



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

Date: December 8, 2004

TO: Council Member Gary Schiff, Chair of the Zoning and Planning Committee of the City Council

Prepared by: J. Michael Orange, Principal Planner, 612-673-2347

Approved by: Barbara Sporlein, Director, Planning Division \_\_\_\_\_

Subject: Appeal of the Planning Commission's decisions regarding the Copa Cabana project proposed for 2532-38 25th Ave. S. (BZZ-2048)

On 11/22/04, the City Planning Commission took the following actions regarding applications (BZZ-2048) by Copa Cabana Nightclub, Inc. to establish the Copa Cabana Nightclub at 2532-38 25th Ave. S. (the former American Legion Hall):

- Approved with conditions the conditional use permit for the use of the existing building to establish the Copa Cabana Nightclub.
- Denied the conditional use permit for extended hours (to allow a one-hour extension beyond the hours permitted by the liquor license ordinance from 2:00 a.m. to 3:00 a.m.).
- Denied the application for a variance to reduce the number of parking spaces from the required 70 to 24 spaces.
- Approved the application with conditions for a site plan review of property.

On 12/2/04, Copa Cabana Nightclub, Inc. filed an appeal of the above two denials by the Planning Commission and condition #4 for the approval of the ("Bollards or barriers shall be erected across the back of the lot at the alley subject to staff approval"). Also, Hearing and Service Dogs of Minnesota appealed the Commission's approval of the conditional use permit.

**RECOMMENDATION:**

- A. Conditional Use Permit:** Application by Copa Cabana Nightclub, Inc. for a conditional use permit for the use of the existing building located at 2532-38 25th Ave. S. (the former American Legion Hall) to establish the Copa Cabana Nightclub.

**Action:** The City Planning Commission adopted the findings and **approved** the conditional use permit application for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. with the following conditions:

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

1. The applicant shall comply with the liquor license laws.
2. The applicant shall inspect all adjacent streets, sidewalks, and alleys within 100 feet regularly to remove litter.

**B. Conditional Use Permit:** Application by Copa Cabana Nightclub, Inc. for a conditional use permit for extended hours (to allow a one-hour extension beyond the hours permitted by the liquor license ordinance from 2:00 a.m. to 3:00 a.m.) for property located at 2532-38 25th Ave. S.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application for extended hours for the Copa Cabana Nightclub located at 2532-38 25 Ave. South based on the following findings:

**1. Extended hours will be detrimental to or endanger public health, safety, comfort or general welfare.**

Although liquor laws will halt the serving of alcoholic beverages at 2 am, it is likely that drinking will continue to closing at 3 am if the hours are extended. Since local transit service will be unavailable or unattractive during these late-night hours, virtually all customers will use private vehicles. Since there is insufficient on-site parking, patrons are likely to socialize after leaving the nightclub on the surrounding streets or in private lots in the area where they will have parked. This will likely have an adverse impact on the area due to the potential for vandalism, littering, noise, traffic, and blaring radios.

To the north of the subject site are two bars, the Eagles Club, and a bowling alley all of which serve alcohol, have late hours, and have a potential similar to a nightclub to generate demand for on-street parking and its associated adverse impacts. Although the residential area 750 north of the site may be too far away to be impacted by the patrons of the Copa Cabana, there is the possibility that the Copa Cabana would consume a significant portion of the local on-street parking capacity and thus, create a domino effect that forces many of the patrons of the other entertainment uses to seek their on-street parking further north into the residential area.

**2. Adequate utilities.**

Adequate utilities are in place.

**3. Adequate measures have been or will be provided to minimize traffic congestion in streets.**

Refer to the response for Finding #1.

**4. Is consistent with applicable policies of the Comprehensive Plan.**

**Policy 9.33:** Minneapolis will support the existing economic base by providing adequate land and infrastructure to make city sites attractive to businesses willing to invest in high job density, low impact, light industrial activity.

**Implementation Steps (selected):**

- Promote light industrial uses as the preferred use of industrial land, but discourage warehouse or distribution uses in areas where truck traffic will negatively impact residential neighborhoods.
- Continue to protect a healthy physical environment that is attractive for private investment and compatible with neighborhoods.

**Consistency with the *Minneapolis Plan*:** Although the Zoning Code allows nightclubs in industrial areas, the *Minneapolis Plan* encourages light industrial uses in industrial areas. This is in response to the fact that the City has a surplus of land zoned for commercial uses and a shrinking amount of land appropriate for industrial uses. Policy 9.33 refers to off-site impacts (i.e. truck traffic). In the case of the Copa Cabana business which must rely on street parking in the area, the potential off-site impacts of the use (late night traffic, illegal parking in private lots, vandalism, noise, litter, etc.) may adversely impact the other uses in the area. This is inconsistent with the *Minneapolis Plan*.

**5. And does in all other respects conform to the applicable regulations other district in which it is located upon approval of this Conditional Use Permit.**

**In addition, the following findings must be addressed if applying for a conditional use permit for extension of hours open to the public:**

**1. Proximity to permitted or conditional residential uses.**

There are no residential uses in the area. The closest residential area is 750 feet to the north.

**2. Nature of the business and its impacts of noise, light and traffic.**

Refer to the response to the Finding #1 above.

**3. Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.**

The project will comply with all applicable zoning regulations provided it complies with the conditions of approval.

**4. History of complaints related to the use.**

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

This is a new use for the site.

- C. Variance:** Application by Copa Cabana Nightclub, Inc. for a variance to reduce the number of parking spaces from the required 70 to 24 spaces on property located at 2532-38 25th Ave. S.

**Action:** Notwithstanding staff recommendation, the City Planning Commission **denied** the parking variance for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. to reduce the parking requirement from 70 to 24 stalls based on the following findings:

1. **The property cannot be put to a reasonable use under conditions allowed by official controls and strict adherence to regulations of the zoning ordinance could cause undue hardship.**

The building and its parking could be used for the full range of uses allowed by the Zoning Code without reliance on a very large parking variance. The former use, an American Legion club, relied on leased spaces across the alley to the west to help satisfy its parking demand. Strict adherence to the regulation would not cause undue hardship.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by the person presently having an interest in the property.**

The conditions are existing, but are not unique.

3. **The granting of the variance will 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.**

There are a variety of commercial and industrial uses in the I2 District in the surrounding area and the closest residential uses are 750 feet to the north. As stated above, there is a gross inadequacy of on-site parking for this use. As such, patrons are likely to socialize after leaving the nightclub on the surrounding streets or in private lots in the area where they will have parked. This will likely have an adverse impact on the area due to the potential for vandalism, littering, noise, traffic, and blaring radios. Also, with two additional bars in the neighborhood, reliance on the street for parking will add to the negative impact on other property.

4. **The proposed variance will not 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.**

Refer to the response to the first finding in this section of the report.

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

**D. Site Plan Review:** Application by Copa Cabana Nightclub, Inc. for a site plan review of property located at 2532-38 25th Ave. S.

**Action:** The City Planning Commission adopted the findings and **approved** the site plan review application for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. with the following conditions:

1. Approval by the Planning Division of the final construction drawings, floor plans, the elevations, the lighting plan, and the landscape plan.
2. If the roof drains are connected to the sanitary sewer, the applicant shall disconnect them.
3. The site improvements shall be completed by November 30, 2005 or the application may be revoked for noncompliance, unless extended by the Zoning Administrator or the City Council.
4. Bollards or barriers shall be erected across the back of the lot at the alley subject to staff approval.

**Previous Directives:** None

**Financial Impact** (Check those that apply)

- No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact**

- Ward:
- Neighborhood Notification:
- City Goals:
- Comprehensive Plan:
- Zoning Code:
- Living Wage/Job Linkage:
- Other:

**Background/Supporting Information:**

Exhibit A. Final action of the Planning Commission and hearing minutes

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

Exhibit B. Planning Division staff report

Exhibit C. Appellants' submittals

**Exhibit A. Final action of the Planning Commission and hearing minutes**

**Exhibit B. Planning Division staff report**

**Exhibit C. Appellants' submittals**

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

**Department of Community Planning and Economic Development—Planning Division  
Conditional Use Permits, Parking Variance, Site Plan Review  
BZZ-2048**

**Hearing Date:** 11/22/04

**Date Application Deemed Complete:** 10/27/04

**End of 60-Day Decision Period:** 12/26/04

**Applicant:** Copa Cabana Nightclub, Inc.; 7514 Chicago Ave. S., Richfield, MN 55423

**Address of Property:** 2532-38 25 Ave. S.

**Contact Person and Phone:** Daniel M. Kennedy, 4103 E Lake St., Mpls., MN 55406; 612-728-8080, fax: 728-8055; kenne032@umn.edu

**Staff Contact Person and Phone:** J. Michael Orange, Principal Planner (voice: 612-673-2347; facsimile: 673-2728; TDD: 673-2157; e-mail: michael.orange@ci.minneapolis.mn.us)

**Ward:** 2      **Neighborhood Organization:** Seward Neighborhood Group

**Existing Zoning:** I2, Medium Industrial District

**Proposed Use:** Application by Copa Cabana Nightclub, Inc. to establish the Copa Cabana Nightclub in the existing building located at 2532-38 25<sup>th</sup> Ave. S. (the former American Legion Hall).

**Prior Actions:** Parking variance from 41 to 36 stalls for the American Legion in 1984.

**Concurrent Review:**

- Conditional use permit for the use: Per Table 551-1.
- CUP for extended hours (to allow a one-hour extension beyond the hours permitted by the liquor license ordinance from 2:00 a.m. to 3:00 a.m. seven days a week): Per section 550.90 (b).
- Parking variance from the required 54 (which includes the previously approved 5-stall variance) to 24 spaces (a 30-stall reduction).
- Site plan review: Food and beverage uses require Site Plan Review per Table 530-1.
- Liquor license application.

**BACKGROUND**

The applicant recently purchased a building in the Seward neighborhood that had served since 1984 as an American Legion post. The American Legion had two bars, a restaurant, a dance area, and meeting spaces. The applicant plans to continue those uses but will market to a different

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

clientele with a Latin nightclub theme. The conversion of some meeting space to restaurant seating will also require a larger parking variance than the five spaces obtained by the American Legion in 1984. Businesses in the near vicinity are industrial uses and offices, an Eagles lodge and the Stardust bowling lanes, both of which are one block away. Additional bars and nightclubs are a few blocks east of the site (refer to Attachment 4). According to the applicant, the business will employ at least ten people.

The table in Attachment 9 describes the parking requirements. Since all of the possible seating must be included, the maximum number of seats is 196 and the parking requirement is 59. The 1984 variance reduces this requirement by 5. Only the 22 full-sized stalls can be counted so the required parking variance equals 32 stalls.

**Neighborhood review:** Staff have not received any comment from the neighborhood group. Attachment 11 includes a letter from a neighbor who is in opposition to the applications.

*FINDINGS*

**A. CONDITIONAL USE PERMIT FOR THE USE**

**Findings as Required by the Minneapolis Zoning Code for the Conditional Use Permit Application for the Copa Cabana Nightclub at 2532-38 25 Ave. S.:**

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. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The applicant's statement follows: "The applicant will be continuing a pre-existing use, but changing the hours of operation and appealing to a different clientele. This is not in a residential neighborhood, and the only other notable businesses that are open late are similar in nature. There is no aspect of the plans that would endanger the public health, safety, comfort or general welfare, and indeed this nightclub will be a benefit to the area by offering new entertainment choices to the Seward neighborhood and to the city's growing Latino population."

As Attachment 4 shows, the surrounding uses include industrial and offices, an Eagles lodge, a bowling alley, and other bars and nightclubs. The closest residences are about 750 feet to the north. The conversion of the site from an American Legion club to a nightclub will be compatible with the adjacent and nearby uses in the area.

At issue is the lack of parking. As proposed, the use will require a minimum of 54 spaces but will only provide 24 "legal" stalls (including two compact stalls), less than half of the minimum required. However, there is considerable on-street parking capacity in the area, especially during the evening hours when the nightclub will generate its peak parking

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

demand. 25<sup>th</sup> Ave. is only one-block long so there is virtually no through-traffic. Access to the site will be via Hiawatha, and 25<sup>th</sup> and 26<sup>th</sup> Streets. The additional traffic from the use will not constitute a significant increase on these well-traveled roads. Since the peak use of the nightclub will occur when most of the other commercial and industrial uses in the area will have closed, the on-street parking demand and the additional traffic generation should not be a substantial problem for the area.

**2. Will not 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 applicant's statement follows: "Almost all of the other businesses in the vicinity will be closed during the nightclub's peak hours, and the businesses that are open are compatible with a nightclub."

As stated above, the reuse of the site as a nightclub will be compatible with the adjacent and nearby uses in the area. The additional traffic and demand for on-street parking will not constitute a substantial problem.

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

Access to the site is via 25<sup>th</sup> Ave. Garbage trucks will access the dumpster enclosure via the alley. All of the uses on the alley are commercial and industrial uses. Route 20 provides regular bus service along 25<sup>th</sup> St and Minnehaha. Route 7 provides regular bus service along 27<sup>th</sup> Ave. Four routes run along Hiawatha, which has a bus stop 0.4 miles to the west. The closest LRT station is at Lake and Hiawatha, about a half mile to the south.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The applicant's response follows: "Even during the day when neighboring businesses are open, the streets around the nightclub are quiet. When those businesses close, there is very little traffic. 25th Avenue itself is not a through street to the north or south, further minimizing traffic. The nightclub does not have the capacity to generate enough traffic to cause congestion on these underutilized streets."

Refer to the response to Finding # 1.

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

Applicable policies of the *Minneapolis Plan* and the City's Eight Goals:

- a. The City's Goals (selected goal):** Strengthen the participation of all citizens, including children, in the economic and civic life of the community.

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

**b. The *Minneapolis Plan* (adopted by the City Council in 2000):**

**Policy 4.1:** Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

**Implementation Steps (selected):**

- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

**Policy 4.2:** Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

**Implementation Steps (selected):**

- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

**Policy 9.23:** Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

**Implementation Steps (selected):**

- Encourage comprehensive and site specific solutions that address issues of compatibility of commercial areas with surrounding uses.
- Facilitate the redevelopment of underutilized commercial areas and promote their reuse as infill development, such as office or housing, while maintaining neighborhood compatibility.

**Policy 9.24:** Minneapolis will support continued growth in designated commercial areas, while allowing for market conditions to significantly influence the viability of a commercial presence in undesignated areas of the city.

**Implementation Steps (selected):**

- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.
- Facilitate the redevelopment of underutilized commercial areas by evaluating possible land use changes against potential impacts on neighborhood compatibility.

**c. Petition's Consistency with City Plans and Policies:** The following describes how the project relates to the above plans and policies:

- Consistent with the City Goal #3, the project would provide a nightclub oriented to the City's growing Hispanic community.
- Consistent with Policies 4.1, 4.2, 9.23 and 9.24, the project reuses an existing building for a use that will have minimal impact on surrounding uses and the residential area to the north.

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

**d. Applicant’s statement follows:** “The nightclub use is consistent with the comprehensive plan’s goals to connect residents to living wage jobs (Section 2.6), emphasize business retention and expansion (Section 2.8), and continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas. (Section 9.23)”

**6. And does in all other respects conform to the applicable regulations of the district in which it is located.**

**B. CONDITIONAL USE PERMIT FOR EXTENDED HOURS**

**Findings as required by the Minneapolis Zoning Code for the Conditional Use Application for the Copa Cabana Nightclub at 2532-38 25 Ave. S.:**

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. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

Refer to the response to findings for a conditional use permit for extension of hours open to the public in the next section.

**2. Will not 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.**

Refer to the response to findings for a conditional use permit for extension of hours open to the public in the next section.

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

The I2 Medium Industrial District restricts hours to 6 am to 10 pm Sunday through Thursday, and 6 am to 11 pm on Fridays and Saturdays. However, the applicant is applying for a liquor license which, if approved, will extend the allowable hours to be open to the public to 2 am seven days a week. The subject application is to extend the allowable hours by one hour each day to 3 am, provided, of course, the City approves the liquor application. A one-hour extension of hours will have no impact on access, parking, or drainage.

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

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The applicant's statement follows: "Even during the day when neighboring businesses are open, the streets around the nightclub are quiet. When those businesses close, there is very little traffic. 25th Avenue itself is not a through street to the north or south, further minimizing traffic. The nightclub does not have the capacity to generate enough traffic to cause congestion on these underutilized streets."

As stated above, the one-hour extension each day to 3 am will have no impact on parking and traffic congestion.

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

Refer to the response to Finding #5 in the above CUP analysis in Section A.

**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.**

Refer to the response to findings for a conditional use permit for extension of hours open to the public in the next section.

**In addition, the following findings must be addressed if applying for a conditional use permit for extension of hours open to the public:**

**1. Proximity to permitted or conditional residential uses.**

There are no residential uses in the area. The closest residential area is 750 feet to the north.

**2. Nature of the business and its impacts of noise, light and traffic.**

The applicant's statement follows: "The applicant requests a conditional use permit allowing a nightclub use and allowing extended hours so that the applicant may remain open until 3:00 a.m. In order to operate successfully, the nightclub must be open at times appropriate to its market. Although the restaurant will be open for lunch, the peak hours will be in the evening, from dinnertime until the early morning. Almost all of the other businesses in the vicinity will be closed during the nightclub's peak hours, and the businesses that are open are compatible with a nightclub. The activities of the nightclub will be entirely internal; there are no concerns such as those raised by filling stations and drive-throughs that seek extended hours (e.g., bright lights, idling cars, speaker noises). The success of the nightclub really depends on being open at night and permitting dancing into the early morning hours. Closing at 10 or 11 p.m. would not permit the business to succeed."

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

The primary off-site impacts of the nightclub could include 1) noisy patrons, 2) headlight glare and noise from vehicular movements, and 3) especially loud vehicle radios when vehicles come and go from the parking lot. The one-hour extension beyond the hours permitted by the liquor license would constitute a very minor increase in these potential impacts. The site, once improved, will include landscaping and screening of the parking lot from the street as required by the Zoning Code. This will help minimize the potential adverse impacts from vehicle headlights and the unsightliness of the current parking lot (which includes no landscaping currently), and mitigate the project's impacts. As stated above, the one-hour extension each day to 3 am will have no impact on parking and traffic congestion.

**3. Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.**

The portion of this report dealing with the site plan review application addresses all remaining applicable zoning regulations. The recommended conditions account for the Specific Development Standards applicable to nightclubs.

**4. History of complaints related to the use.**

This is a new use for the site.

**C. PARKING VARIANCE**

**Findings as Required By the Minneapolis Zoning Code for the Parking Variance for the Copa Cabana Nightclub at 2532-38 25 Ave. S.:**

The Board of Adjustment and Planning Commission shall not vary the regulations of the zoning code, unless it makes each of the following findings based upon the evidence presented to it in each specific case:

**1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The applicant's statement follows: "This property was converted to a bar/restaurant/meeting facility at considerable expense, and it would not be reasonable to expect it to be changed to another use at this time. The American Legion received a variance from 41 spaces to 36, but 41 was a vast understatement of the code requirement for this building. Nonetheless, the American Legion's parking supply was adequate due to the vast amounts of on-street parking available."

**Parking analysis:** This is an existing facility and the applicant is reusing it for a purpose that is similar to its original use with minor changes to its interior layout. The areas reserved for food preparation, storage, and other non-seating areas are very similar for

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

both uses. The exception is that the American Legion used the room that the floor plan shows as the smaller dining/dance floor, only for storage.

- **Seats:** The table in Attachment 9 compares the peak usage and parking demand for the facility when used by the American Legion and as proposed for the Copa Cabana. During a peak event the meeting room with 32 seats would not be in use in either case. The maximum seats in use would equal 212 and 164 respectively for the American Legion and the Copa Cabana.
  - **Parking supply:** The 1963 Zoning Code did not have the landscaping requirements of the 1999 Code and, as such, the American Legion was able to park 28 cars on the site, however, only 22 stalls were full-sized stalls that met the requirements of the 1963 Zoning Code. In order to meet the current landscaping and screening requirements and the handicap parking requirements, only 20 full-sized stalls, 2 handicap stalls, and 2 compact stalls can fit—a reduction of 4 total stalls from the current configuration.
  - **Peak events:** The table compares the parking requirements (per the 1999 Zoning Code) for the peak event seating of the American Legion and the Copa Cabana. The Legion would have satisfied 44% of the peak parking demand on site and the remainder on the surrounding streets (36 stalls). The Copa Cabana will be able to meet 49% of its peak event parking on site (including the two compact stalls) and rely on the surrounding streets for the remaining 51% of parking demand (25 stalls). As such, a peak use event at the Copa Cabana is likely to generate a smaller demand for off-street parking than that generated when the American Legion hosted a peak use event. However, it is very likely that the Copa Cabana will generate peak use events on a regular basis while the American Legion probably had only occasional peak use events.
  - **Parking requirements:** The table shows how the two uses addressed the parking requirements in the Zoning Code. All of the possible seating must be included and only “legal” stalls can be counted, which is 22 and 24 stalls respectively for the Legion and the Copa Cabana. Before taking into account the variances, the Legion provided 30% of the required stalls on site and the Copa Cabana would provide 41%.
  - **Variance:** The Code requires 59 stalls on site, less the previously approved 5-stall variance equals 54 stalls. With 24 “legal” stalls on site, a variance of 30 stalls is needed.
2. **The circumstances are 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.**

As stated above, these are existing conditions.

3. **The granting of the variance will 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.**

As stated above, there are a variety of commercial and industrial uses in the I2 District in the surrounding area and the closest residential uses are 750 feet to the north. The nightclub is compatible with the surrounding uses.

4. **The proposed variance will not 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.**

Refer to the response to the first finding in this section the report.

#### **D. SITE PLAN REVIEW**

##### **Findings as Required by the Minneapolis Zoning Code for the Site Plan Review Application for the Copa Cabana Nightclub at 2532-38 25 Ave. S.:**

#### **1. Required Findings for Major Site Plan Review**

- a. **The site plan conforms to all applicable standards of Chapter 530, Site Plan Review (refer 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 (refer to the above discussions).**
- c. **The site plan is consistent with applicable development plans or development objectives adopted by the City Council (refer to the above discussions).**

#### **Section A: Conformance with Chapter 530 of Zoning Code Building Placement and Facade:**

- **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.**

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

- **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).**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

**Planning Division Evaluation of Building Placement and Façade Requirements:**

- This is an existing building that is built up to the street with the parking to the side of the building consistent with the Code.
- The applicant will add landscaping in the area between the building and the street and in all other areas not occupied by the building and pavement.
- The primary entrance faces the street.
- Only the front of the building includes windows and a brick facade.

**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.**

**Planning Division Evaluation of Access and Circulation:**

- The applicant will comply with the lighting requirements in the Code.
- Sidewalks and walkways connect the project in conformance with the walkway, sidewalk, and access requirements of the Code.
- Transit access is good in the area (refer to the response to Finding #3 in Section A of this report).
- The site is located within the jurisdiction of the Middle Mississippi Watershed Management Organization. Public Works will review the project as regards conformance with the City's Stormwater Management Ordinance.

### **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.**
  - **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.**
- **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.**

### **Planning Division Evaluation of Landscaping and Screening:**

- **As stated above, the applicant will add landscaping in the area between the building and the street and in all other areas not occupied by the building and pavement. The parking areas will include landscaping and screening along 25<sup>th</sup> Ave. Landscaping will equal 20% of the net site.**
- **The site will include more than the minimum requirement of trees and bushes.**

### **Additional Standards:**

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

- **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: The Police Department has reviewed the plans.**
- **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.**

**Planning Division Evaluation of the Additional Standards:**

- The applicant is committed to installing lighting fixtures that will prevent glare from escaping the site and a lighting plan. The bulbs will be primarily metal halide in order to maximize true color rendition and enhance site safety.
- This is an existing one-story building which will have no effect on important views of the City.

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

**ZONING CODE:**

**Hours of Operation:** Hours businesses can be open to the public in the I2 District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. through 11:00 p.m. Friday and Saturday. Refer to Section B of this report that addresses extension of hours.

**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.

The applicant shall comply with a fully enclosed dumpster.

**Signage:** All new signage is required to meet the requirements of the Zoning Code and permits are required from the Zoning Office.

The applicant intends to put new faces on the existing three signs on the building. All three signs conform to the Code per table 543-4.

**MINNEAPOLIS PLAN:**

Refer to the response to Finding 5 in Section A of this report.

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

There are no development plans or objectives approved by the City Council for this specific area beyond the Comprehensive Plan.

**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.**

**Planning Division Analysis Regarding Alternative Compliance:**

The site is in compliance with the Code.

**RECOMMENDATIONS OF THE MINNEAPOLIS PLANNING DIVISION**

- A. Conditional Use Permit:** The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. with the following conditions:
1. The applicant shall comply with the liquor license laws.
  2. The applicant shall inspect all adjacent streets, sidewalks, and alleys within 100 feet regularly to remove litter.
- B. Conditional Use Permit for Extended Hours:** The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for extended hours for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. with the following conditions:

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

1. The City grants the applicant's liquor license application.
2. The applicant shall comply with the liquor license laws.
3. The applicant shall inspect all adjacent streets, sidewalks, and alleys within 100 feet regularly to remove litter.

**C. Parking Variance:** The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the parking variance for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. to reduce the parking requirement from 54 to 24 stalls.

**D. Site Plan Review:** The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. with the following conditions:

1. Approval by the Planning Division of the final construction drawings, floor plans, the elevations, the lighting plan, and the landscape plan.
2. If the roof drains are connected to the sanitary sewer, the applicant shall disconnect them.
3. The site improvements shall be completed by November 30, 2005 or the application may be revoked for noncompliance, unless extended by the Zoning Administrator or the City Council.

**Attachments:**

- 1) Zoning in the area
- 2) Zoning and lot lines in the vicinity of the site
- 3) Aerial photo
- 4) Uses in the area
- 5) Site plan
- 6) Floor plan
- 7) Information from the applicant
- 8) Photos of the site and surrounding area
- 9) Parking analysis
- 10) Zoning data sheet
- 11) Letters from the neighborhood group and others

**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  
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(612) 673-2157 TDD

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**MEMORANDUM**

DATE: November 23, 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 November 22, 2004

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The following actions were taken by the Planning Commission on November 22, 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, and LaShomb – 6

**INTRODUCTION TO PUBLIC HEARING**

**PUBLIC HEARING**

**REPORT**

**of the**

**CITY PLANNING COMMISSION**

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

**of the City of Minneapolis**

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The attached report summarizes the actions taken at the City Planning Commission meeting held on November 22, 2004. The findings and recommendations are respectfully submitted for the consideration of your Committee.

**18. Copa Cabana Nightclub (BZZ-2048, Ward 2), 2532-38 25th Ave. S. ([Michael Orange](#)).**

**A. Conditional Use Permit:** Application by Copa Cabana Nightclub, Inc. for a conditional use permit for the use of the existing building located at 2532-38 25th Ave. S. (the former VFW Hall) to establish the Copa Cabana Nightclub.

**Action:** The City Planning Commission adopted the findings and **approved** the conditional use permit application for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. with the following conditions:

1. The applicant shall comply with the liquor license laws.
2. The applicant shall inspect all adjacent streets, sidewalks, and alleys within 100 feet regularly to remove litter.

**B. Conditional Use Permit:** Application by Copa Cabana Nightclub, Inc. for a conditional use permit for extended hours (to allow a one-hour extension beyond the hours permitted by the liquor license ordinance from 2:00 a.m. to 3:00 a.m.) for property located at 2532-38 25th Ave. S. (the former American Legion Hall).

**Action:** Notwithstanding staff recommendation, the City Planning Commission **denied** the conditional use permit application for extended hours for the Copa Cabana Nightclub located at 2532-38 25 Ave. South based on the following findings:

1. Extended hours will be detrimental to or endanger public health, safety, comfort or general welfare.

Although liquor laws will halt the serving of alcoholic beverages at 2 am, it is likely that drinking will continue to closing at 3 am if the hours are extended. Since local transit service will be unavailable or unattractive during these late-night hours, virtually all customers will use private vehicles. Since there is insufficient on-site parking, patrons are likely to socialize after leaving the nightclub on the surrounding streets or in private lots in the area where they will have parked. This will likely have an adverse impact on the area due to the potential for vandalism, littering, noise, traffic, and blaring radios.

To the north of the subject site are two bars, the Eagles Club, and a bowling alley all of which serve alcohol, have late hours, and have a potential similar to a nightclub to generate demand for on-street parking and its associated adverse impacts. Although the residential area 750 north of the site may be too far away to be impacted by the patrons of the Copa Cabana, there is the possibility that the Copa Cabana would consume a

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

significant portion of the local on-street parking capacity and thus, create a domino effect that forces many of the patrons of the other entertainment uses to seek their on-street parking further north into the residential area.

2. Adequate utilities.

Adequate utilities are in place.

3. Adequate measures have been or will be provided to minimize traffic congestion in streets.

Refer to the response for Finding #1.

4. Is consistent with applicable policies of the Comprehensive Plan.

**Policy 9.33:** Minneapolis will support the existing economic base by providing adequate land and infrastructure to make city sites attractive to businesses willing to invest in high job density, low impact, light industrial activity.

**Implementation Steps (selected):**

- Promote light industrial uses as the preferred use of industrial land, but discourage warehouse or distribution uses in areas where truck traffic will negatively impact residential neighborhoods.
- Continue to protect a healthy physical environment that is attractive for private investment and compatible with neighborhoods.

**Consistency with the *Minneapolis Plan*:** Although the Zoning Code allows nightclubs in industrial areas, the *Minneapolis Plan* encourages light industrial uses in industrial areas. This is in response to the fact that the City has a surplus of land zoned for commercial uses and a shrinking amount of land appropriate for industrial uses. Policy 9.33 refers to off-site impacts (i.e. truck traffic). In the case of the Copa Cabana business which must rely on street parking in the area, the potential off-site impacts of the use (late night traffic, illegal parking in private lots, vandalism, noise, litter, etc.) may adversely impact the other uses in the area. This is inconsistent with the *Minneapolis Plan*.

5. And does in all other respects conform to the applicable regulations other district in which it is located upon approval of this Conditional Use Permit.

**In addition, the following findings must be addressed if applying for a conditional use permit for extension of hours open to the public:**

1. Proximity to permitted or conditional residential uses.

There are no residential uses in the area. The closest residential area is 750 feet to the north.

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

2. Nature of the business and its impacts of noise, light and traffic.

Refer to the response to the Finding #1 above.

3. Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.

The project will comply with all applicable zoning regulations provided it complies with the conditions of approval.

4. History of complaints related to the use.

This is a new use for the site.

**C. Variance:** Application by Copa Cabana Nightclub, Inc. for a variance to reduce the number of parking spaces from the required 70 to 24 spaces on property located at 2532-38 25th Ave. S. (the former VFW Hall).

**Action:** Notwithstanding staff recommendation, the City Planning Commission **denied** the parking variance for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. to reduce the parking requirement from 70 to 24 stalls based on the following findings:

1. The property cannot be put to a reasonable use under conditions allowed by official controls and strict adherence to regulations of the zoning ordinance could cause undue hardship.

The building and its parking could be uses for the full range of uses allowed by the Zoning Code without reliance on a very large parking variance. The former use, an American Legion club, relied on leased spaces across the alley to the west to help satisfy its parking demand. Strict adherence to the regulation would not cause undue hardship.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by the person presently having an interest in the property.

The conditions are existing, but are not unique.

3. The granting of the variance will 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.

There are a variety of commercial and industrial uses in the I2 District in the surrounding area and the closest residential uses are 750 feet to the north. As stated above, there is a gross inadequacy of on-site parking for this use. As such, patrons are likely to socialize after leaving the nightclub on the surrounding streets or in private lots in the area where they will have parked. This will likely have an adverse impact on the area due to the potential for vandalism, littering, noise, traffic, and blaring radios. Also, with two

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

additional bars in the neighborhood, reliance on the street for parking will add to the negative impact on other property.

4. The proposed variance will not 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.

Refer to the response to the first finding in this section the report.

**D. Site Plan Review:** Application by Copa Cabana Nightclub, Inc. for a site plan review of property located at 2532-38 25th Ave. S. (the former VFW Hall).

**Action:** The City Planning Commission adopted the findings and **approved** the site plan review application for the Copa Cabana Nightclub located at 2532-38 25 Ave. S. with the following conditions:

1. Approval by the Planning Division of the final construction drawings, floor plans, the elevations, the lighting plan, and the landscape plan.
2. If the roof drains are connected to the sanitary sewer, the applicant shall disconnect them.
3. The site improvements shall be completed by November 30, 2005 or the application may be revoked for noncompliance, unless extended by the Zoning Administrator or the City Council.
4. Bollards or barriers shall be erected across the back of the lot at the alley subject to staff approval.

Staff Michael Orange presented the staff report.

Commissioner LaShomb: Michael, do you know what the hours are for the Eagles Club and the bowling alley which is over on the next block?

Staff Orange: Commissioner, I didn't check. I would just presume that unless they went through extended hours application, they would be from 6 until 10 Monday through Thursday, 6 to 11 Friday and Saturday and the same for industrial district.

Commissioner LaShomb: So 3 a.m. would not be consistent with probably what they're doing. You don't know. OK. Remind me now, but I assume they'll have a liquor license, so are we saying that if we extend the hours to 3 a.m. that they could serve liquor up to 3 a.m.?

Staff Orange: Commissioner, that's not true. They would have to stop at 2.

Commissioner LaShomb: That's what I thought. I always get confused about this. They have an hour to sober up.

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

Commission President Martin: Thanks Michael. I'll open the public hearing.

Charles Hoffman (Resident of Seward, Chair of the Seward Neighborhood Groups Development Committee (did not state address): As a consequence, I think I have a pretty good sense of what the neighborhood thinks about this and although I think I do speak for the neighborhood, I need to make a point that was made by a letter presented to you today by Cathy Sikora and that is somehow, even though the Seward Neighborhood Group's procedure for dealing with matters of this sort has been in place for at least a decade and known to staff this hearing was scheduled before the board meeting of the Seward Neighborhood group was able to take place. So what you have before you is a very definitive act of one of our subcommittees, but no action by the board of directors. I can tell you based on my experience that the board will strongly support the development committee's recommendation in this case. I have a couple thoughts. One, I want to talk to you a little about history. We're talking about a place basically a block, a half a block away from 26<sup>th</sup> and 26<sup>th</sup>. Many of you may remember that at least in Seward, but I think throughout the city that was known as the 'hub of hell'. We worked for a decade, we worked hard to civilize that neighborhood. We have an extremely bad history with bars in our neighborhood and we're not happy about it. We have the Starlight [sic] Lanes. There have been shootings, there has been a murder associated with that location. Again, we are not real excited about more bars being added to the neighborhood. I anticipate that the patrons of the one bar and the other, if I understand correctly, are of different population groups. The possibilities of altercations strikes me as being at least something that should be considered but that was not considered by the staff report. So bottom line there, the history in the Seward neighborhood group associated with this general area of our neighborhood is one that makes us extremely unhappy with the notion of adding another bar. There are already two bars that I can think of off the top of my head within spitting distance of this location. I don't think we need another one. Then I'd like to talk to you a little bit about the parking issue. Regardless of what staff has told you, the neighbors who live in the residential area north of this space, in other words, one and a half blocks north of this space, have reported repeated incidents, patrons of the VFW and the Eagles club traipsing through their neighborhood after hours, littering, there are reports of public urination, defecation all of the rest of that...in our neighborhood. I suggest that staff has simply ignored or simply doesn't consider that to be terribly important. Something that seems to me related, one of the last comments of the staff person was an additional hour doesn't seem to make much difference. Excuse me, that is between 2 and 3 o'clock in the morning, the residents are trying to sleep. We also have a business in that neighborhood for whom relative peace and quiet is very important and I know that the director of the Helping Dogs business is here and will speak to that issue, so I will not address that. Finally, parking specifically. The simple fact is that when these two clubs were operating on numerous occasions, parking took place in the residential area. The streets were crowded. There was noise. So the staff suggests that this operation needs what appears to me a relatively limited number of spaces. One of the things that occurs to me and it ties into another issue that I'd like to talk about is that when this issue was presented to the Seward Neighborhood Group, we were told that the required variance for parking was about 120 spaces. Now it appears from the staff report that is not the case. Interestingly, the applicant who was at the neighborhood meeting did not disabuse us of that notion. They did not say, oh, that's wrong, we don't really need that many spaces. But that suggests to me is that the applicant's understanding of the process, of the operation of its business is very limited. We asked the potential operator what his prior experience in operating

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

restaurants and bars was. As near as I can tell, and it was extremely difficult to tell, he has not had experience with operating a liquor establishment. He may have had operating experience in running a restaurant. Now that may or may not be true. I'm not professing that it is. What I am suggesting is that the information presented to the neighborhood was extremely limited and it's unclear to me whether or not this commission has been given evidence that this potential operator has the wherewithal in terms of experience, financing, business plan, to in fact carry off what is going to be a very sensitive activity in what is, yes it is, an industrial area, but is smack up against a very intense, very definite residential area. This is a neighborhood that cares about these things and we ask you to consider our thoughts and interest in this matter.

President Martin: Mr. Hoffman, just so know, we don't really have any purview to look into the business plan of a business.

Charles Hoffman: I understand, but you are being asked to approve variances on the city codes and it seems to me that people who cannot establish that they know what they're doing, you do have purview over that.

Bob Hain (2801 9<sup>th</sup> Street South): I've attended a number of neighborhood meetings for many years and have been a Seward Neighborhood Group board member for the last couple of years. Charlie did a pretty good job of pointing out a lot of the issues that were raised at our community meeting, but I want you to consider that there were like 70 people that came to this meeting. That's quite a number of people to turn out for an issue. Most of the time, our groups are much smaller than this and this was resoundingly defeated. Now I understand that for some reason I don't understand quite how the timing works on these issues, but I do understand that what happened is that we're out of sync with the Committee here in this instance and so it's coming to you in a period of time that was really too quick for the neighborhood to respond by its formal channels. My presumption is that people that made this recommendation would have had no input from the community here yet and that they might have considered this differently and I hope that you would at least think that way. There's a number of other people that have come down here from Seward, would you stand up please?

President Martin: And you all basically want to tell us the same thing? OK.

Bob Hain: We can proceed on that, but there are a great number of issues and they affect each of us in many different ways, but it has been a problem for our neighborhood. We spent a great deal of our NRP one funds to reduce the number of establishments in that area, there were just too many. The area was infamous for shootings in the street and so on and so forth and we just don't want you to turn back the clock 10, 15 years on us. Please take the neighborhood into consideration. I'll let others speak to their specific issues. Thank you.

President Martin: OK, since there are so many of you here, and you basically want to tell us the same thing, I'm going to ask if there is anybody who has anything to say that we haven't heard about parking and the negative impact on the community of turning back the clock. New information, please.

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

Mark Evans (Bliss Evans Company, 2533 24<sup>th</sup> Avenue South, not on sign-in sheet): We were asked by Copa Cabana to lease them our parking lot and we declined them. Our property has extremely easy access, there are no barriers other than a band of cement called the alley. My assumption that granting this would create quite a hardship to my business. The variance requested just makes me want to believe that my parking lot will be regularly used and that I will have to spend a good deal of my time policing my property, calling tow trucks, and just having a bad relationship with this neighbor that I really would not want to have. I heard, is it Mr. Orange, I'm sorry...? ...Made the statement that because there's going to be a dance floor, there will be people going to the place for dancing and the assumption was made, I think falsely, that will minimize the parking requirements. People that go to dance still need a place to park.

President Martin: Mr. Evans, Mr. Orange wasn't saying it minimized the requirement, it changes it.

Mark Evans: OK, I'm sorry. The American Legion did rent our parking lot. It was stated that their peak events were infrequent and in my mind they were quite frequent. Two or three times a week, my parking lot was just absolutely full from clients of the American Legion. The American Legion may not have created street parking problems because they were utilizing 40 or 50 spots on my lot that would otherwise have had to have been on the street. What we experienced commonly was urination on our building, used condoms in the parking lot, a good deal of trash, the American Legion management were very good neighbors. When we'd ask them to clean it up, they did so, but many times it wasn't promptly done. My assumption is that the nature of the clientele of a night club would be a bit more aggressive than the clientele of an American Legion who are mostly retired people. It's been said that there's no businesses similar in nature, wording like that in the report or that there are (I can't think of what I was trying to say there)... I rent a third of my building to clients who use the building after hours until maybe 10:30 at night. They're quite frankly afraid to operate and it would adversely affect their business. They have clientele using the parking lot. Several years ago, Norma Jean's was in the neighborhood and open and I had way too much vandalism on my property. Norma Jean's was about three blocks away. I don't want to have a nightclub being adjacent to my property and have the potential for those kinds of problems and I think the potential would be far greater seeing that there's only that strip of concrete between my property and theirs. I think that addresses my concerns. Thank you.

President Martin: OK, others who wish to speak, telling us things we haven't already heard.

John Skinner (2013 24<sup>th</sup> Avenue South): Two concerns that I have that haven't really been addressed are the idea that people would use public transportation to go to a night club. First of all, our city doesn't run public transportation late enough for anybody to really use it going to a nightclub. So any of those people who will be around until 1, 2, or 3 o'clock will be in private vehicles. Second of all, the extension from 2 to 3 a.m. means a lot in that people order doubles and triples right before 2 and they drink right until 3 and then once they leave your business, there's really no way for you as a business owner to get them moving off the street quickly. And I know personally from my personal experience, people go out to their cars, get into their cars, if it is winter they warm it up and they're out there until 3:30 or 3:45. Now I live at 24<sup>th</sup> and Franklin and I hear people leaving the Stardust and peeling down 26<sup>th</sup> and 27<sup>th</sup> Avenues towards

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

Franklin and this is even closer. Then finally, when the owner and his attorney presented the business plan at the development meeting, questions were raised around security and how many security personnel they would have and they said they would have 4 full-time people which I take to mean four, 40-hour a week people. All indoors, none in the area surrounding this. In Mr. Orange's report, he talks about the streets around the nightclub are quiet. There's a reason for that. He goes on to say the nightclub does not have the capacity to generate enough traffic to cause congestion on these under-utilized streets, but I disagree with that. And it's not going to be quiet traffic, it's not going to be people immediately leaving the nightclub, getting into their cars and within 3 minutes leaving, that's just not what people do when they've been socializing. They continue to socialize and say goodnight, and that would go on until 3:30 or 4, and since most of the off-street parking would be north at 25<sup>th</sup>, I feel that is within a half block within a lot of residences, and that's really a problem. I also have a letter from Catherine Rosebear who's not able to be here. May I read it?

President Martin: Yes, we've got it.

John Skinner: OK, that was all.

Al Peters (Executive Director and founder of Hearing and Service Dogs of Minnesota, 2537 25<sup>th</sup> Avenue): We're directly across the street from the subject property. We've been there for 5 years and we've been operating as a non-profit agency in Minneapolis for the last 15 to 18 years depending on how you count. We are very concerned and very opposed to the proposed use of the subject property. Our organization trains dogs to help people who are deaf to know when sounds happen in their homes and then alerts the people to the sounds. We also train dogs to help people use wheelchairs to be able to be more mobile and live more independently and we give those dogs away free of charge. We're supported entirely by donations from individuals and groups like the Lions clubs, so we're able to give these dogs away free. We keep 10 to 12, and sometimes even more dogs in our kennel at our facility overnight, day in and day out. We have staff that come and go to take care of those animals, primarily female staff and I'm very concerned for the welfare of my staff that have to come in after 9 o'clock at night even now with just the traffic that we have in the neighborhood. This would obviously increase and complicate the traffic. Our business, because we're a non-profit agency, uses volunteers – lots of them. And we have frequent meetings, more so now than when we first moved in 5 years ago that require volunteers and others to be at our facility in the evening. So between 7 and 10, it's not uncommon for us to have 2 to 3 meetings a week where we have people who need on-street parking because there is no other parking to speak of. We have just enough for our staff behind our building. During the 5 years that we have been there, we've worked with the American Legion when they were occupying that building and for the most part, you could walk into the American Legion any afternoon and find a bartender and a manager and 3 or 4 people at the bar and that was it. It was like a social club, it was a private club. The only times in my experience that it really overflowed into the neighborhood was the regular holding of Bingo. And while people surely drink during Bingo, it was very, very tame by comparison to a nightclub. When we attended the Seward meeting, we were told that up to 500 people could be occupying this space when it's used as a club and that the establishment expected to have 16 employees. If you have 16 employees and 36 spaces, half your spaces are gone before your customers get there. My experience is that every time the legion hall would have their little Bingo game, we couldn't

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

find a parking space anywhere for blocks around. Our clients come to us with disabilities. Many of them cannot walk, they use wheelchairs. Because of the legion's use of the street for excess parking, we had a request and have installed a transfer spot, so Metro Mobility would have a place to pull up to the curb to transfer people. If something like this would be approved, we would have to be looking to the city for actual handicapped designated parking spots on the street because our people could never get to us. We'd be forced to leave the neighborhood if our clients can't reach us through regular traffic, regular parking. When the American Legion post was occupying that space, we had repeated problems with customers of the American Legion post cutting through between our building and Twin City Filter's building. I don't know if you know where we're located, the staff didn't point us out, but we're part of what's designated as the Twin City Filter complex and there's a space between their building and our building and constantly people would be going through, in fact they cut barriers that Twin City Filter put up, they put a chain-link barriers to try to stop them, they cut through to defecate, urinate, constant traffic between the two bars and we can only expect that we'd have the same sort of traffic if not worse. I want to emphasize before I close that this is not at all a similar use to what the American Legion used this property for. It was very lightly used except when they had a special event. This would be a day in, day out use, this is starting at lunch, during our business hours and going into the wee hours. Our dogs are not going to be able to sleep through extra noise. We frankly have enough from the bowling alley already. When the bowling alley empties out, which I think is about 1 o'clock, but I'm not sure, sometimes our alarm goes off just from the squealing and the motor noises that permeate the area, so adding this to the front of our building, we're going to be there all the time. I get called by the Police when our alarm goes off and we have to come there. Our dogs bark, they wake up and they don't get proper rest and so we have to wash some of the dogs that would otherwise be placed in the service. So I would ask you to not consider any of the requests for variance, please.

President Martin: OK, I think we have a sense of the fact that the neighborhood is not in favor of this, so is there anyone else who wants to speak?

Manuel Romero (applicant): I'm here tonight because I want to open a restaurant and nightclub located at 2532 25<sup>th</sup> Avenue South, Minneapolis. I would like to tell you a little bit about myself, my business experience, my community and why we need this restaurant and nightclub. I'm originally from Ecuador and I have made Minnesota my home for the past 14 years since I moved to Minnesota from New York City. I have become a property owner, a successful businessman and a community organizer also. I own several properties here in Minneapolis, residential and apartment buildings and I also own the commercial property which I'm trying to open as Copa Cabana. I have a lot of experience, including experience owning and managing restaurants since 1988 in New York City. I own and run a successful property management and remodeling company right now and I worked for over 5 years in Barrios in New York City, I started doing cooking and I was handling a restaurant [tape unclear]. And also, I own a restaurant here in Minneapolis, [tape unclear] Sunflowers in 2001 so I have experience managing restaurants. I have also worked hard for over many years to organize a growing Latino community in positive ways, for example I created the Ecuadorian Soccer league which now has 30 men's teams and 12 women's teams. My dream is that I can create another positive recreational option for my community by opening the Copa Cabana.

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

President Martin: OK, now I'm going to ask you to talk about this property and the issues of the conditional use permits, the variance and the site plan. You don't have to demonstrate that you can run a business, that is not our concern. Our concern is what is on here. So if you could talk about this property particularly, that would be helpful.

Manuel Romero: I'll let you talk to my lawyer. I'm very nervous here, sorry.

President Martin: What we need to hear about is the stuff that's actually before us. People brought up issues, running the business is not what we deal with so we need to hear you talk about the conditional use permit for the use, the extended hours and the parking and the site plan.

Manuel Romero: I'll let you talk to my lawyer.

President Martin: Mr. Kennedy?

Daniel Kennedy (4103 East Lake Street): I'm working with Mr. Romero to put together this project. The four things that we are asking for is approval for two conditional use permits, a variance and a site plan. The conditions that have been put forward in this staff recommendation are acceptable to my client. Regarding the variance, that's a very good description that Mr. Orange has put together describing the problem. This site has lost several parking spaces due to zoning code changes so there will be more screening, there will be better access because some of the access to the spots was not under today's code considered legal. So this does require a technical reduction in the spots. A few issues to address – it's clear, and I don't want to restate the obvious, but it's clear that there are people in Seward who are opposed to this project. It's clear that this project is a little bit burdened by the history of an establishment called Norma Jean's and some problems that have occurred at other areas at an intersection just a couple of blocks away. This establishment will be quite different than Norma Jean's and indeed different from other establishments in the area. And I don't mean in the same way that some other people were saying – you'll get a different clientele who may not mix with the clientele of the other places. Now indeed, it is not designed to be a regular bar where people just go and drink. It is designed to be a place where people come to dance. When I'm talking about dance, I don't mean what a lot of people think of when they think rock or disco, this is Latin dancing which is much more of a structured dance, more akin to ballroom dancing, salsa, meringue which is just a different dynamic. The people that would go to these places, yes you'll have a lot of Latins [sic], but you'll also have a lot of people who are just interested in Latin music. My associate goes to these places regularly and enjoys them. She's not of Latin origin, but it's an enjoyable atmosphere. It's not the type of place that you would picture and say that's a bar that is going to create a lot of problems. This particular place is compatible with the place where it is located. This is an industrial zone. An industrial zone you expect that there would be some noise. That's part of being an industrial zone and the City has recognized that this type of a use is compatible with that and so has allowed this use to be there. If you are going to be in that zone, then you might want to avoid having use where you cannot be disturbed and although I'm sure all the establishments try to limit the noise that they produce, people are going to come out of these places and they are going to talk. So if you're going to have someplace that requires no disruptions, that requires some forethought to say, 'let's look at where we want to be'. Because this is an area where this use is appropriate. When we first went to the Seward Neighborhood

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

discussions, I had gone ahead of time and talked with some of the Seward staff people and through a miscalculation of the parking requirement, we thought that the variance would be much larger than it actually is and I'm sure that's one of the reasons that a lot of people came out when you're looking for a variance of 120 spaces, that's a lot different to people than looking for a variance of more like 30 spaces. Out of the... I think the estimate was 70 people there, only about half of them voted. But it was a lopsided vote. People were opposed to it.

President Martin: We're not going to debate it.

Daniel Kennedy: I think the staff report, no, the letter from Bernie Weibel says 30 opposed and 3 in favor. My client has put together a business plan with the assistance of the Metropolitan Economic Development Agency. We have listened to the concerns of people in Seward. Security is one area that people expressed a concern about and so my client, Mr. Romero, has decided to add an off-duty police officer to the security contingent. I don't recall ever stating that the security would only be inside the building. I think that other similar establishments have people that go outside and check the perimeter. One of the conditions is going around and picking up trash and we had offered to do that with the Bless Evans lot as well and it's unfortunate that they've decided not to rent, but this use as I've said is one that is envisioned in the code for an area like this. It's not adjacent to residences, it's adjacent to other places luckily. There are on-street parking spaces available and we therefore ask that you approve the staff recommendation.

President Martin: Mr. Kennedy, let me ask you a question. If in discussion of the site plan the Commission were to require your client to install a fence or bollards or something against the alley so that people could not drive across into the adjacent parking lot, would that be an amenable condition?

Daniel Kennedy: I'm wondering about the traffic flow.

President Martin: People aren't supposed to be driving in the alley?

Daniel Kennedy: No, it's not a bad idea, I'm just wondering if that creates a bottle-neck where people go down there trying to turn around.

President Martin: But it also means that people can't drive into property that's not available to them.

Daniel Kennedy: I'm sure my client, he's been pretty willing to do what Mr. Orange asked. So we'd consider that.

President Martin: OK, anyone else? Mr. Schuchman.

Noah Schuchman (Council Member Schiff's office, ward 9 aide): I'm here to speak on behalf of Commissioner Schiff. Needless to say, Commissioner Schiff is in accordance with the abundance of the neighborhood here in strong opposition to this project. Mr. Kennedy and the applicant discussed quite frequently as elucidated in the staff report that this is compatible with

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

uses surrounding the neighborhood. I think the argument that the neighborhood makes is that the uses around it are not compatible with the neighborhood. [The] Stardust as was mentioned a number of times by the neighbors has been a source of constant problems. In the last 5 years, there have been 708 police calls for service from Stardust. So while this use may be compatible with the Stardust and other uses, I would argue that those uses are not compatible with the neighborhood. Mr. Kennedy also mentions that the neighborhood has industrial zoning and this is what allowed in that zoning. I think the argument would be made again by the neighborhood, and I would argue that the neighborhood has worked extremely hard to get these uses out of that area and make this into a less dangerous, less noisy, less used area for uses like this. Finally, if Mr. Kennedy is arguing that the club would be for dancing less than it would be for drinking, I would certainly encourage them to not seek a liquor license, to not seek the 2 a.m. or 3 a.m. closings as clearly those are only necessary if you have a liquor license. Finally, when it comes to parking, the circumstances are not injurious to the property owner if he's not able to get this, there's no need to have a nightclub with this much parking needed in this area. This is something that is being proposed by him, he bought the building, that's something that is not being forced upon him. So again, I'm here to support the neighborhood on behalf of Commissioner Schiff and ask that this be denied. Thank you very much.

President Martin: OK, I'm going to close the public hearing. Commissioners, we've got two CUP's, a variance and site plan. So I think we should just deal with each of them individually.

Commissioner Hohmann: I would suggest that, I agree with the neighborhood that the neighborhood has worked hard over the years to restrict this kind of activity in the neighborhood. There's a couple similar establishments within a couple of blocks here and I think that if I look through the standards we've got for conditional use permit, I think we go through the Comprehensive Plan and identify a number of things that support neighborhoods that would in fact say that this establishment would be detrimental to the neighborhood, public health, and on and on like that. So I will oppose the conditional use permit and I guess I'd make a motion against the staff recommendation for the conditional use permit.

President Martin: OK, so your motion is to deny the CUP for the use.

Commissioner Kummer seconded.

Commissioner LaShomb: Well I think I can see a lot of reasons not to support this. I think the problem is that if you can't build something like this here, you can't build it anywhere. I mean, fundamentally it's an area that I understand that there's a sensitive business across the street, but you've got an Eagles club, you've got Stardust, I've never been to Stardust so I don't know what the problems are there. I guess my kind of sense is that you've got two uses that are very comparable, you've got an area that's pretty dead, if you will, in the evening. It's an industrial area and so I guess my sense is that it is an appropriate staff recommendation so I guess I'm going to support the first conditional use permit because I think if you can't build it here I don't know where you can build it. I know I've got kind of a strange sense about the discussion about the American Legion post on this site, I've got some people who thought it was an incredible nuisance and other people who seem to think it wasn't a bad nuisance at all. I guess my sense is that these are tough businesses to regulate, they're tough businesses because you can't always

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

control your client. And in some respects, this may have a more limited kind of clientele than an American Legion post or an Eagles club or for all sense a bowling lane, and may be easier to manage and control.

President Martin: Anyone else? OK, the motion...[tape end]

President Martin: ... And if that passes, then Commissioner Hohmann and Commissioner Kummer and others will come up with findings, because we'll need those. All those in favor of that motion, please signify by saying aye.

The motion failed 2-3 (G. Johnson, Krause, LaShomb opposed).

President Martin: OK, alternative motion.

Commissioner LaShomb: Well, I'm going to move approval of the conditional use permit, A (G. Johnson seconded).

The motion carried 3-2 (Hohmann, Kummer opposed).

Commissioner Krause: Madame Chair, I do think that this is an appropriate use in this area if properly regulated and subject to conditions and I think where the impacts are going to come are in some of the variances. So I do not intend to support the conditional use permit for extended hours or the parking variance. So I'm saying that I do think this is an appropriate use if properly managed. I think the business owner needs a chance to prove that he can operate a good business and not have to suffer with the history of the past but I'm going to move to deny the conditional use permit for extended hours and...

President Martin: Hang on, we'll do one at a time.

Commissioner Krause: OK, the conditional use permit, I'll move to deny (G. Johnson seconded).

Commissioner LaShomb: Well I agree. I think that I don't see a reason why it needs to be open until 3 o'clock in the morning. Maybe I'm just getting old and get to bed early, but I think that most businesses like this close no later than 2 o'clock. So I'm going to support not approving this item.

President Martin: Alright, so the motion is to deny the CUP for extended hours. All those in favor of that motion, please signify by saying aye.

The motion carried 5 – 0.

President Martin: You need findings, or you kind of got it? Got it. OK.

Commissioner Krause: Madame Chair, I'm not comfortable with this variance on the parking either. I think that this in fact could be one of the greatest impacts on the neighborhood. So I think the applicant is going to have to figure out another way to do this. He's either going to have to find other spaces to control the parking that he needs for his establishment, and if he

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

can't do that then perhaps the establishment doesn't fit. So I'm going to move to deny the variance on parking (G. Johnson seconded).

The motion carried 5 – 0.

President Martin: Do you need findings or you got them? OK.

Commissioner Krause: I'll move approval of the site plan with the additional condition of... Do we want to include the condition of the fence along the back alley? Yes. A barrier be erected at the cost of the applicant across the back of the lot to prohibit any pedestrian traffic across the alley to adjoining property.

President Martin: OK, and we can specify it could be either a bollard system or a fence or just something...

Commissioner Krause: Subject to staff approval.

Commissioner LaShomb: Second.

The motion carried 5 – 0.