



**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: May 19, 2004

TO: Blake Graham, Manager, Community Planning & Economic Development -
Planning Division; Phil Schliesman, Licenses

FROM: Neil Anderson, Supervisor, Community Planning & Economic Development -
Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development
Planning Division

SUBJECT: Planning Commission decisions of May 17, 2004

The following actions were taken by the Planning Commission on May 17, 2004. 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

President Martin, Vice President Hohmann, G. Johnson, Krause, Kummer, LaShomb, and Schiff - 7

CONSENT AGENDA – May 6, 2004 Committee of the Whole

1. Modification #1 to the Lake Street Center Redevelopment Plan
And Modification #1 to the Lake Street Center
Tax Increment Finance Plan
(Staff: Mike Larson)

Approval

The Committee of the Whole made the finding to forward the staff recommendations for the above consent items to the full Planning Commission.

The City Planning Commission **approved** the staff recommendation for the above consent items (Commissioner Krause abstained).

INTRODUCTION TO PUBLIC HEARING

PUBLIC HEARING

8. Mulroy's Body Shop (BZZ-1699, Ward 10)

3900 & 3920 Nicollet Avenue (Jason Wittenberg)

A. Rezoning

Application by Pat Mulroy for a zoning amendment (rezoning) from the R2B (Two-family) District to the C4 (General Commercial) District for the property located at 3900-3920 Nicollet Avenue South.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **deny** the application to rezone the properties at 3900 & 3920 Nicollet Avenue South from the R2B District and to the C4 District.

Staff Jason Wittenberg presented the staff report.

Greg Simmers, consultant working with Pat Mulroy (4325 Nicollet Avenue): This is the existing building which is used right now by the Mulroys. The Mulroy's collision repair business has been in the neighborhood for 40 years. They're located at 4325 Nicollet Avenue and 8 West 39th Street. They have an exemplary reputation in the neighborhood; their business right now is surrounded by residences as well as commercial. They have been in this building about 7 years, have appeared before you to get rezoning on this building and it is currently C2. When we approached Planning, they told us we had to have C-4 zoning for a collision repair business in the City of Minneapolis with a conditional use permit for the booth. We finally found out that almost all collision repair businesses are C2, including the current zoning that the Mulroys have. So, we're in a position where we came for a C4 because we were told we had to and then are being denied a C4 by recommendation on the basis that, 'We don't give out C4's', even though you need one to have a collision repair business in Minneapolis – a bit of a problem. What we would really like to do is show you a comparison, and if you look just at the building and the parking situation, right now the Mulroys as they repair cars have an ongoing parking issue in their own parking lot, as well as in the winter particularly [picture]. This would be the paint shop at number 8 West and you see cars that are stacked along in different areas. They're having to shuttle cars back and forth from the two buildings. If we look at another view on that [picture] and again a parking issue that we run into at their main location in the winter with vehicles. What we're proposing to do in moving to the new site [picture], as you can see there is ample parking both inside

the building (this is a 20,000 square foot building), and ample parking in the parking lot. So the main thing from their viewpoint is that they would be eliminating two locations that are currently being used for auto repair. We have discussed with both Kingfield Neighborhood, Planning and Zoning that we would be willing to let those buildings be used for other things and they have some interesting ideas for them, none of which the Mulroys feel is a problem. So when we went there, what we really said, what we would like to have on this site would be C4, and if that's denied, then C2. You might say, well why do that rather than nonconforming use? Because it speaks to the value of the property tremendously. When you look at this site being Northwest Bell Telephone since 1957, site vehicle repair, a commercial history since 1924, this site has always been commercial, had a gas station on the corner, has had a collision repair on the 3900 site at one time, and then down-zoning to R2B, it really affects tremendously the value of this property and it affects it in a way that's negative. I'm not saying that there won't come a point where highest and best use won't occur, 20, 30 or 40 years from now, but in the interim, if you take a look at the condition of the building as it exists now and the problems it's caused for the neighborhood (and I have to say that we personally went and visited with every surrounding neighbor). We had by far a majority of people signing who wanted to have Mulroys there based on reputation and the way they run their business and what good neighbors they are. The other issues that we'd like to talk about in terms of the site is the difference for the neighborhood in being able to, as staff pointed out, being able to eliminate traffic on Van Nest, also being able to improve the condition of the site with landscaping. Pat and Don have also offered the site for weekend neighborhood use, such things as farmer's markets et cetera. And we feel that they would be an exemplary, wonderful addition to that corner. On the other side of it, we do recognize that we are looking for zoning there that is commercial zoning, but it's not unique – it has always been commercial other than 1988 with the down-zoning.

Staff Neil Anderson: Point of information Commissioners, is that major auto repair needs a C4, not a C2. If you were granted a C2, you would not be able to go on to that site because C2 is only for minor auto repair, C4 is major auto. That's why the change of nonconforming use is an alternative to be able to get in there without the rezoning.

Greg Simmers: That I understand, but my question is if we have existing C2 now, where we are doing that, and that's the zoning that was placed on that...

Commission President Martin: That's where you are now, that's not this property.

Greg Simmers: That is correct, but again we're looking at when we come in and we say, 'What do we need?', when we come and talk to Planning and Zoning and they say 'C4 if you're going to have a collision repair business in Minneapolis, but we're never going to give you that', that's literally what they are saying. Well then, is there not something that can be worked out that makes sense for people such as us who have come in and done every single thing you can do by the book to basically be denied because it's an impossibility, you can't have C4, but you have to have C4. Wait a minute, what can we have other than non-conforming use? Which is wonderful, except it affects the value of the property dramatically.

JobyLynn White-Wiedow (3912 Van Nest Avenue South): I am speaking as a property owner of a home that is one of the few that would be most directly affected with the changes that are proposed. I've thought a lot about this and I saw both the Mulroys locations, and given what's going on at this property at this time, the business that we have there is not local and will not work with the neighbors and to say that they are problematic would be a gross understatement. Everyone on the block would agree with me. We've got people idling vehicles out there at all hours with children running around who could easily hop into one of those vehicles and take off at any time. They very often will fix vehicles on the street, even though they have this property and they can do it inside. I've been woken up at 4 and 5 a.m. numerous times with air tools – they leave the door open, the air tools are going, they're changing tires on vans. I have gotten out of bed, really early in the morning, also 4 and 5 a.m., in the winter, put all my clothes on, and marched outside and hit the buzzer to tell the people inside to please let the guy who's out there honking his horn inside, so that he will not honk his horn and wake everyone up. This is what we have now. I don't know about all this zoning, but what I do know is that there's a lot of fixing vehicles right now and it's a business that's unwilling to work with the neighbors. From what I have seen from both of the Mulroy's other shops, their property is in beautiful condition, and I have every confidence in talking to them that they would be very easy to work with and that they will make changes to that property that will make it less of an eyesore at the very least. So I've thought about this, and obviously I would support the approval of the Mulroys application for the change in non-conforming use, I'm not sure what the other stuff means, because it was my understanding, knowing that they have been in the other property for 40 years, and that they have a son and daughter who are going to continue this business that if they would come in they would be there to stay. Now obviously, living on a one-way, one-block street that is very narrow, it would be best to have residential property directly across from us, but what we're looking at right now is not going to happen. We have a business there that's not really planning to leave, and this is a business that is very difficult for all of us to live with. So, given the choice between the Mulroys and the business there now, whatever it means, I would be for that and everyone else that I've talked to, I went to the neighborhood annual meeting and I talked with many other people and I did talk to a couple of people who were opposed to it, but they were not in the position we're in – they were people who were in the neighborhood further down, they're less affected by what goes on in that building than we are. One of them was on a side street. My property is directly across from the driveway, the doors, I have a double lot, I'm right there in the thick of it and I want to see the business that's there gone and if this is our only option... When I moved in 5 years ago, I thought, maybe it'll be great, someday we'll have houses there, but I know it's not going to happen, and this would be so much better, so I would be for this and I hope that this goes through.

President Martin closed the public hearing.

Commissioner Krause: Could I hear one more time, the difference between major and minor auto repair that distinguishes the zoning required?

Staff Wittenberg: Commissioner Krause, major automobile repair includes painting and or bodywork, minor automobile repair does not.

President Martin: Just in case you ever want to open an auto business Commissioner Krause.

Commissioner Hohmann: Regarding the up-zoning. If this were up-zoned to C4, I would guess that within 5 years you'd have tremendous pressure in the lots around it for up-zoning of a transitional nature and I would be probably one of the first to support up-zoning of the adjacent properties if this were a C4 and I don't know that the neighbors around here would appreciate that. I can also understand the applicant wanting higher zoning, but I think I would tend to support the staff recommendation to stay consistent with current zoning and also allows the business to stay in the neighborhood which is consistent with the neighborhood sentiment. Because if this was to go to a C4, I guaranty there would be an awful lot of pressure on the surrounding lots to bring them up as well. With that, I would move staff recommendation for rezoning.

President Martin: That is to deny the rezoning.

Commissioner Hohmann: Yes (LaShomb seconded).

Commissioner Schiff: Jason, can you remind me, what is across the street on the west side of Nicollet Avenue on the 40th block, I've driven past it thousands of times and I can't picture it right now.

Staff Wittenberg: On the opposite side of Nicollet, on the east side?

Commissioner Schiff: Yes, the east side.

Staff Wittenberg: There's a church right across from this property.

Commissioner Schiff: And a surface parking lot for the church. Got it, OK. I'm going to agree with Commissioner Hohmann and to Mr. Simmers, I don't think staff gave you a Catch-22, they told you [that] you need C4 for major auto repair, they didn't tell you [that] you had to go to this site. You need a lot that is zoned C4 or a place where C4 zoning is permissible. C4 zoning on a community corridor is wildly inconsistent. With that said, I don't know if Nicollet Avenue South in this area is going to remain a community corridor for long and we probably are going to be needing to do some major corridor planning work in the next couple of years to figure out how we revitalize community corridors, how we add additional housing along community corridors that can support transit, South Nicollet, South Lyndale, and some of the other lower intensity community corridors are areas that may be upgraded to commercial corridors someday. I'm not saying it's going to happen in the next 3 years, but eventually, in which case C4 zoning would no longer be incompatible, but given that the rest of the area is zoned R2B, I can't see approving this today. That said, staff is still recommended approval for the

use, the expansion of non-conforming rights, which allows you to do what you want to do on this site and gives the benefit to the neighborhood of having you there rather than the existing owners, so hopefully that's enough for you to go forward with this plan and it doesn't give you all the property rights that you would have with a rezoning, but it does allow you to move forward with the investment.

The motion carried 6-0.

Commissioner Hohmann moved staff recommendation on the conditional use permit (item B) to deny (LaShomb seconded).

The motion carried 6-0.

Commissioner Hohmann moved staff recommendation for the change of nonconforming use (item C) to approve (LaShomb seconded).

The motion carried 6-0.

Commissioner Hohmann moved staff recommendation for the site plan review (item D) to approve (LaShomb seconded).

The motion carried 6-0.

Commissioner Schiff: I have a question. In C, we approved a change of nonconforming use for a major automobile repair facility, but in B, we denied a CUP for a major automobile repair facility, can you explain that to me?

Staff Neil Anderson: If the rezoning was approved, you would need to have the Conditional Use Permit. The change of nonconforming use, that's all you need if you approve the Conditional Use Permit, you'd be legitimizing the use, but the CUP is only required if the C4 is approved.

12. CVS (BZZ-1596, Ward 1)

938 37th Avenue NE, 3654 Tyler Street NE, 3651 Central Avenue NE, 3655 Central Avenue NE and 3665 Central Avenue NE (Jennifer Bever)

A. Rezoning

Application by Brian Alton on behalf of Velmeir Companies for rezoning from C1, OR1, R1 to C2 for property located at 3655 Central Avenue, 3654 Tyler Street NE and 938 37th Avenue NE.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the application for rezoning from

C1, OR1, R1 to C2 for property located at 3655 Central Avenue, 3654 Tyler Street NE and 938 37th Avenue NE.

Staff Jennifer Bever presented the staff report for item 12 with item 13, below.

13. CVS (Vac-1432, Ward 1)

Part of a 14' wide Alley in Block 4, Hilo Park Addition (Jennifer Bever)

A. Vacation

Application by Brian Alton on behalf of Velmeir Companies for vacation of an existing alley (VAC-1432) for the property located at Part of a 14' wide Alley in Block 4, Hilo Park Addition.

Motion: The City Planning Commission recommended that the City Council accept the findings and **approve** the vacation to subject to the applicant dedicating a legal easement for a new L-shaped alley segment connecting the existing alley and exiting on Tyler Street NE by June 18, 2004, construction of the new alley segment, and provision of easements to Xcel, Qwest, and CenterPoint Energy.

Staff Jennifer Bever presented the staff reports for items 12 and 13 together. She noted that an application to re-zone under BZZ-1724 was for the credit union. She also noted that prior to the meeting, she had received written confirmation from the applicant that they were withdrawing the sign variances (3).

Commission President Martin opened the public hearing.

Brian Alton (representing applicant Velmier Companies, with the law firm of McClay, Alton, 951 Grand Avenue, St. Paul): I am here today with Steven Bach, Steven Mangold, and Jim Moval of Velmier Companies, and George Lewis of URS, the architect and engineer and I would be happy to answer any questions.

President Martin: Could we see a picture?

Brian Alton: Yes [picture]. Madame President, the third application down would be the elevation looking along Central Avenue. The second elevation would be looking from the parking lot. The north elevation along 37th, and the bottom would be what you would see from Tyler.

Commissioner Schiff: Question, are those windows tinted or clear?

Brian Alton: Most of the windows are clear, they may have some tint to them. I mean, you will see through them.

Commissioner Schiff: OK, well, I'll probably amend it just to make them clear windows, it's easier for visibility than a darkened, tinted window.

Staff Bever: Staff wrote in the recommendation that we require clear windows.

Lorrie Stromme (representing Council Member Ostrow, ward 1): Council Member Ostrow was not able to be here this evening. He is teaching a class at his college alma mater, but he asked me to express that he has support for this project, particularly in its current design format. It represents a lot of hard work by the neighborhood, I see a couple of neighborhood representatives here tonight. Neighborhood representatives, Planning staff, particularly Jennifer Bever and Public Works Transportation and a big chunk of credit goes to CVS because the plan you see in front of you is far different from the first plan they came forward [with]. So they were willing to work with the community and with Planning staff so this is really a Planning success.

President Martin closed the public hearing.

Commissioner Schiff: I'm going to move approval, Madame Chair, and commend the first ward office, no need to be humble. I know a lot of work went from Ms. Stromme and Council Member Ostrow in engaging the community and keeping CVS at the table for the success.

President Martin: So you're moving the rezoning.

Commissioner Schiff: I'm moving the rezoning and the approval of the rezoning (item 12A) and clearly we're doing something right here in the way we're talking to CVS (Krause seconded).

The motion carried 5-0 (Kummer not present).

Commissioner Schiff moved approval of the CUP (item 12B) (Krause seconded).

The motion carried 5-0 (Kummer not present).

President Martin: Neil, can we just assume that the variances C, D, and E are withdrawn?

Staff Anderson: The applicant has withdrawn that and given to us in written form.

Commissioner Schiff moved approval for the Site Plan (item 12F) (Krause seconded).

President Martin: OK and we have the clear windows already in, so that's in good shape.

The motion carried 5-0 (Kummer not present).

President Martin: OK, item 13. Well, Commissioner LaShomb, we have to change the staff recommended approval with a provision of an easement.

Staff Bever: We would recommend approval as long as the applicant provides an easement by June 18th.

Commissioner LaShomb moved approval (item 13A) (Krause seconded).

The motion carried 5-0 (Kummer not present).

Commissioner Schiff: Madame Chair, just a quick question, I don't see the clear windows in the requirements of the site plan, is that in the staff report?

Staff Bever: It is in the staff report.

Commissioner Schiff: OK – great staff report. Thank you very much.

14. City-County Federal Credit Union (CCFCU) (BZZ-1724, Ward 1)

3651 Central Avenue NE (Jim Voll)

A. Rezoning

Application by Modris Feders, on behalf of the City-County Federal Credit Union to rezone 3651 Central Avenue NE from C1 to C2.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning application from the C1 District to the C2 District for property located at 3643-3651 Central Avenue NE.

Staff Jim Voll presented the staff report. He noted that this application is the companion to the previous application for CVS Pharmacy.

President Martin opened the public hearing.

Modris Feders (on behalf of City-County Federal Credit Union): I am here to answer any questions you may have. I know one concern of ours has been that we would not be here today if it was not for CVS. They kind of initiated this project and we're happy that things are going well and this is a good opportunity for the Credit Union also. We would certainly want all of the items that Jim has gone over to be approved and I'll leave it open to any questions you may have. Dean Nelson, President of the Credit Union is also here to answer any questions you may have.

President Martin closed the public hearing.

Commissioner Schiff moved approval of item A, the rezoning (Hohmann seconded).

The motion carried 4-0 (LaShomb, Kummer not present).

Commissioner Schiff moved staff recommendation for item B, the variance (Hohmann seconded).

The motion carried 4-0 (LaShomb, Kummer not present).

[Note: Item C, a variance was returned]

Commissioner Schiff moved staff recommendation for item D, the site plan (Hohmann seconded).

The motion carried 4-0 (LaShomb, Kummer not present).

17. Midtown Exchange (BZZ-1717, Vac-1435 and RLS-24, Ward 8)

826 & 1010 East Lake Street, 2901 10th Avenue South and 2843 Elliot Avenue
(Hilary Watson)

A. Rezoning

Application by David Gotham, on behalf of Ryan Companies US Inc. for a rezoning from I1 and C2 to C3A, eliminating the ILOD for the property located at 826 & 1010 East Lake Street, 2901 10th Avenue South, and 2843 Elliot Avenue South.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning application from I1 and C2 to C3A, eliminating the ILOD, for the properties located at 826 & 1010 East Lake Street, 2843 Elliot Avenue South and 2901 10th Avenue South.

M. Vacation

Application by David Gotham, on behalf of Ryan Companies US Inc. for the vacation application (Vac1435) for that part of the North-South alley, Block 4, as dedicated in the plat of Allen & Anderson's 2nd Addition to Minneapolis, Hennepin County, Minnesota, lying northerly of the easterly extension of the south line of Lot 19, said Block 4.

Motion: The City Planning Commission recommended that the City Council adopt the findings and **approve** the vacation application (Vac1435) for that part of the North-South alley, Block 4, as dedicated in the plat of Allen & Anderson's 2nd Addition to Minneapolis, Hennepin County, Minnesota, lying northerly of the easterly extension of the south line of Lot 19, said Block 4, according to the recorded plat thereof subject to the retention of easements by Xcel Energy as follows:

Xcel Energy: That part of the North-South alley, Block 4, as dedicated in the plat of Allen & Anderson's 2nd Addition to Minneapolis, Hennepin County, Minnesota, lying northerly of the easterly extension of the south line of Lot 19, said Block 4, according to the recorded plat thereof;

And subject to the following conditions:

1. An easement shall be entered into allowing access on the north end of the property.
2. Public Works Department recommendations (including truck turning radii) should be followed.
3. Temporary easements shall be allowed during the two-year construction period.

Staff Neil Anderson presented the staff reports for items 16, 17, 18 and 19 together. He noted that the Planning Commission had seen the project twice (Committee of the Whole on March 25th and April 22nd). He stated that the only concerns that staff really had reflected around the hotel: 1) The north interior side yard setback from 17 feet to 15 feet, staff is recommending denial because staff has indicated that if the first story of the hotel, which from floor to ceiling is 15 feet, was dropped to 14 feet, one foot – instead of it being counted as two stories it would be one, which would then reduce the setback from 17 feet to 15 feet and if the little knob on the northeast side of the building was not projecting an additional foot from the rest of the building, if that was brought back in line with the rest of the building, then the variance would not be needed. 2) The other piece of information with the hotel is that the zoning code indicates that there must be a principal entrance facing the street. The hotel is facing Chicago Avenue. The entrance that's there is not a primary entrance – it's an exit only for those folks that are staying in the hotel. Staff is recommending that that become a principal entrance and that additional windows be on that west side (there's only 19 percent windows, should be up to 30) and that some type of an active use maybe be in that part of the hotel such as a restaurant so people can come in off the street and also get to the street from there, making that a principal entrance. Other than that, the staff is in support of the 26 applications for this.

Commissioner Schiff: Thank you Mr. Anderson for that report. I know Ms. Watson did the majority of work on this – is she taking a sick day for exhaustion from all the effort she put into this? It's unfortunate she can't be here for all of her hard work over the last couple of months which I understand has been stellar in making sure that this moves forward smoothly. I have a question for the applicant: What is the height of the hotel? I understand it's now 5 stories, not 8 stories as was originally applied for.

Rick Collins (Ryan Companies): It is 5 stories. Mr. Gotham, counting our larger than normal first floor and about 9 feet per floor above that?

Staff Anderson: According to the staff report, I think it's 73 feet.

Rick Collins: Our best estimate is about 63 feet. That 73 feet was based on 6 stories.

Commissioner Schiff: And then how do you feel, the staff is recommending that the first floor shall be reduced by 1 foot to meet the 14 foot height limitation for a story and I think taller ceilings make it more enjoyable to use the space, so what is Ryan's position on the use of this space?

Rick Collins: First of all, Commissioner Schiff, do I call you Council Member Schiff?

President Martin: He's a Commissioner here.

Rick Collins: Commissioner Schiff, I would agree with you in general that higher ceilings would be more enjoyable. We are prepared to live with the limitation as shown in the conditions of the staff report.

Commissioner Schiff: So 63 feet, does that include a 14 foot height limitation for the first story?

Rick Collins: I'm asking my team to confirm. I will estimate that each of the 4 floors above the first floor would be between 9 and 10 feet, and so when you add a 14 foot first floor, you end up at approximately 63 feet.

Commissioner Schiff: And then, on the west elevation, how do you propose to change the drawings that you submitted to really embrace Chicago Avenue rather than turning this side of the building?

Rick Collins: While we have not finalized our plans, I expect that we'll have some retail-type orientation along the Chicago Avenue frontage. In the short term, until we lease that space as retail, we would anticipate moving meeting rooms into that area and providing some access from the meeting rooms out to the exterior.

Commissioner Schiff: Just for the meeting rooms, but the general public wouldn't be able to access the hotel off of Chicago, just only if they happened to be using the meeting rooms and wanted to step out for a smoke?

Rick Collins: I'm not prepared to answer that question right now. Mr. Parr, any input on that?

Bob Parr (Director, Ryan Companies): The plan would be to have a public access through that front door from Chicago Avenue into the public lobby of the hotel.

Commissioner Schiff: Can someone from staff put up a drawing of the west elevation as it's in the packets right now?

Commissioner Schiff: OK, that's the west elevation. So staff is requesting more windows to meet the 30 percent.

Staff Anderson: More windows along this elevation to meet the 30 percent.

Commissioner Schiff: And a principal entrance that will eventually connect to the main lobby somehow through an interior corridor?

President Martin: Right, that's what Mr. Parr just said.

Commissioner Schiff: I just additionally want to encourage the applicant to treat the west elevation in a manner that is architecturally more prominent and more detailed treatment rather than what we have right now which I suppose is just the result of having corridors. I don't know where the elevator is located, is it at the end of the hallway or in the center?

Rick Collins: The elevator is in the center of the building, yes.

Commissioner Schiff: So towards the west elevation are those rooms facing Chicago Avenue?

Rick Collins: Yes, there are rooms on the west elevation.

Commissioner Schiff: So is there any reason why you can't put more windows overlooking Chicago?

Rick Collins: That is something we'd be happy to look into further. I don't have access to the most recent discussions about windows on those exterior walls.

Commissioner Schiff: Even the material where the 'S' is, you have brick on the street front, but what do you have up above?

Rick Collins: Stucco.

President Martin: A good South Minneapolis material.

Commissioner Schiff: Is it all stucco and [tape unclear] primarily above the first floor?

Dave Gotham (with Ryan Companies): Yes it would be stucco above the brick material.

Commissioner Schiff: OK, well I guess I'll include some language just to encourage you to make this more prominent architecturally to add more fenestration for the upper floors so that this does not look like a building turned with it's side toward Chicago Avenue. You really do have some front yard space here. You've got front yard space facing Midtown Greenway you want to interact with, but Chicago Avenue certainly is a front door for you as well and it's a major commercial corridor through South Minneapolis, so I'll just amend the motion to encourage you to add more architectural detail. Eventually the rest of this lot could be built up and nobody's going to see the side of the building where most people are entering, the south side, so we have to think of this for the long term as an area that is going to be highly visible?

President Martin: Any other questions, comments Commissioners? It doesn't look like it. Before we start marching through, I'd like to say great job to the staff, Hilary (who's not here), but this is really an impressive effort, and it's taken a lot of work and a lot of energy on lots of peoples parts to get it to this point and it looks great.

President Martin opened the public hearing.

Peter Boosalis (7133 Washington Avenue South, owner of the property at the northeast corner of Chicago Avenue and Lake Street) [picture] Also in the audience is Fasil Demag and Mr. Dave Johnson, one of the other property owners. There are three of us that are directly adjacent to the property. We're speaking to item 17M, I believe, is the alley vacation. We have had some conversations with the Ryan people. I will say it's been very good to date; however, we have a technicality: If the alley vacation is approved as is today, what is happening is that the alley goes north and then to the west. What will be vacated is the northern half and the western leg to Chicago Avenue, leaving just the north south accessing from Lake Street. What this does is leaves us technically only one access from here to here for the site even though we've been assured that there will be east-west access in this area. To accomplish this, we respectfully would request that the alley easement be approved subject to three conditions: 1) The easement can be entered into by all parties allowing access (these would be permanent easements) on the northern edge of the property; 2) The Public Works Department recommendations be followed as to turning radiuses; and 3) That temporary easements be allowed during the construction period to allow us to operate during the next two year period of time. So we think that these are reasonable requests and that we respectfully request that you take a look at that.

President Martin closed the public hearing.

Commissioner Schiff: Can I get a response from Mr. Anderson or from the developer on those three amendments? Number two is basically follow the Public Works recommendation if they're recommending it, then that's what we're going to approve so I don't think that's necessary, but on one and three?

Rick Collins: We have been having continued conversations relating to the service corridor with Public Works and with the property owners to make sure it is sufficient and to make sure that any easement of land is within our property and is not affecting their property line directly. So, I have no problem in supporting Mr. Boosalis' recommendations.

Commissioner LaShomb: My only comment prior to moving all of this, is that I've seen the presentation on one of the Minneapolis public channels so many times that it's now passed Seinfeld in my mind, so let's get this project done so we can get on to something else on our public stations. I'm going to move the conditional use, staff recommendation on 16 A (Hohmann seconded).

Commissioner Schiff: Given the change in the height of the hotel, I want to change it to what the applicant is actually proposing at this point from 4 stories/56 feet to 5 stories/63 feet.

Commissioner LaShomb: Fine.

Commissioner Schiff: I just want to ask staff again, is that condition item number 1 really necessary in your opinion to reduce the first floor by one foot.

Staff Anderson: Staff recommendation for that was to try to eliminate the north interior side yard setback variance. By doing that and bringing the building in one foot, that variance was not needed. Otherwise staff recommended denial.

Commissioner Schiff: So you're trying to avoid a variance. So if we allow the height, the 14-foot feet for the first floor of the building, we have to then approve the variance.

Staff Blake Graham: If you exceed 14 feet, then it's another story and side yard setback, and side yard setbacks are based upon stories. But my question for Neil, is if we don't reduce it so that it's 14 feet, are we really looking at 6 stories? Because we don't want to approve something less than the building, so Commissioner Schiff, if you're concerned about the 15 foot floor-to-ceiling, and wanting that, then I think we have to increase the CUP to 6 stories.

Commissioner Schiff: I'm not concerned about it all that much, I'll keep the staff recommendation.

President Martin: I would actually argue that the difference between 14 feet and 15 feet for most people is completely unobservable.

Commissioner Schiff: 14 and 13.

President Martin: Even so. It's tall, right? It's just really tall.

Commissioner Schiff: OK.

Staff Graham: Again, a point of clarification, if that floor is not reduced, then it constitutes more than one story. Therefore we've got two stories on the first story and you have to go to 6 stories, so as long as the condition will be granted, no problem.

Commissioner Krause: Madame Chair, I just wish to be recorded as abstaining on all items related to 16 through 19.

President Martin: So the motion is to approve the CUP with a change to 5 stories and 63 feet and leaving the condition in.

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved [16] B, C, D, E and F (Gretchen Johnson seconded).

Commissioner Schiff: Question for Mr. Anderson, where does the condition appear about the percentage of windows facing the Chicago Avenue side?

Staff Anderson: You'll find it in the site plan review section.

President Martin: It's coming next, G.

Staff Anderson: It's item number 3 under G.

President Martin: Hang on, we're doing variances here.

Commissioner Schiff: I'm just asking – I want to know when to speak up.

President Martin: So the motion is to approve variance B, C, D, E and F on item 16. All those in favor.

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb: I will move the major site plan review and I'm assuming there is no need to change language in 3, it meets Commissioner Schiff's concerns?

President Martin: That the applicant will increase the amount of windows on Chicago Avenue in order to meet the 30 percent requirement, it's already in there.

Commissioner Schiff: I'm going to add another motion there under G, another condition, 9, that the developer incorporate more architectural elements on the Chicago Avenue corridor, increasing the fenestration of windows on the second, third, fourth and fifth floor and, uh, incorporate more brick to make it more prominent.

Gary Schiff seconded the original motion with the condition.

President Martin: Is that acceptable Commissioner LaShomb?

Commissioner LaShomb: I don't hear any stomping of feet in the audience, so I guess it's going to fly.

President Martin: All those in favor of the site plan with the added condition 9, please signify by saying aye.

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved item 17 A (Hohmann seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved the conditional use permits as a group, items 17 B through H (G. Johnson seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved items 17 I and J (Schiff seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved item K (G. Johnson seconded).

Commissioner Schiff: Mr. Anderson, does anything in K deal with the actual Dollar Store building, or is it kind of treated as is, or does it capture?

Staff Anderson: Actually item number 6 and 7 deal with the Dollar Store site, where it talks about drive aisles not dead-ending, having actual circulation and including bringing the Dollar Store into conformance with the 530 Site Plan Review.

Commissioner Schiff: So fenestration and windows on Lake Street gets captured there?

Staff Anderson: Yes.

Commissioner Schiff: Wow. Great. Thanks.

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner Schiff: I think that was news to Ryan there.

President Martin: What?

Commissioner Schiff: That Dollar Store was captured.

President Martin: Mr. Collins, what's your question?

Rick Collins: Pardon my request for a clarification, but I'm not sure we understand the significance of the last comments about fenestrations on the Dollar Store. Our application, to our knowledge, didn't include any changes to the Dollar Store.

President Martin: It's just talking about the drive aisle and parking lot, it's not talking about the building.

Commissioner Schiff: OK, because that's what I heard.

Rick Collins: I heard a discussion about fenestration, so I was confused.

Staff Anderson: Reading the language, number 7, it talks about landscaping, screening of loading, but it also talks about bringing it into conformance with section 531.60, it's just the landscape and I apologize Commissioner Schiff, that isn't about fenestration.

Rick Collins: Thank you for the clarification.

Commissioner LaShomb moved item L (G. Johnson seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb: I will move item M with either the assistance of staff to get some appropriate language to deal with the proposed amendments or if staff deems it not necessary to add that language that's fine with me (Hohmann seconded).

President Martin: Well the three conditions that were requested were.

Commissioner LaShomb: One dealt with an easement, one dealt with a Public Works recommendation, and then a temporary easement during construction.

President Martin: So we can just add those in as conditions on the vacation.

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved approval of 18 A (G. Johnson seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved approval of 18 B (G. Johnson seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved approval of 18 C, major site plan review (Schiff seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

Commissioner LaShomb moved approval of 19A (Schiff seconded).

The motion carried 4-0 (Commissioner Krause abstained; Kummer not present).

President Martin: OK, great. Thank you, good luck. No trouble at all.

Rick Collins: If you'd indulge me for just a moment, this couldn't have been possible without a wonderful effort on behalf of the Planning staff as you pointed out, and I just wanted to second that. Thanking not only Neil, who stepped in ably, but Hilary, who's

not here today and under the guidance of Ms. Sporlein, we've appreciated all of the hard work and help that we've gotten through the very accelerated process and thank you very much, Commissioners.

Director Sporlein: I just want to point out that Hilary had a pre-approved vacation since January and we didn't want to punish her for such good work by denying her the vacation.

President Martin: And actually, this is an interesting test of a new way of operating stuff in terms of doing this expedited...

Director Sporlein: Yeah, we really did a case management approach where we did a lot of pre-meetings and weekly communications and added staff to this process given the complexity so it worked very well. It was intense, but it worked well.

Staff Anderson: I just also wanted to extend thanks to Janelle Widmeier who spent time with Hilary working on this project – she put in a lot of hard hours and a lot of hard work on this also. I want to give her credit for that.