

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

Minneapolis Community Planning & Economic Development (CPED) Planning Division
350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: September 20, 2005

TO: Steve Poor, Manager, Community Planning & Economic Development -
Planning Division; Phil Schliesman, Licenses

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 September 19, 2005

The following actions were taken by the Planning Commission on September 19, 2005. 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 Martin, El-Hindi, Henry-Blythe, Krause, Kummer, LaShomb, Motzenbecker, Schiff and Tucker – 9

Absent: Krueger

6. Heritage Park (VAC-1462a, VAC-1462b, Ward 5), VAC-1462a is an east-west drainage and utility easement in the area bounded by Banneker Avenue on the north, 11th Avenue on the south, and Humboldt Avenue North the west; Vac-1462a is an east-west drainage and utility easement in the area bounded by Banneker Avenue on the north, 11th Avenue on the south, and Humboldt Avenue North on the west (Tom Leighton). This item was continued from the August 29, 2005 meeting.

A. Vacation: Application by Heritage Housing LLC for vacation of drainage and utility easements (Vac-1462a). The easement proposed to be vacated in Vac-1462a is an east-west drainage and utility easement in the area bounded by Banneker Avenue on the north, 11th Avenue on the south, and Humboldt Avenue no the west. The purpose of this application is to further redevelopment of property as part of the Heritage Park development.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to vacate the drainage and utility easement (VAC-1462a).

B. Vacation: Application by Heritage Housing LLC for vacation of drainage and utility easements (Vac-1462b). The easement proposed to be vacated in Vac-1462a is an east-west drainage and utility easement in the area bounded by Banneker Avenue on the north, 11th Avenue on the south, and Humboldt Avenue on the west. The easement proposed to be vacated in Vac-1462b is a north-south drainage and utility easement in the block bounded by Van White Memorial Boulevard, 11th Avenue North, and Fremont Avenue North. The purpose of this application is to further redevelopment of property as part of the Heritage Park development.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application to vacate the drainage and utility easement (VAC-1462b).

President Martin opened the public hearing.

No one was present to speak to the item.

President Martin closed the public hearing.

Commissioner LaShomb moved approval of staff recommendations (Krause seconded).

The motion carried 5 – 0 (Kummer, Schiff and Henry-Blythe not present for the vote).

7. Street vacation from North Second Street Steel Supply Co. (VAC-1463, Ward 3), The portion of 23rd Avenue North between 2nd Street North and 1st Street North (Michael Orange). This item was continued from the August 29, 2005 meeting.

A. Vacation: Application by North Second Street Steel Supply Company to vacate the portion of 23rd Ave. N. between 2nd Street North and 1st Street North.

Action: The City Planning Commission recommended that the City Council **deny** the proposed vacation of that portion of 23rd Ave. N. between 1st St. N. and 2nd St. N.

Staff Becca Farrar presented the staff report. She noted a letter received from Public Works recommending denial of the application.

Commissioner LaShomb: Just so I'm totally understanding this – is this street a dead end street? Because one of the maps suggests that there's a railroad on 1st Street North...?

Staff Farrar: That's correct. On the bigger sort of perspective here you can see that it does sort of run into the railroad tracks. I'm not aware whether or not this area over here has been vacated although it would appear that it has been.

Commissioner LaShomb: So it's a dead end street?

Staff Farrar: That's what it appears to be, yes. Although that's not commented on in the staff report and I didn't write the staff report, so...

Commissioner LaShomb: OK, thank you.

Commissioner Motzenbecker: Becca, do you know if there's any... what the modifications that were referenced in Council Member Samuels' letter were at all by chance?

Staff Farrar: I actually just got that letter about two minutes ago, just as you did, and I'm not sure what those specific modifications he's alluding to are. Perhaps, I don't know if Jason has a copy of that letter...

Staff Wittenberg: I'm not aware of which changes that is referencing either [sic]. Although it may be the Riverview Homes multi-family development to the east of here... But I can't say for certain whether that's the change that's being referenced.

Commissioner Kummer: From that map, it does not look like the street is in very good condition. Has the City been maintaining that and in good repair?

Staff Farrar: My understanding would be that because it is a public street and it is part of the City's right of way, that it has been maintained. I don't have any information in the packet that would suggest otherwise.

Commissioner Kummer: I did hear differently that it hasn't been paved or the potholes fixed for many years. And it kind of looks like that on the photograph too – it doesn't look nearly as maintained as the other streets around there.

Staff Farrar: I can't comment on that.

Commissioner Kummer: But now, that is a better, closer photograph, so... The orange area is where the street in question is?

Staff Farrar: Correct, that's the area that they're looking to vacate.

Commissioner Kummer: Alright, but it does look like it dead-ends at the railroad tracks.

President Martin opened the public hearing.

Virginia Bell (Attorney with Maslon law firm, representing the applicant North Second Street Steel who is a co-applicant with Brin Northwestern Glass): We urge you to approve the vacation of the street. I wanted to address some of the questions that were raised. The question: What is the nature of the street, is it a dead end street? It is absolutely a dead end street. It doesn't go anywhere. The Riverview Homes, which is on the other side of the railroad tracks, is in fact a residential housing development and the 23rd Avenue on that side of the railroad tracks has been vacated. Vacating the street here is in the best interests of public safety and as I indicated, the street itself is not currently serving a public purpose. I wanted to point out that there is an error in the staff report. It does refer to this as a north south street. In fact, it is an east west street and it currently extends only two blocks. And if I could go back to the map that was shown to you earlier, you can see here that the area to be vacated is indicated with cross hatching here. And this is 23rd Avenue – it is an east-west orientation. It only extends two blocks and it does in fact dead end, as you asked about, right here at the railroad tracks. Across the railroad tracks is the Riverview Housing, or River Homes – excuse me – housing development that Commissioner Wittenberg mentioned. That has now been platted. And as you can see from the plat, 23rd

Avenue North is in fact vacated. [indicating illustration] This would be the railroad tracks that we were looking at and this is 23rd Avenue North over here. The area to be vacated is here and as you see, 23rd Avenue North right through this housing development has all been vacated.

President Martin: Right, we did that as part of the set of proposals that came forward for the Riverview Homes.

Virginia Bell: The recommendation of the department I think is based on an erroneous understanding of the Above the Falls Master Plan at this point in time. There has been a change in the situation as contemplated by the Above the Falls Master Plan. The Master Plan originally contemplated that this area was going to be industrial. The River Homes area in fact as we see it has been developed as a residential area. And in fact, you approved that residential nature of that area when you approved the overlay zoning district to industrial living several years ago. So, the change I think that Council Member Samuels may be referring to – the change in circumstances – is that while the Above the Falls Plan contemplated that this whole area would be industrial, in fact what we have is an industrial area here where the street is and residential on the other side of the railroad tracks. So, it wouldn't make any sense to have this street go through because it would be going from industrial to residential, carrying the industrial traffic into the residential area, which is obviously contrary to section 8.1 of the Minneapolis plan. So I think that's the change that we see that has occurred here and why this is different than what was contemplated by the Above the Falls Plan originally. I think to put it bluntly, the road at this point doesn't serve a public purpose. All it's doing currently is providing access to the two properties that we have here: North Second Street Steel on the left side and Brin Northwestern on the right side. Both of those have access off of 2nd Street North, so they have full access – they don't need this for their access. And of course they are the two parties that are applying to have the street vacated. So the street currently, contrary to what the department has indicated, is not serving a public purpose and will not serve a public purpose in the future because the street over here has been vacated, this is a residential area, it wouldn't make any sense to bring this road over, and in fact, in speaking with the developer of the residential housing district, he told me he has no desire to open up this street and in fact would be very much opposed to it. And he has provided a letter of support which is our materials. Vacating the street would also serve public safety. One of the Commissioners asked about how the street is being maintained. It frankly is not being maintained very well and as a result of this there are vagrants in the street, there are tires that are dumped there, oil cans, other things that are dumped there routinely. So it has become a safety hazard. And one of the things that we did provide to you in the packet was a letter from the former Minneapolis police officer who's now serving as chief of police in a Wisconsin community who has patrolled the area and who was also hired at one point as an off-duty police person to assist with safety in the area. And as he's indicated, it has been a safety problem back there. And obviously to have the street vacated, to have these two owners be able to take care of it, will solve some of those problems. There are other safety issues as well. Both of the businesses on either side have extensive truck traffic. The truck traffic can turn around in there without being a safety hazard to anybody possibly in the public way if it is vacated. Not being vacated, currently there are some problems with people turning down there and not realizing it's a dead end and creating problems as well. I do have some additional pictures of the condition of the street. Here we're looking down 23rd Avenue toward those railroad tracks and on the other side of the railroad tracks would be the River Homes residential development that we were talking about. Here we're looking back the other way and you can see the condition of the street. North Second Street Steel reports that they have to contact the city on numerous occasions to get any tarring done or get anything done with the street. The same is true with plowing. It doesn't get plowed and they have to call and call and call to get that taken care of. Here's another picture heading down the other direction – this is looking from the railroad tracks back in the other direction. North Second

Street Steel would be on the left and Brin on the right. Here's some of the tires that get strewn around. More tires. And again, this is looking back across the railroad tracks and you can see that property back there is owned by the developer of the housing development. So Commissioners, we would ask that you would approve the vacation of the street. We believe we have widespread support from the neighbors. The material that we've presented to you. We have signatures from all the neighbors. I know of none of the neighbors frankly who object to this. We also understand that we have the support of Barbara Johnson of the 4th Ward and you have a letter in your packet from Mr. Samuels of the 3rd Ward, so again we believe we have widespread support. The only objection that we've seen to this is from the utilities because there are utilities underneath the right of way. We will...both Brin and North Second Street Steel...will be amenable to maintaining those utility easements. They will do what is necessary to retain those utility easements for each one of the three utilities that are in there. So that is really from our standpoint not a reason for your denial. So we urge you to approve and I'm happy to answer any questions on behalf of either North Second Street Steel or on behalf of Brin Northwestern.

Commissioner Motzenbecker: Can you please maybe talk a little bit about what the applicants are intending should the street become vacated that would be in addition to the surveillance cameras, the police officers... Are they wanting to close off the street? Are they going to repave it as part of their pieces? Maybe a little bit more about what they're going to do that's going to stop any of this activity from happening besides what has been done currently. I haven't heard why this vacation is going to change anything because the street will still be there as far as I'm understanding you.

Virginia Bell: They intend to use the street area for the truck traffic and the turning around and they will have people out there. It will be more used than it is. They will put up surveillance cameras. Right now they feel restricted if there's a vagrant out there or somebody who's disruptive. They feel they can't do anything about it. They call the city, but they don't feel as if they have the authority to make sure that they are not coming on the property. They will...obviously they're going to be using this area and so they will... I can't represent that they're going to immediately pave it, but they are going to do what they need to do to take care of it so that it can support that truck traffic. They do have fencing around other parts of their property. So again, I can't represent exactly what they're going to do, but I suspect they will put up some fencing as they have on other parts of their property to assure that people are not getting in there. Right now they just... they feel like they have their hands tied. This is happening on a regular basis and they just don't feel like they have the ability to control it. I think both properties, if you look at them, are well maintained, they have done a good deal to upgrade the fronts of their properties and the properties in the back – the property that they own – is well maintained and they work to make sure that there aren't vagrants coming on to their property. But they feel that they sort of have their hands tied with this trap dead end street right by the railroad that's causing problems.

Commissioner Kummer: Is it... can a private property owner prohibit a utility from accessing their property to do utility work?

Virginia Bell: Absolutely not. They have the power of eminent domain and certainly those utilities can come on and certainly we will work with utilities to make certain that those easements are maintained.

Commissioner Kummer: My other comment is that area is changing, especially that side of the railroad tracks. The Park headquarters is now in a building that used to house Moore printing as I understand. And when they moved out, that property became available, although it did not

become residential, I would say that the Park headquarters there is a lot less industrial type of use than what a print shop was. And I suspect that that railroad acts as kind of a natural barrier until that is removed and I'm not sure that there's any plans in the future or it may be in the distant future. I do not know. But this looks like not an unreasonable request. Thank you.

Staff Wittenberg: Commissioners, just one point of clarification. It appears from the maps that the Burlington Northern Santa Fe railroad tracks do run down a right of way of North 1st Street, so it's not entirely accurate to say that this right of way of 23rd Avenue North dead-ends. It does not dead-end at private property apparently. It connects to a grid of right of way.

President Martin: Which happens to be filled with railroad tracks.

Staff Wittenberg: Which is currently filled with railroad tracks.

President Martin: OK. Anyone else? I'll close the public hearing.

Commissioner Tucker: I would like to move staff recommendation and findings to deny the application (Krause seconded).

Commissioner LaShomb: Well, I went to a conference about 25 years ago and the speaker of the conference suggested that one third of all the streets in every city could be vacated and the city would save a lot of money and it probably wouldn't affect traffic. I don't propose vacating a third of the streets in Minneapolis yet. [response, off microphone and inaudible] But what I do think is there are streets that don't serve a public purpose and I don't think this street serves a public purpose. It really does dead-end. I don't know whether Burlington Northern runs trains on this track or not, but I guess my sense is that this doesn't have a public purpose. If the city is not going to maintain streets to a certain level of integrity, then I think the city should decide whether or not they really want to have those streets. So assuming that the easement issues and the Fire department issues can be resolved, I don't see why this street should stay in the public domain when it could be turned into a private use and pay some taxes.

Commissioner Tucker: I have served on the Above the Falls Citizens Advisory Committee and one of the big goals of that committee is to increase access to and along the river. People seem to understand access along the river parkways going up and down on both banks. But even more important, is getting people to the river perpendicular. And to that end one of the Minneapolis plan's great goals, 'healing the grid', serves that well by getting as many connections down there. Now I realize it doesn't look like much of a connection now, but as was mentioned there have been changes to the plans. The area between the railroad and the river, which had been industrial, became housing. And Tim Baylor in his Riverview did make the edge of his property where 23rd is a pedestrian walk. He has a sidewalk there. He has trees there. This is not the time to foreclose future possibilities to penetrate further into the city from the river. I think it is our duty to maintain the grid, not eliminate it.

Commissioner Krause: I think a lot of the problem these businesses are having (which I'm sympathetic to and I don't think the City's doing a very good job in their part of the city) really aren't very well addressed by a vacation. It somewhat reminds me of what we did in the 1990's when we tore down some perfectly good houses because we didn't like some of the uses that were going on there. And with all due respect to Ms. Bell, I think the changes in uses here towards more of a residential character speaks to maintaining the grid pattern more than if it were to stay in a heavier industrial use. Somewhat consistent with Commissioner Tucker's points. So there may be some other reasons to close the street, and I suspect if it moves to the Council level

those will get debated. But from a planning standpoint, I think this would be a very bad policy decision on our part.

President Martin: OK, the motion is to approve staff recommendation to deny the vacation. All those in favor, please signify by saying aye.

The motion carried 4 – 3 (LaShomb, Kummer and Henry Blythe opposed; Schiff abstained).

16. Jeff Sommers and Lara Hammel (BZZ-2584, Ward 2, adjacent to Ward 9) 3433 25th Street East and 2504 35th Avenue South (Tara Beard).

A. Rezoning: Application by Jeff Sommers & Lara Hammel to rezone to add an Industrial Living Overlay District to the existing I1 district for the properties at 3433 25th St E and 2504 35th Ave S. The applicant is proposing to utilize the existing building at 3433 25th St E for both residential and light industrial uses.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning application for the addition of the Industrial Living Overlay District at 3433 25th St S and 2504 35th Ave S.

B. Conditional Use Permit: Application by Jeff Sommers & Lara Hammel for a conditional use permit to allow a residential dwelling at their properties at 3433 25th St E and 2504 35th Ave S.

Action: The City Planning Commission adopted the findings and **approved** the application for a conditional use permit to allow the use of a single-family residential dwelling unit at 3433 25th St S and 2504 35th Ave S, subject to the following conditions:

1. The four parking stalls serving the business (west) side of the building are reconfigured to minimize conflict between business parking and residential parking (See drawing attachment).
2. Architectural features such as an awning and signage are provided at the entrance to the gallery along the E 25th St alley.
3. The walkway from the E 25th St sidewalk to the gallery entrance is widened to a minimum of 4 feet.

President Martin opened the public hearing.

No one was present to speak to the item.

President Martin closed the public hearing.

Commissioner LaShomb moved approval of staff recommendations (Krause seconded).

The motion carried 5 – 0 (Kummer, Schiff and Henry-Blythe not present for the vote).

18. David Barnhardt Mixed-use Development (BZZ-2185, Ward 2) 2929 University Avenue Southeast and 3000 4th Street Southeast (Hilary Watson). This item was continued from the August 29, 2005 meeting.

A. Rezoning: Application by David Barnhart for rezoning to add the IL Industrial Living Overlay District to the property located at 2929 University Avenue Southeast.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to add the IL Industrial Living Overlay District to the property located at 2929 University Avenue Southeast.

B. Conditional Use Permit: Application by Dave Barnhart for a conditional use permit for auto repair businesses for the properties located at 2929 University Avenue Southeast and 3000 4th Street Southeast.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application for auto repair businesses, both major and minor, located at 2929 University Avenue Southeast subject to the following conditions:

1. There shall be no more than 27 auto repair businesses located in the building. Ten of them may be minor auto repair businesses and 17 of them may be major auto repair businesses.
2. All vehicles waiting for repair or pick-up shall be stored on the site within an enclosed building or in parking spaces in compliance with Chapter 541, Off-Street Parking and Loading.
3. All repairs shall be performed within a completely enclosed building.
4. All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automotive parts or storage of junk vehicles shall be prohibited.
5. The sale of vehicles shall be prohibited.
6. The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.
7. The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
8. Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

C. Variance: Application by Dave Barnhart for a variance of the minimum distance requirement to allow major auto repair businesses to locate within 300 feet of a residence or office-residence district for the properties located at 2929 University Avenue Southeast and 3000 4th Street Southeast.

Action: The City Planning Commission adopted the findings and **approved** the variance application of the minimum distance requirement to allow major auto repair businesses to locate within 300 feet of a residence or office-residence district located at 2929 University Avenue Southeast.

D. Site Plan Review: Application by Dave Barnhart for site plan review for the properties located at 2929 University Avenue Southeast and 3000 4th Street Southeast.

Action: The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the findings and **approve** the site plan review for a mixed-use development for the properties located at 2929 University Avenue Southeast and 3000 4th Street Southeast subject to the following conditions:

1. The Planning Division is recommending that the tree and shrub requirement of Chapter 530 of the zoning code be met on the site located at 2929 University Avenue Southeast.
2. If tree islands are constructed within the interior of the parking lot located at 2929 University Avenue Southeast they shall measure a minimum of seven feet in any direction.
3. A decorative fence shall be installed around the perimeter of the parking lots along University Avenue Southeast and the parking lot on the west side of the site.
4. Not less than 20 percent of the site located at 3000 4th Street Southeast shall be landscaped to the standards of Chapter 530 of the zoning code.
5. Approval of the final site, elevation and landscaping plans by the Department of Community Planning and Economic Development – Planning Division.
6. All site improvements shall be completed by September 19, 2007, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
7. Green roof construction is encouraged for the site.
8. The applicant is encouraged to work with the neighborhood group while developing the final site plan.

Staff Hilary Watson presented the staff report.

President Martin opened the public hearing.

Dave Barnhardt (Applicant): Thanks to Ms. Watson for what I told her this morning was an amazingly comprehensive report and I'm quite impressed that there's nothing that she didn't see. Now, I've never been through this before, so maybe that's common, but that wasn't what I expected.

President Martin: Our staff is a crack staff. They get it.

David Barnhart: As she mentioned, we're in favor of this and thank you to the Planners for their support. But since there are so many issues up in the air on this almost 4-acre site, on 29th and University Southeast, I just thought it might be prudent to come before the Commission and ask for some understanding as we move forward. The building right now is empty. And we have leases signed for 18 percent of the building at this point. By spring, we should know a whole lot more. In discussions with Hilary and members of PERRIA (the neighborhood group) we just think it would be best if possible to allow some flexibility in the landscaping plan so we can spend the winter finding out who is actually going to be in the building and develop a landscaping plan that works the best. One of the big items that we're considering and would really like to do is develop some rainwater gardens, some rainwater infiltration on this site. Right now, almost all the water runs completely off the site, either on to the street, or our rainwater leaders are running down through the ground into the sanitary sewer, which of course isn't going to work. So I will just show you briefly what one of our possible dreams are and that's represented on this drawing. Now the heavy green is what we are thinking would make sense as far as rainwater gardens because they're at the low spots in each of the respective areas on the property – so the water would naturally drain into those areas. And that large green on the west side along 29th probably 75 percent of the water that doesn't go into the rain leaders off the roof into the sanitary sewer goes right through there now. So it would be a very natural place to put a real nice garden. However, if we get the grocery store, they're going to need every inch of that space for parking. So we're here to get the ILOD overlay, get permission to do the grocery store, hope to sign a lease with them, then come in with a landscape plan. Now, I don't want to be redundant, so I'm going to end there just saying that it's our hope that the Commission and the Planning department would be somewhat flexible moving forward. We really have no objections to meeting the requirements of the code, but we trust that there be some flexibility as we move forward. Actually, I should add one more thing and that is that as you look at our neighbors [indicating overhead illustration], there are no residences within sight of this property. On the west is an office building 9-stories high and a parking ramp. On the north is a sheet metal fabrication firm. On the east is our parking lot and east of that is a heavy equipment storage area and also a Teamsters building which is like 6-stories high – the first 2-stories being parking ramp. And then there's University Avenue on the south. So as we develop our landscaping plan over the winter, we're thinking that we really should emphasize the University Avenue side where a lot of heavy traffic and pedestrian traffic travels, public transportation and deemphasize the back of the property where it's really all industrial now anyway. And so we do have a little bit of concern about the 20 percent landscaping on that parking lot because we don't know what value there would be to doing that other than the rainwater infiltration which we're very interested in doing. So with that I'll leave it and if anyone has any questions for me, I'd be happy to discuss them.

Commissioner Tucker: Mr. Barnhart, what are your long term plans for that block east of 30th? The parking lot.

David Barnhart: We're thinking that for 5 years, this property will probably stay as is and we'll use that simply as parking for the tenants that rent space in the building on the main site. But we're very excited about the possibility that the light rail might come down University Avenue there and they're talking very strongly about a station being right there at 29th and University.

Commissioner Tucker: And when do you think you would know about the grocery store being possible or not?

David Barnhart: We're thinking within 2 or 3 months at the most. We've been talking with them for 2 months. They've held back a little bit because they want to make sure it's OK – we need the ILOD in order to be able to move ahead on that.

Florence Littman (Co-chair, Zoning Committee, Prospect Park and East River Road Improvement Assoc.): We've been working with Mr. Barnhart for close to a year when he first decided he would buy that building. It was October of 2004. We've had many informal meetings and some formal meetings about it. The last meeting that we had was on August 18 and the committee did vote to support the Industrial Living Overlay and the conditional use permit. We didn't know about the variance for distance, but we would have supported that because there are no residences there and because the nature of where things are you won't see it anyway. So we would have supported that even though we didn't know about it at the time. We also supported the alternative compliance for the landscaping, but we supported it for the whole site, not just for 2929. The reason for that is we thought you really should do... We'd like to see some larger, better landscaping that you can see. When you go down 29th, at some point you reach a parking ramp. Nobody sees it from there. So there are many places that would end up being landscaped that no one would see. So we would like to have superior landscaping where you could see it. We do really support what Mr. Barnhart is trying to do. And I'd like to say, you know, we're going to be tougher on him than any site plan reviewer will be. I mean, he's going to be there, he's got a big building. Usually we say you can't have one blade less of grass than you must have.

President Martin: And they will count them.

Florence Littman: Right. He knows that. So we feel that we've worked with him and we will work with him and with of course the Planning Department and get a very good plan. And I also want to thank Hilary. This was a very difficult site to do because it's a re-use of an old site in the build up area. So I know she worked very hard on it and she was very patient discussing things with us and also there were other people in the Planning Department who did and I think did a wonderful job. I would like to add a few more conditions which Mr. Barnhart says are OK with him. One is that the alternative compliance will include plant material of a larger size. So if he decides to plant... if he has less than the 20 percent and he's going to plant trees, we'd like there to be larger trees. You know, not the twigs that you sometimes stick in that take 50 years before they look like anything – something that has a little bit of a chance of looking good in a shorter period of time. And also a condition of the landscaping being maintained. We always ask for that. And the third one that we always ask for: That the applicant will work with us on the landscape plan. And he said that this is all agreeable to him. I want to thank you all – this has been a very interesting project to work on and we're very happy that we have a local owner owning this site.

President Martin: Anyone else, item number 18? OK, I'll close the public hearing.

Commissioner Krause: I'll move the rezoning and the conditional use permit (LaShomb seconded).

The motion carried 8 – 0.

Commissioner Krause: I'll also move the variance, C (Tucker seconded).

The motion carried 8 – 0.

Commissioner Krause: Madame Chair, on the site plan, what sounds like what we're looking for here is to functionally meet our requirements with some flexibility. And I'll just throw a suggestion out there and see if this works. And that would be to eliminate the first condition about the 9 foot landscape area, but maintain all the other conditions which means that we still

have to meet the 20 percent, we still have the decorative fence. I'll just note that condition 3 says 'if' tree islands are constructed, so it doesn't require it, so I think that is a flexible condition. And then I guess the other question I would have for Jason is whether we could extend the time for compliance by a year to give them more time to get their tenant mix settled and decide on a final landscape plan. Essentially what this does is it leaves it in the hands of staff to approve the final landscape plan and suggests that we want a little bit more flexibility.

Staff Wittenberg: The Commission does have that authority but another option would be that the applicant request that the zoning administrator extend the deadline by one year. That's another possible route as well.

President Martin: OK, is there a second for Commissioner Krause's motion.

Commissioner LaShomb seconded the motion.

Commissioner Motzenbecker: I was just wondering – this seems like an ideal green roof spot with the majority of impervious surface that is basically the whole site and the trouble that seems to be met with that. I guess I should have asked earlier, but that might be something for the applicant to consider if the structural capacity of the building is there, there are different varying degrees of green roofs that can be added to existing structures that would meet all the stormwater intents that you're trying to do as well as possibly be an alternative to some of this landscape we're struggling with.

Commissioner Krause: I'll accept encouragement of a green roof as a friendly amendment.

President Martin: OK, not a requirement, but an encouragement. Commissioner Krause, did you want to do anything with the additional suggested conditions from PERRIA?

Commissioner Krause: While those strike me as being somewhat outside what we would normally require, I think that's an enforcement thing with the neighborhood that I'm confident they will do unless staff thinks that some of those additional requirements we should add here...? I think maintenance is sort of implied.

Staff Wittenberg: Maintenance is not only implied, but is required in the zoning code – ongoing maintenance of landscaping. The issue of working with the neighborhood association – certainly that could be encouraged. We would not have the ability to delegate our authority to say that the final landscape plan shall be approved by the neighborhood, but certainly there's no harm in encouraging them.

Commissioner Krause: The size of the trees – is that...?

Staff Wittenberg: The size of the trees – the zoning ordinance requires 2 ½ inch caliper, which is a pretty decent sized tree to start with.

President Martin: OK, all those in favor of Commissioner Krause's recommended approval of the site plan, please signify by saying aye.

The motion carried 8 – 0.

19. 1626 East Lake Street Building (BZZ-2537, Ward 6, adjacent to Ward 9) 1626 East Lake Street and 2940 South 17th Avenue (Janelle Widmeier)

A. Rezoning: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a petition to rezone from C1 Neighborhood Commercial District to C3A Community Center Activity District for the properties located at 1626 East Lake Street and 2940 South 17th Avenue to allow a multi-tenant commercial building and surface parking lot.

Action: The City Planning Commission recommended that the City Council adopt the findings and **deny** the petition to rezone the properties of 1626 East Lake Street and 2940 South 17th Avenue from the C1, Neighborhood Commercial District to the C3A, Community Activity Center District.

B. Conditional Use Permit: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a conditional use permit to increase the maximum height of a building for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the conditional use permit to increase the maximum height of a principal structure from 4 stories to 6 stories and from 56 feet to 62 feet at the property of 1626 East Lake Street.

C. Conditional Use Permit: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a conditional use permit to allow a principal parking facility for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the conditional use permit to allow a principal parking facility with 12 spaces at the property of 2940 South 17th Avenue.

D. Conditional Use Permit: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a conditional use permit to allow a shopping center for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the conditional use permit to allow a shopping center at the property of 1626 East Lake Street.

E. Variance: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a variance to increase the maximum floor area ratio for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the variance to increase the maximum floor area ratio from 2.7 to 4.61 at the property of 1626 East Lake Street.

F. Variance: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a variance to reduce the North interior side yard setback for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the variance to reduce the North interior side yard setback from 5 feet to 3 feet to allow for a parking area at the property of 2940 South 17th Avenue.

G. Variance: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a variance to reduce the required front yard setback along 17th Avenue for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the variance to reduce the required front yard setback along 17th Avenue from 12.5 feet to 7.5 feet to allow a parking area at the property of 2940 South 17th Avenue.

H. Variance: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a variance to reduce the minimum parking requirement for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the variance to reduce the minimum parking requirement from 189 spaces to 12 spaces for a multi-tenant commercial building at the property of 1626 East Lake Street.

I. Variance: Application by Floyd Olson, on behalf of TNT Properties, LTD, for a variance to reduce the minimum drive-aisle width for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the variance to reduce the minimum drive-aisle width from 22 feet to 20 feet to allow a parking area at the property of 2940 South 17th Avenue.

J. Site Plan Review: Application by Floyd Olson, on behalf of TNT Properties, LTD, for site plan review for the properties located at 1626 East Lake Street and 2940 South 17th Avenue.

Action: The City Planning Commission adopted the findings and **denied** the site plan review application to allow a multi-tenant commercial building at the property of 1626 East Lake Street with a parking facility at the property of 2940 South 17th Avenue.

Staff Janelle Widmeier presented the staff report. She noted that correspondence had been received from the neighborhood group that was not in support of the variances. During the tape end and switch period which was not recorded, President Martin asked what the building materials were. Staff Widmeier responded that the building was all glass tinted a yellow color, with the first 3 floors of mixed-use and the top 2 floors containing a restaurant.

Floyd Olson (Applicant, TNT Properties, P.O. Box 340, Hamel): The six story building – we’re building a 3-story addition to a 2-story building. We don’t have a full floor, 14 foot ceilings, it’s just part of a floor. Maybe a third of it that there’d be a full 14 foot span for ceilings. I think the whole recommendations are a little flawed in as much as it is not a 6-story building. What we’re asking for is a 6-foot variance from what’s recommended in this zoning that we’ve asked for. And as far as the neighborhood is concerned, that was a little flawed too.

President Martin: That’s sideways, Mr. Olson. We can’t...

Floyd Olson: Excuse me. This particular building here is approximately 60-some feet high. And that’s one block away on the next block, the second block from ours. There’s several buildings that are in the 4-story range. This is another one, it has the mechanicals above – that adds another story, that gives it a fourth story. This is our parking lot. That parking lot has been there since

the '40's. It's been used as a parking lot forever. The parking lot next door just started to be used again by the county and another gentleman owns the property that's here that owns that parking lot. There is no landscaping there. And that was started to be used last year for the county. So I don't know why we have to do it if he didn't have to do it. Here's another building that is approximately a 5-story building. That's in the second block away from our property that's on the south side. Here's another building that's got 5 stories. That's on Bloomington Avenue and one block away from us. So there's a lot of buildings that are in the 5-story range that wouldn't make ours seem to be a strange building. The only other thing I can say is that the property has been used as an entertainment center since the early 1900's up until a year ago. I took out a permit to work on the building – I think it was last November. So I don't know for sure if that parking has been gone away – I think it still has some rights because we've been trying to get this done. I approached... I think last September to the Planning department. I was told I needed a variance to just put a roof on it. So I figured if I need the variance to do that, I might as well try to put some more stories on it. Can't be a better time to put an addition on to it when it's open like it is. So whether it's 5 stories, 6 stories, 3 stories – tell me what you want and we'll put it together. That's all I can say.

President Martin: Thank you. Others who wish to speak to item number 19? OK, I'll close the public hearing.

Floyd Olson: Can I add one thing?

President Martin: I'll reopen the public hearing.

Floyd Olson: There doesn't seem to be an overabundance of objections to what I'm trying to do other than my own.

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

Commissioner Schiff: If I had a variance in front of me just to add a roof, I would that now, but I don't. I've got a rezoning, a 177 stall parking variance request and I've got a concept here to build a big nightclub/ballroom space when it's obvious that nightclubs are not allowed on Lake Street, so I'm going to move staff recommendations for all of these including all applications under item 19 – I'll just move them all together (Tucker seconded).

Commissioner Krause: I'll just add: I'm not particularly troubled by the height that's been proposed – a 6-foot variance. I'm not particularly troubled by the conditional use permit for the parking lot, 12 spaces in the back. But the use, the rezoning, the FAR, the variances for the parking lot... Pretty much everything else that Mr. Olson didn't address is what concerns me about it.

President Martin: OK, all those in favor of Commissioner Schiff's motion to approve the staff recommendation on all items by denying all of them, please signify by saying aye.

The motion carried 8 – 0.

20. Lumen on Lagoon (BZZ-2545, Ward 10) 2930 and 2936 Emerson Avenue South (Hilary Watson).

A. Rezoning: Application by Maria Ambrose with ESG Architects, on behalf of The Ackerberg Group, for rezoning from C2 to C3A for the properties located at 2930 and 2936 Emerson Avenue South.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to change the zoning of the property located at 2930 and 2936 Emerson Avenue South from C2 to C3A.

B. Conditional Use Permit: Application by Maria Ambrose with ESG Architects, on behalf of The Ackerberg Group, for a conditional use permit for 44 dwelling units for the properties located at 2930 and 2936 Emerson Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application for 44 dwelling units located at 2930 and 2936 Emerson Avenue South subject to the following conditions:

1. The applicant shall revise the TDMP to include an air quality analysis.
2. No building permits shall be issued until the Travel Demand Management Plan (TDMP) has been approved by both the Planning Division and Public Works.

C. Conditional Use Permit: Application by Maria Ambrose with ESG Architects, on behalf of The Ackerberg Group, for a conditional use permit to increase the height of the building from 4 stories/56 feet to 5 stories/64 feet for the properties located at 2930 and 2936 Emerson Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application to increase the height of the building from 4 stories/56 feet to 5 stories/64 feet located at 2930 and 2936 Emerson Avenue South.

D. Variance: Application by Maria Ambrose with ESG Architects, on behalf of The Ackerberg Group, for a variance to reduce the south interior side yard setback from the required 13 feet to 5 feet for the properties located at 2930 and 2936 Emerson Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the variance application to reduce the south interior side yard setback from the required 13 feet to 5 feet located at 2930 and 2936 Emerson Avenue South.

E. Variance: Application by Maria Ambrose with ESG Architects, on behalf of The Ackerberg Group, for a variance to reduce the rear yard setback along the alley from the required 13 feet to 0 feet for the properties located at 2930 and 2936 Emerson Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the variance application to reduce the rear yard setback along the alley from the required 13 feet to 0 feet located at 2930 and 2936 Emerson Avenue South.

F. Variance: Application by Maria Ambrose with ESG Architects, on behalf of The Ackerberg Group, for a variance to not provide a loading dock on the property for the properties located at 2930 and 2936 Emerson Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the variance application to not provide a loading dock on the property located at 2930 and 2936 Emerson Avenue South.

G. Site Plan Review: Application by Maria Ambrose with ESG Architects, on behalf of The Ackerberg Group, for site plan review for the properties located at 2930 and 2936 Emerson Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for a mixed-use development for the properties located at 2930 and 2936 Emerson Avenue South subject to the following conditions:

1. The applicant shall provide an additional bicycle rack or racks that can accommodate an additional two bicycles on the Emerson Avenue South side of the building in order to provide four bicycle parking spaces near the commercial space that faces this side of the site.
2. 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 as required by Section 530.120 of the zoning code.
3. The applicant shall install landscape material that covers the ground in the area between the building and the south property line. The landscape material shall be shrubs, perennials or native grasses.
4. The applicant shall submit a lighting plan so staff can verify that the lighting levels comply with the requirements of Chapter 535.
5. Once the number and type of tenants is determined for the building the applicant shall meet with the Planning Division to ensure that the commercial parking requirement is being met.
6. Approval of the final site, elevation and landscaping plans by the Department of Community Planning and Economic Development – Planning Division.
7. All site improvements shall be completed by September 19, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

President Martin opened the public hearing.

No one was present to speak to the item.

President Martin closed the public hearing.

Commissioner LaShomb moved approval of staff recommendations (Krause seconded).

The motion carried 5 – 0 (Kummer, Schiff and Henry-Blythe not present for the vote).