

**Excerpt from the  
CITY PLANNING COMMISSION MINUTES  
Minneapolis Community Planning & Economic Development (CPED)**

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**MEMORANDUM**

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DATE: June 25, 2015

TO: Zoning and Planning Committee

FROM: Jason Wittenberg, Manager, Community Planning & Economic Development – Land Use, Design and Preservation

SUBJECT: Planning Commission decisions of June 1, 2015

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The following actions were taken by the Planning Commission on June 1, 2015. 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.

**Committee Clerk**

Lisa Kusz - 612.673.3710

**Commissioners present**

Matthew Brown, President | John Slack, Vice President | Alissa Luepke Pier, Secretary  
Meg Forney | Ben Gisselman | Ryan Kronzer

**Not present**

Lisa Bender | Rebecca Gagnon | Theodore Tucker

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**2. 3238 Washington Ave N, Ward 4**

Staff report by [Andrew Liska](#), BZZ-7138

The City Planning Commission adopted staff findings for the application by David Bentz.

**A. Rezone the property to include the IL Industrial Living Overlay District .**

Action: The City Planning Commission recommended that the City Council **deny** the application.

**Aye:** Gisselman, Luepke-Pier and Slack

**Nay:** Forney and Kronzer

**Absent:** Bender, Gagnon and Tucker

Staff Liska presented the staff report.

President Brown opened the public hearing.

**Not Approved by the Commission**

**David Bentz (3238 Washington Ave):** I'm the owner of this property. I've owned it since 1999. It was built in the 1960s as an office/production warehouse area. The upstairs that faces Washington Ave is approximately 1500 square feet and it has a stairway that's outside of that area that goes down to the lower level that has another 7000 square feet and includes an office area down there with a production area. Part of that area is used for storage, part of it is for a mailing house that uses it. When I bought the property I leased it. I was using part of the back space for my printing company and I leased the other space to a company called Absolute Mail. At that time they put the office space upstairs and the production space downstairs. We shared the production space downstairs. After that year they said the upstairs office didn't work for them. They had to go out to use the stairs and come back in and it wasn't a good layout. They moved their offices into the lower level offices. At that time we started to try to rent the upstairs space. In the 15 years I've owned it, I have not rented to any industrial uses. It's been a barber shop, a hair stylist, a retail dress shop and I can't remember what else. Currently, I have some massage therapists that have rented that space. When they went to get their licenses they stopped at the zoning office and they said it's not zoned for the commercial use and that's what started all of this. I've done some exploring of the master plan, the Above the Falls Plan, and as I read it on page 92 it talks about this area and says this area should be used for mixed uses. That's on page 92 and on 111. I feel like that's exactly what we're doing. The only objection I seem to hear is that we're not grouping it or assembling it. What we're asking for does not prohibit that assembly in the future, but I don't have the financial means to go buy out all my neighbors and do that. In the future, if someone wants to assemble all this, I'd be open to that. What we're asking for is the ability to go forward and be able to use commercial uses for this property. When I look at some of the points here, it talks about whether that's in the public interest or not and for some reason it is deemed not to be, but I don't see how an industrial use is going to be more in the public interest than a hair stylist or a barber that would actually let people in the immediate neighborhood have a service to use. The trends in the area...Burger King went in a number of years ago. That upper space of mine has gone from offices for industrial to commercial uses. I think the trends show that that is what's coming in the area and not away from it. That's all I have.

**Commissioner Luepke-Pier:** Have you met with the McKinley and Hawthorne neighborhoods?

**David Bentz:** We tried. We sent an email and I called them and I've been to their office seven times and they're never open. When you look into the window there are some things like potted plants growing. I've been there. I have got zero response and I don't know if they're still in business. I've been doing that for a month and I'm not sure what else to do.

**Commissioner Gisselman:** It sounds like the main issue that's pending and a commercial use application is that you want to retain the ability...

**David Bentz:** The industrial use. I thought this was the perfect answer. I thought that's what this was for is that it'd allow commercial and industrial. I want to be able to put commercial in there with the industrial. It's a unique property in that way. It's like a walkout basement. It's built into a slope.

President Brown closed the public hearing.

**Commissioner Luepke-Pier:** Do you have a map that could show where the nearest ILODs are in proximity to this?

**Staff Liska:** I don't have a map. There is 3334 here and it's 3442 here and the address would be 3442 so one block north of that.

**Not Approved by the Commission**

**Commissioner Luepke-Pier:** So there's one parcel per block for the next two blocks north, is that what you're saying?

**Staff Liska:** No, there's only one. It's two blocks north...3342.

**Commissioner Luepke-Pier:** When the Above the Falls Plan was done, that was left that way for a reason I assume and then the rest of this was zoned industrial?

**Staff Liska:** I believe that ILOD was established within the last couple years. It's all I2, just one parcel in this area has the Industrial Living Overlay zone.

**Commissioner Luepke-Pier:** When was that one established? I'm not remembering that one.

**Staff Wittenberg:** I don't recall the exact year of that rezoning, but I think it has been within the last five years.

**Staff Liska:** The subject parcels are these two here.

**Staff Wittenberg:** Keep in mind, we have industrial zoning basically from Plymouth Ave approximately all the way to the northern city limits. We have one industrial living overly district parcel.

**Staff Liska:** That did go through the rezoning in January 2013.

**Commissioner Kronzer:** I have a question for Mr. Wittenberg. The Planning Commission approved the Above the Falls Master Plan a few years ago, has there any been any motion for a rezoning study to match the zoning to that plan?

**Staff Wittenberg:** I understand that that may be on the long range planning work plan, which would include an entirely new zoning district that we don't have right now since it's sort of a business park type of industrial district, but that's not pending within the next six months.

**Commissioner Luepke-Pier:** If that comes to pass, would this fall within the guidelines of that recommended zoning or no?

**Staff Wittenberg:** You're asking if the rezonings proposed now would likely be consistent with whatever rezoning study we would bring forward in the future. It's too early at this point to say whether that would be case but I think part of staff's point is that if this area is to be rezoned that ideally that would be part of a more comprehensive analysis rather than one small parcel at a time.

**Commissioner Slack:** I will move staff's recommendation to deny the application (Luepke-Pier seconded).

**Aye:** Gisselman, Luepke-Pier and Slack

**Nay:** Forney and Kronzer

**Absent:** Bender, Gagnon and Tucker