and there's no reason why you shouldn't. There is discussion about the surrounding character and fitting in with the neighborhood. I feel like that overlooked the whole idea about fitting in with the river. The idea that it fits in with the Stone Arch building and there's other buildings that are a lot taller so why not go tall. The other side is part of the character and the river character is very significant. This is a national resource that runs right through the community here. I encourage you to use the tools that you have in place to make sure that Minneapolis can meet this vision in the future.

Commissioner Norkus-Crampton: I don't know if there's somebody here from the Mississippi River Watershed Management Organization, but I'm assuming you must be familiar with these kinds of issues. A letter that we received right before the meeting dated February 23 from Doug Snyder, the Executive Director, spoke directly to the building on this site and allowing a zero lot line development...one of the variances or one of the things that we're going to be discussing is a lowering of the setback from whatever feet to zero along the lot line facing the river and it says that this zero lot line development will only make it more difficult to ensure that the stormwater leaving the site will be clean. The staff report does not provide enough detail to determine the impact of the proposed zoning change. Is that something you're familiar with or something you could speak to a little bit more? I know there is greening on one side of the building but they seem to be concerned about this particular lot line setback.

Irene Jones: You wouldn't be able to treat on that side. You could potentially treat on the other side or get the park or whoever owns the land to help you treat. If water was coming off that part of the building I would imagine it would be difficult to treat it on your own property if there was no setback. We did do one picture. That's what it looks like now when you come to the end of the Stone Arch Bridge. You see the Stone Arch Apartments in the distance, but a wall across there much closer and taller would be a real impact to that view.

Edna Brazaitis (Friends of the Riverfront): Our mission is the protection of the cultural, historic and natural resources of the Central Riverfront Park. What's before you right now is the boundary location of the park in a document that's dated June 2, 1982. As Irene has talked about, this park and the whole development of the riverfront has been underway for decades. In fact, Commissioner Tucker worked on the Riverfront Development Corporation when some of the early plans were made. One of the opportunities that presented itself is when the trains stopped running across the Stone Arch Bridge the whole area then could be looked at as park. The bridge was then allowed as a pedestrian connection between the two. If you're down there, the area is quite natural and beautiful. What I'm suggesting is that you do not approve these land use changes because I believe it goes against what the whole community and hundreds of people have

been working on for decades. It is a long-term plan. There is use that Mr. Minn could make of that property. Long-term, that really deserves to be a park. I felt very inspired when I read the original plan that was done for this piece of property for the whole park in 1977. It was written by Mr. Szocki (sp) who was then the chair of the landscape architecture school at Harvard. He's a person who kind of revolutionized how we thought about architecture. When he was talking to the people in Minneapolis, he was saying "you have a unique opportunity in time here, land uses are changing. You have window of time to make wise decisions and these decisions that you make, this window won't open again for 50-100 years so please think about this and please keep in mind the beauty of your city when you make these decisions." I ask you to turn down these requests because Mr. Minn can use his land as it is but it is against our long-term interest of what this should be. Thank you.

CM Hofstede: This has been a long discussion, I'm sure, for you this evening and over many months at the Marcy Holmes neighborhood. It was only a few months ago for the majority of the people on this commission that approved the Marcy Holmes 15th Ave Plan with a great deal of recommendations for the plan. I bring this up tonight only to talk about the importance of neighborhoods and the plans that they propose and the plans that are part and parcel of the city of Minneapolis approved plans. What you have before you this evening is some controversy about what direction we should go within the city of Minneapolis. I think it's pretty clear with the many months of discussion with the developer and the neighborhood the direction that the neighborhood would appreciate this commission to move. I only ask this commission to examine, not only the importance of neighborhood's plans, but the priorities of the community and the critical area plans that we have before us in addition to the fact that this is part of a national park. We are talking about a critical area in the city of Minneapolis, a very unusual area. Thank you.

Steve Minn: I guess no good deed goes unpunished. Ten years ago we had the vision to take industrial, vacant, polluted land and turn it into housing. At the time, the Marcy Holmes Neighborhood Association opposed it even though we were committed to 40% affordable housing. It was the first non-ownership affordable housing on the river. It was supported and funded by the county with Commissioner Stenglein leading the way and Commissioner Dorfin leading the way to getting this affordable housing funded through housing bonds. We have shepherded wisely this piece of greenspace, it is not public land. We have been asked to contribute it. Ms. Pierson has left out in her remarks that for the last five years she has occasionally contacted me and asked if I would contribute the land to her so that she can then broker it for some other public purpose and we have declined that opportunity. It was zoned with the ILOD in 2002 with the intent of development being done on it as Phase II. It is in the Increment Area Plan for additional housing as proposed. It is not an out of the clouds thought. It is Phase II of a project that had to be reduced in 2002 because there was an oversubscription of housing bonds. We were approved for 278 units, we had to take a whole floor off the building because there was an oversubscription of affordable housing bonds. With the county's consent and with the City Council's consent, we left that parcel undeveloped. We're now back to finish our original mission. This has an important 20% affordable component of one bedroom only units. We are oversubscribed in one bedroom affordable units in Stone Arch. I have a waiting list of 18 months long to get into our affordable one bedroom units. I cannot help but laugh when I hear we're somehow important to the entire riverfront development; this one parcel here is somehow impacting all this master plan at Marcy. I cannot help but ask who is kidding who about a wall when the Marcy plan was turned upside down to allow 12,000 housing units and a wall of seven structures 20 to 27 stories tall to be built in front of no steam plant, in front of a

park, violating federal law about views to the river, protected national scenic riverway. I grant you that our building is blocking a very precious view of the steam plant, one that I'm sure that you all think is an important component of the riverfront, but we have been very careful not to block the views from the structure itself to the important skyline of the city or the views of the park. As emotional as some of the advocates are here for our important 33,000 square foot piece of land to their riverfront development, I can't help but ask, aren't there other areas or points along this master plan where this Marcy plan, small area plan were bent for another developer? Why not is the door closed after giving us every possible encouragement to improve density, reduce the need for cars, put the parking underground and get it off the street, use pervious pavers, use greenspace, green roofs...all these components are in our project filter the water, reduce single occupancy vehicle use, to emphasize bike use. There's storage for two bikes in every parking stall in this building, including 40 overparked spaces to make up for the lost surface spaces in the building. We put the ramp on Main Street because the neighbor didn't want the curb cut on Sixth Ave. That's another million dollars of infrastructure in this building to build a ramp...how much more could we do to meet the city's Comprehensive Plan, which is the governing plan here, not a small area plan that's not in the Comp Plan. I'm sorry, but it's not. That's in critical plan, right here. Twenty-seven stories get built, but yet six is a problem. Be reasonable and adopt staff recommendation.

President Motzenbecker closed the public hearing.

Commissioner Tucker: As usual with these large riverfront projects I need to offer a little disclosure. About 20 years ago I was working on the riverfront with the Riverfront Development Coordination Board and have worked on many plans since then including the Critical Area Plan, Marcy Holmes Small Area Plan and Minneapolis Comprehensive Plan also known as The Minneapolis Plan. I do understand what a complicated piece of land this is with so many overlapping and sometimes contradictory guidelines being offered. One main idea that came out of all of these is that the delineation in Minneapolis, traditionally, between the public and the private realm where we have parks particularly along water. The parkways along the lakes are certainly well known, the parkways that have been built along the riverfront, it's a clear delineation, it's a roadway that says "this side is public, that side is private." That idea certainly was a big part of the Marcy Holmes Plan that I did work on and we didn't make it up right there, it was following Minneapolis tradition of having public land on the river side of the parkway and private land, sometimes low intensity development sometimes very high intensity development on the private side. It's because of that that earlier on when I was asking questions about the treatment of the bikeway that...the block in which this occurs between Main Street and Stone Arch Bridge is conceived of as having park on both sides. It's treated differently. It has that historic cobblestone that the Historical Society wanted to keep, it has very wide boulevards, it's a different treatment than the walks going up into the neighborhood from Main Street which were thought of properly to be high intensity development and we've seen many examples of that. I think the main point is that there is a big difference between land on one side of the parkway and on the other side. When we start talking about zoning approximate to other C3A, this is different; it's on a different side of the parkway, a different side of 6th Ave. It's been mentioned that other blocks have been rezoned C3A but it was on the intense development side of the parkway. With that, I will move that we deny the rezoning change, finding that one can read all these plans and find plenty of guidance within them to not unduly intensify the use of land on the river side of Main Street. That side is distinctly different than the north side of Main Street. It's definitely listed in the Minneapolis Plan and Marcy Holmes plan as park, not that it has to become park or there was any mechanism for making it a park, but that was the indicated use, not a high intensity

activity center. One can also find that we're getting a long ways away from the central node of this particular activity center which is East Hennepin. It was extended for a number of reasons up to 6th, but I think that's always been my understanding as the end of that. The existing zoning does allow for development both commercial and housing. As the other project was done with an ILOD, so could this land be developed as a second stage of that ILOD. I would much prefer if there's no way to get this in to the public realm that it come back with zoning and variances to see what we can do if that's the only way the public can handle this. Would that be enough findings? (Norkus-Crampton seconded).

Commissioner Gorecki: It was about two or three meetings ago where we approved the 15th Ave SE plan and we talked a lot about it being a vision and nothing more than a vision. I'm scratching my head a little bit today because all of the sudden a plan is now a cemented plan where we don't deviate on any occasion. I guess it really runs contrary to what we talked about. I guess the Comprehensive Plan is the guiding light for me. We've been talking about density and smart growth and if we're going to build a two and a half story building there, it runs contrary to everything everyone has said about this particular parcel being a value and needing to stay greenspace. Build a two and a half story building, it's not smart growth, it's not good density, it's not the best use of the land, but the argument of building a six story somehow crumbles here and I don't understand it. This particular parcel is probably the least desirable parcel along Main Street. It's behind a building that's going to be there for another 100 or 200 years. I'm not exactly sure that I agree with any of the arguments made that this particular structure is going to block any particular view. I do think we could ask Mr. Minn on 6th Street to make the necessary changes on the bike path. I suspect he probably would see eye to eye with us on that. I think we can also talk about the bike path that's going to need to be built in the future. I think there is some opportunity for compromise. To say that this particular parcel is the linchpin to the development along this portion of the river really doesn't hold any weight. Again, I look to Marcy Holmes and say you've approved a particular plan that was called out for over 1200 units to be built kitty-corner from this particular site, I can't really agree with you on the sense that this particular site now needs to be park land. Being that it's private property, we can have it in plan for park land, but we cannot designate it as park land and I think that's the distinction I really want to make is that all of the sudden we're designating this as park land.

Commissioner Norkus-Crampton: I seconded this motion because I think whether or not this is park land, I don't see a compelling reason to upzone this to C3A. If you look at the plans that we've approved, which is the Marcy Holmes Plan, the Critical Area Plan for the river as well as the Shoreland Overlay District, they all speak to a certain level of intensity of uses in this area. C3A would bring that above that standard in my mind. Also, if you look at the surrounding zoning this is all I2 and with R1A directly across the street on 5th Ave, one portion of C3A sort of kitty-corner but it's surrounded by I2 which is industrial living. We would be doing some piecemeal rezoning in my mind as well. It does get confusing and frustrating when you have so many interests and bodies with overlays of land use plans on a particular site but when you look at the Marcy Holmes Plan, the Critical Area Plan, the Shoreland Overlay District and the existing zoning, we don't have to award a rezoning on this site and I guess I don't see a compelling reason to do it and I see that it would really work directly against a lot of the plans that are in place.

Commissioner Huynh: I share some of the concerns that Commissioner Gorecki has. There are a lot of plans; Friends of Mississippi, Mississippi Critical Overlay, shoreland overlay, there's a neighborhood plan, the Minneapolis Plan and I think the Minneapolis Plan for Sustainable Growth ultimately wins just because that's the governing policy that we should make our

decisions by. This proposal is a great example of what the Minneapolis Plan actually promotes in terms of density in areas that promote sustainable living, not just for the pure fact of density but the fact that there are amenities where not only students but young professionals can bike or walk to work in a close situation where you don't have to use the car. There are bike amenities that the applicant is providing. I think it satisfies a lot of the Marcy Holmes neighborhood plan in terms of unit mix. There are not any three, four or five bedroom units. There are a lot of studio, one bedroom and a handful of two bedrooms. I think it caters to what the University of Minnesota is looking for and also for what types of development the neighborhood is potentially looking for in future developments. I think you can argue either way if this is the appropriate but I feel that the proposal is appropriate and is supported by the Minneapolis Plan.

President Motzenbecker: The motion is to deny the rezoning from I2 to C3A. All those in favor? Opposed?

The motion carried 5-2.

Commissioner Tucker: Without the zoning, I don't think this project is viable, is it? I think it's been expressed that more housing in the city is good and it's a desirable location. This will go forward to the City Council anyway so I don't know if we want to provide them with some direction incase they overturn us.

Staff Wittenberg: You should take action on the subsequent applications that follow the rezoning, but your finding should you choose to fall in line with your action on the rezoning, could essentially be that without the rezoning the other applications are not viable.

Commissioner Tucker: I will move denial of the conditional use permit for 98 dwelling units because that is more than what our previous action would suggest should be on that site (Cohen seconded).

President Motzenbecker: All those in favor? Opposed?

The motion carried 5-2.

Commissioner Tucker: On item C, I will move denial because the much higher building on the river side of Main Street is inappropriate as we had discussed earlier (Norkus-Crampton seconded). The proposer is correct that the master plan did call for higher buildings going from University down towards Main Street but stopped at that point because it anticipated that the end be the end of development.

President Motzenbecker: All those in favor? Opposed?

The motion carried 5-2.

Commissioner Tucker: I will move denial of the variance (Norkus-Crampton seconded).

President Motzenbecker: All those in favor? Opposed?

The motion carried 5-2.

Commissioner Tucker: I will move denial of the site plan (Norkus-Crampton seconded). I was going to say, denial because the previous denials the plan is changed and I doubt it would fit in there. Had it gone forward, I would have suggested that they rethink the sidewalk bike path treatment along 6th Ave to conform with the adopted Public Works plan.

President Motzenbecker: All those in favor? Opposed?

The motion carried 5-2.