



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: May 5, 2005

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

Prepared by: Jim Voll, City Planner, (612) 673-3887

Approved by: Jason Wittenberg, Development Services Supervisor

Subject: Appeal of the decision of the City Planning Commission by Robert Thomas

Previous Directives: None.

Financial Impact: Not applicable

<p>Community Impact:</p>

<p>Ward: 9</p>

<p>Neighborhood Notification: The Corcoran neighborhood was notified of the application and has submitted a letter (please see attached letter).</p>

<p>City Goals: See staff report</p>
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<p>Comprehensive Plan: See staff report</p>
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<p>Zoning Code: See staff report</p>

<p>Living Wage/Job Linkage: Not applicable</p>

<p>Other: Not applicable</p>

Background/Supporting Information: Cedar Lake Revival LLC applied for a conditional use permit, parking variance, and a site plan review to allow a shopping center at 1825 East Lake Street and 3005-3001 Cedar Avenue South. The City Planning Commission denied the conditional use permit and parking variances and approved the site plan review at its meeting of March 28, 2005. Robert Thomas, of Cedar Lake Revival LLC filed an appeal of the Planning Commission's decision (please see attached appeal) on April 7, 2005. The Commission voted 5-0 to deny the cup and variance and to approve the site plan review.

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Department of Community Planning and Economic Development - Planning Division
Conditional Use Permit, Variance, and Site Plan Review
BZZ-2210

Date: March 28, 2005

Applicant: Hamoudi Sabri dba Cedar Lake Revival LLC

Address Of Property: 1825 East Lake Street and 3005-3011 Cedar Avenue South

Contact Person and Phone: Daphne Osiaks – Petra Development 612-722-5932

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

Date Application Deemed Complete: February 14, 2005

End of 60 Day Decision Period: April 15, 2005

Date Extension Letter Sent: March 8, 2005

End of 120 Day Decision Period: June 14, 2005

Ward: 9 **Neighborhood Organization:** Corcoran

Existing Zoning: C2 Neighborhood Corridor Commercial District & PO Pedestrian Oriented Overlay District.

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 26

Legal Description: Not applicable for this application.

Proposed Use: Shopping center.

Concurrent Review:

Conditional Use Permit: To allow a shopping center.

Variance: From 58 spaces to 4 spaces.

Site Plan Review. Site plan review for a shopping center.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits and Article IX, Variances, specifically Section 525.520(7) “to reduce the applicable off-street parking requirement up to one hundred (100) percent, provided the proposed use or building serves pedestrian or transit oriented trade or occupancy, or is located near an off-street parking facility that is available to customers, occupants, employees and guests of the use.” Chapter 530 Site Plan Review.

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Update from March 7, 2005, staff report: This item was continued from the March 7, 2005, meeting of the City Planning Commission. Mr. Floyd Olson of TNT Properties has contacted staff and claims that he owns the property and has not given permission for any of the permits issued or land use applications. Hennepin County records show TNT as the owner. The City's property info page shows Cedar Lake Revival as the owner. Planning staff allowed the land use application to proceed based on the City records. Staff has received no information from Mr. Olson or his attorney since the March 7, 2005, Planning Commission meeting.

Staff contacted the City Attorney's Office and was given the following opinion that purchaser of the property may apply for land use applications on the property:

“Under a contract for deed, the purchaser/vendee acquires an equitable interest in the property. Although it is generally accepted that the seller/vendor retains bare legal title to the land, courts consistently hold that the seller has only a security title and the buyer is the equitable owner of the property. In Stiernagle v. County of Waseca, 511 N.W.2d 4 (Minn. 1994), the Court summarized this notion:

It is well established by Minnesota decisions that a contract for the sale of land, part of the purchase price being paid, vests in the vendee an equitable title in fee with the bare legal title remaining in the vendor as security, and upon payment the vendor holds it in trust for the vendee.

As the equitable fee owner of the property, the vendee is entitled to full possession and enjoyment of the property, subject to cancellation of that ownership interest if the vendee does not comply with the contract terms. Id. This is because the rights and remedies of the parties to a contract for deed depends on the terms contained therein and is a purely private legal matter between the contracting parties. If the contract terms are violated by the vendee, the vendor can pursue legal recourse in a court of law. Unless or until that should occur (or occur *successfully*), the vendee still has the right to make land use application(s) and the public record will reflect the contract for deed arrangement. Any dispute between the contracting parties, therefore, unless it cancels the contract for deed, does not prevent the City from acting on a land use application submitted by the equitable owner as reflected in the public record.

In a standard contract for deed, the seller agrees to convey the property to the buyer by a specific form of conveyance, usually a warranty deed, once the total purchase price has been paid and to furnish an abstract evidencing good title in the seller at the time the contract for deed is executed. In addition to agreeing to a purchase price for the property, the buyer typically agrees to pay real estate taxes and assessments, and to maintain insurance on the premises. This is the reason why different entities will be listed in the public record as the “owner” and “taxpayer” in a contract for deed situation.

The purchaser/vendee in a contract for deed, therefore, may make various land use applications and the consent of the seller/vendor is not necessarily required. The Zoning Code reflects this idea. For example, MCO 525.310 states that, “[a]ny person having a legal *or equitable interest* in a property may file an application to use such land for the conditional uses. . . “ *See also* MCO 525.400 (interim use), MCO 525.470 (variance), MCO 530.30 (site plan), etc.”

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The Planning Commission also requested additional information on the Corcoran Midtown Revival Plan regarding design guidelines. Staff stated the following about the plan in the March 7, 2005, staff report: "The Corcoran Midtown Revival Plan (2002) indicates that multi-story mixed use buildings are appropriate for this area. While the proposed building meets many of the design guidelines of the plan it does not provide the multi-level structures with higher density residential above the first floor retail." The additional information on design is included at the end of this report after the photographs. In addition, the letter from the neighborhood group, that was in the Commissioner's packets at the March 7, 2005, meeting has been included as well.

Background: This site is located at the southeast corner of East Lake Street and Cedar Avenue South and is about ½ mile from the Lake Street LRT station. A building permit was obtained for multi-tenant infill retail buildings on December 12, 2004. Demolition of structures on the infill sites has been completed and excavation and construction has begun on the infill buildings. A permit was issued for these buildings, because they were shown as separate retail tenant spaces with individual entrances facing Lake Street and Cedar Avenue. This proposal met the requirements for parking with grandfather rights and retail did not require site plan review.

The applicant now proposes to increase the number of tenant spaces and to link the individual tenant spaces by a common hallway. Some of the tenant spaces will not open onto the street, but will open onto the common hallways. This makes the use a shopping center. Shopping centers require a conditional use permit and site plan review in the C2 District. The site is now required to meet the applicable standards of the site plan review chapter and to have a new site plan reviewed and approved by Planning and Public Works staff. The site has an approved Public Works plan (PW#7585), but this was only to allow the demolition and reconstruction of the infill structures. Public Works requires that any development subject to site plan review have a plan approved that meets all applicable requirements. The applicant declined to go to the Preliminary Site Plan Review meeting with Public Works, Planning, and other City staff for a preliminary review of the site plan. A parking variance from 58 spaces to four spaces is required.

CONDITIONAL USE PERMIT (to allow a shopping center)

Findings as required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

- 1. May be detrimental to or endanger the public health, safety, comfort or general welfare.**

In general, the use of the site as a shopping center is appropriate on a commercial corridor for property zoned C2, but the intensity of this use may have a negative impact on the surrounding area due to the lack of parking provided. It is the opinion of staff that the proposed development has too many tenant spaces that will generate a level of activity and traffic to the site that can't be served by the existing parking in the area. A smaller shopping center, with less tenant spaces could be appropriate at this site.

2. May 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 use of the site as a shopping center, in and of itself, would not be detrimental to the surrounding area. Retail is an appropriate use on a commercial corridor. However, this development can only provide four parking spaces and requires a reduction of 54 spaces after the transit reductions and grandfather rights have been applied. This has the potential to cause parking problems in the area that may affect future development and have an impact on surrounding existing uses.

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

Utilities and access are existing and adequate. A drainage plan is required by Public Works at the final site plan stage.

4. Adequate measures have not been or will be provided to minimize traffic congestion in the public streets.

The lack of parking at the site has the potential to cause traffic congestion in the surrounding streets and parking problems in the surrounding area. While some parking reduction is reasonable in areas around transit stations, the proposed variance of 54 spaces is significantly beyond the 25 percent transit reduction and 38 space reduction for grandfather rights already applied to the site. This would likely cause congestion in the public streets.

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

The Minneapolis Plan designates this portion of Lake Street as a commercial corridor. The plan states that, “Commercial Corridors are streets that are available for development including more intensive commercial and high traffic activities. The buildings and structures on these streets are generally similar to traditional commercial storefronts and the siting and massing of new structures should respect this typology. These corridors must balance both pedestrian and automobile orientation in their design and development. The corridors support all types of commercial uses, with some light industrial and high density residential uses as well. While the character of these streets is commercial, residential areas are nearby and impacts from commercial uses must be mitigated as appropriate.”

The site is also in a Transit Station Area (TSA). *The Minneapolis Plan* states the following about TSAs has the following relevant policies:

Transit Station Areas (TSAs) are designated on the Land Use Policy Map. The Minneapolis Plan does not delineate the precise geographic extent of these policy areas. The following general characteristics should be used to guide policy application and implementation steps in these areas:

- TSAs will be the subject of established master plans that identify and/or prioritize areas for change (and preservation), as well as specific goals and objectives for redevelopment, public infrastructure, density and urban design.

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- TSAs are areas approximately one-half mile in radius from transit stations, reflecting an understanding that most walking trips to and from transit stations are ten minutes or less in duration. Density, urban design, and public infrastructure is, therefore, especially critical in these areas. The actual size of this area is influenced by directness of routes, physical barriers, and the potential for those barriers to be bridged.
- Potential TSA densities and/or redevelopment opportunities are generally highest within 1/4 mile of the transit station, but are also dependent upon factors such as existing neighborhood character and land cost and availability.
- TSA development is designed with the pedestrian, bicyclist, and/or transit user in mind.
- TSA development serves individuals who are more likely to use transit (e.g., residents of multi-family housing and office and retail workers)
- TSA development includes small-scale retail services that are neighborhood in scale and from which pedestrians, bicyclists, and/or transit riders are likely to benefit (e.g., coffee shop, day care, dry cleaners, small-scale grocery, flower shop)

4.18 Minneapolis will encourage both a density and mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.

Implementation Steps

Explore and pursue opportunities to integrate development with transit stations.

Concentrate highest densities and mixed-use development nearest the transit station and/or along Commercial Corridors, Community Corridors and/or streets served by local bus transit.

Ensure that new development density is well integrated with existing neighborhood character through transitions in scale and attention to design.

Support the development of new housing types in the TSA, including townhomes, mansion apartments, garden apartments, granny flats/carriage houses, and multi-family residential buildings.

Support and encourage small-scale, pedestrian-oriented services and retail uses to locate near stations and within mixed-use buildings to serve transit riders and the immediate neighborhood (e.g., day care centers, cafés, dry cleaners, convenience grocery, etc.).

Recruit land uses that value convenient access to downtown Minneapolis or other institutional or employment centers that are well served by transit.

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

4.19 Minneapolis will require design standards for TSAs that are oriented to the pedestrian and bicyclist and that enforce traditional urban form.

Implementation Steps

Ensure that TSA building and site design is oriented to the pedestrian (e.g., reinforcing street walls, anchoring street corners, creating semi-public outdoor spaces, creating visual interest, providing adequate fenestration, and ensuring that principal building entrances open onto public sidewalks).

Preserve traditional urban form where it currently exists within TSAs, and encourage new development to relate to this context. (See description of traditional urban form in *Chapter 9, City Form*)

Work in partnership with neighborhoods and businesses to enhance the safety and aesthetics of TSA streets and sidewalks through installation of streetscape elements (e.g., lighting, trees, and street furniture).

Ensure that new development and renovation of existing structures adhere to the principles of Crime Prevention Through Environmental Design (CPTED) (See description of building form and context in *Chapter 9, City Form*.)

Ensure that TSA development is well integrated into the surrounding neighborhoods through attention to building design, landscaping, and transitions in density and land use.

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4.20 Minneapolis will provide direct connections to transit stations for pedestrians, bicyclists, and bus riders.

Implementation Steps

Design streets, sidewalks, and other public infrastructure to prioritize pedestrian, bus and bicycle access to transit stations (e.g., create wider sidewalks; construct pedestrian bridges, tunnels, and plazas; add bicycle lanes and parking; create bus lanes, pull-outs, and waiting facilities.)

Work with transit service providers to ensure that bus connections to transit stations are safe, attractive and easy to use (e.g., establish appropriate signage and waiting facilities on important connecting local bus routes)

Enhance pedestrian connections to stations where walking environments are unsafe or uninviting (e.g., buffering pedestrians from traffic, reducing intersection crossing distances, installing traffic control devices, limiting the size and number of curb cuts, improving streetscapes including lighting and landscaping, installing public art, etc.)

Mitigate physical barriers that prevent easy access for pedestrians to the stations (e.g., bridging highways or high-volume roadways, creating safe pedestrian underpasses, acquiring new public rights-of-way and passages, etc.)

Enhance pedestrian connections and wayfinding from neighborhoods with high concentrations of transit users.

Work in partnership with neighborhoods and businesses to ensure that primary pedestrian and bicycle routes are well maintained, free of obstacles, and cleared of snow and litter.

Establish working relationships with institutions, large employers, and/or landowners to encourage transit use and improve wayfinding to/from transit.

4.21 Minneapolis recognizes that parking is a necessary part of the urban environment, but will limit the amount, location, and design of parking in TSAs in order to encourage and support walking, bicycling, and transit use.

Implementation Steps

Establish upper limits on the amount of off-street parking so that walking, bicycling and transit use are not discouraged.

Allow reductions in minimum off-street parking requirements.

Support shared use of parking by commercial uses with different peak periods of parking demand.

Restrict the location of off-street parking for new development to the side or rear of buildings, so that there are direct connections between the public sidewalk and the principal entrances of buildings.

Limit the amount of street frontage for new off-street parking lots and require landscaping between parking lots and public sidewalks.

Provide density bonuses for land uses that provide parking underground or within structures.

Use parking meters and other parking management practices to ensure an adequate supply and turnover of on-street parking for commercial activities.

Discourage long-term on-street parking by non-residents.

Work in partnership with the Metropolitan Council to evaluate and address the impact of automobile traffic and parking generated by the presence of transit stations.

Limit parking facilities in neighborhoods that are exclusively for the use of transit riders.

Work in partnership with other entities to identify opportunities for shared parking facilities to strategically support the development within TSAs.

The use of the site for a shopping center as proposed is in conformance with the above noted goals of the comprehensive plan, as it has a mix of uses and the buildings are designed with principals of traditional urban design. However, the significant shortage of parking will have an impact on surrounding properties, which is in conflict with the goals of the plan that encourage the mitigation of impacts on surrounding properties.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.

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The proposed development will conform with all other regulations of the zoning code if the parking variance and site plan review are approved. Staff is recommending denial of the parking variance.

VARIANCE (to reduce the required parking from 58 to 4 spaces)

Parking for the site is based on one space per each 300 square feet of gross floor area, after the first 4,000 square feet, but a minimum of four spaces for each tenant space over 100 square feet. There are 20 retail spaces in the building (over 100 square feet, but under 4,000 square feet) and at four spaces each, this creates a requirement of 80 spaces. There is a second floor office that requires four spaces and three apartments on the third floor that require one space each for a total of three. Finally, there is a food court that would have a parking requirement of 40 spaces. The total for these uses is 127 spaces. The site is in the Pedestrian Oriented (PO) Overlay District, which provides that 75 percent of the parking requirement for the commercial uses specified by Chapter 541 of the zoning code be provided. This reduces the required parking to 93 for the commercial and 96 overall (including the three for the residential). The site has grandfather rights to 38 spaces, reducing the required parking to 58 spaces. Four spaces are provided. The applicant has applied for a variance from 58 to four spaces.

Findings Required by the Minneapolis Zoning Code:

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

There is no room for the additional parking on the site. The applicant has indicated the site's proximity to transit (bus routes and LRT) and an attempt to secure shared parking in the area. While a reduction in required parking is a goal around transit station areas, the proposed variance is a 54 space reduction after the transit reduction and grandfather rights have been applied. The use would be required to have 127 spaces before the transit and grandfather rights are subtracted. It is staff's opinion that the reduction from 127 to 58 provides a reasonable use of the property and that the desire to add more tenant spaces is not a hardship.

- 2. The circumstances are not 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.**

While, there is no room for additional parking, the need for the variance is largely based on the mix and intensity of uses that the applicant proposes for the building. This site is located near transit, including several bus routes and the Lake Street LRT station. This situation is not generally applicable to other properties in the city, but is not a unique situation in this area around the Lake and Cedar intersection. Staff can not find a unique circumstance that justifies this large of a parking variance. Staff does recognize that some level of parking reduction is necessary, but believes that this has been provided through the transit reductions and application of grandfather rights.

- 3. The granting of the variance may not 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 parking requirement is to provide adequate parking spaces to meet the parking demands of a use. The pedestrian and transit oriented use variance was designed to recognize that some uses may not need all of the parking required by code since the use may draw pedestrian traffic or may have access to transit. There are bus routes and an LRT station nearby and the applicant has indicated that many of the anticipated customers to the site will come from the nearby residential buildings. Granting a variance that recognizes the pedestrian and transit trade is within the spirit of the ordinance; however, granting a variance of this size without evidence that the majority of the traffic to the site will be pedestrian and not vehicular does not meet the intent of the ordinance.

- 4. The proposed variance may 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 not increase the danger of fire or endanger public safety. It may cause congestion in the street. While some parking reduction is necessary in areas around transit stations, the proposed variance of 54 spaces is significantly beyond the 25 percent transit reduction and 38 space reduction for grandfather rights already applied to the site. This may cause congestion in the public streets.

SITE PLAN REVIEW

Required Findings for Major 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. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

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- 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.
- 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 façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- 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 where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).

Some of the buildings are existing and there are infill buildings proposed along the entire Lake Street frontage and between existing buildings on Cedar Avenue. The buildings are located up to the property lines. The principal entrances open onto Lake Street and Cedar Avenue. The buildings are up to the sidewalks on Lake and Cedar. The exterior of the buildings are brick. The existing and proposed windows on Lake Street and Cedar Avenue meet the required 40 percent windows in the PO overlay District. The west side of the southerly infill building does not meet the required 30 percent windows facing a parking area. This shall be increased to 30 percent.

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 530.140 (b).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

The main entrances of the buildings open onto the public sidewalk. Public Works has reviewed the parking lot for access and circulation and finds the design acceptable. There is very little room for snow storage so a snow removal plan is required at the final site plan stage. One handicapped (one van) accessible space is required and one is provided, but it is not van accessible. The space shall be made van accessible. Section 530.140 prohibits alley access for certain uses subject to site plan review including shopping centers over 4,000 square feet. Planning and Public Works staff recommend that the Planning Commission allow ally access in this case as it is the only way to access the rear of the site and because the parking area is so small it should have very little impact on the alley. There are commercial

uses to the east of the lot as well.

LANDSCAPING AND SCREENING:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
 - **Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b)**
- **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.**
- **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, or a hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).**
- **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**
- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 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 530.220.**
- **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 530.60, as provided in section 530.230.**

No landscaping is provided at the rear of the site. There is very little room at the rear of the site available for landscaping as it is almost entirely covered by buildings. The remainder of the site is almost entirely utilized for parking and loading. There is small area of approximately 500 square feet (please see cross hatched area on the attached site plan) that is not covered by buildings, parking and loading that should be landscaped. If this is done, approximately 15 percent of the site minus the buildings would be landscaped. Staff will require a landscaping plan that provides bushes, ground cover, and mulch in these areas. Staff recommends a variety of sizes and types of bushes be planted and that the number of bushes provided be 10 to 30 depending on the species and arrangement. It would be impractical to provide trees. Staff recommends alternative compliance to reduce the landscaping to 15 percent and to waive the tree requirement.

ADDITIONAL STANDARDS:

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**
- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **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.**
- **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.**

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) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) 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.
- (4) 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.
- (5) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

The City's crime prevention through environmental design (CPTED) standards recommend that all vegetation should follow the 3 foot - 7 foot rule, which states that plantings should not exceed three feet in height and that the canopies of trees should be over seven feet in height allowing a window of visibility into the site.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE:

Pedestrian Oriented Overlay District:

The proposed site plan is in conformance with the requirements of the PO Overlay District, with the exception of meeting the required 1.0 floor area ratio (FAR) at the Lake Street Station area. Building permits were issued for the infill buildings on December 15, 2004 and construction commenced before the PO Overlay regulations became effective on January 22, 2005, so this project is not subject to the 1.0 FAR requirement. The PO Overlay encourages the use of awnings and canopies to provide protection for pedestrians and shall be placed to emphasize individual uses and entrances. Staff recommends that awnings be added to the Lake Street and Cedar Avenue facades, subject to Public Works approval of the encroachment into the public right-of-way. The entire facades do not have to have awnings.

Specific Development Standards (Section 536) for a shopping center:

- (1) Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.
- (2) Uses which require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this zoning ordinance.
- (3) 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.

Hours of Operation: Hours of operation allowed under the C2 Neighborhood Corridor Commercial District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant proposes to be open from 7:00 a.m. to 10:00 p.m. everyday.

Dumpster screening: Section 535.80. 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. A dumpster enclosure is provided.

Window obstructions: 543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330.

Signage: Signage plans are not finalized at this time. All new signage will require Zoning Office review and approval and permits.

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

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

There are several plans adopted for this area. They include:

The *Lake Street at the Crossroads* (1996) plan has the goals of supporting business development, employment and training, and improving the streetscape along this portion of Lake Street. It encourages shared parking and utilization of mass transit. It shows multistory buildings up to the street on the conceptual response map on page 81 of the plan. In general, the building and site improvements are in conformance with these goals of the plan; however, they are not multi-story buildings as shown in the plan.

The *Lake Street/Midtown Greenway Corridor Framework Plan* (2000) envisions mixed use development and streetscape improvements along this part of Lake Street. The buildings are in conformance with the façade and other design guidelines of this plan, but they do not provide the second story for the entire Lake Street frontage as envisioned by the plan (p20).

The *Hiawatha/Lake Station Area Master Plan* (2000) indicates that multi-story mixed use buildings are appropriate for this area. While the proposed building meets many of the design guidelines of the plan it does not provide the multi-level structures with higher density residential above the first floor retail.

The *Corcoran Midtown Revival Plan* (2002) indicates that multi-story mixed use buildings are appropriate for this area. While the proposed building meets many of the design guidelines of the plan it does not provide the multi-level structures with higher density residential above the first floor retail.

Alternative Compliance. The Planning Commission may approve alternatives to any major 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, 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.**

Alternative compliance is necessary to allow less than 20 percent landscaping of the site minus the buildings. Staff recommends that alternative compliance be granted recognizing that the physical constraints of the site make it very difficult to provide any significant landscaping. The plan shall provide landscaping in those areas not covered by the building, parking and loading.

RECOMMENDATIONS

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit application for a shopping center for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance application to reduce the required parking from 58 spaces to 4 spaces for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for a shopping center located at 1825 East Lake Street and 3005-3011 Cedar Avenue South subject the following conditions:

- 1) Staff review and approval of the building elevations, final site, landscaping, and snow removal plans. All site improvements shall be completed by March 28, 2006 (unless extended by the Zoning

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Administrator) or permits may be revoked for noncompliance.

- 2) If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement by June 10, 2005.
- 3) The site is subject to the applicable development standards for shopping centers found in Chapter 536 of the Zoning Ordinance.
- 4) Provision of a landscaping plan for those areas at the rear of the site that do not contain buildings, parking, or loading.
- 5) The applicant provide proof of ownership of the property before a site plan is approved.
- 6) Addition of awnings to the first floor along the Lake Street and Cedar Avenue facades for at least 50 percent of the windows.
- 7) Provision of 30 percent windows along the west façade of the new infill building where it faces the parking area as required by section 530.110 of the zoning code.

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**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: March 29, 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 March 28, 2005

The following actions were taken by the Planning Commission on March 28, 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:

ATTENDANCE

Present: President Martin, Vice President Hohmann, Krause, Krueger, LaShomb and Schiff – 6

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

REPORT

of the

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

3. Cedar Lake Revival (BZZ-2210, Ward 9), 1825 East Lake Street and 3005-3011 Cedar Avenue South (Jim Voll). This item was continued from the March 7, 2005 meeting.

A. Conditional Use Permit: Application by Cedar Lake Revival LLC for a conditional use permit for a shopping center for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

Action: The City Planning Commission adopted the findings and **denied** the conditional use permit application for a shopping center for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

B. Variance: Application by Cedar Lake Revival LLC for a parking variance from 58 to 4 spaces for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

Action: The City Planning Commission adopted the findings and **denied** the variance application to reduce the required parking from 58 spaces to 4 spaces for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

C. Site Plan Review: Application by Cedar Lake Revival LLC for site plan review for properties located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the site plan review application for a shopping center located at 1825 East Lake Street and 3005-3011 Cedar Avenue South subject the following conditions:

1. Staff review and approval of the building elevations, final site, landscaping, and snow removal plans. All site improvements shall be completed by March 28, 2006 (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
2. If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement by June 10, 2005.
3. The site is subject to the applicable development standards for shopping centers found in Chapter 536 of the Zoning Ordinance.
4. Provision of a landscaping plan for those areas at the rear of the site that do not contain buildings, parking, or loading.
5. The applicant provide proof of ownership of the property before a site plan is approved.
6. Addition of awnings to the first floor along the Lake Street and Cedar Avenue facades for at least 50 percent of the windows.
7. Provision of 30 percent windows along the west façade of the new infill building where it faces the parking area as required by section 530.110 of the zoning code.

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This item was continued from the March 7, 2005 meeting.

Staff Jim Voll presented the staff report including the opinion from the City Attorney's office.

Commissioner LaShomb: Madame President, the big question was the issue about the parking. Has that changed?

Staff Voll: The staff recommendation has not changed.

Commissioner LaShomb: Which means parking hasn't been resolved.

Staff Voll: The applicant has not met with me or done anything to resolve.

Commissioner LaShomb: OK, so we've solved one problem – that's the issue of the ownership, or the right to develop the sight – but we haven't resolved the parking issue.

Staff Voll: That's correct.

Commissioner LaShomb: OK, thank you.

Commissioner Krause: I'll just note that I think one of the issues on the ownership is that the contract is saying that he had to approve any land use applications. So, I was wondering, it doesn't look like the City Attorney looked at the issue. What I'm wondering is whether that is actually binding. He cites case law that generally applies to contract, so I don't know.

Staff Voll: I honestly don't know if we can get into all of that. But Mr. Olson, I've asked him on several occasions to give us some information, and he has never done it. So I don't know what to say.

Commissioner Krause: Since we're moving for denial, it's not really a big issue I don't think, but I still think the issue is somewhat ubiquitous.

President Martin: We already had public hearing on this, so all we need to do is decide.

Commissioner Krause: I'll move the staff recommendation, Madame Chair (Schiff seconded).

President Martin: And that's for all of the items? I have a CUP, a variance, a site plan...

Commissioner Krause: Yes.
The motion carried 5 – 0.

MEMORANDUM

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DATE: March 8, 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 March 7, 2005

The following actions were taken by the Planning Commission on March 7, 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:

ATTENDANCE

Present: President Martin, Vice President Hohmann, Krause, Krueger, Kummer, LaShomb, and Schiff – 7

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

REPORT

of the

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

9. Cedar Lake Revival (BZZ-2210, Ward 9), 1825 East Lake Street and 3005-3011 Cedar Avenue South (Jim Voll).

A. Conditional Use Permit: Application by Cedar Lake Revival LLC for a conditional use permit for a shopping center for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

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Action: The City Planning Commission continued the conditional use permit application for a shopping center for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South to the March 28, 2005 meeting.

B. Variance: Application by Cedar Lake Revival LLC for a parking variance from 58 to 4 spaces for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

Action: The City Planning Commission continued the variance application to reduce the required parking from 58 spaces to 4 spaces for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South to the March 28, 2005 meeting.

C. Site Plan Review: Application by Cedar Lake Revival LLC for site plan review for properties located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

Action: The City Planning Commission continued the site plan review application for a shopping center located at 1825 East Lake Street and 3005-3011 Cedar Avenue South to the March 28, 2005 meeting.

Staff Jim Voll presented the staff report.

President Martin: Just so we're clear, we have nothing to do with who owns the building or not.

Staff Voll: Well, we don't, but we do require that people provide proof of ownership before we go ahead with the variance applications.

President Martin: And you believe you've got that proof?

Staff Voll: No, I don't believe I have that proof. But I don't believe that I don't have it either. I can't make sense of what I have. I need the Attorney's office to help me with that. So I'm just bringing it up as an issue that's something we have to be careful about, but I don't think it's something we need to debate here at the Planning Commission because I don't believe anybody here has the expertise to answer.

President Martin: That's what I was trying to get to.

Commissioner Krause: I think that the issue of ownership is important. And I don't... until we have it clarified because I think if this in some ways might become precedent if in fact the applicant doesn't have the standing to apply for these permits, then I don't believe we should be acting on them. There may be people who are here to testify, so we could certainly have public hearing on this, but that almost in a sense implies that we are considering it. And if there is room for continuance, I really think that the ownership issue has to be resolved before we dig into any of these applications.

Commissioner Schiff: Commissioner Krause, I think the ownership does have to be resolved but not necessarily before we dive in. Because staff has accepted this as a complete application, we've kicked

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off the 60 day clock, and I don't want to get into the position of failure to act and automatically deem someone's application to approval. So I would rather move forward today and make it a condition.

Commissioner Krause: Well, I agree with that if we didn't have the time. But it sounded as if we do have the time and still stay within the 60 days.

President Martin: Well, it's got April 15. 60 day...

Commissioner Krause: We have 3 weeks before our next meeting, not two.

Staff Voll: If you went to the April 11 Planning Commission, there would be enough time if we sent an extension letter to handle this before the Planning Commission and handle an appeal before the City Council.

Commissioner Krause: Well if it requires an extension letter, I think that's maybe...

Staff Voll: Well we send that as staff, the City is authorized to do 60 days. Beyond that 120 days, the applicant has to authorize that. We have enough time in our authority to...

President Martin: Mr. Voll, do you have any sense at all that the ownership tangle would get resolved in another 60 days?

Commissioner Krause: Madame Chair, I don't think it will, but we will at least have legal advice from the City Attorney whether or not we should act on the applications.

Staff Voll: Mr. Olson, who owns the property, I have not received any documentation from him. Hennepin County shows him as the owner. The City shows Cedar Lake Revival as the owner and Mr. Sabri has given me the Contract for Deed, so the question is what are the ownership interests and I'm not sure that we will get that issue resolved, but we can certainly try.

Commissioner Krause: There has to be one or the other. It cannot be the case that two people with interest in the property that may have adverse interests in how it's developed could proceed along completely different lines of approval through the Planning Commission. So it has to be one or the other. You're right, that when there's a contract for deed both parties do have certain interests in the property, but they can't both have the right to pursue this kind of applications for development.

Commissioner Schiff: Commissioner Krause, I'm persuaded by that, in the fact that we haven't sent a 60 day letter yet certainly this is an issue that warrants a 60 day letter. So, I'm persuaded that is something we should consider during the public hearing and take up for possible further discussion.

Commissioner Krause: Madame Chair, if in fact it turns out that these applications could not be filed – that the applicant didn't have the standing – then I think we should return the application.

Commissioner Krause: Madame Chair, I will move we continue.

President Martin opened the public hearing.

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Floyd Olson (TNT Properties) [note: tape not clear]: We are the rightful owners of the property. We sold it on a contract for deed. The contract for deed stipulates that [tape not clear] buildings shall not be torn down with out permission. [tape not clear] I would the public to know that we will not pay any of his liens, things that he has caused. With that, I'm going to turn it over to my attorney.

Mark Kallanbach (representing TNT properties): I am a lawyer, I'm very expensive, not that good, but this is really a pretty simple deal. I appreciate Commissioner Krause's observations and I think he's absolutely correct. The issue here, and I'll be happy to provide you a copy of affidavits, whatever you need, my client, TNT has written in the contract for deed with CLR (Cedar Lake Revival). Candidly, it's our belief that we do not want to see zoning changed because we believe the existing zoning is better for our interests in the change.

President Martin: We don't have a request for a zoning change.

Mark Kallanbach: Well, the conditional use permit... I understand and I stand corrected. I know the difference. Thank you, you are correct. Beyond that, I think it's something that I think is terrifically important and I think the City did a terrific job, Mr. Voll did a terrific job... One place I do come out differently than he does, and I think this is important to the Commission – if you look at the FAR's, he talks about the floor area ration being 1.0 and not applicable. I can tell you on the surface what Mr. Voll says is absolutely 100 percent correct. However, let me suggest this: The reason that building came down, which led up to all of the business collapsing and being condemned and abating the FAR requirement was because we maintain of the negligence of CLR. They shouldn't be able to take advantage of a more liberal floor area ratio because of something they did that was wrong. Within the next week or so I think we're going to be hearing from OSHA with respect to the unfortunate incident of the person who was killed down there. My guess is – and I don't know this for certain – I'm only speculating, and it's only based on what little I know – my guess is we're going to see extensive OSHA violations. That being the case, there is no way CLR should have the advantage of a less restrictive FAR. A more restrictive FAR should have been in place.

Commissioner Schiff: Are you arguing that the contract for deed that Yusef signed, has something to do with our discussion tonight, but...

President Martin: Just our great curiosity.

Commissioner Schiff: I can't resist that you're here and it's a public hearing. Are you arguing that the contract for deed is null and void?

Mark Kallanbach: Absolutely not. I'm saying by the very terms of the contract for deed, CLR, the buyer here, shouldn't be making anything that would diminish or reduce the value of that building for a whole bunch of reasons, ways and means, what have you.

Commissioner Schiff: So if there's a contract for deed application, you're arguing the City should have something in writing from both parties of contract for deed before land use applications...

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Mark Kallanbach: If I were the City's attorney, which obviously I'm not, I'd take the high road. I would be very conservative and get the approval of everybody. If CLR wants to pay off the \$2,700,000 they owe us on about a \$3,100,000 contract for deed, be my guest, they can do whatever they want with the property once we get paid.

Commissioner Krause: Mr. Kallanbach, the contract for deed, has it been filed, or is it still held privately by the parties so we can go and look at it and see exactly what the terms are. Not we, ourselves, but the City's people.

Mark Kallanbach: In fact, I'll tell you what I will do. One, I can give you an affidavit that has been filed. Two, I have a copy, I'm pretty certain, with the County Recorder's markings on the recorded contract for deed. I'm not positive. Also, something else that that City might want to be aware of – I do not know the relationship – the down payment for the property as I understand it is acquired with borrowed money. In other words, CLR has little...

President Martin: Don't tell us. We don't have any need to know.

Mark Kallanbach: The point is, there is another mortgage in the property.

Floyd Olson: The thing I'd like to add. There's four days left remaining on the cancellation of that purchase agreement for the contract for deed. We cancelled on January 7th. The judge stayed that cancellation with four days left because of the fallacious lawsuit.

President Martin: OK, we really don't want to get into that.

Floyd Olson: Well, that's what's going on. He's got four days to pay us. If we get this lawsuit dismissed, he's got four days left to pay us. So it's very important to us that these people aren't really allowed to do any more work on that property. That's where we're at. But as far as allowing what you're talking about, in listening to it, in its present state it enhances if you approve this with that stipulation, I would probably be willing to agree with you doing it after it's paid for or it's gone back to us. So if you want to approve it with that type of stipulation that it doesn't go into effect until it's taken care of, the ownership is set up in the proper manner, whichever one prevails, then it will go ahead. Until that's stipulated that he owns it or I own it, it should be held in limbo.

Commissioner Krause: Madame Chair, if in fact that's Mr. Olson's position, he needs to have that in writing that if in fact he still is the only person that has the right to submit an application. Then that has to be provided to us in writing that you approve and authorize this other individual to pursue these applications, so that's something you can work on over the next three weeks.

Azzam Sabri (1903 Girard Avenue South): Good evening, I am coming, not as a brother of the applicant, but as a citizen and resident of this city. I am coming here as a concerned citizen to this body. This body hears a variety of issues and applications and I always thought we should keep its integrity away from being involved with personal issues between the applicant and the person who sold him the property. They were in court just last week and I kind of feel they should be barred from discussing

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legal issues and legal disagreements in this setting here. This setting is made for other reasons than sorting disputes.

President Martin: We're not going to sort it out here.

Azzam Sabri: That's the reason that I'm coming. Thank you.

Rob Thomas (co-owner of property with Hamoudi Sabri). What I wanted to put up here is a temporary restraining order on TNT Properties so the people here are aware that [tape not clear]... I should just read it here. Their notice of cancellation has been suspended for the contract for deed...

President Martin: Mr. Thomas, you can talk about it if you want, but submit it to the clerk [note: submitted Ct File No: CT05-000050 filed March 2, 2005, Fourth Judicial Court].

Rob Thomas: Essentially what I wanted to speak about is to discuss the issue that we were presented with [tape not clear] which is the parking issue. Previously, we had submitted an application for a parking variance going from 56 or so parking stalls to 4. We were given notice that there was a denial for that variance at the end of last week. We do control other properties in the area. We are a long-term stakeholder, we have development at 27th and Lake Street, successfully creating a multi-cultural retail area and we continue to do so down through Lake Street. What I wanted to get at is that we control ownership of the site at 19th and Lake and a portion of that site has the proper zoning for a transitional parking lot. Essentially what we want to get at is that we would like to work with people like yourself and Council Member Schiff to come up with a long-term solution because we would like to develop the properties that we control [tape end] ...but specifically wanted to deal with 19th and Lake which has a zoning that would allow us to have that surface parking. There are two residential lots that could be rezoned for additional parking, but not even taking that into account, we could probably pick up somewhere around 33 stalls right there. In addition to that, we control two other corners at Cedar and Lake where we can pick up an additional 14 stalls. That doesn't necessarily get us to the 56 stalls that we were talking about today, nor do we have the formal proposal to you today, but what I wanted to discuss is that we do control other sites and we do want to work with you and try to come up with a long term parking solution not only for this property, but for all the properties along Lake Street as it is then discussed from a long-term planning solution that we and the people in this room would like to see mixed-use, higher density and that sort of thing. So, I don't know that we're really looking for any sort of approvals because of the outstanding ownership issue, but just wanted to let you be aware of that for future reference and if there is any sort of discussions for vote that we would ask that there would be some sort of approval given to us with the contingency that we would be working with staff to come up with a proper solution for the parking, both short term and long term. If there's any questions.

President Martin: Well, I think Mr. Thomas, you know that we would very likely never approve a variance of that size without having the applicant demonstrate to us exactly where the parking is.

Rob Thomas: Yes, absolutely. There hasn't been a formal... It's just such short term between Thursday when we received denial and today.

President Martin: Anyone else, item number 9?

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Eve White (owner of 3009 Longfellow): What I wanted to say is for people living there in the last five years because of all of this going on in the neighborhood that the people that remain living on some of these side streets, we have an increased amount of crime. It's hard for it to be a livable community. I don't know what needs to be done here, but I think somebody really needs to get this corner done because it gets worse by the day. There's too many vacant buildings because of people buying things because they thought this was going to be developed this way or that way. It seems to me like this is really, really being drug out. I know my tenants are having problems. They're afraid to go home at night, they're afraid to go home in the afternoon. I chase prostitutes and drug dealers off the steps of my 4-plex constantly which is just one building away from Lake Street. So I know that this is a complicated case, but I sure would like to see some sort of activity going on so people like my tenants and other people that live on that block don't feel like we've been forgotten and just left to live in Purgatory. Because it's pretty unhappy there. And it's dangerous and we really do need activity. Because it's like that whole corner is deserted. And that Salvation Army building is deserted and 19th and Lake is deserted... I'm not blaming it on anybody in particular, but I sure think that all you people should get together and do something for the people that live within the blocks nearby because it's a very dangerous situation at night to have that many empty buildings and empty blocks. The crime has more than quadrupled.

Hamoudi Sabri (owner of property): I want to verify to you that what Mr. Olson had indicated tonight is very helpful to my case in court [due] to the fact that he is restricted to be actually doing so as you will be hearing the court files, public hearing. I just want you to know that I have purchased from Floyd Olson the 27th and Lake and 26th and Lake, but first I had purchased Cedar and Lake. That's the first purchase I made from him. And I have been nothing but difficulties. I have been in court with him for the last four years from the District Court, which we won to the Court of Appeals, which we also won, and he tried to take it to the Supreme Court and we got it back and this issue, I would hold my Council Member negligent in not meeting with us. Mr. Schiff has received multiple calls from me, my partner, I think he's taken this in to a personal level where we were in this chamber I would say about the year 2001 or 2002...

President Martin: Mr. Sabri, I'm going to ask you to talk about the application, not personal relationships.

Hamoudi Sabri: True, ma'am. But you have heard everybody talking personal. Mr. Olson had the opportunity, I have [tape unclear] the opportunity...

President Martin: But this is about the property, not about other things.

Hamoudi Sabri: Sure, but it also concerns safety to the neighborhood, it concerns safety just like this lady was talking about her duplex, it concerns... what does I read what the neighborhood wants. They want what they want. But who's going to come up with the money and do this plan. We're people who came in with our own money, took our own risk from 27th all the way to Cedar and Lake to purchase multiple property. We're here permanently. Mr. Schiff may go and come, but we're here. We have been trying to make a plan for parking to put a parking ramp, to make a solution for the public, for the public safety and among businesses to exist so we could create jobs in the city. Therefore, I just see very small, simple reasons in here why we are denied or not, I respect what the staff recommendation is and we are definitely in favor of working with him among you, but we like to be treated fairly, equally.

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I don't feel like we're given that fairness. I feel my whole family and I are suffering because of my relationship with Mr. Schiff and how he's been behaving toward me among my properties. I advise you as a committee to work with us. We have a lot of control beyond Mr. Olson what we purchased from him on 27th anywhere we go that we work together because we could make it or we could break it. I think we should make it. I think we should really be able to create jobs because we could develop anything we want. We own the property. No one tells us what to do. We could really work with the system. But this is a very high transit-oriented development that the city, the state, the federal money has been invested in the light rail, we want to work with what's best for the city. We're not here to please anybody. We're here to work, and work with people. But we also need to have an exchange. As a developer in this neighborhood, I think we're the biggest developer to exist in this neighborhood, we have not yet had one meeting with our Council Member. You're telling me that's not personal? He is a public servant. He should be meeting with any developer...

President Martin: Mr. Sabri, I want you to talk about the application, not about your relationship with your Council Member.

Hamoudi Sabri: Madame Chair, this is related to the application. Our procedure, I'm giving you a little background.

President Martin: I think we've got the background. This is a property about which there is a lot of contention. We understand that.

Hamoudi Sabri: Right. And that's why we want to be able to have the opportunity to say what do you want from us. Let's get us. We're not someone who's going to come right now and tell you we want this, turn around and get what we want, and run... No, we're going to be existing. We have recommended to have our property on 19th and Lake, which again, we were in this chamber to demolish the gas station and two other properties, which also, that's the highest arrest area in the South Side of Minneapolis. We're willing to put that right now for parking, whatever we're short, contingent on us making together a solution for permanent parking. But we do have those sites and they are sitting there right now and we would ask you for approval contingent based on us using 19th and Lake for parking variance. And let us go with the project, let us make this area where it should be. Let us invest our money to where it's going right now. I'd like to show you pictures where... I mean I think the staff in his application had pictures before, had pictures after, and that fact speaks for itself. What we do, you could look at it for yourself right now and you could see new windows, new façade, new roof, new air conditioning, new apartments, and I think our work should just speak for itself, not the fact what Olson says, what his [tape unclear] says. What we are doing speaks for itself on the street. So we're not people who are saying we're going to do it now, get what we want, and run off. We will be back. And I recommend that we work together to get the parking situation resolved and give us an opportunity right now to continue on our project because we do have a building permit to get the shell and get all that done. And we could afford sitting on it. Therefore, there is no need for a fight or anything like this between us and the city. We want to develop among the Lake Street – we own a lot of that property on that Lake Street front. But we ask you to please approve us so we could get it -contingent us – making sure that we will work with you on providing parking.

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Commissioner LaShomb: Madame President, just a procedural question. I'm having a hard time figuring out what the public hearing is about. So, I'm either going to move that we close the public hearing or...

President Martin: We're going to do that very soon.

Commissioner LaShomb: ... Or, that we continue the public hearing to some point when people want to talk about the issues relating to the site. But let me be very clear to the applicant. We're not going to grant a variance from 58 spaces to 4 spaces on a bunch of promises. I think the president made that very clear... I think the President made that very clear and it isn't going to happen. So, whenever this comes back, you had better have a deal that the staff is good with, that Council Member Schiff is good with, that I'm good with, and the rest of the kids here because, and I don't want to hear any more about fairness and all this other stuff. What I want hear is what are you going to do if you only have four parking spaces on this site. So with that, what's the process for getting us out of this?

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

[Comment from audience, off microphone]

Commissioner Schiff: We haven't even heard testimony on most of the substantive issues because we've been side-rolled into this other 3-ring circus here.

President Martin: Alright, so I'm not going to close the public hearing yet. I want new information.

Amy Brock (Executive Director, Corcoran Neighborhood): I think some of the new information that we want to bring forward is the number of residents here tonight and who have been waiting quite a bit of time...

President Martin: We've got your letter.

Amy Brock: Anybody who is here from the neighborhood opposing this, I'd love it if you would raise your hand. You may not all get a chance to speak [show of hands]. Thank you for coming. You have our formal motion that we have approved. There is one point on here that I think should be brought off of the paper and that is... I'll just read it. While we, the residents of Corcoran are eager to see development occur along the Lake Street corridor, we are not willing to accept development at any price. We understand and believe that the long term happiness and sustainability of our community rests in adhering to the vision outlined in the Midtown Revival Plan, a document that is the result of several years of neighborhood discussion, debate, fact finding, imagination and consensus building. I don't think that plan has been referenced this evening and then also I'd just like to add that neighbors consideration for this project also be taken into consideration when denying this. I do believe that as per the Corcoran Neighborhood Revival Plan, we would not support the use of a parking lot on the site at 19th and Lake. We have had a proposal before us from Mr. Sabri's architect that laid out a design that we did approve, but the use as a parking lot in that site is not compliant with the plans that we have set forward. For reference, the Corcoran Neighborhood Revival Plan has also been adopted by the City of Minneapolis as their comprehensive plan.

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President Martin: Others?

Danny Gominsky (2500 Bloomington Avenue): I was a tenant of 1831 and 1833 from 1998 to when the building went down. I want Madame Chair and the rest of the people in here to know a couple of things. First of all, working with Hamoudi was very difficult. With this project, where we're talking about parking, I had very, very difficult parking running a bar/restaurant, mainly a bar in the area. Holding 72 people, only 72 people compared to what they will have in a shopping mall here. They're proposing 19th and Lake Street, which is two blocks from the facility, which would be a long ways to walk for people that would want to park and actually walk in that area. We had a very difficult time getting 20 cars lined up in the streets in that area. Again, high crime, windows being busted, cars being busted into, walking to their cars being beat up. What else. Again, then the incident on October 5th with the building going down, of course, no fault of my own, due to what you will find out shortly from OSHA which were many violations that occurred on this property. I did try to go into a venture across the street with Mr. Hamoudi, met with Rob, which was one of the partners, and Dean Zimmermann at the time to go into 1822 across the street. Because of the way that Mr. Hamoudi wanted me to deal with business, underneath and not let the city see a lot of things, me and my wife decided to pull back and have no part of Mr. Hamoudi. So, I do want you to know that and the parking issue, I think, is a big issue over there. And I think from the year 2000 I was at the first meeting that they had with Mr. Hamoudi at the Corcoran offices and they felt very poor about the thing and I think their feelings are correct.

Jerry Turrow (3209 Longfellow, Corcoran Neighborhood Org. Board): I just want to say that I think the parking is a huge issue. I think meeting with Corcoran's plan, which we spent many, many, many hours of neighborhood time and public money to develop, we need developers that are going to do a top of the line job here. This is an important corner for our neighborhood and we don't want any fly by night, half measured, development happening. We expect nothing but plans that meet the expectation of the plan that was put forth by our community. So, we need to hold the highest standards for the people that live in the neighborhood for this plan and I ask you to do that please.

Judy Oman (3029 Cedar Avenue South): My husband and I have lived there for over 25 years, my husband over 35 years. We also own four rental units, four pieces of rental property there and we've had a long time investment in that area. We also work and live in one of our rental units. We've been involved with this process with Corcoran Neighborhood, the Midtown Revival, the Lake Street Commission, all of it, for quite a long time and so we have really looked forward to new development and were disappointed when things fell through and we have really looked forward to having something new on this corner. And we've been very involved in crime prevention and so on and so forth, but we're very concerned about this proposal and the parking issues and the traffic issues. For us, it's a livability issue and it's a safety issue and to me, a shopping center with no parking, that brings it into the neighborhood, on to our streets, in our alleys, back the same problems we have with existing properties in the past, we'll have the same thing back again. If we have increased development with lots of stores in a very small area of space. We've worked before with a previous developer, we've worked with a neighborhood, we've talked to a lot of our neighbors and we would like very much to have some input on this, but we haven't been approached by this developer, so we're very concerned about we would like to recommend that you just deny these proposals. Along with the increased traffic will come litter and garbage and trash. Back to the alley – I'm jumping around but I'm a little nervous – we've had two children in the last several years hit in the alley. We have speeding problems that are terrible. I'm

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worried about garbage pick up, truck traffic, delivery traffic... We use our alley to access our homes. We've got wonderful families and most of the block is residential, so this poses a huge concern for us. These problems were addressed by the previous developer who actually talked to us and we talked about turn signals and street turning and traffic and development and delivery and so on, and this has not happened this time. So we are very concerned. I'm not going to get into the debate about who owns it. We just live here. We look forward to development but we would really like to have this resolved.

President Martin: OK. Now I am going to close the public hearing.

Commissioner Krause: Madame Chair, I'll move to continue to the next cycle (Kummer seconded).

President Martin: Is the next cycle enough time? The 60 day is April 15th.

Commissioner Schiff: Madame Chair, I think staff said they would send out an extension letter.

President Martin: I think, Commissioners usually when we lay something over, we ask for additional information and I think the thing that we're particularly interested in here, apart from who's actually got the right to apply for something, which I think I would rather leave to our City Attorney than to us, is the question of the parking variance and if there is to be any consideration of the variance being granted, we need to know exactly where those spaces are going to be. We need to be assured that there is control of the land that the spaces will be on and Jason suggested that the distance between this project and 19th Avenue is actually too far to make the standards for transitional parking in any case. So there are a bunch of questions that need to get answered here.

Commissioner Krause: One additional bit of information that I would like between now and the next cycle is just some review again of the design guidelines, development goals in the Midtown Revival Plan. I have mine and I will fish it out and look at it again because I remember I did keep it. But if that could maybe be part of our report next time, that would be helpful.

Commissioner Hohmann: Proof of ownership would take the form of a determination by the City Attorney, correct?

President Martin: Probably in courts.

Commissioner Hohmann: It's not going to all be brought to us?

President Martin: No.

Commissioner Krause: Madame Chair, just to clarify, that isn't necessarily what I think we need is absolute determination of ownership. What I think we need from the City Attorney is a recommendation on whether or not we can act on the applications...

President Martin: We can proceed. Yes, exactly.

Commissioner Krause: Which is driven by that issue, but it might be slightly different.

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President Martin: All in favor of that motion please signify by saying aye.

The motion carried 6 – 0.