

**Department of Community Planning and Economic Development – Planning Division**  
Rezoning, Conditional Use Permit, Variances and Site Plan Review  
BZZ-4304

**Date:** April 6<sup>th</sup>, 2009

**Applicant:** Hamoudi Sabri

**Addresses of Property:** 640 East Lake Street

**Project Name:** Gas Station

**Contact Person and Phone:** Hamoudi Sabri, (612) 722-4000

**Planning Staff and Phone:** Jessica Thesing, (612) 673-5887

**Date Application Deemed Complete:** March 6, 2009

**End of 60-Day Decision Period:** May 5<sup>th</sup>, 2009

**End of 120-Day Decision Period:** Staff sent a letter to the applicant on March 20, 2009 extending the decision period to no later than July 4<sup>th</sup>, 2009.

**Ward:** 6      **Neighborhood Organization:** Phillips West Neighborhood; Phillips Neighborhood Association.

**Adjacent to:** Central Neighborhood; Central Area Neighborhood Association

**Existing Zoning:** C1 Neighborhood Commercial District

**Proposed Zoning:** C2 Neighborhood Corridor Commercial District

**Zoning Plate Number:** 25

**Legal Description:** Not applicable for this application

**Proposed Use:** Automobile convenience facility w/gas pumps

**Concurrent Review:**

- Rezoning from C1 to C2 to allow an automobile convenience facility
- Conditional Use Permit to allow an automobile convenience facility within the C2 district.
- Variance from the required 12,000 square feet of lot area to approximately 9,490 square feet.
- Variance from the required 100 feet of lot width to approximately 80.5 feet.
- Site Plan Review for an automobile service use.

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits, Chapter 548, Article I, Commercial Districts, Chapter 525, Article IX, Variances and Chapter 530 Site Plan Review

**Background:** Records indicate that the property located at 640 E Lake Street has been used as a gasoline service station since 1939. The station was rebuilt in 1950 and then wrecked and rebuilt again in 1965. Since then, permit records (see attachments) and past land use applications (PR 343) indicate that the site was maintained and managed as an automobile service station until the end of 2005 when it ceased to operate and became vacant. Since then, the site has remained vacant and underutilized. It's important to note however that the existing building actually lies partially on the residential property to the north (2946 Park Ave) and has a legal easement to do so. They also have an easement through that property for a curb cut which is the only access to the subject site along Park Ave. There also existed one other curb cut along Park Ave to this site however it was closed during the Hennepin County initiated Lake Street Reconstruction Project in 2006 because it was considered to be too close to the corner of Lake Street and Park Ave.

The applicant now proposes some alterations to the existing building including a small 381 square foot one story addition to the south end of the existing 540 square foot one story building, site plan improvements including landscaping, the closure of the NE curb cut to Park Ave, the addition of a new curb cut to Park Ave, and a 3' high decorative wrought iron fence along the Lake Street and Park Ave frontage to match the fencing designed for the Lake Street Reconstruction Project. The purpose of these improvements is that the applicant would like to re-establish the automobile convenience facility with gas pumps at the subject site.

The subject site is currently zoned C1-Neighborhood Commercial District which allows for automobile convenience facilities that existed on the effective date of the Minneapolis Zoning ordinance as a conditional use. Although the gas station was in existence on the effective date of the ordinance in 1999, it ceased to operate and therefore is now required to meet the current zoning regulations. Automobile convenience facilities proposed after the effective date of the ordinance are required to have at least C2-Neighborhood Corridor Commercial District zoning in order to apply for a conditional use permit to gain lawful establishment. The applicant is proposing to rezone the property from C1-Neighborhood Commercial District to C2-Neighborhood Corridor Commercial District and apply for a conditional use permit to re-establish the use in order to comply with the current zoning code requirements.

The zoning code also requires that automobile service uses with gas pumps have at least 12,000 square feet of lot area and at least 100 feet of lot width. The site at 640 E Lake St has approximately 9,490 square feet of lot area and approximately 80.5 feet of lot width fronting Park Ave and therefore a variance to these requirements is also required. Finally, automobile service uses are subject to site plan review per Chapter 530 Site Plan Review; this is being addressed concurrently with this application as well.

The applicant has also submitted for Preliminary Development Review and comments from this process have been included in this report. Besides the general comments that are attached however it's important to note that the subject site is a closed petroleum leak site, leak # 8968 and soil contamination

remains on site. It is required that prior to any demolition, excavation or grading activities, approval must be obtained from the Minnesota Pollution Control Agency. In addition, two 7500 gallon non-compliant underground storage tanks used for the storage of gasoline exist on site. These tanks must be either removed or upgraded to current state requirements and placed back into service. The planning department will also require that all storage tanks shall be equipped with vapor tight fittings to preclude the escape of gas vapors from the fill pipes (see Conditional Use Permit, Finding # 6).

The applicant notified Ward 6 Council Member Robert Lilligren and the West Phillips Neighborhood Association on January 2<sup>nd</sup>, 2009. The applicant also notified the adjacent Ward Council Member Elizabeth Glidden and the Central Area Neighborhood Association on February 6<sup>th</sup>, 2009.

The Phillips West Neighborhood Association also held a public meeting on Thursday, March 5, 2009 where the applicant attended. Comments and feedback from this meeting were discussed with staff however were not sent in writing. Staff will forward additional comments, if any are received, prior to the City Planning Commission meeting.

**REZONING: Rezoning from C1 to C2 to allow an automobile convenience facility.**

**Findings As Required By The Minneapolis Zoning Code for the Rezoning Application:**

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

Commercial corridors are streets that are available for more intensive commercial and high traffic activities however they must balance both pedestrian and auto orientation in design and development. Although some uses including automobile service uses may not be supported because of the potential impacts on nearby residential areas, The Minneapolis Plan for Sustainable growth supports auto oriented uses on commercial corridors between intersections of converging corridors. The subject property is located on a designated commercial corridor between 35W and Park Ave; the nearest intersection of converging corridors is at Chicago Ave and Lake Street which is approximately two blocks east of the subject site. Due to the nature of uses and the location of the subject property on East Lake Street, staff believes that amending the parcel to C2 zoning is appropriate.

The following adopted and proposed policies are relevant to this project:

***The Minneapolis Plan-Adopted***

***Relevant policy: 4.3.*** Minneapolis will support development in Commercial Corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.

***Relevant Implementation Steps:***

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

- Require that street design for Commercial Corridor streets provide automobile access and parking in keeping with traditional urban form.

**Relevant Policy: 4.4.** Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment and opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

**Relevant Implementation Step:**

- Encourage the economic vitality of the city’s commercial districts while maintaining compatibility with the surrounding areas.
- Encourage coordination and communication between business associations and neighboring residents groups.

***The Minneapolis Plan for Sustainable Growth-Pending Adoption***

**Relevant Policy: 1.7.** Limit new and expanded auto-oriented uses in the city so impacts on the form and character of commercial areas and neighborhoods can be minimized.

**Relevant Implementation Steps:**

- Direct auto-oriented uses to locations on Commercial Corridors that are not at the intersection of two designated corridors, where more traditional urban form would be appropriate.

**Relevant 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.

**Relevant Implementation Steps:**

- 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.

***Midtown Minneapolis Land Use and Development Plan-Approved December 23<sup>rd</sup>, 2005 by the Minneapolis City Council***

Although the soon to be adopted Minneapolis Plan for Sustainable Growth calls out the subject site as mixed use, the Midtown Minneapolis Land Use and Development small area plan designates the area between Portland Ave S and one half block east of Park Ave S north of Lake Street as medium density residential. The plan indicates that the commercial buildings to the south of Lake Street could be rehabilitated and that the existing housing on the south side of the street could be reinforced with newly constructed housing on the north side of the street. The thought is that this will encourage a low-intensity land use option for this area of the corridor that lies directly between

I-35W and Midtown Exchange. Again however, the existing land use is commercial and the soon to be adopted Minneapolis Plan for Sustainable Growth calls out the subject property as mixed use. It's also important to note that mixed use does not simply imply that all buildings within this designation have to be mixed use buildings. The mixed use designation allows for mixed use development, including mixed use with residential. Mixed use may also include either a mix of retail, office or residential uses within a building or within a district and there is no requirement that every building be mixed use. Therefore, it seems that supporting the amendment for the location of the subject property along Lake Street supports the existing and soon to be adopted land use policy.

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

The amendment is clearly in the interest of the property owner. It will allow the applicant to re-establish a gas station which will likely be more financially viable than a vacant parcel. However, policies in the comprehensive plan indicate that there is a public interest associated with allowing auto oriented uses along commercial corridors such as Lake Street especially between intersections of converging corridors. The location of the subject property is not at an intersection of designated corridors nor is it within a designated activity center; the land use category is mixed use. Policy indicates that this property seems appropriate for automobile uses allowed in the C2 district.

**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 subject property is located on Lake Street, which is a designated Commercial Corridor that spans east to west from city boundary to city boundary. Generally, the properties in the immediate vicinity are a mix of commercial and residential uses and zoned a mix of R2B to the north along Park Avenue, C2 to the south, southeast, and east at the Park Ave and Lake Street intersection, and C1 to the west and southwest of the site. In addition, the property directly to the south across Lake Street is used as a Car Wash.

The Minneapolis Plan for Sustainable growth supports some auto oriented uses between intersections of converging corridors and due to the nature of uses and the existing zoning along the corridor, staff believes that allowing C2 zoning on the subject site will be compatible with property in the vicinity.

**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.**

There are a number of reasonable commercial uses allowed as of right or by conditional use permit under the existing C1 zoning including general retail sales and services as well as automobile convenience facilities that existed on the effective date of the current ordinance. However, the subject parcel is located on a commercial corridor where policy supports more traffic and with that more intense auto oriented uses. Although staff believes that reasonable uses are allowed as of right within the existing zoning classification; commercial corridors have

historically been prominent destinations with a mix of commercial uses, medium to high density residential, and high traffic volumes which justifies allowing the uses first allowed in the C2 zoning district. Also important to note is that this particular use was in existence from 1939 to 2005. Due to the approximate 4 year vacancy, C2 zoning is now required and due to the longstanding existence of this use at the subject site, staff believes that an automobile convenience facility is a reasonable use for this site and the amendment is appropriate.

**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.**

Under the 1963 Zoning Code, the subject property was zoned B3S2 Community Service District which allowed a variety of necessary services and goods not thought to be compatible with uses permitted within the less intense neighborhood and community retail districts. The B3S2 district permitted automobile service stations subject to site plan review and other standards set forth within the district regulations. In 1999 however, the zoning code changed and this property was subsequently down-zoned to C1-Neighborhood Commercial District which would have been equivalent to the B2 Neighborhood Retail District within the 1963 code. Staff believes the reason for this was associated with the fact that the lot size of the subject property was insufficient according to the minimum requirements as set forth in the zoning code and that the newly adopted zoning code allowed existing automobile convenience facilities to continue with a “deemed” conditional use permit. The service station continued to operate under this provision until 2005 when it became vacant.

Within the last few years, there have been some notable changes with development in the area including the rehabilitation of the Midtown Exchange site (the old Sears Building) into a mixed use building with high density housing. In addition, the Midtown Minneapolis Plan was adopted in 2005 to address the vision of the neighborhood. Notable points from the plan include that the plan calls for medium to high density residential development along this section of Lake Street where the subject property is located however the soon to be adopted Minneapolis Plan for Sustainable Growth designates this area as mixed use in its future land use map. An important point to note here is that although the existing zoning allows for higher density and the land use plans call for mixed use development and medium to high density housing, there was also a recent text amendment change to the zoning code that requires one primary zoning classification per parcel. Since the majority of land near the subject site is zoned C2 other than the adjacent neighbor that is also zoned C1, the sites could be assembled for medium to high density residential and/or a mixed use development proposal in the future and most likely would be rezoned to C2 to maximize bulk.

For these reasons, staff believes that allowing the change in zoning from C1 to C2 now could help maximize the use of the currently vacant site while also securing a zoning classification that compliments the current land use policy and adopted small area plans for this area.

**CONDITIONAL USE PERMIT: to allow an automobile convenience facility within the C2 district.**

**Findings as required by the Minneapolis Zoning Code for the conditional use permit:** The Community Planning and Economic Development 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 applicant proposes to invest in the existing building and the site by improving the façade, adding an addition to the south end of the building, and complying with site plan review requirements in order to re-establish an automobile convenience facility that has been vacant since 2005. The applicant is proposing a number of site improvements that will improve the security and compatibility of the use with nearby properties. Re-establishing an automobile convenience facility will not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances, as well as Public Works Department standards. The proposal most likely will add to the comfort and general welfare of the area because of the newly proposed lighting on the building, new landscaping, and better pedestrian connections from the public sidewalk to the building. In addition, rehabilitating the vacant site with a viable use will be a positive change to the neighborhood.

**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 surrounding area is fully developed. Staff and the applicant are proposing a number of site improvements that will improve the compatibility and security of the use with nearby properties. Through the recommended and proposed site improvements, the re-establishment of the use as an automobile convenience facility should not have negative impacts on surrounding properties. In addition, because the applicant is also proposing to rezone the property to a district more appropriate for the area, it may help secure a viable use on the site until a future development is proposed.

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

The site is served by existing infrastructure however there is one proposed curb cut along Park Ave that cuts across the residential property to the north that will be closed. Although, a legal easement exists to allow the subject property to use this curb cut, the zoning code does not allow access for commercial property through residential property. For this reason, staff is asking that curb cut to the north along Park Ave be closed. The applicant is complying with this request and is instead proposing a new curb cut along Park Avenue starting approximately 12.5 feet south of the northern property line. Otherwise, the site has one curb cut along Lake Street that will remain and will have a total of two curb cuts for the site once the site plan improvements have been

implemented. In addition, the Public Works Department has reviewed this project through the PDR process and the requirements from this review are attached to this report.

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

Due to recently adopted zoning code text changes, there is no parking requirement for the site. The applicant however is proposing one van accessible space on the south side of the new addition to allow for access into the building as well as a new curb cut along Park that will eliminate vehicular access through the residential property to the north. Although section 541.170(b) of the Minneapolis Zoning Code allows staff to require additional parking with the approval of the CUP, this may not be a reasonable request for this site because the previously approved site plan (PR-343) did not include extra parking and there currently exists a transit shelter located on the corner of Lake Street and Park Ave S. In addition, the location of the parking if proposed would most likely conflict with the site plan review requirements due to the location of the existing building on the site. As proposed, staff believes that with the implementation of the site improvements adequate measures will be provided to minimize traffic congestion along Lake Street and Park Ave to the site.

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

The applicant proposes to invest in the site by improving the façade of the building, adding an addition to the south end of the building, and complying with site plan review requirements. By enhancing landscaping and screening, eliminating a curb cut that currently passes through the residential property to the north and providing an appropriate buffer, proposing new lighting along the alley, providing a walkway from Lake Street to the building, and by improving the overall visual effect for both pedestrian and vehicular traffic from the Lake Street and Park Ave frontages, staff believes that re-establishing the site as an automobile convenient facility on an existing Commercial Corridor is consistent with the policies of both the adopted and soon to be adopted comprehensive plans.

In addition, there is not currently a heavy concentration of gas stations along Lake Street. From city boundary to city boundary, there are five active gas stations along Lake Street; two are located to the west of the “lakes”, one is located at the SW corner of Lake Street and Aldrich Ave S, one is located at the NW corner of 18<sup>th</sup> Ave S and Lake Street, and then one is located on the NW corner of 44<sup>th</sup> Ave S and Lake Street. There are also four inactive stations including the subject site along the stretch. Since the comprehensive plan supports a mix of uses along commercial corridors and the nearest gas stations to the subject site are approximately thirteen blocks to the east and eighteen blocks to the west, staff believes that this type of use is consistent with present and future development policy in the area.

***The Minneapolis Plan-Adopted***

**Relevant policy:** 2.8. Minneapolis will develop the existing economic base by emphasizing business retention and expansion

***Relevant Implementation Steps:***

- Promote business start-ups, retention and attractions. Foster a healthy business environment by encouraging access to the resources and information necessary for successful operation.

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

***Relevant Implementation Steps:***

- Develop standards based on recognition of the qualities that make urban corridors desirable, viable and distinctly urban, including; diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements which add interest at the scale of the pedestrian.

With the proposed site plan amendments and building changes, the site will be more attractive by adding interest at the scale of the pedestrian while also bringing life to a previously vacant site. In addition, upon approval of all the proposed applications and implementation of both the proposed site and building improvements, the use as proposed appears to be in conformance with the Minneapolis Comprehensive Plan.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located, with the approval of this conditional use permit.**

In addition to this conditional use permit; a zoning amendment from C1 to C2 is required, a lot area and lot width variance is required, and a site plan review application is required to re-establish an automobile convenience facility at this location. The applicant has not submitted changes to signage at this time however any proposed changes to signage will require a permit to be issued by the city to a licensed sign contractor. All signage must meet the requirements as set forth in chapter 543 of the Minneapolis Zoning Code.

In addition, the proposed use is also subject to the following Specific Development Standards, addressed in Chapter 536:

***Automobile convenience facility.***

- (1) The sale or repair of vehicles shall be prohibited.
- (2) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.
- (3) Service area canopy light fixtures shall be completely recessed within the canopy so that the lenses shall not extend beyond the surface of the canopy.
- (4) 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.
- (5) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

With the approval of all the associated applications and compliance with the required development standards, the project will be in compliance with the applicable regulations of the C2 zoning district.

**VARIANCE: from the required 12,000 square feet of lot area to approximately 9,490 square feet and from the required 100 feet of lot width to approximately 80.5 feet.**

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

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

The applicant is seeking a variance to reduce the required lot area and lot width of the site in order to re-establish an automobile convenience facility. An automobile convenience facility has been existence at this location since 1939 and only has been vacant since 2005. Strict adherence to the ordinance would not allow for the proposed automobile convenience facility at this site, which is a reasonable use 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.**

The circumstances upon which the variance is requested are unique to the parcel due to the long standing history of this use at this location and the fact that the lot size is not being changed. The applicant is seeking a variance to merely re-establish a use within a facility that was originally built for this type of use in 1939.

- 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.**

Granting the variance for a reduced lot area and lot width will not alter the essential character of the surrounding neighborhood and will not be injurious to the use or enjoyment of other property in the vicinity. Because the applicant is removing a curb cut in front of the residential property to the north which accesses the commercial property in this proposal, it is believed that granting the variance will for this project will result in an overall improvement. Overall, staff believes that re-establishing the automobile convenience facility will not significantly impact the character of the 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.**

Granting of the requested variance would likely have no impact on the congestion of area streets or fire safety. The proposal is merely to re-establish a use that until 2005 was in existence since

1939; therefore, granting of the variance would not be detrimental to the public welfare or endanger the public safety.

**SITE PLAN REVIEW: for an automobile service use.**

**Findings as required by the Minneapolis Zoning Code for the site plan review:**

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

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

**BUILDING PLACEMENT AND DESIGN:**

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.

- **Entrances and windows:**

- **Residential uses:**

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

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

- **Nonresidential uses:**

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

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

Minimum window area shall be measured as indicated in section 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.

***Conformance with above requirements:***

The placement of the existing one story building is currently located at an angle across the rear north west corner of the zoning lot with the main entrance directly in the middle of the building oriented towards the south east corner of the lot. The applicant is proposing to alter the roof line and the façade of the existing building by adding windows and changing the location of the front entrance as well as add an addition to the southern portion of the building. The front building wall is 28 feet long and the applicant is proposing approximately 51.4% windows and a front door with approximately 12 square feet of glass with a 2.5 square foot window above along that wall. Because the building is at an angle, staff believes that this entrance maximizes surveillance by allowing visibility through all the windows and the door placement oriented towards the corner of the property. The applicant is also proposing windows on the south, northwest and west elevations of the new addition in addition to lighting enhancements along the alley to help increase natural surveillance and visibility to the site while also helping to prevent crime in the alley.

The applicant is proposing one 380 square foot addition to the existing 540 square foot vacant automobile convenience facility. The proposed structure as existing is setback at its closest point approximately 21 feet from the property line fronting Lake Street and 30.5 feet from the property line fronting Park Ave. The new addition is proposed at 16 feet from the property line fronting Lake Street, 38 feet from the property line fronting Park Ave, and directly abuts the western property line along the alley. Due to the existing location of the building, staff believes that although the building remains further than 8 feet from each frontage property line, requiring the project to meet this requirement is impractical. Staff also believes that adding the addition to the south side of the building is moving towards compliance by bringing the building closer to the property line along Lake Street and is therefore meeting the intent of this ordinance.

There is one main pedestrian entrance being proposed from the building along the east property line connecting to the public sidewalk along Lake Street. This is a corner lot however is legally platted towards Park Ave. The applicant is also proposing a 10 foot landscape buffer along the north property line between the building and the property west property line.

Parking is not required for this use however the applicant is proposing one van accessible space to the south of the new addition between Lake Street and the building. Although parking is to be located only to the rear or interior side of the property, there is really no alternative in this case since the existing portion of the building is located to the rear and interior side of the lot. Staff believes that the proposed location of the parking space is meeting the intent of the ordinance.

The building includes sufficient architectural detail and amounts of windows to avoid large blank walls, not exceeding twenty-five (25) feet in length along the south, west, northwest, and southeast elevations however there is an existing blank wall along the portion of the existing northwest portion of the building. The applicant is extending the existing 28 foot northwest elevation wall approximately 10 feet and is proposing windows in the new 10 foot section. Because the applicant is not proposing to add 25 feet of blank walls on each elevation and the only wall considered to be a blank wall is a combination of new and existing building along the

alley; staff believes that requiring windows in the existing portion of the building is impractical. In addition, the interior of the building uses this wall as a walk in cooler so if windows were proposed, they would most likely be covered by either mechanical equipment or cooler walls.

The existing portion and proposed portions of the building will have a stucco façade with a slate tile base and a metal standing seam roof.

Plain face concrete block would not be used as a primary exterior building material.

The principal entrances will be clearly defined by a glass door will be surrounded by windows.

The applicant is required to provide a minimum of 30% glazing on the first floor of the south, southeast, and east elevations. The applicant has provided the following percentages: 51.4% on the east elevation facing southeast corner, 35% on the east elevation facing the east property line along Park Ave, and 35.4% on the south elevation along Lake Street, 21% along the west abutting the alley, and 8.4% in the new portion of the northwest elevation.

With the exception of the proposed windows of the convenience store along the alley, all of the proposed windows will be vertical in proportion and evenly distributed.

A shed roof is proposed. Although most of the buildings in the area have gable and flat roofs, the existing roof is a shed roof so utilizing the same roof in the new portion of the building is appropriate.

#### **ACCESS AND CIRCULATION:**

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted; weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).**
- **Site plans shall minimize the use of impervious surfaces.**

#### ***Conformance with above requirements:***

The applicant has provided a walkway in front of the principal entrance connecting to the handicap accessible space along the alley and then to the public sidewalk along Lake Street. The walkway has currently been proposed at 3 feet however the applicant has been advised to revise this prior to final plan submittal. Walkways between the building and the parking spaces shall be kept free of obstructions (e.g., pillars, ice machines, etc.) in a manner that allows four (4) foot

wide clearance. Such walkway(s) shall be protected from encroachment of vehicles by curbing, wheel stops, bollards, or similar barriers.

There is a transit stop directly in front of the site along Lake Street however it is not located on the site.

Public works was involved in the Lake Street Reconstruction project that recommended the closure of the curb cut along Park Ave in 2006. The site was vacant at the time and the curb cut was considered to be too close to the corner of Park and Lake Street. The applicant is now proposing to close the existing curb cut that utilizes a portion of the residential property to the north and is proposing a new curb cut along Park Ave to the property. In total, the property will have two curb cuts; one along E Lake Street and one along Park.

The applicant does not propose vehicular access to and from the public alley from the site.

The site plan shows an overall decrease in the amount of impervious surface than what currently exists on the site. In closing the curb cut to the north, the applicant will also be restoring landscaping and pedestrian access to the adjacent residential property as well.

#### **LANDSCAPING AND SCREENING:**

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
- **Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**
  - **A decorative fence.**
  - **A masonry wall.**
  - **A hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).**
- **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**
- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for**

**each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**

- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible.**
- **All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.**

#### *Conformance with above requirements*

The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area is 9,490 square feet and the existing and proposed building footprint in combination is 920 square feet. The lot area minus the building footprints therefore consists of approximately 8,570 square feet. At least 20 percent of the net site area (8,570 square feet) must be landscaped and the applicant is providing 1,800 square feet, which equals 21 percent of the net site area.

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. Not less than one (1) tree shall be provided for each twenty-five linear feet or fraction thereof of parking lot frontage along a public street. The tree and shrub requirement for this site is 3 and 17 respectfully. The applicant has shown 7 canopy trees (Maple) and 21 shrubs (Juniper).

A seven-foot landscaped yard is required by the zoning code on three sides of the property, the north, east and south sides, due to adjacency to two public streets and a residential use. The applicant is providing between 10 feet and 12 feet of landscaping along the north property line, 7 feet of landscaping along the east property line (Park Ave), and 7 feet along the south property line (Lake Street).

Screening, not less than 6 feet high and 95% opaque, is required for approximately 95 feet along the north property line due to the adjacency of the parking area and loading to a residential use and zoning classification. The applicant has shown a combination of a 6' high wood fence and dense trees and shrubbery for approximately 60 feet along the north in between the building and the front edge of the residential building to the north. From the front of the residential building to the property line, the applicant has proposed a combination of wrought iron fencing and dense shrubbery. Screening, not less than 3 feet in height and not less than 60% opaque is required

along the east property line for approximately 80 feet minus the curb cut and drive isle due to the frontage along Park Ave. The applicant is proposing a combination of wrought iron fencing with dense trees and shrubs along this frontage. Additionally, screening, not less than 3 feet in height and not less than 60% opaque is required for approximately 118 feet along the Lake Street frontage minus the curb cut and drive isle. The applicant is proposing a combination of wrought iron fencing with dense trees and shrubs along this frontage. Part of the north corner of the building has a legal easement to sit on a portion of the residential property to the north. This residential property uses the northwest corner of the commercial property for access into its garage. For this reason, it is impractical to require landscaping along the north property line from the north western portion of the property to the building.

Turf, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees shall cover all areas that are not paved or landscaped.

In addition, the applicant is closing the north curb cut along Park Avenue that cuts through the residential property. Staff is requiring that with this closure, the applicant must replace the sidewalk and landscaping in that area.

**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.**
- **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.**

***Conformance with above requirements:***

The proposed curbing will be provided along the parking areas and drive aisles. With the recommend landscaping, the property should be able to support a fair amount of on-site filtration.

The building should not impede any views of important elements of the city.

The building should not significantly shadow the adjacent streets or properties.

Wind currents should not be major concern. The site design provides natural surveillance and visibility to allow views into the area. The proposal controls and guides to movement on the site with clearly defined walkways between the principal entrance and the parking areas and distinguishes between public and non-public spaces with the recommended and proposed screening and landscaping.

The existing structures are neither historic nor eligible for historic designation.

**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:** With the approval of this application, the site will be zoned C2. Automobile convenience facility uses are conditional uses in the C2 District.

**Parking:** The required number of parking stalls is 0. The proposed parking area shows 1 stall, one of which is a van accessible handicapped stall.

**Off-Street Parking and Loading:**

**Minimum automobile parking requirement:** 0; Non-residential uses with one thousand (1,000) square feet or less shall be exempt from minimum off-street parking requirements.

**Maximum automobile parking requirement:** 1 space per 200 sq. ft. of GFA+ 2 spaces per service bay

**Bicycle parking requirement:** 0; Non-residential uses having one thousand (1,000) square feet or less shall be exempt from minimum bicycle parking requirements.

**Loading:** No loading required; however adequate shipping and receiving facilities shall be provided per section 541.490.

**Maximum Floor Area:** The maximum floor area ratio in the C2 District is 1.7. The lot area is 9,490 square feet. The proposed structure is 920 square feet. The floor area ratio is .096.

**Height and Bulk:** The maximum building height in the C2 District is limited to four stories or 56 feet, whichever is less. The building is one story definition.

**Minimum Lot Area and width:** Automobile services uses with fuel pumps or car washes have a minimum lot area of 12,000 square feet and at least 100 feet of lot frontage in the C2 District. The existing site is 9,490 square feet with approximately 80 feet of lot frontage and therefore a variance is required and is being addressed in this application.

**Dwelling Units per Acre:** There are no existing or proposed dwelling units.

**Yard Requirements:** The subject site is zoned C2 and there are yard requirements along the north property line due to adjacency to residential zoning classifications. The yard requirements are being observed.

**Hours of Operation:**

The permitted hours of operation in the C2 District are 6:00 am – 10:00 pm Sunday through Thursday and 6:00 am – 11:00pm Friday and Saturday. The applicant has not proposed to extend these hours at this time.

**Signs:** The applicants have not submitted a signage plan however all new signage is required to meet the requirements of the zoning code.

**Refuse screening:** The proposed refuse containers and screening is shown adjacent to the building and will be collected on site. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent uses. The applicant is proposing a 6 foot high concrete trash enclosure that meets the intent of the zoning ordinance.

**Lighting:** Staff is recommending that lighting proposed for the development complies with Chapter 536 Specific Development Standards for the canopy lighting, Chapter 535 and Chapter 541 of the zoning code including:

**535.590. Lighting.** (a) *In general.* No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(b) *Specific standards.* All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than

ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.

- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.
- (5) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

#### **MINNEAPOLIS PLAN AND RELEVANT SMALL AREA PLANS:**

See findings under #5 for the Conditional Use Permit.

**Alternative Compliance.** The Planning Commission 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, 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.**

**Alternative compliance is requested by the applicant for the following standards:**

- **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 applicant is proposing one 380 square foot addition to the existing 540 square foot vacant automobile convenience facility. The proposed structure as existing is setback at its closest point approximately 21 feet from the property line fronting Lake Street and 30.5 feet from the property

line fronting Park Ave. The new addition is proposed at 16 feet from the property line fronting Lake Street, 38 feet from the property line fronting Park Ave, and directly abuts the western property line along the alley. Due to the existing location of the building, staff believes that although the building remains further than 8 feet from each frontage property line, requiring the project to meet this requirement is impractical. Staff also believes that adding the addition to the south side of the building is moving towards compliance by bringing the building closer to the property line along Lake Street and is therefore meeting the intent of this ordinance. Staff is recommending that the planning commission grant alternative compliance.

- **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.**

Parking is not required for this use however the applicant is proposing one van accessible space to the south of the new addition between Lake Street and the building. Although parking is to be located only to the rear or interior side of the property, there is really no alternative in this case since the existing portion of the building is located to the rear and interior side of the lot. Staff believes that the proposed location of the van accessible parking space is meeting the intent of the ordinance and therefore is recommending that the planning commission grant alternative compliance.

### **RECOMMENDATIONS:**

#### **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 above findings and **approve** the application to rezone the property located at 640 East Lake Street from C1 Neighborhood Commercial District to C2 Neighborhood Corridor Commercial District.

#### **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 to allow an automobile convenience facility within the C2 district at 640 East Lake Street 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. The applicant must comply with specific development standards for automobile convenient facilities as set forth in chapter 536 of the Minneapolis Zoning Code.
3. Any proposed lighting and signage must comply with chapter 535 and 543 of the Minneapolis Zoning Code.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variances from the required 12,000 square feet of lot area to approximately 9,490 square feet and from the required 100 feet of lot width to approximately 80.5 feet for the property located at 640 East Lake Street within the C2 district.

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

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review to re-establish an an automobile convenience facility with gas pumps at the property located at 640 East Lake Street in the C2 Neighborhood Corridor Commercial District, subject to the following conditions:

1. CPED Planning staff review and approval of the final site, elevations and landscaping plans.
2. The building shall be oriented so that at least one (1) principal entrance faces either Park Avenue or East Lake Street as required by section 530.110.
3. At least 1,714 square feet (20 percent of the net lot area) of landscaped area shall be provided on-site and at least 3 canopy trees and 17 shrubs shall be provided as required by section 530.160 of the zoning code. The applicant is encouraged to plant native grasses and perennials in addition to the required trees and shrubs.
4. Walkways between the building and the parking spaces shall be kept free of obstructions (e.g., pillars, ice machines, etc.) in a manner that allows four (4) foot wide clearance. Such walkway(s) shall be protected from encroachment of vehicles by curbing, wheel stops, bollards, or similar barriers.
5. 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 or shall provide lighting as an alternative compliance measure.
6. Six (6) inch by six (6) inch discontinuous concrete curbing shall be provided between the landscaping and the parking area to on-site retention and filtration of stormwater; if due to contamination on-site retention and filtration is not practical, then six (6) inch by (6) inch continuous curbing shall be provided.
7. The perimeter of the parking lot will be effectively landscaped and screened according to chapter 530 of the zoning code and the decorative fencing as proposed must match or compliment the decorative fencing used in collaboration with the Lake Street Reconstruction project.

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8. The portion of the residential property to the north currently occupied by the curb cut and fencing slated for removal must be restored appropriately to public works standards and to include new landscaping and sidewalks.
9. All site improvements shall be completed by April 6, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

**Attachments:**

1. Statement of use and findings
2. Application and legal description from applicant
3. January 2, 2009, letter to CM Robert Lilligren
4. January 2, 2009, letter to West Phillips Neighborhood Association
5. February 6, 2009, letter to CM Elizabeth Glidden
6. February 6, 2009, letter to Central Area Neighborhood Association
7. March 20, 2009, Extension letter from staff to applicant
8. Zoning Affidavits
9. CUP Findings
10. Variance Findings
11. Site Plan Review
12. PDR Report
13. Easement Information
14. Permit Record Information
15. Zoning map
16. Site plan, floor plans and elevations
17. Photos of the site and surrounding area
18. Additional correspondence from the public