



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

**Date:** July 28, 2005

**To:** Council Member Gary Schiff, Chair of Zoning and Planning Committee, and Members of the Committee

**Prepared by:** Lonnie Nichols, Senior City Planner, (612) 673-5468

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

**Subject:** Appeal decision of the June 27, 2005 City Planning Commission Meeting.

**Previous Directives:** The City Planning Commission reviewed and took action on the Le Parisien, LLC (BZZ 2273), proposal on May 23 and June 27, 2005. The attached materials indicate that the CPC granted approvals (rezoning and CUP's for a shopping center, 13 residential units, and a 5-story building), returned an application (setback variance) and accepted the withdrawal of an application (parking variance) that were not required, denied setback variances (rear and interior-North lot line) and deferred action on the site plan to the July 18, 2005, CPC.

**Financial Impact:** Development costs for the applicant and potential tax revenue for the City.

**Community Impact:** Proposed mixed-use development on Commercial Corridor.

**Ward:** Six (6)

**Neighborhood Notification:** The Whittier Alliance and Lowry Hill East neighborhood organizations were notified of the project.

**City Goals:** Goals number one and four apply to the subject site and proposed development.

1. Increase the city's population and tax base by developing and supporting housing choices citywide through preservation of existing housing and new construction.

4. Create strong vital commercial corridors citywide through mixed-use development, including a variety of businesses and creative housing.

**Comprehensive Plan:** See staff report

**Zoning Code:** See staff report

**Living Wage/Job Linkage:** The proposed development would create job opportunities.

**End of 60/120 Day Decision Period:** On May 12, 2005, staff sent a letter to the applicant extending the 60 day decision period to no later than August 12, 2005. On June 27, 2005, the applicant granted an extension of the time limit in Minnesota Statute 15.99 for the City to approve or deny all the zoning applications for BZZ 2273 to September 1, 2005.

**Other:** Not applicable

- **Background/Supporting Information:** The appellant's complete statement and reasons for the appeal are attached. The City Planning Commission staff report (including attachments) and minutes are attached.

**Department of Community Planning and Economic Development – Planning  
Division**

Conditional Use Permits, Variances, Site Plan Review

**BZZ-2273**

**Date:** June 27, 2005

**Applicant:** Velocity Investments, dba, Le Parisien, LLC

**Address of Property:** 2301-2309 Lyndale Avenue South

**Project Name:** Le Parisien Flats and Market Place

**Contact Person and Phone:** Mark Dziuk, (612) 548-4848

**Planning Staff and Phone:** Lonnie Nichols, (612) 673-5468

**Date Application Deemed Complete:** April 14, 2005

**End of 60-Day Decision Period:** June 13, 2005. However, on May 12, 2005, a letter was sent to the applicant extending the time for review of this application to August 12, 2005.

**End of 120-Day Decision Period:** August 12, 2005.

Ward: 6      Neighborhood Organization: **Whittier**

**Existing Zoning:** C1 (Neighborhood Commercial)

**Proposed Zoning:** C2 (Neighborhood Corridor Commercial)

**Zoning Plate Number:** 18

**Legal Description:** Badger & Penneys 2<sup>nd</sup> addn to Mpls, Block 002, Lots 23 and 24 thru 27 incl.

**Proposed Use:** Mixed-use building designed as shopping center with ground floor and second story commercial uses, green rooftop garden space, and 13 dwelling units (floors 2-4) with enclosed parking.

**Concurrent Review:** Proposed rezoning of two adjacent parcels from C1 (Neighborhood Commercial) to C2 (Neighborhood Corridor Commercial), conditional use permits for a shopping center, multiple family dwelling with 13 units, and 5 story building 52 feet tall to midpoint of roof (plan revised for 5 story building 55 feet tall to top of mansard roof) where a 4 story building of 56 feet height is allowed, setback variance from 13 to 0 feet for the rear yard, setback variance from 13 to 0 feet for a drive aisle on

the south interior lot line (staff has determined this variance is not needed), setback variance from 13 to 7 feet on the north interior lot line, parking variance from 47 to 25 (plan revised so that parking variance is not required), and site plan review for a mixed use development that includes a dry cleaning outlet, retail bakery serving coffee (changed to bakery with no seating area), wine bar restaurant (changed to general commercial space of approx. 2,000 sf), green roof patio, and 13 dwelling units, located at 2301-2309 Lyndale Avenue South.

**Applicable zoning code provisions:** Chapters: 521 Zoning Districts and Maps, 525 Administration and Enforcement-specifically Article VII-conditional use permits and Article IX Variances 525.520 (1) to vary yard requirements and 525.520 (7) to reduce the applicable off-street parking requirements, 530 Site Plan Review, 535 Regulations of General Applicability, 536 Specific Development Standards, 541 Off Street Parking and Loading, 548 Commercial Districts.

**Background:** On May 23, 2005, the City Planning Commission rezoned the subject site from C1 to C2, and continued the rest of the applications for BZZ 2273 to June 27, 2005. The rezoning to C2 was approved by the Zoning and Planning Committee on June 9, 2005, and postponed two cycles (due to postponement of other applications at CPC) to July 22, 2005, by the City Council on June 17, 2005. The applicant has proposed several modifications since May 23, from changing the roof pitch to increasing the landscaping area, removing the wine bar as a defined tenant, and adding windows to the enclosed parking area to make the plans more code compliant. However, the proposal would still require two setback variances and alternative compliance be granted by the CPC.

Le Parisien, LLC, filed application to rezone two adjacent parcels from C1 (Neighborhood Commercial) to C2 (Neighborhood Corridor Commercial), conditional use permits for a shopping center, multiple family dwelling with 13 units, and 5 story building 52 feet tall to midpoint of roof (plan revised for 5 story building 55 feet tall to top of mansard roof) where a 4 story building of 56 feet height is allowed, setback variance from 13 to 0 feet for the rear yard, setback variance from 13 to 0 feet for a drive aisle on the south interior lot line (staff has determined this variance is not needed), setback variance from 13 to 7 feet on the north interior lot line, parking variance from 47 to 25 (plan revised so that parking variance is not required), and site plan review for a mixed use development that includes a dry cleaning outlet, retail bakery serving coffee (changed to bakery with no seating area), wine bar restaurant (changed to general commercial space of approx. 2,000 sf), green roof patio, and 13 dwelling units, located at 2301-2309 Lyndale Avenue South. Staff inadvertently noticed the setback along the north interior lot line at 5 feet instead of the setback of 7 feet shown on the plan. The variance from 13 to 0 feet for a drive aisle on the south interior lot line is not required, was noticed in error and can be returned to the applicant. Due to lack of established floor plans for the proposed retail uses, staff noticed for the maximum foreseeable number of parking stalls that could be required. For the May 23, 2005, CPC hearing, the applicant provided a more detailed floor plan for the retail bakery space and made application for shared parking that will reduce the required amount of parking for the

project. The applicant has since removed the wine bar restaurant from the floor plan, thereby eliminating the need for the variance. This current proposal is the fourth revision of a conceptual plan that originally included an underground parking facility that was rejected by Public Works staff during preliminary review due to the steep slope of the access ramp. The applicant's objective is to construct a mixed-use development inspired by 1870-1930 Parisien Architecture that brings together traditional retail uses and French styled condominiums that includes a roof top garden and patio. The applicant has submitted a report from a certified building biology (environmental) inspector that covers design and construction issues that have a potential beneficial impact on the health of occupants in the residential units and customers/workers in the retail spaces.

The subject properties (2301-09 Lyndale) along with the adjacent property to the North (Lyndale House Antiques) were placed in the C1 district with the adoption of the 1999 zoning code revisions. The previous owner of the subject properties, who is also the owner of Lyndale House Antiques, has submitted a letter in support of the application. As per the applicants, the previous owner has indicated that 2309 Lyndale Avenue has been occupied by Chi Tailor and Cleaners for about five years, was used by a garden center for 8 years-that relocated to the subject site until 3 years ago-after it was displaced by the Wedge Cooperative, housed a barbershop at one point, and was previously occupied by an appliance repair shop and retail business for decades into the past. The previous owner has also indicated that 2301 Lyndale Avenue was used as a dirt parking lot to stage trailers loaded with appliances and spare parts up to 15 years ago when it was paved. The combined properties are currently covered by 98% impermeable surface, primarily an asphalt lot in disrepair. The applicant has indicated that the existing structures at the site have been scheduled for demolition.

Staff has received one email and two voice mail messages expressing concerns about traffic and the parking variance noticed for this application. On March 24, 2005, the Whittier Alliance-neighborhood organization postponed a recommendation on the project until the developer could provide more design and development details. The applicant has indicated he believes the Whittier Alliance voted to approve the Le Parisien application on April 11, 2005, subject to no use of EIFS (External Insulation Finish Systems), no national-chain tenants, no changes in number of units or exterior color, and notification of any substantial changes to the project. On May 16, 2005, staff received a letter from the Whittier Alliance that indicated support for the project with conditions, with the exception of the parking variance which was denied. The applicant has indicated he has communicated and met with the Lowry Hill East and Whittier neighborhood organizations since the May 23, 2005, CPC hearing, but staff has not yet received updates from either neighborhood group. The applicant submitted findings from a Phase I Environmental Site Assessment that did not reveal any topographical concerns and indicated further environmental assessment of the subject site for on-and off site sources of soil and or groundwater contamination does not appear to be warranted at this time.

**Previous City Actions:** Previous City actions for the property include a rezoning (R 629) from the B3S-2 (Community Service District) to the R6 district (high density, multi-family residential) for 2307-2313 Lyndale that was withdrawn in 1971, a conditional use permit for a second hand goods store (C-724) at 2309 Lyndale that was approved by the commission in 1982, and a site plan review for Mad City Diner (BZZ 1258) that was approved by the commission in August 2003, but never implemented. On May 23, 2005, the City Planning Commission rezoned the subject site from C1 to C2, and continued the rest of the applications for BZZ 2273 to the June 27, 2005. The rezoning to C2 was approved by the Zoning and Planning Committee on June 9, 2005, and postponed two cycles (due to postponement of other applications at CPC) to July 22, 2005, by the City Council on June 17, 2005.

**Plan Updates/Revisions Summary:** The applicant submitted the following updates and revisions (plans and elevations attached) to the plans for the Le Parisien project on June 17, 2005, in response to the staff report and City Planning Commission hearing of May 23, 2005:

### **Second Floor Commercial Space**

- The commercial space on the second floor has been changed from a proposed wine bar to be simply a general retail or office use. Staff received a revised floor plan from the applicant that changes the required parking for the proposed commercial occupants to 12 stalls and maintains the residential parking requirement at 13 stalls. Based on the revised plans, a parking variance will not be required. Parking Calculation: retail dry cleaner (4) + retail bakery (4) + general commercial space (4) + 13 dwelling units (13) = 25 parking stalls required. For additional information, see the parking variance section of this report.

### **Building Height / Building Mass**

- The height of the building has been reduced from 61 feet to 55 feet.
- The gable roof, previously sloped at a pitch of 15/12, has been replaced with a mansard roof, which, besides reducing the height, also reduces the perceived mass of the building.

### **Landscaping**

Landscaping has been increased in the following ways:

- Landscaping has been added in the 2 feet between the garage wall and the exterior parking, which provides an additional 236 sq ft of landscaping with vines, etc. (2 ft x 118 ft = 236 sq ft)
- 3 parking stalls have been converted to compact stalls, and the area in front of these stalls has been landscaped, giving providing an additional 72 sq ft of landscaping. (8 x 24 x 3 = 72). This also provides an additional 1.5 feet of landscaping to the west of the access area of the accessible parking stall.

- A fence and planters have been added on the right of way, on either side of the HC ramp, to screen pedestrian view of the parking lot.
- Decorative metal has been added to the pylon sign, with the intention of achieving alternative compliance with the landscape requirement for this sign.
- Likewise, it is intended that the green garden roof top will provide alternative compliance with the landscape requirement. The planted area of the garden rooftop is 382 sq ft.

### **Windows**

- We have increased the size of the windows on the gable ends of the north and south elevations by approximately 25%.
- Windows have been added to the south elevation of the garage.
- Additional trim at the perimeter of the windows has been added.

### **Storm Water Retention Tank**

- Based on calculations by a registered professional engineer, the size of the underground storm water retention tank has been determined to be 1000 gallons (engineer's statement attached).

A recently enlisted architect for the applicant has indicated, "In an effort to further improve the project, it is my understanding that Ankeny Kell Architects will continue to study aspects of the proposed design and that the drawings may evolve slightly prior to the next Planning Commission hearing on June 27. In particular, the west elevation of the building, fronting onto Lyndale Avenue, is under review, and it is likely that a somewhat revised drawing will be submitted for the CPC hearing. We will make every effort to get this drawing to you, along with any other modifications, for your review prior to that hearing. Any changes to the design will not alter the modifications outlined in this memo. We appreciate your assistance with this process."

An assistant to the applicant had previously submitted similar information on June 13, 2005, and staff retained the following revisions which supplement the architect's findings.

### **Windows:**

We have increased the size of the windows on the gable ends by approximately 25%.

The square footage of glazing for the project is as follows:

|              |            |             |            |              |
|--------------|------------|-------------|------------|--------------|
| Retail:      | East: N/A  | West: 51.5% | North: 35% | South: 35%   |
| Residential: | East: 6.5% | West: 35.5% | North: 12% | South: 18.5% |

### **Architectural Embellishments:**

- 1) On the south face of the garage we have added architectural elements - fleur-de-lis design
- 2) We have added additional trim to the windows.

**Parking:**

The developer would like credit for the hybrid car provided to the condo owners. Staff supports the proposed car-share program, but has informed the applicant there is not a provision in the zoning code to provide a parking credit for the hybrid car.

**REZONING:**

**Update:** On May 23, 2005, the City Planning Commission recommended that the City Council rezone the subject site from C1 to C2, and continued the rest of the applications for BZZ 2273 to the June 27, 2005. The rezoning to C2 was approved by the Zoning and Planning Committee on June 9, 2005, and postponed two cycles (due to postponement of other applications at CPC) to July 22, 2005, by the City Council on June 17, 2005. The rezoning findings have been included as background and for the public record, but no further action is required by the CPC.

**REZONING:****C1 to C2: Findings As Required By The Minneapolis Zoning Code for the Rezoning from the****1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.**

**MINNEAPOLIS PLAN:** *The Minneapolis Plan* designates Lyndale Avenue South from Franklin to Lake Street as a commercial corridor. Commercial Corridors are streets that are available for development including more intensive commercial and high traffic activities. However, commercial corridors must also balance both pedestrian and automobile orientation in their design and development. The plan has the following policies and relevant implementation steps related to this application.

**4.1 Minneapolis will encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods.****Relevant Implementation Steps**

Develop standards based on a recognition of the qualities that make urban 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 which add interest at the scale of the pedestrian.

Designate certain streets as commercial corridors with the adoption of this Plan.

**4.3 Minneapolis will support development in Commercial Corridors where it enhances the street's character, improves its ability to accommodate**

**automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.**

**Relevant Implementation Steps**

Designate a network of Commercial Corridors.

Support a mix of uses on Commercial Corridors--such as retail sales, office, institutional, higher density residential (including Major Housing Sites where designated), and clean low-impact light industrial--where compatible with the existing and desired character of the street.

Ensure that commercial uses do not negatively impact nearby residential areas.

Regulate impacts of commercial uses, and in some cases prevent some uses from locating on designated Commercial Corridors, due to their adverse impacts on the viability of nearby residential areas.

Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

**Staff Comment**

The portion of Lyndale Avenue in question transitions to a mix of residential and small scale commercial uses. Extending C2 zoning to this area would not be consistent with the comprehensive plan because many uses allowed in the C2 district would not be compatible with the existing and desired character of the street.

**9.22 Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.**

**Relevant Implementation Steps:**

Use both infill development and new development opportunities to increase housing in the city.

Consistent with the City of Minneapolis adopted Housing Principles, develop strategies so that the variety of housing types throughout the city and its communities shall be increased, giving prospective buyers and renters greater choice in where they live.

Community Planning Division Comment:

As a designated Commercial Corridor, Minneapolis has identified Lyndale Avenue as a corridor that can take additional housing growth due to its existing transit and commercial amenities.

**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.**

**Relevant Implementation Steps:**

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.

**2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.**

The amendment is in the interest of the property owner.

**3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.**

The adjacent lot to the North is zoned C1 and contains Lyndale House Antiques and a dwelling unit. Farther to the North is a C2 district that contains a mix of uses and runs North of Franklin Avenue on the east side of Lyndale. To the East of the property is an R6 district of 2 ½ blocks with multi-family housing. To the South of the property, the C1 district continues south of 24<sup>th</sup> Street. The adjacent properties to the South are a parking lot serving Leaning Tower Pizza and a former convenience store site that was converted to a commercial laundry facility. To the West of the property is an R6 district that contains apartment buildings. To the Northwest of the property is a C1 district that contains a Super America station. Leaning Tower Pizza is located to the Southwest of the property. The section of Lyndale from Franklin Avenue to Lake Street is a mix of residential and commercial uses in the C1, C2, C4, OR1, and R6 districts. Changing the zoning classification to the C2 district at the subject property would be incompatible with the existing uses of property and zoning classifications on this section of Lyndale Avenue between Franklin and Lake Street is taken into account. When the subject properties were placed in the C1 district with the adoption of the 1999 zoning code revisions, a mid-block distinction was made on this block to encourage the retention and development of low intensity commercial uses across the street from the R6 district. The current C1 zoning classification is compatible with surrounding properties.

**4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.**

The development of a project that would be permitted or allowed as a conditional use under the existing zoning classification with out variances would be a reasonable use of the property.

**5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.**

The eastern block face of Lyndale Avenue from 22<sup>nd</sup> Street to 24<sup>th</sup> Street was B3S2 (Community Service District) under the 1963 zoning code. The subject properties (2301-09 Lyndale) along with the adjacent property to the North (Lyndale House Antiques) and six properties to the South were placed in the C1 district with the adoption of the 1999 zoning code revisions. The properties to the North of Lyndale House Antiques were placed in the C2 district. Since the time of this rezoning, there has been a strong demand for development, particularly housing, in the general area. As a designated Commercial Corridor, the Community Planning Division of CPED has identified Lyndale Avenue as a corridor that can take additional housing growth due to its existing transit and commercial amenities. The City has been a partner in the Urban Village housing development along the Midtown Greenway between Aldrich and Colfax Avenues and approved other projects (Arts Quarter Building, Machinery Lofts, Wedge expansion, Lyndale Express) in the general area. However, the development in the immediate area does not suggest that the existing C1 district is inappropriate.

### **CONDITIONAL USE PERMIT:**

#### **Findings as required by the Minneapolis Zoning Code for a Conditional Use Permit:**

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 for a shopping center:

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

Provided the shopping center complies with the requirements of the zoning district in which it is located and the applicable sections of the zoning code, it will not be detrimental to or endanger the public health, but may impact the safety, comfort or general welfare of residents of the proposed mixed-use development.

**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.**

Provided the shopping center complies with the requirements of the zoning district in which it is located and the applicable sections of the zoning code, it will not be injurious to the use and enjoyment of other property in the vicinity, but may impact the normal or orderly development and improvement of surrounding property for uses permitted in the district. As proposed, the commercial component provides the minimum required

number of off-street parking spaces, but may require a variance in the future depending on the tenants in the building.

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

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

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

Planning and Public Works staff have determined that alley access can remain open on the site based on the current commercial uses and floor space proposed for the development. The applicant can provide the minimum required parking for three (3) commercial tenants, provided no individual tenant requires above the minimum off-street parking requirement of four (4) stalls. Staff has also determined the applicant is eligible for a one stall parking deduction for the provision of bike parking (section 541.220), provided public works approves the encroachment permit for the bike racks in the public right of way along Lyndale Avenue. Adequate measures have been provided to meet the minimum parking requirement, limit traffic congestion in the public streets, and accommodate bicyclists and pedestrians traveling on foot. See findings, particularly finding #1, in the Parking Variance Section of this report for related information on May 23, 2005, CPC submittal and the current, revised application submittal for the June 27, 2005, CPC.

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

**MINNEAPOLIS PLAN:** *The Minneapolis Plan* designates Lyndale Avenue South from Franklin to Lake Street as a commercial corridor. Commercial Corridors are streets that are available for development including more intensive commercial and high traffic activities. However, commercial corridors must also balance both pedestrian and automobile orientation in their design and development. The plan has the following policies and relevant implementation steps related to this application.

**4.2 Minneapolis will encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods.**

**Relevant Implementation Step**

Develop standards based on a recognition of the qualities that make urban 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 which add interest at the scale of the pedestrian.

**4.4 Minneapolis will support development in Commercial Corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.**

**Relevant Implementation Steps**

Ensure that commercial uses do not negatively impact nearby residential areas.

Regulate impacts of commercial uses, and in some cases prevent some uses from locating on designated Commercial Corridors, due to their adverse impacts on the viability of nearby residential areas.

Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

**9.6 Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.**

**Relevant Implementation Steps:**

Promote the development of well designed moderate density residential dwellings adjacent to one or more of the following land use features: Growth Centers, Commercial Corridors, Community Corridors and Activity Centers.

Expand the understanding of the role that urban density plays in improving business markets, increasing the feasibility of urban transit systems and encouraging the development of pedestrian-oriented services and open spaces.

Advance the understanding of urban housing and urban retailing among all members of the design and development community.

**9.11 Minneapolis will support urban design standards that emphasize a traditional urban form in commercial areas.**

**Relevant Implementation Steps:**

Enhance unique characteristics of the city's commercial districts by encouraging appropriate building forms and designs, historic preservation objectives, site plans that enhance the pedestrian environment, and by maintaining high quality public spaces and infrastructure.

Orient new buildings to the street to foster safe and successful commercial nodes and corridors.

**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.**

**Relevant Implementation Steps:**

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.

**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.**

Shopping Centers are allowed by conditional use permit in both the C1 and C2 zoning districts, subject to compliance with the following specific development standards from chapter 536 of the zoning code.

(1) Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.

(2) Uses which require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this zoning ordinance.

(3) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

Restaurant, sit down.

(1) Where alcoholic beverages are served, not less than sixty (60) percent of total gross sales revenue shall be from the sale of food and beverages not containing alcohol, and the use shall comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter.

(2) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

The applicant has shown the second story commercial space as general retail instead of a wine bar restaurant as previously indicated. The tenant for the second story commercial space of approximately 2000 sf and the applicable applications will be determined at a future date.

The project as proposed would require a rezoning, conditional use permits, setback variances, and alternative compliance for the site plan review in order to be approved. The cumulative effect of the requested exceptions to the zoning code results in a proposed development that does not meet the intent of the zoning code. However, if the Commission and/or City Council determine that the required findings have been met for all of the applications associated with the development, the proposed shopping center may be an appropriate use within the development.

### **CONDITIONAL USE PERMIT:**

#### **Findings as required by the Minneapolis Zoning Code for a conditional use permit:**

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 for a multiple family dwelling of 13 units in a mixed-use building:

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

While 13 units of housing on the site may be acceptable, the scale and layout of the building could prove detrimental, and the commercial-retail component of the building may impact the residents of the building and development of adjacent parcels.

**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.**

Provided the dwelling units comply with the requirements of the zoning district in which they are located and the applicable sections of the zoning code, they will not be injurious to the use and enjoyment of other property in the vicinity, but may impact the normal or orderly development and improvement of surrounding property for uses permitted in the district. As proposed, there is a commercial-residential mix on the second story that is separated by alarmed emergency exists and a garden rooftop planter.

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

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

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

The applicant has proposed enclosed parking at grade, providing the required 13 parking stalls for 13 dwelling units-including a van accessible HC stall that is accessed from the alley. The applicant has addressed turning radius concerns by the public works department by recessing the overhead garage door from the alley. The applicant has proposed a hybrid car as a shared vehicle for the condo association. Staff has also determined the applicant is eligible for a 10% reduction (1 stall, calculation:  $13 \times 0.10 = 1.3$ ) in parking as per section 541.200 (1), transit incentives for multiple family dwellings located within 300 feet of a transit stop with midday service headways of 30 minutes or less. Adequate measures have been or will be provided to minimize traffic congestion in the public streets for the dwelling units. See findings, particularly finding #1, in the Parking Variance Section of this report for related information on May 23, 2005, CPC submittal and the current, revised application submittal for the June 27, 2005, CPC.

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

See finding number five (#5) in the previous conditional use permit section of this report for reference, and:

**4.11 Minneapolis will improve the availability of housing options for its residents.**

**Relevant Implementation Steps**

Increase the variety of housing styles and affordability levels available to prospective buyers and renters.

Provide and maintain moderate and high-density residential areas.

Promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.

Promote accessible housing designs to support persons with disabilities.

**9.6 Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.**

**Relevant Implementation Steps:**

Promote the development of well designed moderate density residential dwellings adjacent to one or more of the following land use features: Growth Centers, Commercial Corridors, Community Corridors and Activity Centers.

Expand the understanding of the role that urban density plays in improving business markets, increasing the feasibility of urban transit systems and encouraging the development of pedestrian-oriented services and open spaces.

Advance the understanding of urban housing and urban retailing among all members of the design and development community.

**9.22 Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.**

**Relevant Implementation Steps:**

Use both infill development and new development opportunities to increase housing in the city.

Consistent with the City of Minneapolis adopted Housing Principles, develop strategies so that the variety of housing types throughout the city and its communities shall be increased, giving prospective buyers and renters greater choice in where they live.

Community Planning Division Comment:

As a designated Commercial Corridor, Minneapolis has identified Lyndale Avenue as a corridor that can take additional housing growth due to its existing transit and commercial amenities.

**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.**

Provided the development also receives an approved site plan, setback variances, a conditional use permit for height and a shopping center, and the building meets density requirement, the project could conform to the applicable regulations of the district in which it is located upon the approval of this conditional use permit. See findings for maximum floor area and minimum lot width in section B of the site plan review part of this report for more information on density.

**CONDITIONAL USE PERMIT:**

**Findings as required by the Minneapolis Zoning Code the conditional use permit:**

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 for a 5 story building 55 feet tall to the top of a mansard roof where a 4 story building of 56 feet height is allowed:

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

Provided the dwelling units and shopping center uses comply with the requirements of the zoning district in which they are located and the applicable sections of the zoning code, they will not be detrimental to or endanger the public health, but may impact the safety, comfort or general welfare. In this case, the fifth story created by the 4<sup>th</sup> floor design of the dwelling units, does not comply with the 3 story maximum (allowed as a density bonus for this proposal) of the C1 district or the four story limitation of the C2 district. The applicant, however, has revised the plan by proposing a mansard roof, and changed the exterior roof drainage system to built-in gutters and down spouts in an effort to prevent rain and snow from falling directly from the roof lines to the ground and public spaces. The height of the building to the top of the mansard roof would be 55 feet.

**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.**

Constructing a five-story building on the site may impede the normal or orderly development for uses permitted in the district on adjacent parcels. The adjacent property owner to the North (Lyndale House Antiques) has expressed his support for the project.

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

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

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

The inclusion of a fifth story due to a ceiling height over 14 feet on the 4<sup>th</sup> floor of the building does increase the parking requirement for the dwelling units and should not have a significant impact on the overall parking demand of the proposed development. See findings, particularly finding #1, in the Parking Variance Section of this report for related information on May 23, 2005, CPC submittal and the current, revised application submittal for the June 27, 2005, CPC.

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

See finding number five (#5) in the two previous conditional use permit sections of this report for reference, and:

#### **4.11 Minneapolis will improve the availability of housing options for its residents.**

##### **Relevant Implementation Steps**

Increase the variety of housing styles and affordability levels available to prospective buyers and renters.

Provide and maintain moderate and high-density residential areas.

Promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.

Promote accessible housing designs to support persons with disabilities.

#### **9.6 Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.**

##### **Relevant Implementation Steps:**

Promote the development of well designed moderate density residential dwellings adjacent to one or more of the following land use features: Growth Centers, Commercial Corridors, Community Corridors and Activity Centers.

Expand the understanding of the role that urban density plays in improving business markets, increasing the feasibility of urban transit systems and encouraging the development of pedestrian-oriented services and open spaces.

Advance the understanding of urban housing and urban retailing among all members of the design and development community.

#### **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.**

See findings for number six (#6) in the two previous conditional use permit sections of this report that discuss the applicable regulations for dwelling units and shopping center uses.

#### **In addition to the conditional use standards, the city planning commission shall consider, but not be limited to, the following factors when determining the maximum height:**

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

Although the height of the building may not affect direct solar access to all of the windows of the Lyndale House Antiques building to the north, the increased height combined with the proposed setback variance would create an area of limited space between the two buildings.

(2) **Shadowing of residential properties or significant public spaces.**

Although a shadow study has not been submitted, the setback to zero feet along the alley and building to the front property line would cast a shadow on the public sidewalk in the morning and alley in the evening. The proposed building, which has been redesigned with a mansard roof and would be constructed to 55 feet, one (1) foot less than the maximum permitted height in the C2 district, would cast shadows on the Lyndale House Antiques property to the north for much of the year.

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

Staff has observed that the scale and design of the proposed building would exceed other buildings along the commercial corridor stretch of Lyndale Avenue from Franklin to Lake Street, and would also minimize Lyndale House Antiques, particularly as one is traveling to the North. The staff recommendations in this report call for a building that is reduced in floor area of commercial space, and number of dwelling units unless the rezoning is granted, while providing greater setbacks from the adjacent properties.

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

It does not appear that the building would significantly affect views of features such as landmark buildings or significant open spaces. While the site itself is flat, this section of Lyndale Avenue is at a lower grade than Franklin Avenue and the views of downtown have already been compromised by the natural geography and built environment in that area. There are no water bodies in the immediate vicinity.

**VARIANCE:**

**Findings Required by the Minneapolis Zoning Code for the setback variance from 13 to 0 feet for the rear yard:**

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

The applicant could have reasonable use of the property while complying with the required rear yard. The part of the structure located in the setback area would be used for enclosed refuse and recycling storage, a vehicular entrance to enclosed parking, and a stairway and elevator to upper story dwelling units. Constructing the building up to the rear lot line across the alley from a parking pad serving a residential use appears to be the result of attempting to build the site beyond the capacity allowed by the zoning code.

- 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.**

The circumstances are not unique to the site in general. The proposal is to combine two contiguous parcels for redevelopment. The circumstances may be unique to the site for the immediate area in that these parcels are the only parcels in the immediate area that appear to be underdeveloped and underutilized that have had a site plan approved by the City Planning Commission within the past five years that was not implemented. The existing utility poles are located on the opposite side of the alley. The proposed development has created the need for the variance.

- 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.**

The granting of the variance may be in keeping with the spirit and intent of the ordinance but may alter the essential character of the locality. Given that the applicant is recessing the overhead garage door to the enclosed residential parking area to allow a turning radius for vehicles in the alley, the setback should not be injurious to the use or enjoyment of other property in the vicinity. There are other properties along this stretch of Lyndale Avenue that appear to be built to a minimal setback or zero rear lot line, but not that are five stories in height.

- 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.**

The proposed rear yard setback variance should 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.

#### **VARIANCE:**

**Findings Required by the Minneapolis Zoning Code for the variance from 13 to 0 feet for a setback for a drive aisle on the south interior lot line:**

The proposed site plan shows a drive aisle that is adjacent to a C1 district to the South that is used for parking. Findings 1, 2, 3, and 4 are not necessary. This variance is not required, was noticed in error, not applicable, and can be returned to the applicant.

### **VARIANCE:**

#### **Findings Required by the Minneapolis Zoning Code for the variance setback variance from 13 to 7 feet on the north interior lot line:**

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

The applicant could have reasonable use of the property while complying with the required north side yard. Constructing the building to roughly half the required setback adjacent to the residential use appears to be a result of attempting to build the site beyond the capacity allowed by the zoning code.

- 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.**

The circumstances are not unique to the site in general. The proposal is to combine two contiguous parcels for redevelopment. The circumstances may be unique to the site for the immediate area in that these parcels are the only parcels in the immediate area that appear to be underdeveloped and underutilized that have had a site plan approved by the City Planning Commission within the past five years that was not implemented. There are two trees that will be removed from the adjacent property to the North to provide clearance in the proposed set back area. The proposed development has created the need for the variance.

- 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.**

The granting of the variance may be in keeping with the spirit and intent of the ordinance and may alter the essential character of the locality and be injurious to the use or enjoyment of the adjacent property to the North. The owner of the adjacent property to the North has indicated his support for the project. There are other properties along this stretch of Lyndale Avenue that appear to be built to minimal side yard setbacks.

- 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.**

The proposed side yard setback variance should 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.

#### **VARIANCE:**

**Findings Required by the Minneapolis Zoning Code for the parking variance from 47 to 25, that was amended to a parking variance from 36 to 26, and has now been deemed unnecessary due to the wine bar restaurant being listed as general commercial space on the revised plans:**

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

**Update** based on (revised) plan submittal of June 17, 2005:

The applicant submitted a revised floor plan that changes the required parking for the proposed commercial occupants to 12 stalls and maintains the residential parking requirement at 13 stalls. As previously determined, the applicant is eligible for a one (1) stall reduction for the commercial space through the provision of bicycle parking and a one (1) stall reduction for the residential units through the transit incentives program, provided applicable Public Works approvals. The application for and deduction of one (1) parking stall for shared parking is currently not applicable and shall be returned to the applicant because not all of the commercial uses for the building have been determined. Parking Calculation: retail dry cleaner (4) + retail bakery (4) + general commercial space (4) + 13 dwelling units (13) = 25 parking stalls required. The CPC will need to act on the parking variance on June 27, 2005. The CPC can return the parking variance since it is currently not necessary or deny it to confirm that the applicant will need to return to the CPC if one of the future commercial-retail tenants of the building has a parking requirement of over four (4) stalls. Since the applicant is not eligible for a refund (of funding the parking variance fee), staff has left the findings for the parking variance in the report for reference, in case the CPC re-opens the discussion on the parking requirement for the building.

**Background** and Findings for May 23, 2005, CPC hearing:

Staff noticed this application for a parking variance from 47 to 25 for a mixed use development that includes a dry cleaning outlet (4), retail bakery serving coffee (12), wine bar restaurant with green roof patio (18), and 13 dwelling units (13). The applicant has proposed enclosed parking at grade that is accessed from the alley for the dwelling units. The applicant submitted a revised floor plan after the public notice was let, that changes the required parking from 12 to 4 stalls for the retail bakery. Staff has also

determined the applicant is eligible for a 10% reduction (1 stall, calculation:  $13 \times 0.10 = 1.3$ ) for the residential parking requirement (only) as per section 541.200 (1), transit incentives for multiple family dwellings located within 300 feet of a transit stop with midday service headways of 30 minutes or less. However, since the minimum of required parking is currently provided, section 541.200 (1) is not relevant at this time. The applicant is also eligible for a one parking stall commercial deduction (if needed) for the provision of bike parking (section 541.220), provided public works approves the encroachment permit for the bike racks in the public right of way along Lyndale Avenue. The applicant has also submitted a Shared Parking Agreement form estimating the perceived parking demand by time of day that predicts staggered peak demand for business patrons amongst the building tenants. The zoning administrator has reviewed the materials and determined the proposed use qualifies for a one (1) stall parking deduction based on the information provided. The applicant also submitted a statement indicating that he has secured 12 parking stalls by lease on a property within 50 feet of the subject site, but has not yet provided a "Reducing Off-Street Parking Requirement Application" for review by staff. A hybrid car to be financed and shared by the residents of the future condo association has also been proposed to reduce the need for second vehicles per dwelling unit. Given that the project qualifies for a 10% or one (1) stall reduction in residential parking, it is now an option for this hybrid car to be parked within the building instead of in the commercial lot, freeing up the 13<sup>th</sup> commercial stall. The revised required parking calculation as per the updated plans dated May 12, 2005, is 36 stalls (calculation: retail dry cleaner (4), retail bakery (4), wine bar restaurant with green roof patio (18), 13 dwelling units (13). The original calculation of 47 stalls was reduced by 11 (less 8 for the bakery, less 1 for bicycle parking, less 1 for transit incentives, and less 1 for shared parking. The parking variance, as per the plans dated June 17, 2005, is no longer required.

- 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.**

The proposal under review now is the third revision of a conceptual plan that originally included an underground parking facility that was rejected by Public Works staff during preliminary review due to the steep slope of the access ramp. The proposed development may create a future need for a parking variance.

- 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.**

While the granting of a parking variance on a commercial corridor with frequent transit service is not extraordinary for the adaptive reuse of an existing building, it may not be in keeping with the spirit and intent of the ordinance and may alter the essential

character of the locality or be injurious to the use or enjoyment of other property in the vicinity for this new construction proposal.

- 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.**

The applicant has revised the plans by changing the wine bar restaurant on the second floor to a general commercial space, thereby reducing the minimum parking requirement and eliminating the need for a variance. In the future, if the building does have a commercial occupant(s) that require above the minimum of four (4) parking stalls, a parking variance(s) would be required. The applicant has indicated that an option may exist to contract 12 parking stalls from a commercial business located in a commercial district 50 feet North of the subject site on Lyndale Avenue. A shared parking agreement would be required for the off-site contract stalls.

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

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See 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 and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

## **Section A: Conformance with Chapter 530 of Zoning Code**

### **BUILDING PLACEMENT AND FAÇADE:**

- 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. In the case of a corner lot, the principal entrance shall face the front lot line.
- 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 walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- 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 fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances and windows:
  - Residential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

    - a. Windows shall be vertical in proportion.
    - b. Windows shall be distributed in a more or less even manner.

- **Nonresidential uses:**
  - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**
    - a. **Windows shall be vertical in proportion.**
    - b. **Windows shall be distributed in a more or less even manner.**
    - c. **The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.**
    - d. **First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.**
    - e. **First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.**
    - f. **Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.**

**Minimum window area shall be measured as indicated in section 531.20 of the zoning code.**

- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages:** **The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. At least thirty (30) percent of the first floor building wall that faces a public street, public sidewalk or public pathway shall be occupied by active uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

The placement of the building is located up to the front lot line on Lyndale Avenue, reinforces the street wall, maximizes natural surveillance and visibility, and facilitates pedestrian access and circulation. The applicant has proposed bicycle racks and planters in front of the building as amenities and public works staff has indicated encroachment permits would be needed for these items. The building is oriented so that the principal entrance faces Lyndale Avenue. The on-site parking facilities for the retail uses are located to the side of the site, and the residential parking area is located within the principal building served. The building walls provide architectural detail and

contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility. The applicant has estimated that the glazing area at the ground (1<sup>st</sup>) story front of the building along Lyndale Avenue is 51.5 %. A similar pattern of glazing wraps around the North and South facades of the West (front) corners of the building covering an estimated 35% of the 1<sup>st</sup> and 2<sup>nd</sup> story commercial-retail façades. The ground floor windows for the retail space are designed to allow views into and out of the building at eye level, and the applicant is hereby reminded shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. The 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floor facades fronting Lyndale exceed the 10% glazing requirement. Architectural elements, including recesses and projections, windows and entries, are provided divide the building into smaller identifiable sections. The applicant complies (at 23 feet) but may want to add windows or other architectural elements to the Northern quarter of the Eastern façade (facing residential located across the alley) to distribute the glazing more evenly and/or make this section of wall more pedestrian friendly.

Windows have been added to the South facing wall of the enclosed parking area to comply with the requirement that, "blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length". Alternative compliance will need to be granted or an architectural element could be added to the 1<sup>st</sup> story, south facing wall at the west corner of the building. This area contains the garbage and recycling for the building and it may not be practical to have a window in this area. The exterior materials and appearance of the rear and side walls of any building are similar to and compatible with the front of the building. The exterior materials for the building will be stucco, arccus stone, wood (or a synthetic wood-grained product with the same aesthetic value). The applicant has ruled out the use of EIFS (External Insulation Finish Systems) or vinyl. The form and pitch of the proposed roof lines is not similar to surrounding buildings. While Lyndale House Antiques is a gable roof with a fairly steep pitch, most of the other commercial and residential buildings immediately surrounding the site have flat roofs. The surrounding area has buildings with flat, gable, and mansard roofs. The applicant has revised the plans from a 12/15 roof pitch to a mansard roof. The building includes a second story flat roof courtyard as a landscaped amenity. The applicant has indicated the mansard roof also reflects a residential structure and retains the desired French architectural style. The applicant has not updated staff regarding the future addition of solar panels to the building. In addition, during preliminary review planning staff expressed some concerns as to whether the elevator design and rooftop garden plan meet the intent of section 548.170 of the code, separate access required for commercial and residential uses. The zoning administrator did not approve the design and indicated that the separation between the commercial and residential uses did not meet the intent of the code. The applicant has responded that the design does meet the letter of the code and the elevator will be key card accessed and the gate on the roof top garden will be an alarmed emergency exit only, therefore assuring separation and safety. Security cameras may help mitigate these concerns. The design of the second story commercial, residential, and garden roof top has not changed from the plans reviewed by the CPC on May 23, 2005.

**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 530.150 (b) related to alley access.
- Site plans shall minimize the use of impervious surfaces.

Clear and well-lighted walkways of at least four (4) feet in width are provided to connect the building entrances (retail and residential) to the adjacent public sidewalk. A clear and well-lighted walkway of at least four (4) feet in width has been provided to connect the HC parking stall to the front door, but not the rest of the commercial (retail) parking facilities located on the site. The applicant has indicated that it would be a hardship to provide a sidewalk (4) feet in width the entire length of the building for 13 parking stalls, when he was asked at PSPR to remove the one way drive aisle (20 feet in width versus 22 feet width for two-way) that led to the alley and could be allowed. The applicant believes a good faith effort was made to meet the middle ground by providing a two-way drive aisle that allows an option for an outlet into the alley, but encourages customers to exit back onto Lyndale Avenue to minimize impact on residential properties located east of the alley. The applicant has provided a strip of landscaping along the south edge of the building in lieu of a sidewalk. The applicant has separated residential and commercial parking by enclosing the residential stalls and would be providing streetscape amenities in the public right of way along Lyndale Avenue to enhance the pedestrian environment. Vehicular access and circulation has been designed to minimize conflicts with pedestrian traffic and surrounding residential uses, with the exception of locating a sidewalk between the south façade of the building and the parking stalls for retail use.

There are three bus stops, including one transit shelter located near the property, but none on or in the public right of way adjacent to the property. While the preliminary site plan review notes indicate that alley access should be closed, the nonresidential uses proposed for the site are not captured by the code and the total non-residential floor space in the building is below 4000 sf and therefore not subject to section 530.150 (b) related to alley access. The applicant has not dedicated a space in the parking area for a loading zone, and is not required to by section 541.490 of the code, that allows adequate shipping and receiving facilities accessible by motor vehicle off any adjacent alley, service drive or open space on the same zoning lot for commercial developments below 5000 sf and multiple-family dwellings below 50 units. In response to a citizen concern about traffic at the intersection of Lyndale and 24<sup>th</sup> Street, staff found that 23 accidents had been reported at the intersection from May 1, 2004, through May 12, 2005. The City's Crime Prevention Through Environmental Design (CPTED) Officer indicated that it would be nice to see less accidents, but that an average of two accidents per month at a busy intersection does not normally warrant a traffic study. The site plan does not minimize the use of impervious surfaces at ground level, but does provide a second story rooftop garden as alternative compliance. For additional information on required parking, see the parking variance section of this report.

#### **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, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).
- 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.
- Except as otherwise provided, 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 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.
- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.
  - All other areas not governed by sections 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 530.210.
  - 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 530.80, as provided in section 530.220.

The proposed landscaping plan has been increased from the May 23, 2005, CPC meeting, but is still deficient. The total lot area is 13,046 sf and the building footprint is 7347 (118.5 x 62) sf. Section 530.160 of the zoning code requires that not less than twenty (20) percent of the site not occupied by buildings (or in this application 1140 sf) shall be landscaped, (calculation: lot area – building footprint x 20% = 13,046 sf – 7347 = 5699 x .20 = 1139.8). The applicant has proposed 836 sf or ten percent (15%) landscaping (calculation: 836/5699 = .1466) to the site area not occupied by the building at grade. The applicant has proposed an additional 604 sf or eleven percent (11%) landscaping (calculation: 604/5699 = .1059) as a rooftop garden amenity to the building. Section 530.160 of the code also requires not less than one (1) canopy tree for each

five hundred (500) sf and not less than one (1) shrub per each one-hundred (100) sf of the required landscaped area. In order to be in full compliance, the required plant count for this site is two (2) trees and twelve (12) shrubs to meet the landscaped yard requirements. The applicant has proposed four (4) trees and forty-four (44) shrubs and miscellaneous grasses and flowers. Forty-two (42) additional shrubs, both short (2-3 ft. height) and tall (6-8 ft. height) are proposed for the garden roof top as alternative compliance. The four (4) trees located in the exterior boulevard would need to be approved by the Minneapolis Park Board-Forestry division, and nine (9) shrubs in planters in the interior boulevard would need to be approved through encroachment permit by Public Works, and could also be considered for alternative compliance.

The main landscaping issues identified by staff include no landscaping strips along Lyndale Avenue or the alley for the exterior parking stalls at grade, shortage of landscaping area at grade, and lack of compliance with the requirement that no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. The applicant has proposed to screen the parking lot along Lyndale Avenue with planters in the public right of way. However, the required seven (7)-foot-wide landscaped yards have not been provided along the public street or alley. Given that the parking requirement for the building is currently fulfilled, the applicant could provide some additional landscaping on private property. The applicant's architect has indicated that a revised landscape plan may be submitted for review by the commission.

The city planning commission will have to approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80 (alternative compliance), as provided in section 530.220 (exceptions to landscaping and screening requirements). Staff is recommending that decorative fencing to match the existing fencing and railings that are proposed for the project be added to the south lot line and extended the full length of a parking stall (18 feet) along the east property line, if alternative compliance is granted. The freestanding sign proposed for the Southwest corner of the property along Lyndale Avenue would also need alternative compliance to meet the year round screening requirement (provision of evergreen shrubs at the base) as per section 543.240 (d) of the code. The applicant has proposed ornamentation on the sign in lieu of landscaping.

#### **ADDITIONAL STANDARDS:**

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **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.**

- To the extent practical, site plans shall minimize the blocking of views of important elements of the city.
- To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- To the extent practical, 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 related to:
  - Natural surveillance and visibility
  - Lighting levels
  - Territorial reinforcement and space delineation
  - Natural access control
- To the extent practical, 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.

The commercial parking and loading area abuts the south façade of the building, directing headlights toward the building, but vehicles entering the parking lot and exiting to the alley will have their headlights shining toward the rear yards of residential properties. The applicant has proposed wheel stops for the parking stalls facing the building and will need to provide fencing on top of curbing along the South property line to comply with the stormwater management component for parking lot design. The applicant has proposed a 1,000 gallon underground grey water storage tank for the rooftop garden. The applicant believes the rooftop garden area will be a crime prevention design element by putting more eyes on the street.

Lighting shall comply with the requirements of Chapter 535 and Chapter 541 of the zoning code. The proposed site plan does not block views of important elements of the city and should not generate wind currents at ground level, but may shadow public spaces and the adjacent property to the North as discussed in the conditional use permit (for a 5th story) section of this report.

### **Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council**

**ZONING CODE:** A shopping center is a conditional use in both the C1 and C2 district with specific development standards. A bakery and dry cleaning pick up station are permitted in both the C1 and C2 district. A restaurant, sit down, including the serving of alcoholic beverages with limited entertainment is permitted in both the C1 and C2 district with specific development standards. A multiple family dwelling of 5 or more units is a conditional use in both the C1 and C2 district.

#### **Off-Street Parking and Loading:**

The applicant submitted a revised floor plan that changes the required parking for the proposed commercial occupants to 12 stalls and maintains the residential parking requirement at 13 stalls. Parking Calculation: retail dry cleaner (4) + retail bakery (4) + general commercial space (4) + 13 dwelling units (13) = 25 parking stalls required. The applicant proposes 26 parking stalls. See update, background and findings in Parking Variance section of this report.

**Maximum Floor Area:** The maximum FAR in both the C1 and C2 District is 1.7. The lot in question is 13,046 square feet in area. The plan proposes 21,462 square feet of gross floor area, a FAR of 1.645.

**Minimum Lot Area:** See analysis below for the C1 and C2 Districts. With 13 proposed dwelling units on a lot of 13,046 square feet, the applicant proposes 1003 square feet (13046/13) of lot area per dwelling unit without bonuses. With the bonuses taken into account, the applicant proposes 2388 square feet (31049/13) of lot area per dwelling unit with bonuses.

The property is currently zoned C1. The zoning code allows dwelling units as part of a mixed-use building at 1500 square feet per dwelling unit in the C1 district and a Floor Area Ratio of 1.7. Eight (8) dwelling units (calculation:  $13,046/1500 = 8.697$ ) and 22,178 square feet of floor area (calculation:  $13,046 \times 1.7 = 22,178.2$ ) would be allowed at this site in the C1 district. Twelve (12) dwelling units (calculation:  $8.697 \times 0.20 = 1.739 \times 2 = 3.478 + 8.697 = 12.175$ ) and 31,049 square feet of floor area (calculation:  $22,178.2 \times 0.20 = 4435.64 \times 2 = 8871.28 + 22,178.2 = 31,049.48$ ) would be allowed when the density bonuses are included.

If the property is rezoned to C2, the zoning code allows dwelling units as part of a mixed-use building at 900 square feet per dwelling unit in the C2 district. 14 dwelling units (calculation:  $13046/900 = 14.495$ ) and 22,178 square feet of floor area (calculation:  $13,046 \times 1.7 = 22,178.2$ ) would be allowed at this site in C2 district. Twenty (20) dwelling units (calculation  $14.495 \times 0.20 = 2.899 \times 2 = 5.798 + 14.495 = 20.293$ ) and 31,049 square feet of floor area (calculation:  $22,178.2 \times 0.20 = 4435.64 \times 2 = 8871.28 + 22,178.2 = 31,049.48$ ) would be allowed when the density bonuses are included.

**Building Height:** Building height in the C1 District is limited to 2½ stories or 35 feet, whichever is less. However, as per section 548.130 (b) of the code, the mixed use commercial-residential building proposed by the applicant qualifies for a density bonus to increase the building height to 3 stories or 42 feet, whichever is less. Building height in the C2 District is limited to 4 stories or 56 feet, whichever is less. The applicant has revised the plans and proposed the building with a mansard roof of 55 feet in height. However, the applicant has filed for a CUP to allow 5 stories in the C2 district. See conditional use permit to allow a 5 story building findings in this report for additional information.

**Yard Requirements:** The rear and interior side yards have setback requirements of 13 feet ( $5 + 2x$ ) for a five story building.

**Specific Development Standards:**

See the conditional use permit (for a shopping center) section of this report. Compliance with specific development standards from Chapter 536 of the zoning code for a shopping center and any of the uses in the shopping center will be required.

**Hours of Operation:**

In the C1 or C2 District, uses may be open to the public during the following hours: Sunday through Thursday from 6:00 a.m. to 10:00 p.m.; Friday and Saturday from 6:00 a.m. to 11:00 p.m. Provided the applicant is granted a wine and beer license by the City, the liquor license hours would determine the closing time, if a wine bar restaurant becomes a future tenant. Should the CPC approve the site plan application, staff is recommending a condition be added to address on site security and restricting the hours of the commercial-retail rooftop garden space.

**Signs:** Signs are subject to 531 and 543 of the Zoning Code. All new signs are required to meet the requirements of Chapter 543 of the zoning code. The applicant proposes to comply with the

requirements of the zoning code for signage. The applicant is working with Sign-A-Rama to ensure compliance with zoning code requirements. The applicant has proposed a free standing sign in the Southwest corner of the lot that will need to be moved completely onto the applicant's property. The pole is located on private property, and the Public Works department has not indicated they will approve an encroachment permit for the portion of sign panel that overhangs into the public right of way. This sign would also need alternative compliance for lack of landscaping at the base as per section 543.240 (d) of the code. The applicant has proposed ornamentation to the sign as alternative compliance.

**Refuse storage:** The applicant has proposed indoor storage of commercial and residential refuse and recyclables that is accessed from the alley. The applicant has indicated pick up will be scheduled as frequently as needed and an email of support has been submitted by the waste management company.

### **MINNEAPOLIS PLAN:**

See finding number one (#1) in the rezoning section and finding number five (#5) in the conditional use permit sections of this report. The small area plan, Lyndale Avenue: A Vision, would support the redevelopment of the site, but the plan does not provide enough detail to make a recommendation on the subject proposal.

### **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.**

Staff is not recommending the approval of alternative compliance for the proposed site plan. The city planning commission would have to approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80 (alternative compliance), as provided in section 530.220 (exceptions to landscaping and screening requirements). The main landscaping issues identified by staff include inadequate landscaping strips along

Lyndale Avenue and no landscaping provided along the alley for the exterior parking stalls at grade, shortage of landscaping area at grade, and lack of compliance with the requirement that no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree.

Staff is recommending that decorative fencing to match the existing fencing and railings proposed for the project be added to on the top of curbing along the south lot line and be extended the full length of a parking stall (18 feet) along the east property line, if alternative compliance is granted. The freestanding sign proposed for the Southwest corner of the property along Lyndale Avenue would also need alternative compliance to meet the year round screening requirement (provision of evergreen shrubs at the base) as per section 543.240 (d) of the code. Additional items to be considered for alternative compliance include: roof pitch compatibility with surrounding area, lack of walkway 4 feet in width connecting the commercial parking spaces to the public sidewalk and building entrance, and lack of compliance with the required window area along the 1<sup>st</sup> story, south facing wall (garbage/recycling area) at the west corner of the building.

#### **CPED PLANNING DIVISION RECOMMENDATIONS:**

##### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit for a shopping center located at 2301-2309 Lyndale Avenue South.

##### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit for 13 units located at 2301-2309 Lyndale Avenue South in the C1 district.

##### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit for a 5 story building 52 feet tall to midpoint of roof at 2301-2309 Lyndale Avenue South.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the setback variance from 13 to 0 feet for rear yard:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance from 13 to 0 feet for the rear yard.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance from 13 to 7 feet on the north interior lot line.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the parking variances from 47 to 25 and from 36 to 26 parking stalls for the mixed-use development at 2301-2309 Lyndale Avenue South.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the site plan review:**

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the site plan review application for the Le Parisien project located at 2301 and 2309 Lyndale Avenue South.

**Attachments:**

1. Correspondence Updates and May 23, 2005, CPC minutes
2. Project overview and building summary
3. Authorization letter and Adjacent neighbor letter
4. Applicant's Findings
5. Green Roof Design Certificate, Building Biology Report, Phase I Environmental Assessment
6. Letters on building drainage, waste management, signage
7. Correspondence with neighborhood organization and council office and email on

traffic

8. Market study information and MLS listings on similar properties
9. Previous City Actions, PSPR notes, and correspondence with City staff
10. Zoning maps and ortho photo
11. Revised Project Plans and Elevations
12. Photos of project site and Photos of buildings with no setbacks on the alley

**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  
(612) 673-2728 Fax  
(612) 673-2157 TDD

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**MEMORANDUM**

DATE: June 28, 2005

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division; Phil Schliesman, Licenses

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

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

SUBJECT: Planning Commission decisions of June 27, 2005

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The following actions were taken by the Planning Commission on June 27, 2005. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners Present: President Martin, El-Hindi, Krause, Krueger, Kummer, LaShomb, Motzenbecker, Schiff and Tucker – 9

Not present: Henry-Blythe

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**4. Le Parisien Flats and Market Place (BZZ-2273, Ward 6), 2301-2309 Lyndale Avenue South (Lonnie Nichols). This item was continued from the May 23, 2005 meeting.**

**A. Conditional Use Permit:** Application by Le Parisien, LLC for a conditional use permit for a shopping center for the property located at 2301-2309 Lyndale Avenue South.

**Action:** Notwithstanding staff recommendation, City Planning Commission **approved** the conditional use permit for a shopping center located at 2301-2309 Lyndale Avenue South based on the following findings:

1. The project is consistent with the previous action to change the zoning to C2;
2. The change in the plan for the second floor commercial space from wine bar to retail reduces the parking impacts;
3. The effort to provide additional landscape buffer and greening on the site reduces impacts;
4. The comprehensive plan supports this type of mixed-use project; and
5. The numbers work for the number of units allowed for the size of the property.

**B. Conditional Use Permit:** Application by Le Parisien, LLC for a conditional use permit for a multiple family dwelling with 13 units for the property located at 2301-2309 Lyndale Avenue South.

**Action:** Notwithstanding staff recommendation, City Planning Commission **approved** the conditional use permit for 13 units located at 2301-2309 Lyndale Avenue South in the C1 district based on the following findings:

1. The project is consistent with the previous action to change the zoning to C2;
2. The change in the plan for the second floor commercial space from wine bar to retail reduces the parking impacts;
3. The effort to provide additional landscape buffer and greening on the site reduces impacts;
4. The comprehensive plan supports this type of mixed-use project; and
5. The numbers work for the number of units allowed for the size of the property.

**C. Conditional Use Permit:** Application by Le Parisien, LLC, for a conditional use permit for a 5-story building 52 feet tall to midpoint of roof where a 4 story building of 56 feet height is allowed for property located at 2301-2309 Lyndale Avenue South.

**Action:** Notwithstanding staff recommendation, City Planning Commission **approved** the conditional use permit for a 5 story building 55 feet tall to top of mansard roof at 2301-2309 Lyndale Avenue South based on the following findings:

1. The project is consistent with the previous action to change the zoning to C2;

2. The change in the plan for the second floor commercial space from wine bar to retail reduces the parking impacts;
3. The effort to provide additional landscape buffer and greening on the site reduces impacts;
4. The comprehensive plan supports this type of mixed-use project; and
5. The numbers work for the number of units allowed for the size of the property.
6. The project complies with the maximum permitted height in terms of permitted feet.

**D. Variance:** Application by Le Parisien, LLC, for a setback variance from 13 to 0 feet for the rear yard for the property located at 2301-2309 Lyndale Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the variance from 13 to 0 feet for the rear yard.

**E. Variance:** Application by Le Parisien, LLC, for a setback variance from 13 to 5 feet on the north interior lot line for the property located at 2301-2309 Lyndale Avenue South.

**Action:** The City Planning Commission adopted the findings and **denied** the variance from 13 to 7 feet on the north interior lot line.

**F. Variance:** Application by Le Parisien, LLC, for a parking variance from 36 to 26 for the property located at 2301-2309 Lyndale Avenue South.

**Action:** The City Planning Commission **accepted the withdrawal** of the application for parking variances from 47 to 25 and from 36 to 26 parking stalls for the mixed-use development at 2301-2309 Lyndale Avenue South.

**G. Major Site Plan Review:** Application by Le Parisien, LLC, for major site plan review for a mixed use development that includes a dry cleaning outlet, retail bakery serving coffee, wine bar restaurant, green roof patio, and 13 dwelling units, located at 2301-2309 Lyndale Avenue South.

**Action:** The City Planning Commission **continued** the site plan review application for the Le Parisien project located at 2301 and 2309 Lyndale Avenue South to the July 18, 2005 meeting.

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Staff Lonnie Nichols presented the staff report. He noted that the rezoning that the Planning Commission had made a previous recommendation for is waiting for an upcoming Council meeting in July and that it had passed the Zoning and Planning Committee.

President Martin: Lonnie, can you remind us what were the questions that were left hanging when we had this before us before?

Staff Nichols: Yes, and actually I did not mention one of the big pending questions. One of the main issues last time as well as the general size of the building on the lot that's available to build on was the parking issue. And that has in essence gone away. The applicant changed the floor plan so that the second floor which was proposed for a wine bar restaurant has now been shown as general retail commercial space. Which means for our calculations today, that would be a parking requirement of 4, a minimum of 4. And with that, the applicants can now meet their parking variance for the residential as well as the commercial. The applicant, however, based on what uses go in the building is subject to come back to the Commission for parking variances. And again, otherwise the plan is in essence similar although the roof pitch changed and additional landscaping.

Commissioner Tucker: How low would that ceiling on the fourth floor have to be to not be considered a fifth floor as well?

Staff Nichols: Anytime you go above 14 feet for a floor, it will constitute another story.

Commissioner Tucker: How high is it currently proposed?

Staff Nichols: The total height is proposed at 17 ½ feet now.

Commissioner Tucker: So if they got down to 14 or less, then that would only count as the fourth floor and they wouldn't need that CUP, is that correct?

Staff Nichols: I'm not quite sure how they would do that with the plan that's in front of us. I imagine if they put in a 9-foot ceiling maybe, and then turned it into attic space, but I think the intent here of the design is to leave a nice open space for people to have a high ceiling.

Commissioner Tucker: But I'm assuming at 17 ½, you could put in lofts and make it 2-stories in parts or something like that which is why it's counted as a fifth story?

Staff Nichols: Correct.

Commissioner Krause: The variance for the rear yard setback variance. I'm sorry, it's the one on the north interior lot line. Variance E in our packets, is it 5 feet or is it 7 feet?

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Staff Nichols: The variance on the north interior lot line is to 7 feet, so that would be the north side of the building and Lyndale House Antiques is here. The variance on the east side or the alley is down to zero.

Commissioner Krause: And that 7 foot is the same as it was in our previous proposal?

Staff Nichols: Correct.

President Martin: Commissioners, we had a fairly lengthy public hearing on this when it was before us before. Is there something you would like to hear from the applicant that would help in our deliberations? I don't know that we need to reopen the entire public hearing since we spent about an hour and a half on this last time. OK, so we have before us three CUP's, a bunch of variances and the site plan.

Commissioner Krause: Madame Chair, I think we heard the staff say that if we could find an acceptable site plan that the conditional use for the shopping center and for the 13 units was not necessarily a problem. And then as I look at some of the other applications, the conditional use permit for a 5-story building of 52 feet versus a 4-story building of 56 feet does not strike me as terribly problematic. And then the one that really sticks out for me is the variance on the rear yard setback and perhaps also that north interior lot line setback. So it's really the two setbacks. I think we've heard because of the change in usage, the parking variance is now a moot issue. So, really I think maybe to just focus our discussion a little bit, it strikes me that the issue here is whether we're prepared to allow the rear yard and the north interior setback.

President Martin: Thank you, that's helpful. Anybody have thoughts about that?

Commissioner Tucker: Well, I think last time we saw a... what I would call a 3-pound project in a 1-pound bag and we up-zoned it from C1 to C2, so we have a 2-pound bag. It still doesn't quite fit. And they've modified a little bit so maybe it's now a 2 ½-pound project, but it's still too big. So I think that's the reoccurring problem, it's just asking too much for this one site. It's just a little too far back and too much to the side. Perhaps it's that commercial on the second floor asks too much of that site.

Commissioner Krause: I guess there is one other issue and that is in terms of a site plan where we're at in terms of the amount of green space. Do you have any sense, Lonnie, what percentage of the site we have as green space or how close we're coming to meeting the requirement.

Staff Nichols: Should be on one of the updated landscape plans. Those numbers should be listed. We are currently looking at an estimated percentage... If I may ask the applicant, he may be able to point to this quicker.

Paul Gates (Architect for applicant, 4917 Garfield): The landscaping now stands at 93 percent of the required 20 percent. I think it's 18 percent and change. So we're lacking 79 square feet which is about half the size of a parking space. And we're proposing that

with the planted roof garden, which has 378 square feet of planted area in it, we've understood from Council Member Schiff that there's some discussion about allowing up to one third of planted roof area to count towards the landscape requirement. If that standard were invoked here, we would easily exceed the ordinance. May we be allowed to speak for five minutes at least about some of the changes that have been made?

President Martin: If people have questions. OK.

Staff Nichols: I believe Mr. Gates was going to be their spokesperson.

President Martin: Why don't you tell us about the changes.

Paul Gates: Ankeny Kell is the design architect for the project. I'm not the designer, I've simply been asked by the applicant following the last hearing to get involved and see what might be done to try to move the project towards greater compliance. I did review the DVD from the last hearing, so I'll try not to reiterate anything that was said there. We've worked again for the past month talking with the neighborhood and staff on almost a daily basis, at least with staff, trying to address concerns. We think we've brought the project much more towards compliance. The biggest single change, very briefly, again was the parking variance. As you know, on mixed use projects like this, parking is almost invariably the most important hot button issue and by making the sacrifice of doing away with the wine bar towards general retail, we totally take the parking off the table. In our view, the staff had previously said that there was too much building on the lot and that point was well taken. However, with the parking variance now gone, the issue remains simply one of the required yards. I want to point out that the building mass is about 21,000 square feet of building above grade not including the structured parking. According to the zoning ordinance, if the applicant were to invoke the density bonuses that he's allowed, he could build 31,000 square feet. These are in rough terms. But roughly stated, he could build 40 percent more than he's proposing. In terms of the residential unit counts, he's proposing 13 units. As of right, without invoking any density bonuses, he could build 14 units. And with the bonuses that he's eligible for, he could build 20 units. So he could increase the number of units by 50 percent and still be within the density bonus. So the issue, once the parking is off the table, seems to be not a question of it being too much for the lot. He could build a building that was 40 or 50 percent larger in size and still comply. The issue rather seems to be that the site is very small and that there are many conflicting requirements in the code that are difficult to resolve on a site this small. [showing illustration] Can that be enlarged at all? So, let me just run through very quickly the code requirements that the applicant is charged with dealing with. Starting from the south, there is a requirement to screen the parking with some kind of landscaping. Secondly, we have a 22 foot required drive aisle and then an 18 foot required parking stall. On the interior of the building, we face the same requirements, the 18 foot stall, the minimum 22 foot wide drive lane, another 18 foot stall. When you add up all those code requirements, you're left with 7 feet of side yard on the north. It's impossible to achieve the required 13 foot yard if we're going to comply with all the other Zoning criteria. For this kind of retail,

which is to say a proposed bakery and a dry cleaner, it is not likely that the applicant will find a tenant who will be satisfied with underground parking. And so it seems essential that there be some surface parking visible from Lyndale Avenue that a customer can see, drive into, get out for 5 minutes, get his or her dry cleaning, and get back in the car. This is seemingly central to the issue of how we developed mixed use properties on small lots in the city. If we're going to require that every single Zoning ordinance be applied and held to, then it's going to force developers to assemble larger and larger parcels and we'll end up getting sort of big-box equivalent of housing that you see in many commercial areas in suburban areas. So the applicant is trying to comply with the Minneapolis Plan by building a mixed-use parcel that is at least 40 percent smaller than the zoning envelope and the ordinance would allow. But do it in a way that works economically, has surface parking, has structured parking. I think Lonnie has stated fairly well the effort to meet the landscape requirement. I'll run through them very quickly. We've added compact stalls instead of full size stalls to take advantage of the ability to landscape the head end of the parking. We've reduced the parking by one stall on grade, so now we have 12 instead of 13. In doing that, we added additional trees. By my count, we have 6 and not 4 as the staff report indicated and then if you count the 4 in the front, that would be 10 total for the site. So again, we think we have made great pains to try to comply with the landscape requirement. We're still 79 square feet short. We think that the roof garden has merit. It seems to do many of the things that the zoning ordinance intended when it required that there be landscaping on site. It's reducing runoff. These are planter boxes that are at least 16 inches deep so they will absorb a certain amount of moisture. It provides a similar cooling effect, reducing the urban heat island if you will. Beautifies the area still – this roof garden is only 16 feet in the air. It's not at the 55 foot level of the building, it's very low. Arguably more visible than having landscaping on the north side towards the alley where it would not be able to be seen. One point about the roof pitch, if I can just quickly. There was talk on the part of the neighborhood that the building seemed massive. And so, in an effort to try to reduce the apparent mass of the building, this mansard roof was brought about. It brings the total height of the building down from I think 61 feet down to 55. So it's a total height reduction of 6 feet. That said, I think the applicant really prefers that it be the gabled roof that came before you last time. And the staff report we note says that with the mansard roof, it does not match the prevailing character of roofs in the area. And if that's the case, the applicant is more than happy to go back to the gabled roof form. The intention here was simply to try to meet the concern of the neighborhood and the apparent mass of the building. That would be my summary of the major changes that we've taken. Tom, did I miss anything?

Commissioner Krause: Mr. Gates, the most recent communication we had from the neighborhood organization expressed concern about the quality of the exterior materials. Can you speak to that?

Paul Gates: Yes I can. And perhaps Tom Betty can take over if I don't do it justice. The proposal is for a Portland Cement based stucco. This is a 3-coat traditional stucco, it's got a thickness of 5/8 of an inch or so. The finish coat on the stucco would be a product called Archistone which is a product out of Europe that incorporates Limestone powders

into the mix. It was historically developed for the stone restoration trade and now is being used more broadly in new construction, but it's intended to give a very high quality finish to the stucco. It's not dry but it's not EFIS. The applicant has pledged to continue to work with the neighborhood and continue to bring forward images of the building as the design progresses.

President Martin: Other questions? Thank you, Mr. Gates.

Commissioner El-Hindi: From going to the general retail from the wine bar scenario, what is the required parking currently. Do the 25 spaces that you have currently exceed your requirements?

Paul Gates: Yes sir, they do. There are proposed 3 separate retail uses, all general retail, each would have a requirement of 4 stalls which makes 12 for the commercial and then that requirement is reduced by 1 because of the bike racks in the front, so that brings the commercial parking to a total of 11 spaces. And then with the residential, there are 13 stalls required reduced by 1 because of the transit incentive, so we have 12 plus 11 for a total of 23 stalls required and we're proposing 25.

President Martin: OK Commissioners, we're back to where we were. Mr. Gates, I just want to make sure – the variance application that we have here for the parking variance, you're no longer asking for that.

Paul Gates: That's correct.

President Martin: So variance F has gone away.

Staff Nichols: Madame Chair, I believe the recommendation can now change to return that to the applicant since it has been withdrawn, but action needs to be taken.

Staff Wittenberg: Just to clarify, did the applicant submit a withdraw letter for that, or are we taking this step to return it?

Staff Nichols: Yes, it's actually the last bit of information that came in this afternoon. So it's in your packet.

Staff Wittenberg: So we can just deem that withdrawn.

Commissioner Krause: Madame Chair, we have to have something to talk about, so I will move the two conditional use permits, the shopping center permit and the conditional use permit for the 13 units (LaShomb seconded).

Commissioner Schiff: I just want to clarify with Lonnie Nichols. The commercial space on the second floor has gone away, but the number of dwelling units has not changed?

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Staff Nichols: Actually, Commissioner Schiff, the commercial space on the second floor remains commercial retail, but it's no longer considered a wine bar because the number of residential units has remained 13 in this application.

President Martin: OK, and just to be clear Commissioner Krause, what you proposed and what was seconded was that we approve the CUP's.

Commissioner Tucker: I will support that although later when we come to the variances, I will have a problem with that, so the number of units is fine – that's been demonstrated and I think that's OK. And the uses, although I have my doubts about second floor commercial and that shared patio, but that's I think up to the developer to figure out if that will work or not. So I will support that and talk later about the variances.

President Martin: All those in favor of the motion to approve the CUP for the shopping center and for 13 units, please signify by saying aye.

The motion carried 7 – 1 (Motzenbecker opposed).

President Martin: Findings?

Commissioner Krause: Madame Chair, I think it's consistent with our action last time to change it to the C2 zoning and also I'm less concerned about the impact on other properties because of the change in the use on the second floor commercial space which reduces the parking impacts and also the effort to provide additional landscape buffer and greening on the site. I do find a lot of language in the comprehensive plan that would support this kind of a mixed use project as well.

Commissioner Tucker: And the numbers work for the number of units allowed for that size property.

Commissioner Krause: I'll also move the CUP on the height for the 5 stories and 52 feet, to approve it (LaShomb seconded).

President Martin: OK. Discussion. Commissioner Tucker.

Commissioner Tucker: Well I think this is where we get into a problem because particularly on the rear setback if you have the very... the 5-story height and no setback, then you are crowding that alley a great deal. I think you could have one or the other, but not both. So I don't know how the applicant might want to work with that if we chose that, but I don't think it can go both ways. At least that would be my opinion.

President Martin: Others. Alright, we'll just see how this goes. So the motion is to approve the CUP for the 5-story building at 56 feet. So, all those in favor... 52, excuse me, looking at the wrong thing.

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[response comment, off microphone]

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President Martin: Alright, let's be clear, what is it?

Commissioner Krause: It says 52 in the staff recommendation.

Staff Nichols: Commissioner Tucker, it was actually a little bit taller when it was pitched last time around.

Commissioner Krause: So 52?

President Martin: So it is 52?

Staff Nichols: It's 52, and I can...

President Martin: Mr. Gates? You don't want us voting on the wrong thing.

Paul Gates: I think the 52 feet before was to the average height of the gable, so the midpoint of the gable. The overall height of the first pass was 61 feet overall. Now we've lowered that to 55 feet overall with the mansard design. So that's the change. The flat part's at 55.

President Martin: OK, so Commissioner Krause, you're still motioning the approval of that?

Commissioner Krause: Madame Chair, the allowable number of floors and height here is 4 stories and 56 feet. What they're proposing then I guess is apparently 5 stories and 55 feet, so they're still below the actual height limit, so I'm comfortable with that and I'll amend my motion to be 5 stories and 55 feet.

President Martin: OK. And whoever seconded that, is that you, Commissioner LaShomb?

Commissioner LaShomb [off microphone]: Sounds good.

President Martin: Alright, further discussion about that one? Don't see any. All those in favor of that motion, please signify by saying aye. Opposed?

The motion carried 6 – 2 (Motzenbecker and Tucker opposed).

President Martin: Alright, one opposed. Alright. We have variances D and E and F has gone away.

Commissioner Krause: Madame Chair, I'll move the staff recommendations on the two variances which is to deny (Tucker seconded).

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President Martin: OK, discussion of that. No? All those in favor of that motion, please signify by saying aye.

The motion carried 8 – 0.

President Martin: And that leaves us with the site plan.

Commissioner Krause: Madame Chair, it's kind of hard to do this since we don't have a staff recommendation since it was to deny, so I'm looking for some suggestions on the staff for how to handle this. I have a couple suggestions, for example, I don't know, subject to Public Works review if we could look at narrowing that drive aisle somewhat, perhaps to 20 feet to get an additional 2 feet of landscaping, so instead of 1 foot on the south interior lot line, we've got 3.

Staff Nichols: Commissioner Krause, that would require a variance. When there was a discussion on this earlier, actually before even the plans you saw on the 23<sup>rd</sup>, the applicants had proposed a one-way drive aisle which would fit those dimensions. However, there is concern about shoving too much traffic into the shared residential alley and the applicant decided to make it two-way. Although they do have the right to go through and use alley access, they don't want to shove all the traffic there. So, I don't think Public Works would support that, or Planning staff probably would not either. We'd just try to call it for what it is and say they'd be shooting for a variance.

Commissioner Krause: So I guess the question is does the staff have any particular items that you'd want to see in a site plan, or is this something that we need to bring back?

President Martin: I think given that we've approved the CUP's and denied the variances, they've got some work to do. And it might be best if this came back in a cycle or two. The 60 day is June 13, but 120 is August 12<sup>th</sup>. So, that means we're OK, Jason?

Staff Wittenberg: Without an extension by the applicant, according to my calculation, we'd have to act on this at today's meeting to keep this on track given any appeals.

President Martin: So can it automatically be extended?

Staff Wittenberg: It's already been extended to August 12<sup>th</sup> and that's as far as we can extend it.

President Martin: Mr. Gates, are you willing to work with us here?

Paul Gates: President Martin, let me clarify what you're asking for. Are you asking for us to propose modifications to the design right now, so...

President Martin: No, what I'm asking is if you're willing to give the staff a letter saying that you're willing to extend the decision period so you can come back to us at some

future appropriate moment with a site plan that will actually work. And you need that in writing. So how about subject to Lonnie getting it in writing from Mr. Gates, we lay it over, what, one cycle, two cycles? Would that be too long, enough?

Paul Gates [off-microphone]: One cycle.

Commissioner Krause moved the continuance (Tucker seconded).

President Martin: So we'll have this come back to us in two weeks and Mr. Gates, please give Lonnie something tonight in writing that says you're OK with that. All those in favor of that motion, please signify by saying aye.

The motion carried 8 – 0.