



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

**Date:** November 10, 2005

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

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

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

**Subject:** Appeals of a City Planning Commission action related to proposed development at  
2622 West Lake Street

**Previous Directives:** N/A

<p><b>Financial Impact:</b> Not applicable <b>Community Impact:</b> See staff report <b>Ward:</b> 7<sup>th</sup> <b>Neighborhood Notification:</b> See attached responses from affected neighborhood associations. <b>City Goals:</b> See staff report <b>Comprehensive Plan:</b> See staff report <b>Zoning Code:</b> See staff report <b>Living Wage/Job Linkage:</b> Not applicable <b>End of 60/120 Day Decision Period:</b> On October 28, 2005, staff sent a letter to the applicant extending the decision period to no later than January 9, 2006. <b>Other:</b> Not applicable</p>
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• **Background/Supporting Information:**

Two appeals of the City Planning Commission action have been filed related to the proposed development located at 2622 West Lake Street

1. The Lander Group, the original applicant for the proposed development, has filed an appeal of the City Planning Commission's decision to deny the following:
  - A conditional use permit to increase the maximum permitted height in the Shoreland Overlay District from 2.5 stories/35 feet to 10 stories/116 feet;
  - A variance to increase the maximum permitted lot coverage from 70 percent to 78.7 percent for a new mixed use building.

2. D. Brad Fredericksen has filed an appeal of the City Planning Commission's decision to approve the following:
  - A conditional use permit for 70 dwelling units;
  - A conditional use permit for a neighborhood serving retail sales and service use,;
  - Variances of the front, rear, interior side, and corner side yards;
  - Site plan review.

The full action of the City Planning Commission and the appellants' complete statements and reasons for the appeal are attached.

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

Conditional Use Permits, Variances, Site Plan Review and Preliminary Plat  
BZZ-2601

**Date:** October 17, 2005

**Applicant:** The Lander Group

**Address of Property:** 2622 West Lake Street

**Project Name:** 2626 West Lake Street

**Contact Person and Phone:** Michael Lander with The Lander Group, (612) 822-7668

**Planning Staff and Phone:** Hilary Watson, (612) 673-2639

**Date Application Deemed Complete:** September 21, 2005

**End of 60-Day Decision Period:** November 20, 2005

**End of 120-Day Decision Period:** Not applicable

Ward: 7      Neighborhood Organization: **CIDNA**

**Existing Zoning:** OR2, High Density Office Residence District and the SH Shoreland Overlay District

**Proposed Zoning:** Not applicable

**Zoning Plate Number:** 23

**Legal Description:** Not applicable

**Proposed Use:** mixed-use development including 70 dwelling units and one neighborhood serving retail sales and services space

**Concurrent Review:**

**Conditional use permit:** to increase the height of the building located in the SH Shoreland Overlay District from the permitted 2.5 stories/35 feet to 10 stories/116 feet

**Conditional use permit:** for 70 dwelling units

**Conditional use permit:** for one neighborhood serving retail sales and services use

**Variance:** to increase the lot coverage from the maximum 70 percent to 78.7 percent

**Variance:** of the front yard setback from the required 15 feet to a distance between 8 and 15 feet

**Variance:** of the corner side yard setback from the required 15 feet to a distance between 8 and 12 feet

**Variance:** of the interior side yard setback from the required 23 feet to a distance between 5 and 10 feet

**Variance:** of the rear yard setback from the required 23 feet to 15 feet

**Site Plan Review**

**Preliminary Plat:** PL-180

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, specifically Section 525.520(1) “to vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations”, Section 525.520(15) “to vary the maximum lot coverage and impervious surface coverage requirements”, Chapter 530, Site Plan Review and Chapter 598 Land Subdivision Regulations.

**Background:** The property located at 2622 West Lake Street has an existing two-story office building located on it. The current business, Weisman Enterprises, has been sold and is moving out of the area. Prior to Weisman Enterprises occupying the building Coldwell Banker and JCPenny occupied the building. The applicant is proposing to demolish the existing building and construct a new 70-unit residential development including a 2,000 square foot commercial space. The applicant has indicated that the commercial space will be occupied by a coffee shop. The development will be made up of four buildings all siting on top of a two-story parking garage. For purposes of the zoning code the development is considered one building as the parking garage, which connects all of the buildings together, is visible above grade and therefore looks like one building.

The zoning code requires 0.9 parking spaces per dwelling unit and parking equal to thirty percent of the capacity of persons for food and beverage uses. The resulting parking requirement for this development is 90 spaces; 63 spaces for the residential component and 27 spaces for the food and beverage use. There is a total of 1,334 square feet of commercial space available to the public. Within the building the applicant is providing a total of 167 parking spaces. The applicant has designated 27 spaces for the food and beverage portion of the development and the rest will be for the residential portion of the development. Please note that some of the residential parking spaces will be utilized by the resident’s guests.

All of the parking will be located in two levels of structured parking within the building. One level of the parking garage will be constructed below grade and the other will be constructed at grade. The applicant has indicated that because of the unusually high ground water table on this site that both levels of parking will not be constructed below grade. The lower level of the parking garage will be accessed from Thomas Avenue South and will be utilized by the residents of the building only. The upper level of the parking garage will also be accessed from Thomas Avenue South but will be utilized by residents, guests and customers of the commercial space. The first 27 parking spaces within the upper level of the parking garage will be for the customers of the commercial

space. Once past the first 27 parking spaces there will be another garage door that will be card accessed for residents and guests.

The height of the building varies between ten and four stories. When measured from West Lake Street the southwest portion of the building would be ten stories, the southeast portion would be eight stories and the north portion of the building would be four stories. The first floor of the building will contain the two residential lobbies and the commercial space and the dwelling units will be located on the upper floors of the building. The size of the dwelling units range between 1,200 square feet and 6,000 square feet. Based on past projects that the applicant has worked on it is anticipated that some of the dwelling units may be combined together to make larger units.

Due to inconsistent and unclear plans the Planning Division discovered four elements of the project that are located in a required yard but were not included in the variance requests. First, an electrical transformer is located in both the required rear yard setback and the corner side yard setback. The transformer is setback between three and four feet from the rear property line and four feet from the corner side property line. Second, a stairway is located in the required corner side yard. The stairway is setback between one and five feet from the corner side property line. Third, a canopy over the residential entrance is located in the required corner side yard. The canopy is setback zero feet from the corner side property line and actually encroaches into the public right-of-way. The applicant would need to obtain an encroachment permit from Public Works to locate this element in the right-of-way. And last, a canopy over the residential entrance is located in the required front yard. The canopy is setback between three and 11 feet from the front property line. The applicant will need to either revise the plans so these different elements are not located in a required yard or reapply for the different setback variances.

**Travel Demand Management Plan:** Public Works requested that a discretionary Travel Demand Management (TDM) plan be done for this project. The applicant has submitted the TDM plan to Public Works for review and comment.

**CONDITIONAL USE PERMIT** - to increase the height of the building located in the SH Shoreland Overlay District from the permitted 2.5 stories/35 feet to 10 stories/116 feet

**Findings as Required by the Minneapolis Zoning Code:**

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

The height requirement in the OR2 zoning district is 4 stories or 56 feet, whichever is less. However, the property is also located within 1,000 feet of the high-water mark of Lake Calhoun and is therefore subject to the height requirements of the SH Shoreland Overlay District, which is 2.5 stories or 35 feet, whichever is less.

The purpose of the SH Shoreland Overlay District is established to “preserve and enhance the environmental qualities of the surface waters and the natural and economic values of Shoreland areas within the city, to provide for the efficient and beneficial utilizations of those waters and Shoreland area, to comply with the requirements of state law regarding the management of Shoreland areas, and to protect the public health, safety and welfare”.

The Planning Division does not believe that increasing the height of the building from 2.5 stories/35 feet to 10 stories/116 feet would be detrimental to or endanger the public health, safety, comfort or general welfare as the building has been designed with varying heights and incorporates several setbacks to reduce the impact on the surrounding properties. However, the Planning Division believes that ten stories may be out of character with surrounding structures in the immediate area.

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

The Planning Division believes that increasing the height of the building from 2.5 stories/35 feet to 10 stories/116 feet would be injurious to the use and enjoyment of surrounding property and will impede the normal development of the surrounding area. The height of the building immediately to the west of the site is 12 stories but to the north of the site are one and two-story single family dwellings.

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

Increasing the height of the building will have no impact on utilities, access roads or drainage.

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

Increasing the height of the building will have no impact on traffic congestion in the public streets.

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

The site is designated as services - commercial in the comprehensive plan. This site is located on West Lake Street which is a designated Commercial Corridor. In addition, the site is located on the south side of the Midtown Greenway, an existing greenway.

According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Encourage new development to use human scale design features and incorporate sunlight, privacy, and view elements into building and site designs (Policy 9.16).
- Encourage the design of all new buildings to fulfill light, privacy and view requirements for the subject building as well as for adjacent buildings (Implementation Step for Policy 9.16).
- Promote the preservation and enhancement of view corridors that focus attention on natural or built features, such as the downtown skyline, landmark buildings, significant open spaces or water bodies (Implementation Step for Policy 9.16).

The Planning Division does not believe that the proposed height of the development is in conformance with the above policy of the comprehensive plan. A ten story building would be out of scale and character with the single-family dwellings to the north and the proposed building will cast significant shadows on the adjacent residential building to the west and also on the park land to the east. A building of four stories in height would be more compatible with the scale of the broader community and would be consistent with other area buildings that have been reviewed under the current policy and regulatory framework.

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

**In addition to the conditional use permit standards, the 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.**

Increasing the height of the building will reduce access to light and air for the adjacent properties, especially for the residential building immediately to the west. During different times of the year the single-family dwellings to the north will also be impacted.

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

The requested height increase would substantially increase the visibility of the development from Lake Calhoun compared to a development built to comply with the Shoreland Overlay District or the restrictions of the base zoning district.

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

The Planning Division does not believe that a ten story building would be out of scale or character with the 12 story building to the west. However, a ten story building would be out of scale and character with the one and two-story single family dwellings to the north. While several buildings to the west of the site are taller than the building

proposed by the applicant, the taller buildings do not reflect the predominant scale and character of the area and were authorized under previous regulations.

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

Constructing a building either 2.5 stories in height or ten stories in height would block views of Lake Calhoun and the open space around it from the properties to the north given the height of those properties. A ten story building would also block views of the park land on the east side of the site from the residential building to the north much more than a 2.5 story building would.

In addition to the conditional use permit standards, the Planning Commission shall consider the following in the Shoreland Overlay District:

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

Public Works will review and approve an erosion control plans and a stormwater management plan prior to the issuance of building permits. The applicant has indicated that the proposed stormwater system will significantly improve the quality of the storm water leaving the site in the future.

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

The requested height increase would substantially increase the visibility of the development from Lake Calhoun compared to a development built to comply with the Shoreland Overlay District or the restrictions of the base zoning district.

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

This development will not impact watercraft usage on Lake Calhoun.

**CONDITIONAL USE PERMIT** - for 70 dwelling units

**Findings as Required by the Minneapolis Zoning Code:**

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

The Planning Division does not believe that a 70-unit, for-sale condominium development would be detrimental to the surrounding area. The additional residential units would help support the commercial uses in the area, the nearby cultural amenities and the Midtown Greenway bike trail.

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

The Planning Division does not believe that a 70-unit, for-sale condominium development would be injurious to the use and enjoyment of other property in the area. Utilizing the site for a 70-unit, for-sale condominium development would provide additional opportunities for housing within the neighborhood. A development such as this would increase the property's value, contribute to the building of the city's infrastructure and contribute to the city's tax base.

However, while multiple-family residential is appropriate for this area, a building of this size can not be constructed under the allowable height restriction in the SH Shoreland Overlay District. The Planning Division believes that the proposed height of the building is out of character with the immediate area of the City. If the height were reduced the Planning Division would likely recommend approval of the conditional use permit for 70 dwelling units, but because staff is recommending denial of the conditional use permit for increased height, the conditional use permit for the 70 dwelling units as configured should be denied as well.

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

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

The residential portion of the development has a parking requirement of 63 spaces. The applicant proposes to have 140 parking spaces located within the building for the residents of the building. Please note that some of these parking spaces will be utilized by the resident's guests. Access to the parking spaces is via Thomas Avenue South. As part of this development the curb cut on West Lake Street will be removed which will help alleviate traffic build-up on West Lake Street.

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

The site is designated as services - commercial in the comprehensive plan. This site is located on West Lake Street which is a designated Commercial Corridor. In addition, the site is located on the south side of the Midtown Greenway, an existing greenway. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support the development of residential dwellings of appropriate form and density (Policy 9.5)
- 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 (Policy 9.28).
- Support a mix of uses on Commercial Corridors – such as retail sales, office, institutional, higher-density residential, and clean low-impact light industrial – where compatible with the existing and desired character of the street (Implementation Step for Policy 9.28).

The applicant is proposing to construct a 70-unit, for-sale condominium development on the site. The site is located on a designated Commercial Corridor where the plan calls for higher-density housing developments to be located. Given the lot size the applicant could construct up to 80 dwelling units on the site without any density bonuses. With the enclosed density bonus the applicant could build up to 96 units on the site. As noted in the analysis of the proposed building height, the scale and character of the building is not consistent and compatible with most other buildings in the area.

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

**In addition to the conditional use permit standards, the Planning Commission shall consider the following in the Shoreland Overlay District:**

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

Public Works will review and approve an erosion control plans and a stormwater management plan prior to the issuance of building permits. The applicant has indicated that the proposed stormwater system will significantly improve the quality of the storm water leaving the site in the future.

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

The requested height increase would substantially increase the visibility of the development from Lake Calhoun compared to a development built to comply with the Shoreland Overlay District or the restrictions of the base zoning district.

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

This development will not impact watercraft usage on Lake Calhoun.

**CONDITIONAL USE PERMIT** - for one neighborhood serving retail sales and services use

**Findings as Required by the Minneapolis Zoning Code:**

The Department of Community Planning and Economic Development – Planning Division has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

The Planning Division does not believe that a 2,000 square foot neighborhood serving retail sales and services use would be detrimental to the surrounding area. The applicant has indicated that the neighborhood serving retail sales and services use would be a coffee shop.

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

The Planning Division does not believe that a neighborhood serving retail sales and services use would be injurious to the use and enjoyment of other property in the area. Incorporating a retail space in the building will add to the mix of commercial uses found in the surrounding area. The commercial use will provide a local gathering spot for residents and visitors.

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

The applicant will be working closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

The coffee shop has a parking requirement of 27 spaces. The first 27 parking spaces within the upper level of the parking garage will be for the customers of the commercial space. Access to the parking spaces is via Thomas Avenue South. As part of this development the curb cut on West Lake Street will be removed which will help alleviate traffic build-up on West Lake Street.

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

The site is designated as services - commercial in the comprehensive plan. This site is located on West Lake Street which is a designated Commercial Corridor. In addition, the site is located on the south side of the Midtown Greenway, an existing greenway. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Encourage both private and public development that provides gathering spaces in city neighborhoods (Policy 1.2).
- 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 (Policy 4.3).
- Support a mix of uses on Commercial Corridors – such as retail sales, office, institutional, higher density residential, and clean low-impact light industrial – where compatible with the existing and desired character of the street (Implementation Step for Policy 4.3).
- Continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas (Policy 4.4).

Incorporating a retail space into the building will add to the mix of commercial uses in the surrounding area. The site is located on a designated Commercial Corridor where the plan calls for a mix of retail uses to be located. In addition, the coffee shop will provide a local gathering spot for residents and visitors of the area alike.

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

Coffee shops are subject to Chapter 536, Specific Development Standards. The specific development standard for this use is:

- 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.

**In addition to the conditional use permit standards, the Planning Commission shall consider the following in the Shoreland Overlay District:**

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

Public Works will review and approve an erosion control plans and a stormwater management plan prior to the issuance of building permits. The applicant has indicated that the proposed stormwater system will significantly improve the quality of the storm water leaving the site in the future.

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

The proposed structure would be visible from the shores of Lake Calhoun, especially if constructed at a height of 10 stories. The applicant has indicated that the development has been designed to minimize the building's appearance by the way that the building steps back at various points. In addition, the applicant had indicated that the existing trees along the shores of Lake Calhoun will help screen the development from the lake.

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

This development will not impact watercraft usage on Lake Calhoun.

**VARIANCE** - to increase the lot coverage from the maximum 70 percent to 78.7 percent

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

**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.**

**Maximum lot coverage:** The applicant is seeking a variance to increase the lot coverage from the maximum 70 percent to 78.7 percent. The applicant has indicted that if the zoning code calculated maximum lot coverage by calculating the amount of area that the residential portion of the development occupies verses the amount of area that the parking structure occupies that the maximum lot coverage would be approximately 54 percent of the site. According to the applicant due to the unusually high ground water table on this site both levels of parking cannot be constructed below grade. However, the proposed scale of the project is the driving force behind the request. The maximum impervious surface regulations of the OR2 District do not cause undue hardship on this property.

**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.**

**Maximum lot coverage:** The Planning Division does not believe that having an unusually high ground water table on the site is a unique circumstance that would warrant the approval of the maximum lot coverage variance. The applicant will be

demolishing the existing building and constructing on a blank slate which allows the applicant the freedom to design a parking structure that does not occupy more than 70 percent of the site. Please note that the parking structure could be made smaller especially given that the applicant is providing 77 more parking spaces than what is actually required for the development.

**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.**

**Maximum lot coverage:** The Planning Division believe does not believe that granting the variance to increase the maximum lot coverage would be in keeping with the intent of the zoning code. Given the sites location between Lake Calhoun and Lake of the Isles, on the Minneapolis Grand Rounds Parkway system and adjacent to the Midtown Greenway providing as much open space on the site would only be beneficial to the site and the surrounding area.

**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.**

**Maximum lot coverage:** Staff believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

**VARIANCE** - of the front yard setback from the required 15 feet to a distance between 8 and 15 feet

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

**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.**

**Front yard setback:** The applicant is seeking a variance to reduce the front yard setback from the required 15 feet to a distance between 8 and 15 feet. The southeast corner of the building is located eight feet from the front property line and the southwest corner of the building is located 15 feet from the front property line. The applicant has indicated that in order to divide the mass of the building up so as to not construct one large building on the site the building has been designed to look like four individual buildings each positioned on the four corners of the property.

**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.**

**Front yard setback:** The fact that the site is irregularly shaped and is situated between Lake Calhoun and a residential neighborhood and park land and a residential development is a unique condition of this parcel of land. Maintaining views of these two land features for the surrounding residential dwellings is important.

**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.**

**Front yard setback:** The Planning Division believes that the granting of this variance would not alter the essential character of the area. Locating the proposed building closer to the front property line along West Lake Street would be similar to the placement of the buildings to the west of the site which have also been constructed close to the front property line. In addition, the site is located along West Lake Street which *The Minneapolis Plan* designates as a Commercial Corridor. The comprehensive plan supports the construction of buildings that reinforce the street wall and provide eyes on the street. By locating the building closer to West Lake Street these policies would be met.

**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.**

**Front yard setback:** The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

**VARIANCE** - to reduce the corner side yard setback from the required 15 feet to a distance between 8 and 12 feet

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

**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.**

**Corner side yard setback:** The applicant is seeking a variance to reduce the corner side yard setback along Thomas Avenue South from the required 15 feet to a distance between 8 and 12 feet. The applicant has indicated that in order to divide the mass of the building up so as to not construct one large building on the site the building has been designed to look like four individual buildings each positioned on the four corners of the property.

**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.**

**Corner side yard setback:** The fact that the site is situated between Lake Calhoun and a residential neighborhood and park land and a residential development is a unique condition of this parcel of land. Maintaining views of these two land features for the surrounding residential dwellings is important.

**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.**

**Corner side yard setback:** The Planning Division believes that the granting of this variance would not alter the essential character of the area. Locating the proposed building closer to the corner side property line along Thomas Avenue South would be similar to the placement of the building to the west of the site which has also been constructed close to the corner side property line. Further, the proposed building would be the only building on the east side of Thomas Avenue on the block, so the proposed building placement would not interrupt a pattern existing setbacks on the block.

**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.**

**Corner side yard setback:** The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

**VARIANCE** - to reduce the interior side yard setback from the required 23 feet to a distance between 5 and 10 feet

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

**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.**

**Interior side yard setback:** The applicant is seeking a variance to reduce the interior side yard setback along the east property line from the required 23 feet to a distance between 5 and 10 feet. The applicant has indicated that in order to divide the mass of the building up so as to not construct one large building on the site the building has been designed to look like four individual buildings each positioned on the four corners of the property.

**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.**

**Interior side yard setback:** The fact that the site is situated between Lake Calhoun and a residential neighborhood and park land and a residential development is a unique condition of this parcel of land. Maintaining views of these two land features for the surrounding residential dwellings is important. However, the park land located on the east side of the site is heavily wooded. The applicant has indicated that to construct the building in the proposed location that four of the existing trees located on the park board property would need to be removed and that others would need to be pruned. The Planning Division does not believe that the development should be permitted to be built so close to park board land that would require the removal of existing trees.

**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.**

**Interior side yard setback:** The Planning Division believes that the granting of this variance would alter the character of the surrounding area given that existing trees located on park board land would need to be removed and other trees would need to be pruned. In addition, just because the applicant has indicated that only four trees would need to be removed there is no guarantee that during construction other existing trees would not be damaged and would eventually be removed.

**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.**

**Interior side yard setback:** The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

**VARIANCE** - to reduce the rear yard setback from the required 23 feet to 15 feet

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

**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.**

**Rear yard setback:** The applicant is seeking a variance to reduce the rear yard setback from the required 23 feet to 15 feet. The rear yard setback is determined by the overall height of the building. The ten story portion of the building is setback between 98 and 106 from the north property line and the eight story portion of the building is setback between 90 and 96 feet from the north property line. If the rear yard setback were determined by the height of the four-story portion of the building, which is located on the

north end of the site, the setback would be 11 feet. If this was the case there would be no need for a setback variance.

**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.**

**Rear yard setback:** The fact that the building has been designed with a four-story structure on the north end of the site is a unique circumstance. The rear property line is set at an angle. Given this, the taller portions of the building is located between 90 and 106 feet from the rear property line.

**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.**

**Rear yard setback:** The granting of the variance will not significantly affect the essential character of the area given that the structure located in the rear 90 to 106 feet of the site is four stories in height. Located on the north side of the Midtown Greenway are one and two-story single family dwellings.

**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.**

**Rear yard setback:** The Planning Division believes that the granting of the variance would likely have little impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety.

## **SITE PLAN REVIEW**

### **Findings as Required by the Minneapolis Zoning Code:**

- 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.
- 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 530.120 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.

#### **PLANNING DEPARTMENT RESPONSE:**

- This development reinforces the street wall and facilitates pedestrian access but it does not maximize natural surveillance. The building is set close to the property lines and there are entrances and exits located along both West Lake Street and Thomas Avenue South. Although there are some areas along both West Lake Street and Thomas Avenue South where there are windows with active uses behind them the majority of the two first floor elevations are blank or only occupied with a residential lobby which is not as active of a use as would be desired along the street.
- The building is located between eight and 15 feet from West Lake Street and between eight and 12 feet from Thomas Avenue South. The areas in between the building and the property lines are landscaped or would be utilized for outdoor seating areas.
- There are several residential entrances into the development. One is located along West Lake Street and serves the eight-story portion of the development and the other is located along Thomas Avenue South and serves the 10-story portion of the development. The dwelling units in the four-story portion of the development have

individual entrances that are accessed from within the courtyard. The entrance to the commercial space is located along West Lake Street.

- All of the on-site parking associated with this development is structured parking and located within the building.
- The exterior materials of the structure will be a combination of brick, metal, concrete, stucco and glass. All sides of the building will be compatible with one another.
- The top portion of both the eight-story building and 10-story building are over 25 feet in length and blank. The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow these portions of the building to be blank as behind the walls are mechanical rooms. In addition, there are portions of the first floor of the building that faces both Thomas Avenue South and the east property line that are over 25 feet in length and blank. The Planning Division is recommending that the applicant design the walls to include windows, entries, recesses or projections, or other architectural elements.
- At least 30 percent of the first floor and at least 10 percent of the upper floors of the building walls facing West Lake Street and Thomas Avenue South are required to be windows. In addition, at least 20 percent of the first floor and at least 10 percent of the upper floors of the building wall facing the Midtown Greenway are required to be windows.
  - West Lake Street: the percentage of windows on the first floor of the building is 25 percent. All of the upper floors of the building have more than 10 percent windows. Please note that the majority of the windows on the first floor of the building are located underneath a covered arcade area which is intended to be used for outdoor seating. The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow there to be less than 30 percent windows on the first floor of the building facing West Lake Street as a majority of the building is occupied by the staircase that leads up to the courtyard and by landscaping.
  - Thomas Avenue South: the percentage of windows on the first floor of the building is 6.5 percent. All of the upper floors of the building have more than 10 percent windows. The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow there to be less than 30 percent windows on the first floor of the building facing Thomas Avenue South. If windows were added one would look directly into the parking garage. Instead of windows the Planning Division is recommending that the applicant design the wall to include windows, entries, recesses or projections, or other architectural elements.
  - Midtown Greenway: the percentage of windows on the first floor of the building is 23 percent. All of the upper floors of the building have more than 10 percent windows.
- The windows in the building are vertical in nature and are evenly distributed along the building walls.
- The principal roof line of the building will be flat. This roofline is similar to other buildings found in the area.

### **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.**

**PLANNING DEPARTMENT RESPONSE:**

- The residential entrances and the entrance to the commercial space are connected to the public sidewalk along both West Lake Street and Thomas Avenue South by walkways.
- There is an existing transit stop located on West Lake Street at Thomas Avenue South. Incorporated into the bus stop is a piece of public art. The City has requested that the applicant remove, store and reinstall the art on the site once construction is complete. The City has also requested that the piece of art be moved closer to the site in order to remain free of the snow plows.
- All of the on-site parking associated with this development is structured parking and located within the building. As part of this development the curb cut on West Lake Street will be removed which will help alleviate conflicts with pedestrians on the public sidewalk.
- There are no public alleys adjacent to the site.
- Approximately 78.7 percent of the site is covered by the building. Fifteen percent of the overall site is pervious, which does not comply with the regulations of the OR2 District and does not minimize impervious surfaces.

**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.

#### **PLANNING DEPARTMENT RESPONSE:**

- The zoning code requires that at least 20 percent of the site not occupied by the building be landscaped. The lot area of the site is 56,305 square feet. The footprint of the building is 44,348 square feet. When you subtract the footprint from the lot size the resulting number is 11,957 square feet. Twenty percent of this number is 2,391 square feet. The applicant has a total of 8,446 square feet of open space on the site, or 71 percent of the site not occupied by the building.
- The zoning code requires at least 1 canopy tree for each 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space be planted on the site. The tree and shrub requirement for this site is 5 and 24 respectfully. The landscaping plan that was submitted shows several plantings but does not specifically indicate what the individual species of plants will be. The Planning Division is recommending that the canopy tree and shrub requirement be met on the site. Please note that in addition to the plantings on the site the applicant is also proposing to install green boulevards along both West Lake Street and Thomas Avenue South including canopy trees.
- No fences are proposed to be located on the site..

#### **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.**

**PLANNING DEPARTMENT RESPONSE:**

- The majority of the site is covered by the building. Stormwater runoff will be drained to an underground stormwater treatment system and the remainder will be stored on the roof top.
- A lighting plan showing footcandles was not submitted as part of the application materials. The Planning Division is recommending that the applicant submit a lighting plan so staff can verify that the lighting levels comply with the requirements of Chapter 535.
- The first floor of the residential building to the west is utilized for loading purposes. Given this, headlight glare should not impact the residential use.
- **Constructing a building either 2.5 stories in height or ten stories in height would block views of Lake Calhoun and the open space around it from the properties to the north given the height of those properties. A ten story building would also block views of the park land on the east side of the site from the residential building to the north much more than a 2.5 story building would.**
- Increasing the height of the building will reduce access to light and air for the adjacent properties, especially for the residential building immediately to the west and the park land to the east. During different times of the year the single-family dwellings to the north will also be impacted.
- The building has been designed with varying heights and incorporates several setbacks. Given this, ground level winds should be minimized along both West Lake Street and Thomas Avenue South.
- **The Crime Prevention Specialist has reviewed the project in regards to crime prevention design elements. To be in compliance with the CPTED guidelines, the landscaping plan should maintain a “window” into the site between three and six feet and proper lighting should be located over all building entrances and exits. The**

development does not maximize natural surveillance. Although there are some areas along both West Lake Street and Thomas Avenue South where there are windows with active uses behind them the majority of the two first floor elevations are blank or only occupied with a residential lobby which is not as active of a use as would be desired along the street.

- This site is neither historically designated nor located in a historic district.

## **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:**

- **Use:** Both the residential use and the neighborhood serving retail sales and services use are conditional in the OR2 District.
- **Off-Street Parking and Loading:** The zoning code requires 0.9 parking spaces per dwelling unit and parking equal to thirty percent of the capacity of persons for food and beverage uses. The resulting parking requirement for this development is 90 spaces; 63 spaces for the residential component and 27 spaces for the food and beverage use. Within the building the applicant is providing a total of 167 parking spaces. The applicant has designated 27 spaces for the food and beverage portion of the development and the rest will be for the residential portion of the development. Please note that some of the residential parking spaces will be utilized by the resident's guests.
- **Maximum Floor Area:** The maximum FAR in the OR2 District is 2.5. Section 548.130 allows a 20 percent density bonus for enclosed parking. This development qualifies for this density bonus which, when calculated, would result in a permitted FAR of 3.0. The lot in question is 56,305 square feet in area. The applicant proposes a total of 168,913 square feet of gross floor area, an FAR of 2.99.
- **Building Height:** Building height in the OR2 District is limited to 4 stories or 56 feet, whichever is less. However, the site is located in the Shoreland Overlay District, which limits building height to 2.5 stories or 35 feet, whichever is less. The applicant is proposing a 10-story building or approximately 116 feet. The applicant has applied for a conditional use permit to increase the height of the building.
- **Minimum Lot Area:** The minimum lot area per dwelling unit in the OR2 District is 700 square feet. With 70 proposed dwelling units on a lot of 56,305 square feet, the applicant proposes 804 square feet of lot area per dwelling unit.
- **Yard Requirements:** This development is located in the OR2 District. The front yard setback requirement is 15 feet. The interior side yard and rear yard setback requirements for this development are 5+2x, where x equals the number of stories above the first floor. The resulting setback along these two sides of the building is

23 feet. The corner side yard setback for this development is  $8+2x$ , where  $x$  equals the number of stories above the first floor. In this case the corner side yard setback is 23 feet. However, in the OR2 District the corner side yard setback shall not exceed the applicable front yard setback. So in this case the corner side yard setback is 15 feet. The applicant has applied to vary all four of the required setbacks.

- **Specific Development Standards:** There are no specific development standards for residential uses. Coffee shops are subject to Chapter 536, Specific Development Standards. The specific development standard for this use is: 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..
- **Hours of Operation:** Residential uses are not subject to hours of operation. The hours of operation for nonresidential uses in the OR2 District are Sunday through Thursday, 7 am to 10 pm and Friday and Saturday, 7 am to 11 pm.
- **Signs:** Signs are subject to the requirements of Chapter 543 of the Zoning Code. In the OR2 District one can have one-and-a-half square feet of signage for every one foot of primary building wall unless there is a freestanding sign on the zoning lot then there can only be one square foot of signage for every one foot of primary building wall. Wall signs are limited to 180 square feet in size, except wall signs for retail sales and services uses are limited to 30 square feet in size. Projecting signs are limited to 12 square feet in size. The maximum height of any sign is 14 feet. Freestanding signs are limited to 32 square feet and can be no taller than 8 feet. The zoning code also limits the number of freestanding signs on a zoning lot to one.

The applicant is not proposing to have any freestanding signs on the site. Given the width of the building the applicant could have up to 264 square feet of signage on the West Lake Street side of the building and up to 436 square feet of signage on the Thomas Avenue South side of the building. The applicant is proposing to have 14 signs on the building. Nine of the signs are wall signs. Five of the wall signs are 60 square feet and the other four are 12 square feet. The remaining five signs are proposed to be projecting signs. All five of the projecting signs are 12 square feet and are located 12 feet high.

- **Refuse storage:** The applicant is proposing to have a trash room located within both the eight-story and the 10-story building. The residents of the dwelling units located within the four-story portion of the development will have access to the trash rooms through the parking garage.

### **MINNEAPOLIS PLAN:**

The site is designated as services - commercial in the comprehensive plan. This site is located on West Lake Street which is a designated Commercial Corridor. In addition, the site is located on the south side of the Midtown Greenway, an existing greenway.

According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Promote the use of progressive design guidelines and street-oriented building alignments to maximize compatibility with surrounding neighborhoods (Implementation Step for Policy 9.6).
- Maintain and strengthen the character of the city's various residential areas (Policy 9.8).
- Infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of surrounding dwellings (Implementation Step for Policy 9.8)
- Support urban design standards that emphasize a traditional urban form in commercial areas (Policy 9.11).
- Orient new buildings to the street to foster safe and successful commercial nodes and corridors (Implementation Step for Policy 9.11).

The Planning Division believes that if the height of the development were reduced that it would be in conformance with the foregoing policies of the comprehensive plan. The design of the building, the outward orientation and the building materials are compatible with surrounding structures.

#### **ALTERNATIVE COMPLIANCE:**

- **The Planning Commission or zoning administrator may approve alternatives to any 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, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

#### **PLANNING DEPARTMENT RESPONSE:**

- The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow the top portion of both the eight-story building and 10-story building, if approved, to be blank. The areas behind the walls are

mechanical rooms which would not be desirable to see. In addition, although the exterior material of these portions of the building is only metal the horizontal and vertical lines that run through the metal give definition to the building.

- The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow there to be less than 30 percent windows on the first floor of the building facing West Lake Street as a majority of the building is occupied by the staircase that leads up to the courtyard and by landscaping. If these amenities were removed and windows were added one would look directly into the parking garage.
- The Planning Division is recommending that the City Planning Commission grant alternative compliance to allow there to be less than 30 percent windows on the first floor of the building facing Thomas Avenue South. If windows were added one would look directly into the parking garage. Instead of windows the Planning Division is recommending that the applicant design the wall to include windows, entries, recesses or projections, or other architectural elements.

### **PRELIMINARY PLAT: PL-180**

The applicant is proposing to vertically subdivide the property into different lots. The City's subdivision regulations do not provide a mechanism to vertically subdivide a property through a plat. In order to vertically subdivide the property the Planning Division is recommending that the applicant either replat the property through a Registered Land Survey or a Common Interest Community plat. Given this, the Planning Division is recommending that the plat application and the fee be returned to the applicant.

### **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 application to increase the height of the building located in the SH Shoreland Overlay District from the permitted 2.5 stories/35 feet to 10 stories/116 feet located at 2622 West Lake Street.

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

1. 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 application for 70 dwelling units located at 2622 West Lake Street.

**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 **approve** the conditional use permit application for one neighborhood serving retail sales and services use located at 2622 West Lake Street subject to the following conditions:

1. 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.

**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 application to increase the lot coverage from the maximum 70 percent to 78.7 percent located at 2622 West Lake Street.

**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 **approve** the variance application to reduce the front yard setback from the required 15 feet to a distance between 8 and 15 feet located at 2622 West Lake Street.

**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 **approve** the variance application to reduce the corner side yard setback from the required 15 feet to a distance between 8 and 12 feet located at 2622 West Lake Street.

**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 application to reduce the interior side yard setback from the required 23 feet to a distance between 5 and 10 feet located at 2622 West Lake Street.

**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 **approve** the variance application to reduce the rear yard setback from the required 23 feet to 15 feet located at 2622 West Lake Street.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review for the property located at 2622 West Lake Street subject to the following conditions:

1. The applicant shall design the building so there are no blank, interrupted walls over 25 feet in length void of any windows, entries, recesses or projections, or other architectural elements as required by section 530.120 of the zoning code.
2. The canopy tree and shrub requirement shall be met on the site.
3. The applicant shall submit a lighting plan so staff can verify that the lighting levels comply with the requirements of Chapter 535.
4. Approval of the final site, elevation and landscaping plans by the Department of Community Planning and Economic Development – Planning Division.
5. All site improvements shall be completed by October 17, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission **return** the preliminary plat application and the fee to the applicant for the property located at 2622 West Lake Street.

**Attachments:**

1. Statement of proposed use

2. Photo simulations of the site and of the model
3. Conditional use permit and variance findings
4. August 23, 2005, e-mail from Greg Mathis
5. July 18, 2005, e-mail from Mary Altman
6. Preliminary Development Review comments
7. August 22, 2005, letter to Council Member Goodman
8. August 22, 2005, letter to CIDNA
9. May 5, 2005, resolution from ECCO
10. July 5, 2005, September 18, 2005, and September 21, 2005 letters from CIDNA
11. Correspondence from surrounding property owners
12. Zoning Map
13. Arial photo of the site and the surrounding area
14. Site plan, floor plans and elevations
15. Photographs of the site and surrounding area

