

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variance, Site Plan Review, and Registered Land Survey
BZZ – 4104, RLS-54, Vac-1510, Vac-1547, and Vac-1548

Date: August 4, 2008

Applicant: Spirit of the Lakes United Church of Christ

Address of Property: 1238 East Lake Street and 2930 13th Avenue South

Project Name: Spirit on Lake

Contact Person and Phone: Kathy Wetzel-Mastel, (612) 721-7556 ext. 15

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: July 10, 2008

End of 60-Day Decision Period: September 8, 2008

Ward: 9 **Neighborhood Organization:** Midtown Phillips (borders Powderhorn Park)

Existing Zoning: C2 Neighborhood Corridor Commercial District

Proposed Zoning: Not applicable

Zoning Plate Number: 26

Legal Description: Not applicable

Proposed Use: Mixed use building including 41 dwelling units and a place of assembly.

Concurrent Review:

Conditional use permit to allow 41 dwelling units.

Variance to reduce the minimum parking requirement of the place of assembly from 34 to 30 spaces.

Site plan review.

Preliminary registered land survey.

Vacation of a city utility easement.

Vacation of a city landscape easement.

Vacation of a portion of an alley easement.

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Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, specifically section 525.520 (6) “To reduce the applicable off-street parking... requirement by up to 20 percent of the applicable regulations...”; and Chapter 530, Site Plan Review.

Background: The applicant proposes to construct a new, 4-story mixed-use building with 41 dwelling units and a place of assembly located at the properties of 1238 East Lake Street and 2930 13th Avenue South. The place of assembly would be located on the ground floor adjacent to Lake Street and would utilize the proposed surface parking behind the building. The dwelling units would occupy the remainder of the first floor and the second through fourth floors. Enclosed parking would be provided on the lower level for the dwelling units.

The site is located on the northwestern corner of Lake Street East and 13th Avenue South. The area north of the site is predominantly residential. Uses along Lake Street are mostly commercial in the immediate area. A one-story nonresidential building occupied by the Spirit of the Lakes United Church of Christ currently exists on the site. The church will relocate into the new building.

A conditional use permit is required in the C2 district to allow 41 dwelling units. Upon approval of a conditional use permit, the action must be recorded with Hennepin County as required by state law.

The minimum parking requirement for a place of assembly is equal to 30 percent of the seating capacity in the main auditorium and any rooms which can be added to the main auditorium by opening doors or windows to obtain audio or video unity. The main auditorium plus adjacent viewing areas occupy 1,747 square feet of floor area. Therefore 35 parking spaces are required. The parking requirement for the place of assembly can be reduced by providing four bike parking spaces in lieu of one vehicle space. Four bike spaces are proposed adjacent to the entrance facing the parking area. Therefore, the bike parking reduces the parking requirement by one space. The applicant is proposing to provide 31 vehicle parking spaces including two accessible as required and 9 compact spaces. The zoning code limits the number of compact spaces that can be counted toward the parking requirement to no more than 25 percent of required spaces. Therefore only 8 of the proposed compact spaces contribute to meeting the parking requirement. A variance is required to reduce the parking requirement from 34 to 30 spaces.

A site plan review is required for any mixed use building and any building containing 5 or more new dwelling units.

The applicant has applied for a preliminary Registered Land Survey (RLS) to create separate ownership tracts within the building.

The applicant has also applied for a vacation of a city easement in a previously vacated alley, vacation of a landscape easement adjacent to Lake Street and 13th Avenue, and vacation of a portion of an alley easement. A decorative fence is also located in the landscape easement area that was installed as part of the Lake Street reconstruction project. The applicant should work with the Public Works Department or Hennepin County to find reuse opportunities for the fence.

As of writing this staff report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT: to allow 41 dwelling units.

Findings as required by the Minneapolis Zoning Code:

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

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

Construction of a multifamily residential building on the site should not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

- 2. 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. The development of this site with a residential use should have a positive effect on surrounding properties.

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

The site is served by existing infrastructure. Vehicle access would be from 13th Avenue. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way. The applicant is also proposing to add a 4-foot wide boulevard and 2-foot wide interior boulevard, and maintain a 6-foot wide sidewalk in the 13th Avenue right-of-way by aligning the curb adjacent to the site with the curb at the Lake Street intersection and the curb location north of the site.

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

The minimum parking requirement for the residential use is 37 spaces. The applicant is proposing 37 vehicle parking spaces. The applicant has indicated that 4 or more bicycle spaces depending on demand would be provided in the below-grade parking garage. The site is located one block away from access to the Midtown Greenway. It is located on a commercial corridor with a mix of uses and developments, including the Midtown Exchange. There are many convenient opportunities for people to walk or bike to destinations. Staff is recommending that at least 20 bicycle spaces are provided for the residential use. At least 90 percent of the bike spaces should be provided in the underground parking area. With more bicycle parking, the development should have little effect on congestion in the streets.

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

The site is adjacent to Lake Street, which is designated as a commercial corridor by *The Minneapolis Plan*. In *The Minneapolis Plan for Sustainable Growth*, Lake Street is also designated as a commercial corridor. According to the principles and polices outlined in the plan, the following apply to this proposal:

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.

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.

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

Applicable Implementation Steps

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

Provide and maintain moderate and high-density residential areas.

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

9.5 Minneapolis will support the development of residential dwellings of appropriate form and density.

Applicable Implementation Steps

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

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

Staff comment: The proposed use would be part of a mixed use development. The dwellings would be a mix of one and two bedroom units. The applicant has indicated that nine units would be affordable to households under 50 percent of the metropolitan median household income (MMHI) and seven units would be affordable to households under 80 percent of the MMHI. The use would allow the city to increase its supply and diversity of housing types as well as support public transit and surrounding businesses. The use would be consistent with the comprehensive plan.

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

The use of the site for 41 dwelling units will conform to the applicable regulations of the district in which it is located upon the approval of the conditional use permit, variance, site plan review, and vacations.

VARIANCE: to reduce the minimum parking requirement for a place of assembly from 34 spaces to 30 spaces.

Findings Required by the Minneapolis Zoning Code for the Proposed Variance:

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

The minimum parking requirement for a place of assembly is equal to 30 percent of the seating capacity in the main auditorium and any rooms which can be added to the main auditorium by opening doors or windows to obtain audio or video unity. The main auditorium plus adjacent viewing areas occupy 1,747 square feet of floor area. Therefore 35 parking spaces are required. The parking requirement for the place of assembly can be reduced by providing four bike parking spaces in lieu of one vehicle space. Four bike spaces are proposed adjacent to the entrance facing the parking area. Therefore, the bike parking reduces the parking requirement by one space. The applicant is proposing to provide 31 vehicle parking spaces including two accessible as required and 9 compact spaces. The zoning code limits the number of compact spaces that can be counted toward the parking requirement to no more than 25 percent of required spaces. Therefore only 8 of the proposed compact spaces contribute to meeting the parking requirement. The applicant is providing compact spaces to comply with the zoning code requirement that all open parking spaces be located at least 6 feet from a dwelling of any type. If all standard spaces were proposed, either a variance of the spacing requirement would be needed or some landscaping on the west side of the parking area would need to be removed. The site is located within 300 feet of transit stops with midday service headways of 30 minutes or less in each direction. The applicant has also indicated that the highest parking demand occurs on Sunday mornings when on-street parking demand in the surrounding area is low. With the additional compact space, bike parking, access to transit, and limited parking demand, the amount of parking provided is reasonable.

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 site is located on a commercial corridor within close proximity to public transit. Mixed use development of higher density is desired at this location. Although these are not circumstances unique to the parcel, it is in an area with multiple transportation options that reduces the need for off-street vehicle parking.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The purpose of parking regulations is to provide for the parking needs of uses and structures and to enhance the compatibility between parking areas and their surroundings. The applicant would provide an additional compact parking space and bike racks on the west side of the building to accommodate bikers. A nearby bus route on Lake Street has frequent headways. Encouraging use of alternate modes of transportation is in keeping with the ordinance. The granting of the variance should have little effect on surrounding properties.

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.**

Because alternate options for transportation exist or are proposed, the variance should not increase congestion in the area. The Planning Department does not expect that granting the variance would affect public safety.

SITE PLAN REVIEW

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.**

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- **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 building would reinforce the street wall on Lake Street and 13th Avenue. Windows would be provided on all sides of the building on all levels to maximize natural surveillance. Principal entrances for both the place of assembly and the multi-family dwelling would connect to the public sidewalks at intersection of Lake Street and 13th Avenue and to the parking area behind the building to facilitate pedestrian access and circulation.

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The building would be located within 8 feet of the lot line adjacent to 13th Avenue except at the southeast corner of the site. The building would be set back 6.5 feet or greater from the front property line adjacent to Lake Street. Most of the building wall would be set back 10.5 feet from Lake Street. The wall at the southeast corner of the site is set back more than 8 feet to allow for a curved entrance feature facing the Lake Street and 13th Avenue intersection. The greater setback also accommodates a handicap access ramp, stairs, an entrance platform, and landscaping. Staff believes that the alternatives meet the intent of the chapter and recommends that the Planning Commission grant alternative compliance.

The area between the building and the front lot lines would contain a handicap access ramp, stairs, an entrance platform, and landscaping.

A principal entrance for the place of assembly would face the intersection of Lake Street and 13th Avenue. A principal entrance for the dwelling would be adjacent to 13th Avenue.

Parking for the dwelling would be located within the building below-grade. Surface parking for the place of assembly would be located behind the building.

Recesses, projections, windows, and entries are emphasized to divide the building into smaller identifiable sections.

The building would not contain blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length.

The primary exterior materials would include brick, hardi-panels, and glass. Please note, exterior material changes at a later date would require review by the Planning Commission and an amendment to the site plan review.

All sides of the building would be compatible.

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

To emphasize their importance, the main entrances for the residential and retail use would be framed by a colonnade along the walkway leading to the entrances.

Principal entrances for the residential use would be provided adjacent to the parking area and 13th Avenue. They would be emphasized by windows and a canopy. Windows are required for the residential use on the walls facing Lake Street, 13th Avenue and the surface parking area. More than 20 percent of these first floor walls would be windows. On the second through fourth floors, the amount of windows would exceed 10 percent. All windows would be vertical in proportion and distributed in a more or less even manner.

Principal entrances for the place of assembly would be provided adjacent to the parking area and the intersection of Lake Street and 13th Avenue. The entrance adjacent to the parking area would project from the building. The entrance facing the streets would be set back from the corner.

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Both entrances would be emphasized by windows and a canopy. Windows are required for the place of assembly on the walls facing Lake Street, 13th Avenue and the surface parking area. More than 30 percent of these walls would be windows. All windows would be vertical in proportion and distributed in a more or less even manner. Windows used to meet the requirements were not located more than four feet above the adjacent grade. The plans do not indicate the light transmittance of the windows. This information will need to be provided on the final approved plans.

The proposed visible light transmittance ratio of the nonresidential windows has not been identified. The ratio must be 0.6 or higher.

A flat roof is proposed. Most of the nonresidential buildings in the area along Lake Street also have flat roofs.

ACCESS AND CIRCULATION:

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

Conformance with above requirements:

Walkways that are at least 4 feet in width would connect all entrances to the surface parking area and to the public sidewalk.

No transit shelters are located on or adjacent to the site.

All vehicle access would be through one 22-foot wide curb cut on 13th Avenue. An 8 foot landscaped yard would separate the driveway and parking area from the adjacent residential property. Vehicle access and circulation should have minimal impact on pedestrians and surrounding residential properties.

The site is adjacent to an alley. Alley access is not proposed.

Excess use of impervious surfaces is minimal.

LANDSCAPING AND SCREENING:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
 - **Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**

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- Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.
- Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year.
- Screening shall be satisfied by one or a combination of the following:
 - A decorative fence.
 - A masonry wall.
 - A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.
- The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.
- In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.
- All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.

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 of the site is approximately 38,576 square feet. The building footprint would be approximately 14,591 square feet. The lot area minus the building footprints therefore consists of approximately 23,985 square feet. At least 20 percent of the net site area (4,797 square feet) must be landscaped. Approximately 8,022 square feet of the site would be landscaped. That is equal to 33.4 percent of the net lot 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. The tree and shrub requirement for this site is 10 and 48 respectfully. Three canopy trees and 91 shrubs are proposed on-site. Six ornamental trees are also proposed. The applicant is proposing to add 5 trees and 98 shrubs in the 13th Avenue right-of-way. The remainder of the landscaped area would be covered with plants such as turf grass, grasses, and other perennial flowering plants. The applicant is required to locate all parking spaces within 50 feet of an on-site canopy tree. This requirement has not been met with the trees that are proposed. If two trees were added in the landscaped yard on the west side of the parking area, alternative compliance would not be needed for that requirement. Staff is recommending that the Planning Commission grant alternative compliance to allow 5 on-site canopy trees if two more on-site canopy trees are added in addition to the plants proposed on-site and in the right-of-way.

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A 7- and 15-foot wide landscaped yard is required between the parking area and 13th Avenue. The parking area would be set back over 60 feet from 13th Avenue. Landscaping and the driveway leading to the below-grade parking separate the surface parking from the street. An 18-foot wide yard separates the driveway from the street. Screening that is 3 feet in height and not less than 60 percent opaque is required in the landscaped yard. This screening is not provided. Staff is recommending that the Planning Commission grant alternative compliance for this requirement because the parking area is set back over 60 feet from 13th Avenue. One tree is required for each 25 linear feet or fraction thereof of parking lot frontage. Sixty feet of parking lot frontage is proposed, therefore three trees are required. The applicant is proposing three ornamental trees.

A 7-foot wide landscaped yard is required between the parking area and the residential property to the north and adjacent to the alley where it is across from a residential property. An 8-foot wide landscaped yard is proposed on the north side of the parking area. A 6.6-foot landscaped yard is proposed adjacent to the alley. Increasing the width of the yard would affect the size of the required parking spaces or drive aisle and require a variance. The yard would extend the full length of the parking area where it is across the alley from a nonresidential use. For these reasons, staff is recommending that the Planning Commission grant alternative compliance for this requirement. Screening that is 6-feet tall and not less than 95 percent opaque is required in these yards except in the required front yard adjacent to 13th Avenue where the screening is required to be three feet in height and not less than 60 percent opaque. Shrubs that would be taller than 6 feet at maturity and 95 percent opaque are proposed in the required landscaped yards except for a 10-foot wide gap at the northwest corner of the parking area. The area without screening is located directly across from a residential detached garage. Staff is recommending that alternative compliance be granted for that location. The screening shrubs are also proposed in the 15-foot wide required front yard adjacent to 13th Avenue. Staff is recommending that the Planning Commission not grant alternative compliance for the height of the screening at three feet so visibility of pedestrians is not impeded.

Nine of the surface parking spaces would not be within 50 feet of an on-site deciduous tree. If two trees were added to the landscaped yard on the west side of the parking area, alternative compliance would not be necessary. Providing two additional trees would also bring the number of trees provided closer to meeting the minimum tree requirement for the site. Staff is recommending that the Planning Commission not grant alternative compliance.

All corners of the parking lot that are not available for parking would be landscaped.

Installation and maintenance of all landscape materials must comply with the standards outlined in section 530.210.

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.

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- 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:

Continuous 6-inch by 6-inch concrete curbing is proposed. The applicant has indicated that they explored providing on-site retention of stormwater on the east and west sides of the underground parking garage driveway, but found that it was not possible because the rain garden would either overflow to the trench drain at the bottom of the driveway to the underground parking or across the public sidewalk to the street. The proposed rain gardens would accommodate stormwater from the roof of the building.

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

Effects of shadowing should not be significant.

Wind currents should not be major concern.

Several crime prevention through environmental design best practices are evident in the site plan. Staff is also recommending that several other best practices are incorporated. The building has windows on all sides and levels of the building to maximize natural surveillance and visibility. Staff is also recommending that the height of the shrubs in the required front yard adjacent to 13th Avenue are 3 feet in height at maturity so visibility of pedestrians is not impeded from the proposed driveway. Lighting would be provided in the parking area. Staff is also recommending that all lighting comply with zoning code standards to provide appropriate lighting. Entrances and walkways would be clearly defined and landscaping would help to control and guide movement on the site, and distinguishes between public and non-public spaces at the street edge. Landscaping would also be provided between the alley and parking area. To prevent graffiti, staff is recommending that columnar landscaping be provided adjacent to the trash and mechanical screens.

The existing structure is 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: The site is zoned C2. A multifamily dwelling with 5 or more units in the C2 district is a conditional use. A place of assembly is a permitted use.

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Parking and Loading: The minimum parking requirement for the residences is 41 spaces (one per unit). The development qualifies for a transit incentive to reduce the parking requirement of a multi-family dwelling by 10 percent because it is located within 300 feet of transit stops with midday service headways of 30 minutes or less in each direction. Therefore the parking requirement is reduced to 37 spaces. For the residences, 37 spaces including one accessible space would be provided. A loading space is not required for a multi-family dwelling with less than 50 units.

The minimum parking requirement for a place of assembly is equal to 30 percent of the seating capacity in the main auditorium and any rooms which can be added to the main auditorium by opening doors or windows to obtain audio or video unity. The main auditorium plus adjacent viewing areas occupy 1,747 square feet of floor area. Therefore 35 parking spaces are required. The parking requirement for the place of assembly can be reduced by providing four bike parking spaces in lieu of one vehicle space. Four bike spaces are proposed adjacent to the entrance facing the parking area. Therefore, the bike parking reduces the parking requirement by one space. The applicant is proposing to provide 31 vehicle parking spaces including two accessible as required and 9 compact spaces. The zoning code limits the number of compact spaces that can be counted toward the parking requirement to no more than 25 percent of required spaces. Therefore only 8 of the proposed compact spaces contribute to meeting the parking requirement. A variance is required to reduce the parking requirement from 34 to 30 spaces. Adequate on-site shipping and receiving facilities, accessible by motor vehicle off any adjacent alley, service drive or open space on the same zoning lot are required. The adjacent alley and on-site driveways would adequately accommodate loading.

Maximum Floor Area: The maximum FAR allowed in the C2 District is 1.7. The applicant qualifies for a 20 percent density bonus for providing all required residential parking within the building. Therefore the maximum FAR increases to 2.04. The building would have a total of FAR of 1.46.

Minimum Lot Area: The lot size not including the alley easement to remain is 38,576 square feet. The minimum lot area requirement in the C2 district is 900 square feet per dwelling unit, or 36,900 square feet for 41 units.

Dwelling Units Per Acre: The applicant proposes a density of 46.3 dwelling units per acre.

Lot Coverage: Not applicable.

Impervious Surface Coverage: Not applicable.

Building Height: The maximum height allowed in the C2 district is 4 stories or 56 feet, whichever is less. The proposed building would be 4 stories and 52.5 feet in height.

Yard Requirements: Where a street frontage includes property zoned as an office residence district, a front yard equal to the lesser of the front yard required by such office residence district or the established front yard of a residential structure must be provided in a commercial district for the first 40 feet from such residential property. On 13th Avenue, the site is adjacent to an

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office residence district and residential property. The minimum front yard requirement for the office residence district is 15 feet. The adjacent residential structure is set back more than 15 feet. Therefore the minimum front yard requirement is 15 feet. The building and parking area would not project into the front yard.

An interior side yard is required along the north lot line. The minimum interior side yard requirement is equal to $5+2x$, where x is equal to the number of stories above the first floor. A four-story building is proposed, therefore the minimum requirement for the building is 11 feet. The building would be set back 90 feet. The parking area is required to be set back 5 feet. An 8 foot wide yard is proposed.

For residential uses where windows would face an interior side yard or rear yard, a yard equal to $5+2x$, where x is equal to the number of stories above the first floor, is required. Residential windows would face the alley, which is an interior side lot line. An 11-foot interior side yard is required. The building would be located no closer than 11 feet from the alley easement proposed to remain. If the alley easement vacation is denied, a variance of interior side yard requirement to allow windows for the residential use would be required.

Specific Development Standards: Not applicable.

Hours of Operation: Residential uses and religious institutions are not subject to the district regulations governing maximum hours open to the public.

Signs: One wall sign is proposed. The proposed size and height of the sign would comply with the district regulations for signs. New signage requires Zoning Office review, approval, and permits.

Refuse screening: Refuse storage containers are required to be effectively screened from the street and residences by screening compatible with the principal structure and not less than two feet higher than the refuse container. Refuse storage containers for the residential use would be contained in the building. For the place of assembly, a 6-foot high trash enclosure would be located on the west side of the building adjacent to the alley. The enclosure would be made of hardi-panel.

Screening of mechanical equipment: All mechanical equipment is required to be arranged so as to minimize visual impact by using screening and must comply with Chapter 535 and district requirements. Mechanical equipment would be located on the west side of the building adjacent to the alley. A 6-foot high enclosure made of hardi-plank would screen the equipment.

Lighting: Existing and proposed lighting must comply with 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) 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.
- (3) 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.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (5) 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: In addition to the principles and policies discussed in the conditional use permit section of this staff report, the following apply:

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.

Applicable 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.

Develop parking facilities and management strategies that balance the following goals: improved customer access, protection of sidewalk traffic; reduced visual impacts and shared use of parking facilities.

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

Applicable Implementation Steps

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

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

9.12 Minneapolis will promote design solutions for automobile parking facilities that reflect principles of traditional urban form.

Applicable Implementation Steps

Require the landscaping of parking lots.

Locate parking lots behind buildings or in the interior of a block to reduce the visual impact of the automobile in mixed-use areas.

9.17 Minneapolis will build on recent initiatives to use Crime Prevention Through Environmental Design (CPTED) principles when designing all projects that impact the public realm, including open spaces and parks, on publicly owned and private land.

Implementation Steps

Integrate "eyes on the street" design principles into site plan review to foster safer and more successful commercial areas in the city.

Orient new housing to the street to foster safe neighborhoods.

Encourage private developers to incorporate CPTED-oriented open spaces in new developments to facilitate the creation of spaces that maximize positive behavior from users.

Staff comment: The building placement and design would be oriented to Lake Street and 13th Avenue. The place of assembly would be located on the first floor fronting and with direct access to Lake Street. A residential entrance would also be accessible from Lake Street. Windows would be provided on all sides of the buildings on all levels to maximize surveillance around the site. Parking for the residents would be provided below the building. Surface parking would be provided for the place of assembly behind the building. Landscaping would be provided around the perimeter of the parking area. Staff is recommending that additional trees be provided. The proposed vehicle access should minimize conflicts with pedestrians and residential uses as long as the height of the shrubs adjacent to the curb cut is not more than 3 feet. As a CPTED measure, staff is also recommending that the applicant provide columnar landscaping around the trash and mechanical screens to prevent graffiti. With the staff recommendations, the proposed development would be consistent with the comprehensive plan.

ALTERNATIVE COMPLIANCE:

The Planning Commission or zoning administrator may approve alternatives to any site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.

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- **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 to meet the following standards:

- Building wall located within 8 feet of front lot lines

The building would be located within 8 feet of the lot line adjacent to 13th Avenue except at the southeast corner of the site. The building would be set back 6.5 feet or greater from the front property line adjacent to Lake Street. Most of the building wall would be set back 10.5 feet from Lake Street. The wall at the southeast corner of the site is set back more than 8 feet to allow for a curved entrance feature facing the Lake Street and 13th Avenue intersection. The greater setback also accommodates a handicap access ramp, stairs, an entrance platform, and landscaping. Staff believes that the alternatives meet the intent of the chapter and recommends that the Planning Commission grant alternative compliance.

- Number of trees located on-site

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. The tree and shrub requirement for this site is 10 and 48 respectfully. Three canopy trees and 91 shrubs are proposed on-site. Six ornamental trees are also proposed. The applicant is proposing to add 5 trees and 98 shrubs in the 13th Avenue right-of-way. The remainder of the landscaped area would be covered with plants such as turf grass, grasses, and other perennial flowering plants. The applicant is required to locate all parking spaces within 50 feet of an on-site canopy tree. This requirement has not been met with the trees that are proposed. If two trees were added in the landscaped yard on the west side of the parking area, alternative compliance would not be needed for that requirement. Staff is recommending that the Planning Commission grant alternative compliance to allow 5 on-site canopy trees if two more on-site canopy trees are added in addition to the plants proposed on-site and in the right-of-way.

- Screening of the surface parking area adjacent to 13th Avenue

Screening that is 3 feet in height and not less than 60 percent opaque is required in the landscaped yard between the parking area and 13th Avenue. This screening is not provided. Staff is recommending that the Planning Commission grant alternative compliance for this requirement because the parking area is set back over 60 feet from 13th Avenue.

- Landscaped yard and screening where the parking area is adjacent to or across the alley from a residential property

A 7-foot wide landscaped yard is required adjacent to the alley where it is across from a residential property. A 6.6-foot landscaped yard is proposed adjacent to the alley. Increasing the width of the yard would affect the size of the required parking spaces or drive aisle and require a variance. The yard would extend the full length of the parking area where it is across the alley from a nonresidential use. For these reasons, staff is recommending that the Planning Commission grant alternative compliance for this requirement. Screening that is 6-foot tall and not less than 95 percent opaque is required in these yards except in the required

15-foot wide front yard adjacent to 13th Avenue where the screening is required to be three feet in height and not less than 60 percent opaque. Shrubs that would be taller than 6 feet at maturity and 95 percent opaque are proposed in the required landscaped yards except for a 10-foot wide gap at the northwest corner of the parking area. The area without screening is located directly across from a residential detached garage. Staff is recommending that alternative compliance be granted for that location. The screening shrubs are also proposed in the required front yard adjacent to 13th Avenue. Staff is recommending that the Planning Commission not grant alternative compliance for the height of the screening at three feet so visibility of pedestrians is not impeded.

- Location of all parking spaces within 50 feet of an on-site canopy tree

Nine of the surface parking spaces would not be within 50 feet of an on-site deciduous tree. If two trees were added to the landscaped yard on the west side of the parking area, alternative compliance would not be necessary. Providing two additional trees would also bring the number of trees provided closer to meeting the minimum tree requirement for the site. Staff is recommending that the Planning Commission not grant alternative compliance.

PRELIMINARY REGISTERED LAND SURVEY

Findings Required by the Land Subdivision Regulations:

- 1. The subdivision is in conformance with the land subdivision regulations including the requirements applicable regulations of the zoning ordinance, and policies of the comprehensive plan.**

The configuration of the RLS tracts, as proposed by the applicant, does not meet the lot frontage and lot area requirements of the zoning code for Tract B on the ground level. Tracts on the ground level are subject to the same requirements as platted lots. The solution to this technical problem is to record an agreement that if the site is ever redeveloped for a different use, then the tracts on the ground floor will be replatted into lots or tracts that meet the requirements of the zoning ordinance. With the recommended condition of approval, the RLS is in conformance with the subdivision regulations, zoning code, and comprehensive plan.

The subdivision is in conformance with the applicable design requirements of the land subdivision regulations and the street design standards from Table 598-1 except for Section 598.230 (5), which requires utility easements to be 5 feet wide on an interior side lot line and 598.240 (2)(b), which does not allow a lot with more than 5 sides. In order to be in conformance with the land subdivision regulations, a variance of Section 598.230 (5) is required to allow the reduction of drainage and utility easements where the tracts abut one another and to allow more than 5 sides to a lot. While variances from the zoning code require a separate application, variances from the subdivision standards are done as a part of the subdivision application subject to the standards listed below.

598.310. Variances. Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may

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approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

- (1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.
- (2) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.

The purpose of the RLS is to delineate ownership of various tracts of the site and building. Because the tracts run along building walls, utility easements and limiting the number of sides are not practical. Staff is recommending granting the variance to 0 feet and allowing more than 5 sides to a lot.

2. **The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.**

The purpose of the RLS is to delineate ownership and location of various tracts on the site. This shall have no impact on surrounding properties.

3. **All land intended for building sites can be used safely without endangering the residents or users of the subdivision or the surrounding area because of flooding, erosion, high water table, soil conditions, improper drainage, steep slopes, rock formations, utility easements, or other hazard.**

The site does not pose the above hazards. The applicant is requesting to vacate a City utility easement in a previously vacated alley. Upon the approval of the vacation, the applicant will be required to relocate the utility at their own cost.

4. **The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.**

The site would have access to a street. There should not be any difficulties in securing building permit as a result of the lot arrangement.

5. **The subdivision makes adequate provision for stormwater runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development will not exceed the amount occurring prior to development.**

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The Public Works Department will review the project for appropriate drainage and stormwater management. The development incorporates rain gardens to accommodate stormwater from the roof of the building. The proposed surface parking area is smaller than the existing parking area. The amount of stormwater runoff from the site should be reduced.

VACATION (Vac-1510)

Development Plan: A portion of the existing alley easement is proposed to be vacated. The applicant intends to use this area as part of the development site. The trash and mechanical enclosures, a landing for an exit, landscaping and a rain garden would extend into the area. The vacation of the easement would also accommodate the set back needed for the residential windows proposed on the upper levels of the building.

Responses from Utilities and Affected Property Owners: Of the responses received, there were no objections and no easements requested.

Findings: The applicant has submitted turning movements to show that the existing loading dock at the property of 2939 12th Avenue South would not be affected if the requested portion of the easement is vacated. The CPED Planning Division and Public Works Department finds that the area proposed for vacation is not needed for any public purpose, and it is not part of a public transportation corridor, and that it can be vacated if any easements requested above are granted by the petitioner.

VACATION (Vac-1547)

Development Plan: The applicant intends to use the area of the City of Minneapolis easement over the vacated alley as part of a developable area to construct a new mixed use building.

Responses from Utilities and Affected Property Owners: In 1992, the City Council vacated this section of the alley and retained an easement for the city over a portion of it. Therefore the request is to only vacate the City's easement. Other utilities located in vacated alley are all private easements.

Findings: The CPED Planning Division and Public Works Department finds that the area proposed for vacation is not needed for any public purpose and it is not part of a public transportation corridor.

VACATION (Vac-1548)

Development Plan: The applicant intends to use the area occupied by the landscape easement as part of the development site. The building, handicap access ramp, stairs, entrance platform, and landscaping would extend into the area.

Responses from Utilities and Affected Property Owners: This easement was created when Lake Street was reconstructed. Therefore the request is to only vacate the City's easement.

Findings: The easement was created to maintain landscaping between the existing surface parking lot and Lake Street and 13th Avenue. In the proposed development, a parking lot would not abut Lake

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Street or 13th Avenue. The CPED Planning Division and Public Works Department finds that the area proposed for vacation is not needed for any public purpose, and it is not part of a public transportation corridor. A decorative fence is also located in the landscape easement area that was installed as part of the Lake Street reconstruction project. Through the site plan review, staff is recommending that the applicant work with the Public Works Department or Hennepin County to find reuse opportunities for the fence.

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 for a conditional use permit to allow 41 dwelling units for the properties located at 1238 East Lake Street and 2930 13th Avenue South, 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. At least 20 bicycle spaces shall be provided for the residential use. At least 90 percent of those spaces shall be provided in the underground parking area.
3. Approval of the vacations by City Council.

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 application for a variance to reduce the minimum parking requirement of a place of assembly from 34 spaces to 30 spaces for the properties located at 1238 East Lake Street and 2930 13th Avenue South.

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 above findings and **approve** the application for site plan review to allow a mixed use building for the properties located at 1238 East Lake Street and 2930 13th Avenue South, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the final building elevations, site and landscape plans.
2. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by September 26, 2009, or the permit may be revoked for non-compliance.
3. First floor windows for the place of assembly shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher as required by section 530.120 of the zoning code.

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4. Five canopy trees shall be provided on-site including two in the landscaped yard on the west side of the parking area as required by sections 530.160 and 530.170 of the zoning code.
5. In the required front yard adjacent to 13th Avenue, shrubs with a height of 3 feet at maturity shall be provided as required by section 530.170 of the zoning code.
6. Columnar landscaping shall be provided adjacent to the trash and mechanical screens to prevent graffiti as required by section 530.260 of the zoning code.
7. The applicant shall work with the Public Works Department or Hennepin County to reuse the decorative fence installed as part of the Lake Street reconstruction project before building permits are issued.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Preliminary Registered Land Survey:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the preliminary registered land survey application for properties located at 1238 East Lake Street and 2930 13th Avenue South, subject to the following condition:

- 1) A document that states that if the site is redeveloped, then the site will be replatted, if necessary, to create new tracts or lots that are in compliance with the requirements of the zoning code and subdivision ordinance shall be recorded with Hennepin County before the signed RLS will be released for recording with Hennepin County.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Vacation (Vac-1510):

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the alley vacation for the properties located at 1238 East Lake Street and 2930 13th Avenue South.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Vacation (Vac-1547):

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the city easement vacation for the properties located at 1238 East Lake Street and 2930 13th Avenue South.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Vacation (Vac-1548):

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the

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landscape easement vacation for the properties located at 1238 East Lake Street and 2930 13th Avenue South.

Attachments:

1. Preliminary Development Review report
2. Public Works recommendation letters
3. Statement of use
4. Findings
5. Zoning map
6. Plans
7. Photos