

Department of Community Planning and Economic Development - Planning Division
Rezoning, Conditional Use Permit
BZZ-5091

Date: April 11, 2011

Applicant: Binh Le

Address of Property: 400-404 W Lake Street, 2948 Grand Avenue S

Project Name: Lake Wine and Spirits

Contact Person and Phone: Donna Sanders (612) 703-4092

Planning Staff and Phone: Kimberly Holien (612) 673-2402

Date Application Deemed Complete: March 15, 2011

End of 60 Day Decision Period: May 14, 2011

Ward: 6 Neighborhood Organization: Whittier

Existing Zoning: C1, Neighborhood Commercial District; C2, Neighborhood Corridor Commercial District; R2B, Two-family District

Proposed Zoning: C2, Neighborhood Corridor Commercial District

Zoning Plate Number: 25

Legal Description: The south 13 feet of Lot 4 and north 15 feet of Lot 5; the south 24 feet of Lot 5 and west 86 57/100 feet of lots 6 and 7; and the east 42 feet of Lots 6 and 7, Block 11, Excelsior Addition to Minneapolis.

Proposed Use: Off-sale liquor store

Concurrent Review:

Rezoning: From R2B to C2 for property at 2948 Grand Avenue S.

Rezoning: From C1 to C2 for property at 400 W Lake Street.

Amended Conditional Use Permit: For an off-sale liquor store in the C2 District.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits; Chapter 530, Site Plan Review.

Background: Binh Le is proposing to expand the surface parking lot serving the existing off-sale liquor store at 404 W Lake Street. Specifically the parking lot would be expanded to the

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north and west, including the properties at 400 W Lake Street and 2948 Grand Avenue S. The existing parking area has 8 spaces and the proposal at this time would increase the number of parking stalls to 25. Both of these parcels have historically contained surface parking lots. A conditional use permit was approved for the off-sale liquor store in August 2009, specifically for the property located at 404 W. Lake St. No modifications are proposed to the building or existing parking area at this time.

The parcel at 2948 Grand Avenue S is zoned R2B and the parcel at 400 W Lake Street is zoned C1. The parcel at 404 W Lake Street, where the existing liquor store is located, is zoned C2. Section 535.210 of the zoning code states that the combining of land, lots, parcels, or tracts shall not result in more than one primary zoning classification on a single zoning lot. Furthermore, the R2B district does not allow off-sale liquor stores or parking for commercial uses. The applicant has applied for rezoning to C2 for each of these parcels accordingly.

Off-sale liquor stores are a permitted conditional use in the C2 District. The applicant is expanding the site by providing off-street parking on the parcels at 2948 Grand Avenue S and 400 W Lake Street. Because the liquor store parking area is being expanded, an amended conditional use permit is required. Parking lots of more than four parking spaces are subject to the landscaping, screening and curbing requirements of Chapter 530 Site Plan Review. Because the applicant is adding 17 spaces as part of the project, the project is required to comply with the parking and loading design and maintenance standards.

An application for site plan review was also noticed as part of this project. However, it has been determined that the site plan review application is not required and staff is recommending that said application be returned.

As of the writing of this staff report staff had not received any correspondence from the Whittier Alliance. Any correspondence, if received, will be forwarded to the Commission.

REZONING: Petition to rezone the property at 2948 Grand Avenue S from R2B to C2.

Findings as required by the Minneapolis Zoning Code:

- 1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.**

The proposed zoning would be consistent with the applicable policies of *The Minneapolis Plan for Sustainable Growth*. The parcel at 2948 Grand Avenue S is designated as urban neighborhood on the future land use map and is one parcel off of the Lake Street commercial corridor. This parcel will function as one zoning lot with the parcels at 400-404 W Lake Street, and the zoning lot will have frontage on the commercial corridor. The following principles and polices outlined in the plan, the following apply to this proposal:

Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

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- 1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

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

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

Policy 1.10: Support development along Commercial Corridors that enhances the street's character, fosters pedestrian movement, expands the range of goods and services available, and improves the ability to accommodate automobile traffic.

- 1.10.1 Support a mix of uses – such as retail sales, office, institutional, high-density residential and clean low impact light industrial – where compatible with the existing and desired character.
- 1.10.6 Encourage the development of medium-density housing on properties adjacent to properties on Commercial Corridors.

Policy 10.8: Strengthen the character and desirability of the city's urban neighborhood residential areas while accommodating reinvestment through infill development.

- 10.8.8 Appropriate non-residential land uses, such as institutional, public and suitable commercial uses, should be integrated into low density residential areas through proper building location and design, landscaping, and other site improvements.

The applicant is requesting to rezone the parcel at 2948 Grand Avenue S to utilize the parcel as accessory parking for the existing liquor store at 404 W Lake Street. This parcel has been used for surface parking since approximately 1968. By legalizing the use through the rezoning, the applicant will be installing landscaping and screening and striping the parking area. These improvements will create an appropriate transition between the parking lot and the residential uses to the north. While designated as urban neighborhood, this parcel would part of a single zoning lot that has frontage on a commercial corridor. The proposed commercial zoning would be appropriate in this location.

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

The rezoning would allow for a broader range of available goods and services adjacent to a commercial corridor. This lot is only 3,600 square feet in area and would difficult to develop for purposes other than surface parking without variances. The applicant is proposing to improve

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the existing surface parking lot by adding landscaping and striping. The rezoning would also eliminate a split-zoning situation, by creating consistent C2 zoning for all parcels associated with the off-sale liquor store use. The amendment is in the public interest and not solely 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 proposed zoning should be compatible with the zoning classifications and existing uses of other property in the area. The parcel directly west of the site is zoned C4 and most recently contained a contractor's office. The parcels directly to the south, which front on Lake Street, are both zoned commercial. Lake Street is designated as a commercial corridor in this location. With the exception of the parcel at 400 W Lake Street, for which the applicant has also requested rezoning to C2, all properties on the north side of Lake Street from Humboldt Avenue to the east side of Interstate 35W are zoned C2, C3A or C4. The parcel directly across the street on the east side of Grand Avenue is zoned I1 and is occupied by a sign contractor. The properties to the north on this side of Grand Avenue are zoned R2B. Rezoning to C2 would allow a wider range of commercial uses on this parcel, one parcel off a commercial corridor. The potential impact any commercial use may have on the neighboring residence can be mitigated through proper site design and adherence to applicable zoning code requirements.

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 existing zoning is R2B. The parcel is 3,600 square feet and the required minimum lot area for a residential use in the R2B district is 5,000 square feet. Per Section 531.100, it would be possible to construct a single family home without a variance to the minimum lot area or lot width because it was a lot of record on the effective date of the ordinance. However, it is likely that setback variances would be required for any development other than a parking lot. Rezoning the property from R2B to C2 would allow it to be considered one zoning lot with the parcel at 404 W Lake Street and the parcel at 400 W Lake Street. Rezoning the parcel at 2948 Grand Avenue to C2 would allow for a much broader range of uses near the Lake Street commercial corridor.

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 property 2948 Grand Avenue S was occupied by a used car dealership until 1968 when the building was demolished. Upon demolition of the building, the parcel was used for surface parking. The lots at 2948 Grand Avenue S, 400 W Lake Street and 404 W Lake Street functioned as one parcel while the used car dealer use was in operation. However, the lots at

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400-404 W Lake Street were later sold to a different property owner. The property at 2948 Grand Avenue S has been zoned R2B since 1963. The parcels to the south, east and west have consistently been commercial and industrial uses. The parcels to the north have been consistently residential. From 2009 to 2010, a rezoning study was conducted for the Midtown Greenway that included parcels in this area. The staff recommendation per the rezoning study was to rezone the parcel at 2948 Grand Avenue from R2B to R5 because the comprehensive plan and small area plan call for higher density residential uses adjacent to commercial corridors. However, the City Council decision was ultimately to retain the current zoning.

REZONING: Petition to rezone the property at 400 W Lake Street from C1 to C2.

Findings as required by the Minneapolis Zoning Code:

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The proposed zoning would be consistent with the applicable policies of *The Minneapolis Plan for Sustainable Growth*. The property at 400 W Lake Street is designated as mixed use on the future land use map. Lake Street is a commercial corridor in this location. The following principles and polices outlined in the plan, the following apply to this proposal:

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

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

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

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

Policy 1.10: Support development along Commercial Corridors that enhances the street's character, fosters pedestrian movement, expands the range of goods and services available, and improves the ability to accommodate automobile traffic.

1.10.2 Support a mix of uses – such as retail sales, office, institutional, high-density residential and clean low impact light industrial – where compatible with the existing and desired character.

Rezoning from C1 to C2 would allow for a wider range of commercial uses along this commercial corridor. While the site is along a commercial corridor, it is not at the intersection of two corridors. Thus, the automobile service uses allowed in the C2 district would be

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consistent with the comprehensive plan policies for the site. The C2 zoning classification would be consistent with the character or the surrounding area and other uses along Lake Street.

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

The rezoning would allow for a broader range of available goods and services on a commercial corridor, as called for in adopted policies. The rezoning would also eliminate a split-zoning situation by creating consistent C2 zoning for all parcels associated with the off-sale liquor store use. The amendment is in the public interest and not solely 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 proposed zoning should be compatible with the zoning classifications and existing uses of other property in the area. Lake Street is designated as a commercial corridor in this location. All properties on the north side of Lake Street from Humboldt Avenue to the east side of Interstate 35W are zoned C2, C3A or C4. The parcel directly across the street, on the south side of Lake Street, is zoned C1 and other properties along the south side of Lake Street all have various commercial zoning classifications. The parcel to the north is currently zoned R2B and the applicant is requesting that this parcel be rezoned to C2 as part of this project as well. Some uses allowed in the C2 district that are not allowed in the C1 district include currency exchange, tobacco shop, automobile convenience facility, minor automobile repair, car wash, and reception hall. However, these types of uses are supportable along a commercial corridor and any potential adverse impacts can be mitigated through site design and other zoning code requirements.

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 existing zoning is C1. The C1 district allows small scale retail sales and commercial services, residential uses, and various institutional and public uses. Both the comprehensive plan and the small area plan support a mix of uses adjacent to Lake Street, a commercial corridor, that are allowed in the C2 district. The rezoning would allow some additional goods and services to be provided on a commercial corridor.

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 property 400 W Lake Street was zoned B3S-3 (similar to the C2 district in the current zoning ordinance) from 1963 to 1999. With the adoption of the 1999 zoning code, the zoning

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changed to C1. In the immediate area, the zoning and character of development along Lake Street has consistently been commercial, industrial and residential uses. From 2009 to 2010, a rezoning study was conducted for the Midtown Greenway that included parcels along Lake Street in this area. There was no change to the base zoning for properties on the north side of Lake Street between Garfield Avenue and Pleasant Avenue. The existing zoning classifications of these parcels were found to not conflict with the policies of the comprehensive plan and the Lyn-Lake Small Area Plan. The parcels at 413 and 429 W Lake Street, across the street, were rezoned to C1 to eliminate instances of split-zoning.

CONDITIONAL USE PERMIT (to allow an off-sale liquor store in the C2 Neighborhood Corridor Commercial district)

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings below 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 off-sale liquor store was established in the existing building on site in 2009. The request at this time is to allow an expansion of the surface parking area to increase the number of off-street parking stalls from 8 to 25. No changes are proposed to the existing off-sale liquor store or the existing parking area on the west side of the building. Allowing additional off-street parking for the liquor store is not expected to be detrimental to the public health, safety or general welfare, provided the use complies with all licensing requirements, life safety ordinances and Public Works Department standards. The site is on a commercial corridor in an area that predominantly contains commercial uses. The property at 400 W Lake Street has historically been used as a surface parking lot. The property at 2948 Grand Avenue S is a narrow lot that is currently vacant and would be difficult to develop for purposes other than surface parking.

- 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.**

Expanding the parking area for the existing off-sale liquor store is not expected to be injurious to the use and enjoyment of other property in the vicinity. The surrounding area is fully developed and includes commercial and residential uses. As stated above, the property at 400 W Lake Street has historically been used as a surface parking lot and the parcel at 2948 Grand is only 28 feet in width, making it difficult to develop for any other use. The property at 2948 Grand Avenue S has also historically contained surface parking. Allowing surface parking on these two parcels will not impede the normal and orderly development of surrounding properties. The parking area is subject to the parking and loading landscaping and screening requirements of Chapter 530, Site Plan Review. The applicant is providing a 5-foot landscaped yard along the

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north property line with shrubs for screening. As noted below, staff is also recommending that landscaping be provided along the east building wall.

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

Roads and utilities are existing and adequate. The applicant will be working closely with 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. Utilities, access roads and drainage facilities were also reviewed as part of the Preliminary Development Review (PDR) process. The PDR report is attached for reference.

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

Increasing the amount of surface parking available to serve the off-sale liquor store from 8 stalls to 25 stalls should have the effect of minimizing traffic congestion in the public streets. The minimum parking requirement for a liquor store is one space per 500 square feet of gross floor area. The liquor store is approximately 5,000 square feet, resulting in a parking requirement of ten spaces. There are currently eight physical spaces on west side of the building and the site previously had grandfather rights to three spaces. The maximum parking requirement is one space per 200 square feet of gross floor area, or 25 spaces. The applicant will be increasing the number of off-street parking stalls to meet the minimum requirement, without exceeding the maximum. Access into the site is provided via existing curb cuts that will not be modified as part of this project.

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

The majority of the site is designated for mixed use on the future land use map in *The Minneapolis Plan for Sustainable Growth*. The parcel at 2948 Grand Avenue S is designated as urban neighborhood. Lake Street is a commercial corridor in this location. Commercial corridors are streets that support a mix of commercial and residential development, with commercial businesses being the dominant type of development. The following policies of the comprehensive plan apply:

Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

1.1.4 Support context-sensitive regulations for development and land use, such as overlay districts, in order to promote additional land use objectives.

1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features;

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minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

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

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

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

- 1.4.1 Support a variety of commercial districts and corridors of varying size, intensity of development, mix of uses, and market served.
- 1.4.2 Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level.
- 1.4.3 Continue to implement land use controls applicable to all uses and structures located in commercial districts and corridors, including but not limited to maximum occupancy standards, hours open to the public, truck parking, provisions for increasing the maximum height of structures, lot dimension requirements, density bonuses, yard requirements, and enclosed building requirements.
- 1.4.4 Continue to encourage principles of traditional urban design including site layout that screens off-street parking and loading, buildings that reinforce the street wall, principal entrances that face the public sidewalks, and windows that provide “eyes on the street”.

Policy 1.10: Support development along Commercial Corridors that enhances the street’s character, fosters pedestrian movement, expands the range of goods and services available, and improves the ability to accommodate automobile traffic.

- 1.10.1 Support a mix of uses – such as retail sales, office, institutional, high-density residential and clean low-impact light industrial – where compatible with the existing and desired character.

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

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

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

10.19.1 In general, larger, well-placed, contiguous planting areas that create and define public and private spaces shall be preferred to smaller, disconnected areas.

10.19.2 Plant and tree types should complement the surrounding area and should include a variety of species throughout the site that include seasonal interest. Species should be indigenous or proven adaptable to the local climate and should not be invasive on native species.

10.19.3 Landscaped areas should include plant and tree types that address ecological function, including the interception and filtration of stormwater, reduction of the urban heat island effect, and preservation and restoration of natural amenities.

10.19.4 Landscaped areas should be maintained in accordance with Crime Prevention Through Environmental Design (CPTED) principles, to allow views into and out of the site, to preserve view corridors and to maintain sight lines at vehicular and pedestrian intersections.

The site is also within the study area of the *Lyn-Lake Small Area Plan*. In the *Lyn-Lake Small Area Plan*, the site is identified as commercial, mixed-use.

Allowing the expansion of the surface parking lot for an existing liquor store is consistent with the above policies of the comprehensive plan and the small area plan. The off-sale liquor store is a retail use on a commercial corridor on a site primarily designated for mixed-use. As evaluated above, while the parcel at 2948 Grand Avenue S is designated as urban neighborhood on the future land use map, it is not large enough to support residential development without variances and would be part of a single zoning lot with frontage on a commercial corridor. The site would be landscaped in accordance with the policies above and the parking and loading design and maintenance provisions of Chapter 530, Site Plan Review. Staff has made additional recommendations for landscaping below.

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

The applicant is adding 17 spaces to the off-street parking area, thus requiring compliance with the design and maintenance provisions of Chapter 530, Site Plan Review. A landscaped yard a minimum of seven feet in width is required along the east property line, adjacent to Grand Avenue S and the south property line, adjacent to Lake Street. Said landscaped yard shall

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contain screening that is a minimum of three feet in height and 60 percent opaque. The required landscaping is provided along the south property line. However, the applicant is not proposing any landscaping between the parking area and the east property line, with the exception of two tree islands. The proposed tree islands are located within the parking stalls, reducing the length of two of the stalls to ten feet. The required minimum stall depth for a 45 degree parking stall is 18'9". In order to provide adequate depth for vehicles, these two tree islands shall be removed or relocated. With the removal of the tree islands, the only landscaping along the east property line would be located off-site in the public right-of-way. A 7-foot landscaped yard is also required along the north property line, between the parking area and the residential property to the north. The applicant is proposing a 5-foot landscaped yard in this location. All parking stalls are proposed within 50 feet of the center of an on-site deciduous tree even with the removal of the two tree islands referenced above.

To compensate for the lack of required landscaping along the north and east property lines, staff recommends that the applicant provide a landscaped area a minimum of five feet in width for the length of the east building wall. A one-way drive lane is proposed to provide access to the easternmost parking stalls. The minimum required width for a one-way drive aisle serving 45 degree parking stalls is 12 feet. The drive aisle proposed is 29 feet in width. Providing a 5-foot landscaped yard along the building would leave 24 feet of bituminous to serve as a drive aisle and would not interfere with the existing curb cut. Said landscaped area shall include plantings that are a minimum of three feet in height.

SITE PLAN REVIEW

Staff is recommending that site plan review application be returned to the applicant.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the rezoning from R2B to C2:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the rezoning from the R2B, Two-family Residential district to the C2, Neighborhood Corridor Commercial district for the property located at 2948 Grand Avenue S.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the rezoning from C1 to C2:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the rezoning from the C1, Neighborhood Commercial district to the C2, Neighborhood Corridor Commercial district for the property located at 400 W Lake Street.

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Recommendation of the Community Planning and Economic Development Department - Planning Division for the conditional use permit:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the conditional use permit for an off-sale liquor store at the property of 400-404 W Lake Street and 2948 Grand Avenue S, subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. Community Planning and Economic Development Department – Planning Division staff review and approval of the final elevations, floor, site, lighting and landscape plans.
3. A landscaped yard a minimum of five feet in width containing plantings a minimum of three feet in height shall be provided for the length of the east building wall, in accordance with Section 530.170 of the zoning code.

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **return** the site plan review application for the property of 400-404 W Lake Street and 2948 Grand Avenue S .

Attachments:

1. Statement and findings from applicant.
2. Zoning map.
3. Zoning code information sheet.
4. PDR report.
5. Site plans and elevations.
6. Photos.