



# CPED STAFF REPORT

Prepared for the City Planning Commission

CPC Agenda Item #7  
March 16, 2015  
BZZ-7022

## LAND USE APPLICATION SUMMARY

**Property Location:** 4353 Upton Avenue South and 2720 44<sup>th</sup> Street West  
**Project Name:** South Upton Building  
**Prepared By:** [Janelle Widmeier](#), Senior City Planner, (612) 673-3156  
**Applicant:** South Upton Properties Partnership  
**Project Contact:** Brian Gadiant, Momentum Design Group  
**Request:** To allow a new mixed use building.  
**Required Applications:**

<b>Conditional Use Permit</b>	To increase the maximum height from 2.5 to 3 stories and from 35 feet to 39 feet, 8 inches for the building including a 3 foot tall parapet, rising an additional 13 feet, 8 inches for mechanicals and elevator and staircase overruns.
<b>Variance</b>	To reduce the minimum interior side yard requirement adjacent to the east lot line to allow the parking area, retaining walls not retaining natural grade, and a walkway/ramp.
<b>Variance</b>	To reduce the minimum parking requirement from 8 spaces to 6 spaces.
<b>Site Plan Review</b>	To allow a new mixed use building.

## SITE DATA

<b>Existing Zoning</b>	CI Neighborhood Commercial District LH Linden Hills Overlay District SH Shoreland Overlay District
<b>Lot Area</b>	10,282 square feet / 0.24 acres
<b>Ward(s)</b>	13
<b>Neighborhood(s)</b>	Linden Hills Neighborhood Council
<b>Designated Future Land Use</b>	Mixed Use
<b>Land Use Features</b>	Commercial Node (Linden Hills)
<b>Small Area Plan(s)</b>	<a href="#">Linden Hills Small Area Plan</a>

<b>Date Application Deemed Complete</b>	February 2, 2015	<b>Date Extension Letter Sent</b>	Not applicable
<b>End of 60-Day Decision Period</b>	April 3, 2015	<b>End of 120-Day Decision Period</b>	Not applicable

## BACKGROUND

**SITE DESCRIPTION AND PRESENT USE.** A surface parking lot for Sebastian Joe's (4321 Upton Avenue South) is located at the property of 4353 Upton Avenue South, which is at the northeast corner of the Upton Avenue and 44<sup>th</sup> Street intersection. A duplex is located at the property of 2720 44<sup>th</sup> Street West.

**SURROUNDING PROPERTIES AND NEIGHBORHOOD.** The subject site is located in a mixed use area, including low- to high-density residential, commercial, and institutional uses. Sebastian Joe's is located directly to the north. A multiple-family dwelling is located directly to the east.

**PROJECT DESCRIPTION.** A new approximately 12,100 square foot mixed use building is proposed. Proposed uses include offices and ground floor retail. A surface parking lot with 12 spaces is also proposed. The parking lot, along with a refuse storage area, will be shared by the new building occupants and Sebastian Joe's.

The maximum height in the CI district and the SH overlay district is 2.5 stories or 35 feet, whichever is less. The proposed height is 3 stories and 39 feet, 8 inches for the building, including a 3 foot tall parapet, and an additional 13 feet, 8 inches above the third floor roof for mechanicals and elevator and staircase overruns. The height is measured from the front lot line, which is adjacent to 44<sup>th</sup> Street. A conditional use permit is required to increase the maximum allowed height. Although mechanicals and elevator and staircase overruns less than 14 feet in height are not subject to the height restrictions in the CI district provided they are recessed from the building walls, they are subject to the height restrictions in the SH overlay district.

The minimum parking requirement for the proposed uses in the new building is 8 spaces. The parking requirement for Sebastian Joe's is also 8 spaces. With only 12 parking spaces proposed, the applicant is requesting variances to reduce both minimum parking requirements. For the new building, a variance to reduce the requirement from 8 to 6 spaces is requested. For Sebastian Joe's, the requested variance is to reduce the requirement from 8 to 6 spaces (BZZ-7023).

An interior side yard is required along the east lot line. Only fences and retaining walls retaining natural grade are permitted obstructions in the required yard. Other obstructions are required to be set back at least 5 feet, with the exception of the building which is subject to a greater yard requirement. The parking area, a retaining wall that only partly retains natural grade, and a walkway/ramp would extend into the required yard. A variance is required to allow these obstructions.

Site plan review is required for any new mixed use building.

**PUBLIC COMMENTS.** A letter from the Linden Hills Neighborhood Council was received and is attached to this report. Any additional correspondence received prior to the public meeting will be forwarded on to the Planning Commission for consideration.

## ANALYSIS

### CONDITIONAL USE PERMIT

The Department of Community Planning and Economic Development has analyzed the application to increase the maximum height from 2.5 to 3 stories and from 35 feet to 39 feet, 8 inches for the building,

including a 3 foot tall parapet, and an additional 13 feet, 8 inches above the third floor roof for mechanicals and elevator and staircase overruns based on the following findings:

1. *The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*

Construction of a 3 story and 39 foot, 8 inch tall building, including the 3 foot tall parapet, with an additional 13 feet, 8 inches above the third floor roof for mechanicals and elevator and staircase overruns would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

2. *The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.*

There is a mix of uses in the immediate area. The height of surrounding buildings ranges from one-story to 6-stories. The proposed building would be shorter than the Lake Harriet Methodist Episcopal Church located at the property of 4401 Upton Avenue South (also located in the SH overlay district). It would be well below the height of the 6-story condominium located to the west of the subject site across Upton Avenue. The proposed building would be separated from the adjacent 2-story residential building located to the east by the proposed parking lot. Sebastian Joe's is located directly north in a 2-story building. The proposed 3-story height of the main building slightly exceeds the allowed height. The mechanicals and elevator and stair overruns are proposed to allow access to a rooftop patio, but will add minimally to the bulk of the building. Therefore the increase in height will not significantly increase shadowing on surrounding properties. Although the proposed building may impede private views, allowing the requested height increase will not impede the normal use and development of surrounding properties.

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

The site is served by existing infrastructure. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right-of-way.

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

Increasing the allowed height would have no impact on traffic congestion in the public streets. The proposed floor area is well below what is allowed in the C1 district.

5. *The conditional use is consistent with the applicable policies of the comprehensive plan.*

The proposed height would be consistent with the applicable policies of the comprehensive plan. The future land use designation of the site is mixed use and it is located in the Linden Hills Commercial Node. The proposed development would be consistent with the following policies of *The Minneapolis Plan for Sustainable Growth*:

Land Use Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.

- 1.2.1 Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.

Land Use Policy 1.11: Preserve and enhance a system of Neighborhood Commercial Nodes that includes a mix of housing, neighborhood-serving retail, and community uses.

1.11.4 Encourage a height of at least two stories for new buildings in Neighborhood Commercial Nodes, in keeping with neighborhood character.

The proposed height is also consistent with the *Linden Hills Neighborhood Small Area Plan*. For mixed use buildings located in a neighborhood commercial node, a height of 3 or 4 stories is supported. However, the plan encourages minimizing the height of each story to better reflect the surrounding context i.e. not building to the maximums (42 feet for a 3 story building and 56 feet for a 4 story building). In the zoning code, the height allowed for 3 and 4-story buildings is exclusive of parapets up to 3 feet in height. As measured from the first floor level, the roof of the third story is 38 feet, 4 inches tall and the height of the elevator overrun (the tallest part of the structure) is 52 feet tall. The plan also encourages stepping a fourth floor back at least 10 feet from street facing facades to lessen massing. The proposed roof top mechanicals and elevator and stair overruns would be inset from the street facing facades and limited in size to minimize their visibility, which is consistent with the intent of the policy.

6. *The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.*

The development will conform to the applicable regulations of the districts in which it is located, upon approval of the conditional use permit, variances and site plan review.

#### ADDITIONAL STANDARDS TO INCREASE MAXIMUM HEIGHT:

1. *Access to light and air of surrounding properties.*

The proposed location of the building will allow sufficient separation from surrounding properties by means of public streets, the proposed parking lot and the proposed shared patio. The building would have minimal effect on surrounding properties access to air and light.

2. *Shadowing of residential properties, significant public spaces, or existing solar energy systems.*

The 4 foot, 8 inch height increase requested for the third story including the 3 foot tall parapet, and the additional 13 feet, 8 inches requested for mechanicals and elevator and staircase overruns above the third floor will not significantly shadow any surrounding residential properties or the surrounding public spaces. CPED staff is not aware of any existing solar energy systems in the immediate area.

3. *The scale and character of surrounding uses.*

There is a mix of uses in the immediate area. The height of surrounding buildings ranges from one-story to 6-stories. The building would be shorter than the Lake Harriet Spiritual Community building located at 4401 Upton Avenue South, which is also located in the SH overlay district. It would be well below the height of the 6-story condominium located to the west of the subject site across Upton Avenue. The proposed height is compatible with the scale and character of surrounding uses.

4. *Preservation of views of landmark buildings, significant open spaces or water bodies.*

The proposal would not block views of landmark buildings, significant open spaces, or bodies of water. The Lake Harriet Methodist Episcopal Church at 4401 Upton Avenue South was recently added to the National Register of Historic Places. The proposed building would not significantly alter views of the church from public spaces. The site is located in the Lake Harriet SH overlay district. However, the site is 900 feet from the lake.

*In addition to the conditional use standards contained in Chapter 525, Administration and Enforcement, the city planning commission shall consider the following evaluation criteria for conditional uses located within the SH Shoreland Overlay District:*

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

The Public Works Department will review the project for appropriate drainage and stormwater management both during and after construction. Once construction is complete, the areas not occupied by the building or paving will be landscaped with trees, perennials and grasses.

2. *Limiting the visibility of structures and other development from protected waters.*

Lake Harriet is located approximately 900 feet east of the site. The visibility of the building would be minimal, if at all visible. Existing development and the tree canopy will obscure its visibility.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

This standard is not applicable for the proposed development.

## VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance to reduce the minimum interior side yard requirement adjacent to the east lot line to allow the parking area, retaining walls not retaining natural grade, and a walkway/ramp based on the following findings:

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

Practical difficulties exist in complying with the ordinance. The site is odd-shaped with a substantial grade change. The site narrows from south to north. This results in the parking area being over 6 feet from the east side lot line adjacent to 44<sup>th</sup> Street, but only 3 feet from the side lot line at the north end of the property. The highest point of the site is located at the southwest corner. The difference in the change of grade between the southwest corner of the site and the northeast corner of the site is 15 feet. A 2 to 3 foot high retaining wall is currently located along the east lot line. This will be replaced with a retaining wall that is 3 to 5.5 feet in height to accommodate some fill to the site to allow the new parking area and allow stormwater to be directed to a catch basin and underground storage tank. The change in grade also impacts Sebastian Joe's access to the refuse storage and loading from the parking area. The ramp that will extend into the required yard is proposed to address the grade separation between the two sites.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The parking spaces are located on the west side of the parking area so that the only part of the parking area that will extend into the required yard is the curbing and drive aisle. This orientation, along with trees and a hedge, will lessen any adverse impacts on the adjacent residence. The retaining wall would not be taller than a solid fence allowed in the required yard. The ramp will provide Sebastian Joe's with access to the screened refuse storage area and loading. Locating it closer to the east lot line allows the refuse storage area to be located further from the adjacent residence. The request is reasonable and in keeping with the spirit and intent of the ordinance and the comprehensive plan.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

Granting the variance would not adversely alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity, nor would it be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties. The parking spaces are located on the west side of the parking area so that the only part of the parking area that will extend into the required yard is the curbing and drive aisle. This orientation, along with trees and a hedge, will lessen any adverse impacts on the adjacent residence. Stormwater runoff will be directed to a catch basin and underground storage tank. The retaining wall would not be taller than a solid fence allowed in the required yard. The ramp will provide Sebastian Joe's with access to the screened refuse storage area and loading. Locating it partially in the required yard allows the refuse storage area to be located further from the adjacent residence.

## FINDINGS REQUIRED BY THE MINNEAPOLIS CODE FOR DEVELOPMENT IN THE SHORELAND OVERLAY DISTRICT

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

The Public Works Department will review the project for appropriate drainage and stormwater management both during and after construction. Once construction is complete, the areas not occupied by the building or paving will be landscaped with trees, perennials and grasses.

2. *Limiting the visibility of structures and other development from protected waters.*

Lake Harriet is located to the east of the site, 900 feet away. The proposed yard obstructions would not be visible from the lake due to existing development and trees between the two.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

This standard is not applicable for the proposed development.

## VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance to reduce the minimum parking requirement from 8 spaces to 6 spaces based on the following findings:

1. *Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.*

Practical difficulties exist in complying with the ordinance. The general parking requirement for the proposed uses is 10 spaces. The proposal qualifies for the bicycle parking incentive which reduces the requirement to 8 spaces. Because Sebastian Joe's will be sharing the parking lot with the proposed development, the required spaces for the restaurant also need to be provided. In the LH Linden Hill's Overlay District, 9 spaces are required for the restaurant use based on one space for every 3 seats. Eight parking spaces exist for Sebastian Joe's, resulting in one grandfathered space. The total number of spaces that must be provided is 16. Outside of the LH overlay district, the 1,500 square foot restaurant would only be required to provide a minimum of 4 parking spaces, or a total combined requirement of 12 spaces. To allow the parking lot to be shared between the two buildings, the parking requirements are requested to be reduced equally.

2. *The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.*

The purpose of parking regulations is to provide for the parking needs of uses and structures and to enhance the compatibility between parking areas and their surroundings. Comprehensive plan policies call for providing an adequate amount of parking without creating an oversupply. It also promotes an environment that encourages bicycle, pedestrian, and transit travel. In recent years, the minimum parking requirements have been reduced across the City to be more consistent with this policy, but with one exception. The LH overlay district requirements, which include higher parking requirements for restaurants, have not been changed since the adoption of the zoning code in 1999. Outside of the LH overlay district, the 1,500 square foot restaurant would only be required to provide a minimum of 4 parking spaces, or a total combined requirement of 12 spaces. The recently adopted small area plan indicates that exploring reductions to the minimum parking requirements could be considered. Conditions of the surrounding area and the proposed development lessen the need for more on-site parking. The parking will be shared between two properties, the development qualifies for the bicycle parking incentive by providing bicycle parking in excess of the minimum requirements, and the site is located on a bus route with frequent service. The applicant has indicated that the highest parking demand is expected to occur during the week day, while the highest parking demand for the restaurant will be nights and weekends. The request is reasonable and in keeping with the spirit and intent of the ordinance and the comprehensive plan.

3. *The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.*

Granting of the variance should not increase congestion in the area or effect surrounding properties nor would it be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties. The site is located in a walkable, mixed use area. The parking lot will be shared between two properties, the development qualifies for the bicycle parking incentive by providing bicycle parking in excess of the minimum requirements, and the site is located on a bus route with frequent service. The applicant has indicated that the highest parking demand is

expected to occur during the week day, while the highest parking demand for the restaurant will be nights and weekends. With the convenience of alternate modes of transportation, the proposed amount of parking should be sufficient to meet average demand.

## FINDINGS REQUIRED BY THE MINNEAPOLIS CODE FOR DEVELOPMENT IN THE SHORELAND OVERLAY DISTRICT

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

The Public Works Department will review the project for appropriate drainage and stormwater management both during and after construction. Once construction is complete, the areas not occupied by the building or paving will be landscaped with trees, perennials and grasses.

2. *Limiting the visibility of structures and other development from protected waters.*

Lake Harriet is located to the east of the site, 900 feet away. The visibility of the building would be minimal, if at all visible.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

This standard is not applicable for the proposed development.

## SITE PLAN REVIEW

The Department of Community Planning and Economic Development has analyzed the application based on the required [findings](#) and [applicable standards](#) in the site plan review chapter:

### **I. Conformance to all applicable standards of Chapter 530, Site Plan Review.**

#### **Building Placement and Design – Requires alternative compliance**

- Placement of building would reinforce the street wall adjacent to 44<sup>th</sup> Street and Upton Avenue. An abundant amount of windows are proposed on the street facing elevations. Pedestrian access is from Upton Avenue.
- The building would be built up to the lot line next to each street. The proposed parking lot will be located at the interior of the site.
- Although not on-site, the applicant is proposing landscaping and patio areas between the building and the adjacent sidewalks.
- Principal entrances for the retail tenants will face Upton Avenue.
- The proposed addition walls will provide architectural details and contain windows to create visual interest and increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- Recesses, projections, windows and other architectural elements are proposed to divide the building addition into smaller identifiable sections.
- Blank, uninterrupted walls that do not include architectural elements will not exceed 25 feet in length.

- The primary exterior materials will be brick, metal, stone and glass, which are durable. The stone is used on the base of the building, brick on the first and second levels, and metal on the third level along with the roof access structures.
- All sides of the building would be similar and compatible.
- Plain face concrete block is not proposed as an exterior material.
- The proposed principal entrances contain a significant amount of glazing and are sheltered by cornices or an awning to emphasize their importance.
- Windows are required on the east, west and south elevations. See **Table I**. The ground floor walls facing Upton Avenue and 44<sup>th</sup> Street contain windows covering 40 percent or more of the walls as required by the LH Linden Hills Overlay District. All ground floor windows included in the calculations in the table below will have a light transmittance ratio of 0.6 or greater and the bottom of each window is located within 4 feet of the adjacent grade. Alternative compliance is requested for the amount of ground floor windows facing the parking lot.
- The active uses on the ground floor of the addition would occupy 100 percent of the frontage facing both streets.
- The proposed roof of the addition is flat. There is a mix of flat and pitched roofs in the surrounding area. A flat roof minimizes the impact of the massing of the building.

**Table I. Percentage of Windows Required for Elevations Facing a Public Street, Sidewalk, Pathway, or On-Site Parking**

		Code Requirement		Proposed per floor	
West (Upton)	1 <sup>st</sup> Floor	30% minimum	168 sq. ft.	58%	324 sq. ft.
	2 <sup>nd</sup> /3 <sup>rd</sup> Floor	10% minimum	77 sq. ft. each	34%	261 sq. ft.
South (44 <sup>th</sup> St)	1 <sup>st</sup> Floor	30% minimum	125 sq. ft.	40%	166 sq. ft.
	2 <sup>nd</sup> /3 <sup>rd</sup> Floor	10% minimum	57.2 sq. ft. each	27%	155 sq. ft.
East (parking)	1 <sup>st</sup> Floor	30% minimum	168 sq. ft.	17.5%	98 sq. ft.
	2 <sup>nd</sup> /3 <sup>rd</sup> Floor	10% minimum	77 sq. ft. each	17%	134 sq. ft.

**Access and Circulation – Meets requirements**

- Walkways will connect the building entrances to the Upton Avenue public sidewalk and parking area. However, there is not a connection between the back entrances and the 44<sup>th</sup> Street sidewalk. An accessible parking space is the closest space to 44<sup>th</sup> Street. To provide a walkway, it would need to overlap the access aisle for the accessible space. There is also a transformer pad proposed 3 feet from the building. However, providing a 4 foot wide walkway connection appears feasible. Therefore CPED staff is recommending that a walkway connecting to 44<sup>th</sup> Street is provided.
- There are no transit shelters adjacent to the site and none are proposed.
- Vehicle access and circulation is designed to minimize conflicts with pedestrians and adjacent residential uses. Three existing curb cuts will be consolidated into one 20 foot wide curb cut for the proposed parking area. All maneuvering is designed to occur on-site.
- The site is not adjacent to a public alley.
- The site plan has been designed to minimize the use of impervious surfaces for the parking area.

**Landscaping and Screening – Requires alternative compliance**

- Landscaping is primarily proposed around the perimeter of the site. Overall, 13.6 percent of the site not occupied by the building will be landscaped. Alternative compliance is requested to provide less than 20 percent landscaping. The proposed trees and shrubs will comply with the

minimum requirements. See **Table 2**. The remainder of the site will be landscaped with ornamental trees, perennials, ground covers and grasses.

- A 7-foot wide landscaped yard with one canopy tree will be provided along with screening shrubs to meet the landscaping and screening requirements between the parking area and 44<sup>th</sup> Street.
- The east lot line is adjacent to a residential property. A landscaped yard, 3 to 6 feet in width, is proposed. The proposed yard would contain trees and shrubs to provide the required screening. Alternative compliance is requested to allow the yard to be less than 7 feet in width.
- All corners of the parking lot not available for parking or maneuvering will be landscaped.
- All parking spaces would be located within 50 feet of an on-site tree.
- All areas not occupied by building, patio or parking will be landscaped.
- The landscape plan indicates that the installation and maintenance of all landscape materials will comply with sections 530.200 and 530.210 of the zoning code.

**Table 2. Landscaping and Screening Requirements**

	<b>Code Requirement</b>	<b>Proposed</b>
<b>Lot Area</b>	--	10,282 sq. ft.
<b>Building footprint</b>	--	3,277 sq. ft.
<b>Remaining Lot Area</b>	--	7005 sq. ft.
<b>Landscaping Required</b>	1,401 sq. ft.	954 sq. ft.
<b>Canopy Trees (1: 500 sq. ft.)</b>	3 trees	3 trees
<b>Shrubs (1: 100 sq. ft.)</b>	14 shrubs	40 shrubs

**Additional Standards – Meets requirements**

- Continuous 6-inch by 6-inch concrete curbing is proposed to direct stormwater to the underground storage system. Stormwater flows to the north and east. On-site retention of stormwater is not practical due to the significant grade change on those sides of the property.
- The proposed building will not impede views of important elements of the city, and would be located and arranged to minimize shadowing on public spaces and adjacent properties and to minimize the generation of wind currents at the ground level.
- The site includes crime prevention through environmental design elements. The entrances are clearly visible. There are windows through which people can see in and out on all sides of the building. Lighting will need to comply with section 535.590 of the zoning code. A low fence will separate the patio area from the public sidewalk.
- The existing building is not historically designated and the site is not located with a historic district.

**2. Conformance with all applicable regulations of the zoning ordinance.**

Offices and general retail sales and services are *permitted* uses in the CI District.

**Off-street Parking and Loading – Requires a variance**

- The proposed parking lot will provide parking for the new building and the nonresidential building located at 4321 Upton Avenue South because the proposed building is being constructed where an 8 space parking lot used by the existing nonresidential building is located. The proposed building will have two retail spaces (one 1,200 square feet in area and one less than 1,000 square feet) and offices occupying a total of 7,000 square feet of floor area. A

restaurant, Sebastian Joe’s, and an office are located at 4321 Upton Avenue South. There are 28 seats in the Sebastian Joe’s restaurant and the office space is less than 1,000 square feet in area. Requirements for both buildings are provided in the table below. Because there are fewer spaces proposed than required, the applicant is requesting variances to reduce some of the on-site parking requirement as well as the Sebastian Joe’s parking requirement.

**Table 3. Vehicle Parking Requirements Per Use (Chapter 541)**

	<b>Minimum Parking Requirement</b>	<b>Applicable Reductions</b>	<b>Total Minimum Requirement</b>	<b>Maximum Parking Allowed</b>	<b>Proposed</b>
<b>Office</b>	1 space per 500 sq. ft. in excess of 4,000 sq. ft. of GFA	(1) bicycle incentive	5	35 (1 space per 200 sq. ft. of GFA)	4
<b>Retail 1</b>	1 space per 500 sq. ft. in excess of 4,000 sq. ft. of GFA, but not less than 4 spaces	(1) bicycle incentive	3	6 (1 space per 200 sq. ft. of GFA)	2
<b>Retail 2</b>	None for nonresidential uses less than 1,000 sq. ft. in area	--	0	5 (1 space per 200 sq. ft. of GFA)	0
<b>Restaurant (Sebastian Joe’s)</b>	1 space per 3 seats	(1) grandfathered parking space	8	13 (150% of the minimum parking requirement)	6
<b>Office (4321 Upton Ave S)</b>	None for nonresidential uses less than 1,000 sq. ft. in area	--	0	5 (1 space per 200 sq. ft. of GFA)	0
<b>Total</b>	<b>19</b>	<b>(3)</b>	<b>16</b>	<b>64</b>	<b>12</b>

**Table 4. Bicycle Parking and Loading Requirements (Chapter 54I)**

	<b>Minimum Bicycle Parking</b>	<b>Minimum Short-Term</b>	<b>Minimum Long-Term</b>	<b>Proposed</b>	<b>Loading Requirement</b>	<b>Proposed</b>
<b>Office</b>	3	N/A	2	14 (8 short-term and 6 long-term)	Adequate shipping and receiving facilities, accessible by motor vehicles off any service drive or open space on the same zoning lot	Access from drive aisle in parking lot
<b>Retail</b>	3	2	N/A			

**Building Bulk and Height – Requires a conditional use permit**

- The maximum height in the CI district and the SH overlay district is 2.5 stories or 35 feet, whichever is less. The proposed height is 3 stories and 39 feet, 8 inches, including a 3 foot tall parapet, for the building, with an additional 13 feet, 8 inches above the third floor roof for mechanicals and elevator and staircase overruns. The height is measured from the front lot line, which is adjacent to 44<sup>th</sup> Street. A conditional use permit is required to increase the maximum allowed height. Although mechanicals and elevator and staircase overruns less than 14 feet in height are not subject to the height restrictions in the CI district, they are subject to the height limitations in the SH overlay district.

**Table 5. Building Bulk and Height Requirements**

	<b>Code Requirement</b>	<b>Proposed</b>
<b>Lot Area</b>	--	10,282 sq. ft. / 0.24 acres
<b>Gross Floor Area (GFA)</b>	--	12,138 sq. ft.
<b>Maximum Floor Area Ratio (GFA/Lot Area)</b>	1.7	1.18
<b>Maximum GFA of Commercial Uses</b>	8,000 sq. ft.	Offices, at a total of 7,000 sq. ft. of floor area, would occupy the most space in the building
<b>Maximum Building Height</b>	2.5 stories or 35 feet, whichever is less	3 stories, 50 ft. 2 in. to the tallets part of the structure as measured from the front of the property (44 <sup>th</sup> St)

**Lot Requirements – Not applicable**

**Applicable Yard Requirements – Requires a variance**

- The parking area, retaining wall not retaining natural grade, and the walkway/ramp are not permitted obstruction in the east interior side yard. A variance is required to allow them.

**Table 6. Minimum Yard Requirements**

	<b>Zoning District</b>	<b>Overriding Regulations</b>	<b>Total Requirement</b>	<b>Proposed</b>
<b>Front</b> (44 <sup>th</sup> St)	6 ft. for 25 ft. from the adjacent residential property	Established setback-- Driveways are permitted obstructions	6 ft.	6 ft.
<b>Interior Side</b> (East)	5+2x ft.	--	9 ft. for the building/ 5 ft. for other obstructions	>9 ft. for the building/ variances requested for other obstructions

**Signs – Not applicable**

- Signs are subject to Chapters [531](#) and [543](#) of the Zoning Code.
- No new signage is proposed as part of the project at this time. Any proposed signage will require Zoning Office review, approval, and permits.

**Refuse Storage Screening – Meets requirements**

- Refuse storage containers are required to be enclosed on all four sides by screening compatible with the principal structure not less than two 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 refuse storage containers will be located at the north end of the parking and screened on all sides with a brick enclosure.

**Screening of Mechanical Equipment – Meets requirements**

- All mechanical equipment is required to be arranged so as to minimize visual impact by using screening and must comply with Chapter [535](#) and district requirements. Mechanical equipment will be located on the roof. Although the 3 foot tall parapet would screen the equipment from the ground level, the height of the rooftop equipment is not identified to verify it is sufficiently screened from surrounding uses. A condition of approval is included in the recommendation to ensure that sufficient screening will be provided. A ground level transformer is also proposed that will be sufficiently screened by landscaping.

**Lighting – Lighting plan required**

- Lighting must comply with Chapter [535](#) and Chapter [541](#) of the zoning code. A lighting plan was not provided as part of the application. One will need to be provided with the final plans.

**Lot Coverage – Not applicable**

**Impervious Surface Area – Not applicable**

**Specific Development Standards – Not applicable**

**LH Linden Hills Overlay District Standards – Requires alternative compliance**

- The site would not contain any uses or signs prohibited by the district or other uses with special requirements in the district.
- The building would be located with 8 feet of the lot lines next to each adjacent street. The retail entrances would face Upton Avenue.
- The ground floor walls facing Upton Avenue and 44<sup>th</sup> Street would contain 40 percent or more windows. The windows would allow views into and out of the building and would be distributed more or less evenly.
- The parking lot would be located at the interior of the site with a driveway and curb cut not exceeding 20 feet of street frontage.
- The proposed amount of parking does not exceed 150 percent of the minimum requirement.
- The proposed development will comply with all of the LH overlay district site plan review requirements, except the landscaped yard width requirement adjacent to the east lot line. The Planning Commission is authorized to make exceptions to these standards upon finding that the use or development includes site amenities that address any adverse effects of the exception or where the planning commission finds that strict adherence to the requirements is impractical because of site location or conditions. This request for an exception is discussed in the alternative compliance section below.

**SH Shoreland Overlay District Standards – Meets requirements**

- The site is not located on a steep slope or within 40 feet of the top of a steep slope.
- With the exception of the height of the building, the proposal would comply with all other SH overlay district requirements.

**3. Conformance with the applicable policies of The Minneapolis Plan for Sustainable Growth.**

With the adoption of the staff recommendation, the site plan will be consistent with the applicable policies of the comprehensive plan. In addition to the principals and policies identified in the conditional use permit section of this report, the following also apply to this development:

Land Use Policy 1.3: Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit.

1.3.1 Require safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way in all new development and, where practical, in conjunction with renovation and expansion of existing buildings.

1.3.2 Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.

Land Use Policy 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users.

1.4.1 Support a variety of commercial districts and corridors of varying size, intensity of development, mix of uses, and market served.

1.4.2 Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level.

1.4.3 Continue to implement land use controls applicable to all uses and structures located in commercial districts and corridors, including but not limited to maximum occupancy standards, hours open to the public, truck parking, provisions for increasing the maximum height of structures, lot dimension requirements, density bonuses, yard requirements, and enclosed building requirements.

1.4.4 Continue to encourage principles of traditional urban design including site layout that screens off-street parking and loading, buildings that reinforce the street wall, principal entrances that face the public sidewalks, and windows that provide “eyes on the street”.

Land Use Policy 1.5: Promote growth and encourage overall city vitality by directing new commercial and mixed use development to designated corridors and districts.

1.5.1 Support an appropriate mix of uses within a district or corridor with attention to surrounding uses, community needs and preferences, and availability of public facilities.

Urban Design Policy 10.11: Seek new commercial development that is attractive, functional and adds value to the physical environment.

10.11.1 Require the location of new commercial development (office, research and development, and related light manufacturing) to take advantage of locational amenities and coexist with neighbors in mixed-use environments.

10.11.2 Ensure that new commercial developments maximize compatibility with surrounding neighborhoods.

10.11.4 Maximize the year round potential for public transit, biking, and walking in new developments.

Urban Design Policy 10.18: Reduce the visual impact of automobile parking facilities.

10.18.1 Require that parking lots meet or exceed the landscaping and screening requirements of the zoning code, especially along transit corridors, adjacent to residential areas, and areas of transition between land uses.

10.18.2 Parking lots should maintain the existing street face in developed areas and establish them in undeveloped areas through the use of fencing, walls, landscaping or a combination thereof along property lines.

10.18.3 Locate parking lots to the rear or interior of the site.

10.18.4 Provide walkways within parking lots in order to guide pedestrians through the site.

10.18.17 Minimize the width of ingress and egress lanes along the public right of way in order to provide safe pedestrian access across large driveways.

10.18.18 Encourage appropriate land uses to share parking lots to reduce the size and visual impact of parking facilities.

Urban Design Policy 10.19: Landscaping is encouraged in order to complement the scale of the site and its surroundings, enhance the built environment, create and define public and private spaces, buffer and screen, incorporate crime prevention principles, and provide shade, aesthetic appeal, and environmental benefits.

#### **4. Conformance with applicable development plans or objectives adopted by the City Council.**

With the adoption of the staff recommendation, the site plan will be consistent with the applicable policies of the small area plan. In addition to the small area plan policies identified in the conditional use permit section of this report, the following also apply to this development:

- New development should reflect the character of the area through articulation, such as massing intervals and varied setbacks. This should be achieved through more than just a change in building materials.
- Encourage building designs that articulate or enliven the rear façade.
- Encourage site designs that use vegetative buffers to reduce the visual impacts of higher density development on adjacent lower density development.
- Ensure that parking facilities maintain and enhance the character of Linden Hills through their location, design and the types of facilities.

#### **5. Alternative compliance.**

The Planning Commission or zoning administrator may approve alternatives to any site plan review requirement upon finding that the project meets one of three criteria required for [alternative compliance](#). Alternative compliance is requested for the following requirements:

- **Ground Floor Windows.** On the first floor wall facing the parking lot, at least 30 percent, or 168 square feet, of the wall is required to be windows. The proposed amount of windows is equal to 98 square feet or 17.5 percent. The wall is adjacent to 2 stairwells, 2 bathrooms, 2 entrance vestibules and a mechanical room. Windows have been provided where feasible. Also, windows in excess of the minimum requirements are proposed on the second and third floors that will provide additional natural surveillance of the parking lot. Brick and stone are proposed on the first floor elevation to provide additional architectural features. For these reasons, CPED staff is recommending that the Planning Commission grant alternative compliance.
- **Landscaped Area.** At least 20 percent of the site not covered by the building is required to be landscaped, or 1,401 square feet. The proposed amount of on-site landscaped area is equal to 954 square feet, or 13.6 percent. Because parking spaces or the patio would need to be eliminated to provide additional landscaped area, an enhanced landscape plan that includes a variety of plant types with seasonal interest is proposed as an alternative. In addition to providing the 3 required canopy trees, 3 ornamental trees are proposed. The proposed amount of shrubs greatly exceeds the minimum requirement as well. The remaining landscaped areas

will be planted with perennials, grasses and ground covers. For these reasons, CPED staff is recommending that the Planning Commission grant alternative compliance.

- **Landscaped Yard.** A residential use is located adjacent to the east lot line. A 7-foot wide landscaped yard with screening that is 95 percent opaque and 6 feet tall is required between a parking area and a residential use. A 5-foot landscaped yard is required as part of the LH Linden Hills Overlay District site plan review standards. The proposed landscaped yard would be 3 to 6.5 feet in width, but would fully comply with the screening requirements. The applicant is also requesting a variance to reduce the minimum interior side yard requirement adjacent to the east lot line from 5 feet up to 3 feet to allow the parking area. CPED staff is recommending that the Planning Commission approve the variance. The width of the site narrows from south to north, which is why the landscaped yard is not consistent in width. Allowing the landscaped yard to be narrower should have a minimal impact on the adjacent residential property. The parking spaces are located on the west side of the parking area so that the only part of the parking area that will extend into the required yard is the curbing and drive aisle. This orientation, along with trees and a hedge, will lessen any adverse impacts on the adjacent residence. Stormwater runoff will be directed to a catch basin and underground storage tank. For these reasons, CPED staff is recommending that the Planning Commission grant alternative compliance.

## RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt staff findings for the application(s) by South Upton Properties Partnership for the properties located at 4353 Upton Avenue South and 2720 44<sup>th</sup> Street West:

**A. Conditional Use Permit to increase the maximum height in the CI Neighborhood Commercial District and the SH Shoreland Overlay District.**

Recommended motion: Approve the conditional use permit to increase the maximum height from 2.5 to 3 stories and from 35 feet to 39 feet, 8 inches for the building, including a 3 foot tall parapet, rising an additional 13 feet, 8 inches above the third floor roof for mechanicals and elevator and staircase overruns, subject to the following condition:

- I. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within two years of approval.

**B. Variance to reduce the minimum interior side yard requirement.**

Recommended motion: Approve the variance to reduce the minimum interior side yard requirement adjacent to the east lot line to allow the parking area, retaining walls not retaining natural grade, and a walkway/ramp.

**C. Variance to reduce the minimum parking requirement.**

Recommended motion: Approve the variance to reduce the minimum parking requirement from 8 spaces to 6 spaces, subject to the following condition:

- I. At least 14 bicycle spaces shall be provided.

**D. Site Plan Review.**

Recommended motion: Approve the site plan review to allow a new mixed use building, subject to the following conditions:

1. A walkway, at least 4 feet in width, shall provide a connection between 44<sup>th</sup> Street and the entrances facing the parking lot as required by section 530.130 of the zoning code.
2. All mechanical equipment shall be screened as required by section 535.70 of the zoning code.
3. Department of Community Planning and Economic Development staff review and approval of the final building elevations, floor, site, lighting and landscape plans.
4. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by March 16, 2017, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

## ATTACHMENTS

1. Preliminary Development Review report
2. Written description and findings submitted by applicant
3. Zoning map
4. Photos
5. Site survey
6. Civil drawings
7. Site plan
8. Landscaping plan
9. Floor plans
10. Building elevations
11. Context study
12. Renderings
13. Correspondence