



**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: Hilary Watson, Senior City Planner, (612) 673-2639

Approved by: Jason Wittenberg, Planning Supervisor, (612) 673-2297

Subject: Appeal of the decision of the City Planning Commission by Leo Whitebird

Previous Directives: At the March 28, 2005, City Planning Commission meeting, six of the Planning Commission members were present. Five of the Planning Commissioners voted to approve the rezoning from R5 to R6, approve the CUP for 123 dwelling units, approve a variance to reduce the south interior side yard setback from 11 feet to 8 inches for the building and approve the site plan review. Please note that the President of the Planning Commission does not vote unless a tie vote needs to be broken..

Financial Impact: Not applicable

Community Impact:

Ward: 76

Neighborhood Notification: The Whittier Alliance Board of Directors reviewed the development plans for the Machinery Lofts project on March 24, 2005. The board passed a motion to approve the site plan review and the variance for a side yard setback, provided the development meets the R5 zoning requirements. In addition, the board passed a motion to deny the conditional use permit for 123 dwelling units and the rezoning from R5 to R6.
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City Goals: See staff report

Comprehensive Plan: See staff report

Zoning Code: See staff report

Living Wage/Job Linkage: Not applicable
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Other: Not applicable

Background/Supporting Information: Leo Whitebird, a neighbor, has filed an appeal of the decision of the City Planning Commission to approve the rezoning from R5 to R6, the CUP for 123 dwelling units, a variance to reduce the south interior side yard setback from 11 feet to 8

inches for the building and site plan review for a 123-unit residential building to be built on the properties located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South.

The original staff report and the minutes from the March 28, 2005, City Planning Commission meeting are attached.

The appellant has stated that the decision is being appealed for several reasons.

- “The building is incongruous with the structures surrounding it.”
- “As a long-term resident and homeowner in Whittier, I can attest to our struggle to overcome the problem of high-density absentee landlord properties.”
- “The Planning Commission’s report does not think that traffic and parking will be affected by this development.”
- “In response to the policies outlined in the *Minneapolis Plan*, we would question not only the appropriateness but the actual demand for housing of this density.”

The appellant’s complete statement and reasons for the appeal are attached.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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

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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**

11. Machinery Lofts (BZZ-2208, Ward 6), 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South (Hilary Watson).

A. Rezoning: Application by Wayne Olson, on behalf of The Cornerstone Group, for a rezoning from R5 to R6 for the properties located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to change the zoning classification of the properties located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South from R5 to R6.

B. Conditional Use Permit: Application by Wayne Olson, on behalf of The Cornerstone Group, for a conditional use permit for 123 dwelling units for the properties located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the conditional use permit application to allow a 123 dwelling units located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South subject to the following conditions:

1. There shall be no more than 123 dwelling units within the building.

C. Variance: Application by Wayne Olson, on behalf of The Cornerstone Group, for a variance to reduce the south interior side yard setback from 11 feet to 8 inches for the building for the properties located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the variance to reduce the south interior side yard setback from 11 feet to 8 inches for the building located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South.

D. Site Plan Review: Application by Wayne Olson, on behalf of The Cornerstone Group, for site plan review for the properties located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South.

Action: The City Planning Commission adopted the findings and **approved** the site plan review for a 123-unit condominium development located at 2848 Pleasant Avenue South and 2821 and 2825 Grand Avenue South subject to the following conditions:

1. The applicant shall work with staff to reduce the overall appearance of the south side of the building.

2. Approval of the final site, landscaping and elevation plans by the Community Planning and Economic Development Department – Planning Division.
3. All site improvements shall be completed by March 28, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. 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 costs before exterior building permits are issued.
5. The exterior materials of the building shall be limited to brick, stucco and metal.

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 for this item (Krause seconded).

The motion carried 5 – 0.

Commissioner Schiff noted that due to the changing of room locations, that interested parties had been out of the room for the public hearing portion related to this item. He made a motion to reconsider the item (LaShomb seconded).

The motion carried 5 – 0.

Staff Hilary Watson presented the staff report. She noted that subsequent to packet mailings, a letter had been received from the Whittier Alliance board of directors (letter distributed to Commissioners) who did approve the site plan review and the variance; but denied the conditional use permit and the rezoning.

Commissioner Schiff: Are they eligible for a 20 percent density bonus because of the underground parking?

Staff Watson: They are, but they are not exceeding the number of dwelling units that are allowed in the R6, so they do not need to take advantage of that.

Commissioner Schiff: So under the present zoning, what's the maximum number of units they could have with that bonus?

Staff Watson: 78 plus 14, so 92.

Commissioner Schiff: Thank you. And then, second question, I understand this is very similar in the total number of units for some other projects, particularly the one just previous on today's agenda. But the difference here in analyzing whether or not this is consistent with the comp plan is that the comp plan clearly says this area is industrial. And I know we're going through the study of Phase I and II of the Midtown Greenway, where we're trying to prepare this area for transit oriented development, but how do we ignore that section of the comp plan that says this area right now is designated as light industrial?

Staff Watson: A year ago we rezoned this from I-1 to R5 zoning based on the development that was before us tonight. So I think given that approval by the City Council permission to move forward with housing on this site and that kind of set the tone for what could be on this development site.

Commissioner Schiff: OK. That's just what I'm struggling with.

Staff Wittenberg: I'll also note Commissioner Schiff that the implementation of the Comprehensive Plan, staff really looks more at the policies rather than the land use policy map. The land use policy map really is more of a reflection of the current use that's actually there and doesn't necessarily give us a lot of guidance in terms of what the future will show [tape unclear].

Commissioner Schiff: Right, but on that we've got very little in the comp plan. It's not designated as a transit oriented public corridor or as a high-density housing corridor in the comp plan.

Staff Watson: Correct. I guess in this case we looked at that this is a block north of Lake Street which is a commercial corridor which says to construct high density housing along, and even though this isn't directly on it, it's within one block and so it does support the activity. It's also within walking distance of the designated Lyn Lake activity center which, because given its proximity, also supports the desired outcome of what that activity center represents in the comp plan.

Commissioner Schiff: Thanks, that helps. I'm just confused as to how we address these in the mean time, and I'm just going to continue to the other development proposals as we get our comp plan clear, we get the visions of the Midtown Greenway down on paper.

President Martin opened the public hearing.

Marian Biehn (Whittier Alliance): Thank you for reopening this issue. We were in the wrong room. The neighborhood first started reviewing this project in December of 2003. When Cornerstone came forward with a plan for the adaptive reuse of the existing industrial structure, making it into 62 condo units, that was supported by the neighborhood and eventually the neighborhood did support a rezoning to R5. However, at that time, the neighborhood did not pay attention to, and the Planning Department did not pay attention to the Southwest Redevelopment Plan which identifies this area as low density residential. The area that was rezoned from I2 to R5 for this development should have remained I2, but it didn't, so now we're dealing with the existing R5. In June of '04, the developer came forward and said, 'Gee, we can't do the project, we can't do an adaptive reuse of the building, we need to do 129 units and tear down the building'. The neighborhood did not accept that. They said no to the rezoning and to the tear-down. We are resigned to the fact that there will be a tear-down. We did do a task force with the developer. It became the issue of the number of units and the tear-down was off the table. That was not part of the conversation. They would not discuss that. We went into a conversation about design. We will support the R5 if it has to be maximized. That is something that we can deal with. But we are dealing with a neighborhood that is already dense. It's the largest neighborhood in this city. All the surrounding area is R2, R2B, and R5. This 123 units is not appropriate. This specific development is just not appropriate for this specific location. All the surrounding buildings to this site are smaller. They're either medium or low density. There's only one other multi-unit in the Whittier unit that is larger than this and that's across from the Art Institute and that's the Fair Oaks apartments and it's broken into 6 different units. The R5 zoning would allow for approximately 78 units which is a significant increase in the current housing density of the existing site. And to move it to the 123 would be 7 to 8 times this current surrounding properties. So we urge you to deny the rezoning to R6. We urge you to deny the CUP. And at the board, the board did pass a support for the site plan if it was consistent with the R5 zoning and I don't know if that's a part of what you got in your motion. You've got it? OK. But it does specifically relate to the site plan approval if it is R5. The developer will say that we had plenty of opportunity to work with him on this and we did. We did offer to come to the neighborhood multiple times. He did. There was nothing new to offer a couple of times when he did offer to come, so he wasn't ready to come to the cities, so there was no point in him coming to the neighborhood. But the neighborhood has rejected his current plan of the rezoning of R6. Thank you.

Destin Nygard (2513 Grand Ave S, not on sign-in): I'm not an immediate neighbor of this project, so I'm not going to speak to questions of density or parking. There are a lot of other neighbors that are very concerned with that. I'm mostly concerned about the design. Specifically, the southern façade of the building. I know it's an issue that has been raised by Planning staff and rightly so because it's frankly pretty disappointing. I use the Midtown Greenway regularly and the current building there is just two stories on the Greenway. It's got old masonry and it's a beautiful building. They're talking about essentially 6 stories and when we were pressing them in our neighborhood meetings as to what exactly the materials of the structure would be, they used words like stone-like-materials and stucco-like-materials. They refused to tell us in fact what they were. And

we have built things, not in Whittier, but in Wedge that are examples of buildings using stucco-like-materials. New construction at Lake and Aldrich and...[tape unclear] which are giant, flat facades, undifferentiated... The only advantage there is that on those two sides, we have prospects that something might be built in front of it. Nothing will ever be built in front of this façade because it faces on to a public space, the Midtown Greenway. I think in considering this approval, we have a responsibility to look down the road from here to make sure that we're using the highest quality design in what should be a high quality public space. I think simply adding a couple of bricks is not enough – we have to consider additional setbacks, they have some bump-outs that they have shown at the base of the building. That's a great idea but we want to see how it's executed. We're proposing that there are fire stairs that exit down on to the Greenway, giving the rest of the building an access to the Greenway. We want to make sure that those aren't just glorified fire stairs – that they are in fact public space. Most of all, we want to make sure that this isn't something that we're kicking ourselves for as soon as it is built. Thank you.

Jim Roscoe (2829 Pleasant Ave. S, Whittier board member): I'm here to address the site. Currently in the area, we're experiencing not only a parking crisis, but a traffic crisis. Besides this proposed development, we have other developments in the area. We have the Elroy site being developed. We have Karmel Square which lacks no development. So the current business, industrial and so forth in that area has already put stress on the area. With this new development – I know there are at least 23 parking spots to address the needs of the residents, but if we're looking at the need for more than one spot per unit, we are going to have a problem. So as residents in that area, we are concerned about the development. I have only lived at this property for two years. Other residents are speaking up and saying in the past there has been a commitment that the density would be kept down in the area and this development.

Wayne Olson (representing developer and the Cornerstone Group): If I could speak to a few of the issues that the neighborhood has brought up. I appreciate the fact for this public debate. I was hoping that it would have gone through on the original consent vote, but the neighborhood was lost in the hall, so I wanted to offer that opportunity for them to speak. We have worked, as Marian has said, in great detail and in great concert with the neighborhood. Specifically in task force process last fall once we realized that the building was changing to a higher density of 129 units. I want to address specifically the issues brought up. I don't obviously object to any of the staff reports that are before you. I would ask for your vote for approval for density, approval for the CUP and the other items that the staff has asked for approval. With regards to density: We went through a process in this project of trying to find the right balance, as you must in development, where the project could remain financially feasible without public assistance which is still the case – we are receiving no public assistance for this project and I can list some considerable efforts that the developer has made to meet the City's housing policy goals. But I feel strongly that at 103 units, which was the calculation we did with the density bonus, it was by a few units over what was allowed, but we were at 103... the project still was not financially feasible, nor was there adequate tax increment by our calculations to make that project work. We therefore

changed the project to be solely financially stable without public assistance and came up with 129 units. We heard, as you've heard quite strongly here tonight, that that density didn't make the neighborhood comfortable. So during that task force process we amended our plan and I have a prospective that our architect just provided. We reduced the unit count by 6, and we also stepped back the fourth floor. I don't feel that this site or project would work at a lower density. You might find another person to do it, but there would be need for considerable public investment into the property. And currently the Cornerstone group is the owner of the property. If the project isn't approved, we are stuck with the problematic future of the building. There could be some months that would go by that there wouldn't be the current tenant – Midwest Machinery has vacated the property to a new structure down on Minnehaha or Snelling Avenue. So the site would remain vacant while we worked everything out. My hope was that the task force process was a genuine interest by the neighborhood to engage with the developer in designing a more attractive building. You'll note, as I stated, the 4th floor is stepped back to decrease the appearance of mass from the building. There were a few vocal residents who weren't comfortable with that, so we accomplished that at some considerable cost to the change in the design. We also did add some articulation on the Greenway façade. As you can see, the townhomes, two story condominiums here, there's 10. They have door entries, so you have some bump-outs there to create some interest. We're obviously, at this stage, very open to material changes [tape end]...of stucco or stone-like materials. The reason we didn't specify – we were in design development, so if those are a concern, we're happy to work with staff to improve those materials on the façade. With regard to the parking, we understand that this is a dense neighborhood. It's a block off of Lake Street. It's 6 blocks from Lyn Lake. This is a dense neighborhood. To achieve market rate home ownership unassisted requires this level of density. This is an unclean site. There's considerable brown filled remediation that we're contributing to the site. We're also very proud of our green efforts. We believe we'll be the first gold certified LEED building after the Solaire in New York. This matches very precisely the City Council's goals. I believe from a green perspective. We've done considerable changes to the structure in order to capture storm water runoff. We have rain gardens, we're greening the site considerably, as I said, we're cleaning up the site at no cost to the public. That's all dollars spent by the developer. And we're adding Greenway connectivity through our building. So I understand that the parking is an issue. We've addressed the code requirement which is one stall per unit. The hour car parking we hope will be utilized at the Calhoun parking. We're looking into also having a shared car parking at the development. But we saw this as a transit oriented development. It's a block off of a heavily transitted street-Lake Street, and we also have bike-ped connection to the Greenway. So I feel like I've tried to address the issues that have been brought up before you and I respectfully request your approval and I can answer any questions.

President Martin closed the public hearing.

Commissioner Krause: Madame Chair, I've done some small amount of work on this project with this developer, I'll let you all guess what aspects...

President Martin: That's how it got to be the greenest building in town?

Commissioner Krause: I won't be participating in the discussion or voting.

Commissioner Hohmann: [off-microphone, tape unclear] ... in the Uptown area...And you all know that transit is expensive. To get transit in that trench, the Greenway, it's going to take density. If we don't have density, we're not going to have transit. I think it's almost as simple as that. Or what it would do is it would lengthen the time until we got to transit. There is a density in the Uptown area and...[tape unclear]. The upzoning and increased density associated will bring private money into the project, I find that attractive. Your neighborhood I read is 90 percent rental housing and this is going to be owner occupied units near the Greenway. It's hard for me to find something that I don't like about it. For that reason I would move the rezoning (LaShomb seconded).

Commissioner Schiff: I'm glad we had this discussion. Mr. Olson, thank you for being so gracious as to allow us to put this back on the agenda. I was torn about the apparent inconsistencies with the language of the comp plan and said that this was industrial. Obviously we're in the middle of a land use plan right now. It is not yet a transit corridor. That's the goal. About 16 neighborhoods along the Midtown Greenway have endorsed a resolution calling for a streetcar on the Midtown Greenway. Certainly these are the kind of densities we need to make transit work. My nervousness is that the transit is going to be at least 5 years off in the future. And as we're looking at developments in Uptown, several, I guess I can think of about 600 new units along the Midtown Greenway in the next 24 months at the current rate of construction. That is a lot of units to come on line at once without any more transit, in fact less transit because those bus routes on Lake Street are being sliced right now by the Metropolitan Council and the Pawlenty administration. So, it's going to be rocky in the next couple of years. I do think that the horse has left the barn as Commissioner Martin said to me on this site because we did rezone it away from industrial with R5. So I have been persuaded that this is good. That said, I think the southern façade needs some serious work. It just is monolithic. It's not the attractive entrance that it needs to be. So, I would, when we get to the site plan, suggest materials that we narrow the possibilities down to that façade. But I guess I'm marginally persuaded, so I'll vote for the rezoning.

Commissioner LaShomb: Well, having worked at MTC for twenty-some years, there was always this big debate in planning whether the buildings were caused by transit, or whether transit is caused by the buildings. It never got resolved. And I'd like to believe that Met Council, my previous employer, will be smart enough to figure out that when you build buildings, you ought to provide transit and they seem to be a little obtuse right now. I think the basic point about this is that while you may not have transit in the corridor, you've got a lot of transit on Lake Street and you've got a lot of transit on Lyndale. I think what it really comes down to is: Can you build projects that are reasonable in one sense but also provide a strong economic social base. I was really hung up on this one. My first reaction was [that] 56 units are probably enough. Why should we allow developers to come in with a new plan after we've gone a first step and all this stuff. Then the more I thought about it, the more I concluded that density in this

situation is probably consistent with what's going on in this kind of corridor. So, I'm going to support the rezoning. I think there are some site plan issues that I'm concerned about. I'd like to believe when I ride my bicycle in the Midway corridor that I won't look up at buildings that look like block edifices. But I think that it is appropriate to build a next step and simply say that additional density here is appropriate.

President Martin: OK, the motion is to approve the rezoning. All in favor of that motion please signify by saying aye.

The motion carried 5 – 0.

Commissioner Hohmann moved the conditional use permit (LaShomb seconded).

Commissioner Schiff: I guess a question for Mr. Wittenberg. Is there any space to mention the lead certification goals in the CUP as a requirement on the CUP?

Staff Wittenberg: Commissioner Schiff, I think you want to be a little bit careful when you go there because you want to make sure that there is some link to this particular project in terms of why you're suggesting or requiring such a condition for this building but perhaps not other, similarly situated buildings. But if you can make the connection to some kind of quality related to this project where that condition is warranted, then that may be justifiable.

Commissioner Schiff: We haven't done in the past, so that's why I'm wondering. I can't think of language.

President Martin: And is to approve the CUP for 123 units, right? All those in favor, please signify by saying aye.

The motion carried 5 – 0.

Commissioner Hohmann moved the variance, item C (LaShomb seconded).

The motion carried 5 – 0.

Commissioner Schiff: I'll move approval of the site plan with amendments that the materials be limited to brick, stucco and metal. A friendly amendment for other materials you want to add (LaShomb seconded).

Commissioner Hohmann: I'm just wondering how consistent that is with what we've done.

Staff Wittenberg: Commissioners, certainly we have had similar conditions related to compatibility and consistency on all sides of the building, so that is certainly not unheard of and is very consistent with the required findings in the site plan review chapter.

President Martin: So the motion is to approve the site plan with an additional condition regarding the materials of construction. All those in favor of that motion please signify by saying aye.

The motion carried 5 – 0.