

Department of Community Planning and Economic Development - Planning Division
Conditional Use Permit, Variance, and Site Plan Review
BZZ-2210

Date: March 28, 2005

Applicant: Hamoudi Sabri dba Cedar Lake Revival LLC

Address Of Property: 1825 East Lake Street and 3005-3011 Cedar Avenue South

Contact Person and Phone: Daphne Osiaks – Petra Development 612-722-5932

Planning Staff and Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: February 14, 2005

End of 60 Day Decision Period: April 15, 2005

Date Extension Letter Sent: March 8, 2005

End of 120 Day Decision Period: June 14, 2005

Ward: 9 **Neighborhood Organization:** Corcoran

Existing Zoning: C2 Neighborhood Corridor Commercial District & PO Pedestrian Oriented Overlay District.

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 26

Legal Description: Not applicable for this application.

Proposed Use: Shopping center.

Concurrent Review:

Conditional Use Permit: To allow a shopping center.

Variance: From 58 spaces to 4 spaces.

Site Plan Review. Site plan review for a shopping center.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits and Article IX, Variances, specifically Section 525.520(7) “to reduce the applicable off-street parking requirement up to one hundred (100) percent, provided the proposed use or building serves pedestrian or transit oriented trade or occupancy, or is located near an off-street parking facility that is available to customers, occupants, employees and guests of the use.” Chapter 530 Site Plan Review.

CPED - Planning Division Report
BZZ-2210

Update from March 7, 2005, staff report: This item was continued from the March 7, 2005, meeting of the City Planning Commission. Mr. Floyd Olson of TNT Properties has contacted staff and claims that he owns the property and has not given permission for any of the permits issued or land use applications. Hennepin County records show TNT as the owner. The City's property info page shows Cedar Lake Revival as the owner. Planning staff allowed the land use application to proceed based on the City records. Staff has received no information from Mr. Olson or his attorney since the March 7, 2005, Planning Commission meeting.

Staff contacted the City Attorney's Office and was given the following opinion that purchaser of the property may apply for land use applications on the property:

“Under a contract for deed, the purchaser/vendee acquires an equitable interest in the property. Although it is generally accepted that the seller/vendor retains bare legal title to the land, courts consistently hold that the seller has only a security title and the buyer is the equitable owner of the property. In Stiernagle v. County of Waseca, 511 N.W.2d 4 (Minn. 1994), the Court summarized this notion:

It is well established by Minnesota decisions that a contract for the sale of land, part of the purchase price being paid, vests in the vendee an equitable title in fee with the bare legal title remaining in the vendor as security, and upon payment the vendor holds it in trust for the vendee.

As the equitable fee owner of the property, the vendee is entitled to full possession and enjoyment of the property, subject to cancellation of that ownership interest if the vendee does not comply with the contract terms. Id. This is because the rights and remedies of the parties to a contract for deed depends on the terms contained therein and is a purely private legal matter between the contracting parties. If the contract terms are violated by the vendee, the vendor can pursue legal recourse in a court of law. Unless or until that should occur (or occur *successfully*), the vendee still has the right to make land use application(s) and the public record will reflect the contract for deed arrangement. Any dispute between the contracting parties, therefore, unless it cancels the contract for deed, does not prevent the City from acting on a land use application submitted by the equitable owner as reflected in the public record.

In a standard contract for deed, the seller agrees to convey the property to the buyer by a specific form of conveyance, usually a warranty deed, once the total purchase price has been paid and to furnish an abstract evidencing good title in the seller at the time the contract for deed is executed. In addition to agreeing to a purchase price for the property, the buyer typically agrees to pay real estate taxes and assessments, and to maintain insurance on the premises. This is the reason why different entities will be listed in the public record as the “owner” and “taxpayer” in a contract for deed situation.

The purchaser/vendee in a contract for deed, therefore, may make various land use applications and the consent of the seller/vendor is not necessarily required. The Zoning Code reflects this idea. For example, MCO 525.310 states that, “[a]ny person having a legal *or equitable interest* in a property may file an application to use such land for the conditional uses. . . “ *See also* MCO 525.400 (interim use), MCO 525.470 (variance), MCO 530.30 (site plan), etc.”

CPED - Planning Division Report
BZZ-2210

The Planning Commission also requested additional information on the Corcoran Midtown Revival Plan regarding design guidelines. Staff stated the following about the plan in the March 7, 2005, staff report: "The Corcoran Midtown Revival Plan (2002) indicates that multi-story mixed use buildings are appropriate for this area. While the proposed building meets many of the design guidelines of the plan it does not provide the multi-level structures with higher density residential above the first floor retail." The additional information on design is included at the end of this report after the photographs. In addition, the letter from the neighborhood group, that was in the Commissioner's packets at the March 7, 2005, meeting has been included as well.

Background: This site is located at the southeast corner of East Lake Street and Cedar Avenue South and is about ½ mile from the Lake Street LRT station. A building permit was obtained for multi-tenant infill retail buildings on December 12, 2004. Demolition of structures on the infill sites has been completed and excavation and construction has begun on the infill buildings. A permit was issued for these buildings, because they were shown as separate retail tenant spaces with individual entrances facing Lake Street and Cedar Avenue. This proposal met the requirements for parking with grandfather rights and retail did not require site plan review.

The applicant now proposes to increase the number of tenant spaces and to link the individual tenant spaces by a common hallway. Some of the tenant spaces will not open onto the street, but will open onto the common hallways. This makes the use a shopping center. Shopping centers require a conditional use permit and site plan review in the C2 District. The site is now required to meet the applicable standards of the site plan review chapter and to have a new site plan reviewed and approved by Planning and Public Works staff. The site has an approved Public Works plan (PW#7585), but this was only to allow the demolition and reconstruction of the infill structures. Public Works requires that any development subject to site plan review have a plan approved that meets all applicable requirements. The applicant declined to go to the Preliminary Site Plan Review meeting with Public Works, Planning, and other City staff for a preliminary review of the site plan. A parking variance from 58 spaces to four spaces is required.

CONDITIONAL USE PERMIT (to allow a shopping center)

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. May be detrimental to or endanger the public health, safety, comfort or general welfare.**

In general, the use of the site as a shopping center is appropriate on a commercial corridor for property zoned C2, but the intensity of this use may have a negative impact on the surrounding area due to the lack of parking provided. It is the opinion of staff that the proposed development has too many tenant spaces that will generate a level of activity and traffic to the site that can't be served by the existing parking in the area. A smaller shopping center, with less tenant spaces could be appropriate at this site.

2. May 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 use of the site as a shopping center, in and of itself, would not be detrimental to the surrounding area. Retail is an appropriate use on a commercial corridor. However, this development can only provide four parking spaces and requires a reduction of 54 spaces after the transit reductions and grandfather rights have been applied. This has the potential to cause parking problems in the area that may affect future development and have an impact on surrounding existing uses.

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

Utilities and access are existing and adequate. A drainage plan is required by Public Works at the final site plan stage.

4. Adequate measures have not been or will be provided to minimize traffic congestion in the public streets.

The lack of parking at the site has the potential to cause traffic congestion in the surrounding streets and parking problems in the surrounding area. While some parking reduction is reasonable in areas around transit stations, the proposed variance of 54 spaces is significantly beyond the 25 percent transit reduction and 38 space reduction for grandfather rights already applied to the site. This would likely cause congestion in the public streets.

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

The Minneapolis Plan designates this portion of Lake Street as a commercial corridor. The plan states that, “Commercial Corridors are streets that are available for development including more intensive commercial and high traffic activities. The buildings and structures on these streets are generally similar to traditional commercial storefronts and the siting and massing of new structures should respect this typology. These corridors must balance both pedestrian and automobile orientation in their design and development. The corridors support all types of commercial uses, with some light industrial and high density residential uses as well. While the character of these streets is commercial, residential areas are nearby and impacts from commercial uses must be mitigated as appropriate.”

The site is also in a Transit Station Area (TSA). *The Minneapolis Plan* states the following about TSAs has the following relevant policies:

Transit Station Areas (TSAs) are designated on the Land Use Policy Map. The Minneapolis Plan does not delineate the precise geographic extent of these policy areas. The following general characteristics should be used to guide policy application and implementation steps in these areas:

- TSAs will be the subject of established master plans that identify and/or prioritize areas for change (and preservation), as well as specific goals and objectives for redevelopment, public infrastructure, density and urban design.

CPED - Planning Division Report BZZ-2210

- TSAs are areas approximately one-half mile in radius from transit stations, reflecting an understanding that most walking trips to and from transit stations are ten minutes or less in duration. Density, urban design, and public infrastructure is, therefore, especially critical in these areas. The actual size of this area is influenced by directness of routes, physical barriers, and the potential for those barriers to be bridged.
- Potential TSA densities and/or redevelopment opportunities are generally highest within 1/4 mile of the transit station, but are also dependent upon factors such as existing neighborhood character and land cost and availability.
- TSA development is designed with the pedestrian, bicyclist, and/or transit user in mind.
- TSA development serves individuals who are more likely to use transit (e.g., residents of multi-family housing and office and retail workers)
- TSA development includes small-scale retail services that are neighborhood in scale and from which pedestrians, bicyclists, and/or transit riders are likely to benefit (e.g., coffee shop, day care, dry cleaners, small-scale grocery, flower shop)

4.18 Minneapolis will encourage both a density and mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.

Implementation Steps

Explore and pursue opportunities to integrate development with transit stations.

Concentrate highest densities and mixed-use development nearest the transit station and/or along Commercial Corridors, Community Corridors and/or streets served by local bus transit.

Ensure that new development density is well integrated with existing neighborhood character through transitions in scale and attention to design.

Support the development of new housing types in the TSA, including townhomes, mansion apartments, garden apartments, granny flats/carriage houses, and multi-family residential buildings.

Support and encourage small-scale, pedestrian-oriented services and retail uses to locate near stations and within mixed-use buildings to serve transit riders and the immediate neighborhood (e.g., day care centers, cafés, dry cleaners, convenience grocery, etc.).

Recruit land uses that value convenient access to downtown Minneapolis or other institutional or employment centers that are well served by transit.

Discourage automobile services and drive-through facilities from locating or expanding in these designated areas.

4.19 Minneapolis will require design standards for TSAs that are oriented to the pedestrian and bicyclist and that enforce traditional urban form.

Implementation Steps

Ensure that TSA building and site design is oriented to the pedestrian (e.g., reinforcing street walls, anchoring street corners, creating semi-public outdoor spaces, creating visual interest, providing adequate fenestration, and ensuring that principal building entrances open onto public sidewalks).

Preserve traditional urban form where it currently exists within TSAs, and encourage new development to relate to this context. (See description of traditional urban form in *Chapter 9, City Form*)

Work in partnership with neighborhoods and businesses to enhance the safety and aesthetics of TSA streets and sidewalks through installation of streetscape elements (e.g., lighting, trees, and street furniture).

Ensure that new development and renovation of existing structures adhere to the principles of Crime Prevention Through Environmental Design (CPTED) (See description of building form and context in *Chapter 9, City Form*.)

Ensure that TSA development is well integrated into the surrounding neighborhoods through attention to building design, landscaping, and transitions in density and land use.

CPED - Planning Division Report
BZZ-2210

4.20 Minneapolis will provide direct connections to transit stations for pedestrians, bicyclists, and bus riders.

Implementation Steps

Design streets, sidewalks, and other public infrastructure to prioritize pedestrian, bus and bicycle access to transit stations (e.g., create wider sidewalks; construct pedestrian bridges, tunnels, and plazas; add bicycle lanes and parking; create bus lanes, pull-outs, and waiting facilities.)

Work with transit service providers to ensure that bus connections to transit stations are safe, attractive and easy to use (e.g., establish appropriate signage and waiting facilities on important connecting local bus routes)

Enhance pedestrian connections to stations where walking environments are unsafe or uninviting (e.g., buffering pedestrians from traffic, reducing intersection crossing distances, installing traffic control devices, limiting the size and number of curb cuts, improving streetscapes including lighting and landscaping, installing public art, etc.)

Mitigate physical barriers that prevent easy access for pedestrians to the stations (e.g., bridging highways or high-volume roadways, creating safe pedestrian underpasses, acquiring new public rights-of-way and passages, etc.)

Enhance pedestrian connections and wayfinding from neighborhoods with high concentrations of transit users.

Work in partnership with neighborhoods and businesses to ensure that primary pedestrian and bicycle routes are well maintained, free of obstacles, and cleared of snow and litter.

Establish working relationships with institutions, large employers, and/or landowners to encourage transit use and improve wayfinding to/from transit.

4.21 Minneapolis recognizes that parking is a necessary part of the urban environment, but will limit the amount, location, and design of parking in TSAs in order to encourage and support walking, bicycling, and transit use.

Implementation Steps

Establish upper limits on the amount of off-street parking so that walking, bicycling and transit use are not discouraged.

Allow reductions in minimum off-street parking requirements.

Support shared use of parking by commercial uses with different peak periods of parking demand.

Restrict the location of off-street parking for new development to the side or rear of buildings, so that there are direct connections between the public sidewalk and the principal entrances of buildings.

Limit the amount of street frontage for new off-street parking lots and require landscaping between parking lots and public sidewalks.

Provide density bonuses for land uses that provide parking underground or within structures.

Use parking meters and other parking management practices to ensure an adequate supply and turnover of on-street parking for commercial activities.

Discourage long-term on-street parking by non-residents.

Work in partnership with the Metropolitan Council to evaluate and address the impact of automobile traffic and parking generated by the presence of transit stations.

Limit parking facilities in neighborhoods that are exclusively for the use of transit riders.

Work in partnership with other entities to identify opportunities for shared parking facilities to strategically support the development within TSAs.

The use of the site for a shopping center as proposed is in conformance with the above noted goals of the comprehensive plan, as it has a mix of uses and the buildings are designed with principals of traditional urban design. However, the significant shortage of parking will have an impact on surrounding properties, which is in conflict with the goals of the plan that encourage the mitigation of impacts on surrounding properties.

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 proposed development will conform with all other regulations of the zoning code if the parking variance and site plan review are approved. Staff is recommending denial of the parking variance.

VARIANCE (to reduce the required parking from 58 to 4 spaces)

Parking for the site is based on one space per each 300 square feet of gross floor area, after the first 4,000 square feet, but a minimum of four spaces for each tenant space over 100 square feet. There are 20 retail spaces in the building (over 100 square feet, but under 4,000 square feet) and at four spaces each, this creates a requirement of 80 spaces. There is a second floor office that requires four spaces and three apartments on the third floor that require one space each for a total of three. Finally, there is a food court that would have a parking requirement of 40 spaces. The total for these uses is 127 spaces. The site is in the Pedestrian Oriented (PO) Overlay District, which provides that 75 percent of the parking requirement for the commercial uses specified by Chapter 541 of the zoning code be provided. This reduces the required parking to 93 for the commercial and 96 overall (including the three for the residential). The site has grandfather rights to 38 spaces, reducing the required parking to 58 spaces. Four spaces are provided. The applicant has applied for a variance from 58 to four spaces.

Findings Required by the Minneapolis Zoning Code:

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

There is no room for the additional parking on the site. The applicant has indicated the site's proximity to transit (bus routes and LRT) and an attempt to secure shared parking in the area. While a reduction in required parking is a goal around transit station areas, the proposed variance is a 54 space reduction after the transit reduction and grandfather rights have been applied. The use would be required to have 127 spaces before the transit and grandfather rights are subtracted. It is staff's opinion that the reduction from 127 to 58 provides a reasonable use of the property and that the desire to add more tenant spaces is not a hardship.

- 2. The circumstances are not 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.**

While, there is no room for additional parking, the need for the variance is largely based on the mix and intensity of uses that the applicant proposes for the building. This site is located near transit, including several bus routes and the Lake Street LRT station. This situation is not generally applicable to other properties in the city, but is not a unique situation in this area around the Lake and Cedar intersection. Staff can not find a unique circumstance that justifies this large of a parking variance. Staff does recognize that some level of parking reduction is necessary, but believes that this has been provided through the transit reductions and application of grandfather rights.

- 3. The granting of the variance may not 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 intent of the parking requirement is to provide adequate parking spaces to meet the parking demands of a use. The pedestrian and transit oriented use variance was designed to recognize that some uses may not need all of the parking required by code since the use may draw pedestrian traffic or may have access to transit. There are bus routes and an LRT station nearby and the applicant has indicated that many of the anticipated customers to the site will come from the nearby residential buildings. Granting a variance that recognizes the pedestrian and transit trade is within the spirit of the ordinance; however, granting a variance of this size without evidence that the majority of the traffic to the site will be pedestrian and not vehicular does not meet the intent of the ordinance.

- 4. The proposed variance may substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The proposed variance should not increase the danger of fire or endanger public safety. It may cause congestion in the street. While some parking reduction is necessary in areas around transit stations, the proposed variance of 54 spaces is significantly beyond the 25 percent transit reduction and 38 space reduction for grandfather rights already applied to the site. This may cause congestion in the public streets.

SITE PLAN REVIEW

Required Findings for Major Site Plan Review

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

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- 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 façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- 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 where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).

Some of the buildings are existing and there are infill buildings proposed along the entire Lake Street frontage and between existing buildings on Cedar Avenue. The buildings are located up to the property lines. The principal entrances open onto Lake Street and Cedar Avenue. The buildings are up to the sidewalks on Lake and Cedar. The exterior of the buildings are brick. The existing and proposed windows on Lake Street and Cedar Avenue meet the required 40 percent windows in the PO overlay District. The west side of the southerly infill building does not meet the required 30 percent windows facing a parking area. This shall be increased to 30 percent.

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).
- Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.
- Site plans shall minimize the use of impervious surfaces.

The main entrances of the buildings open onto the public sidewalk. Public Works has reviewed the parking lot for access and circulation and finds the design acceptable. There is very little room for snow storage so a snow removal plan is required at the final site plan stage. One handicapped (one van) accessible space is required and one is provided, but it is not van accessible. The space shall be made van accessible. Section 530.140 prohibits alley access for certain uses subject to site plan review including shopping centers over 4,000 square feet. Planning and Public Works staff recommend that the Planning Commission allow ally access in this case as it is the only way to access the rear of the site and because the parking area is so small it should have very little impact on the alley. There are commercial uses to the east of the lot 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, or 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

CPED - Planning Division Report
BZZ-2210

curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.

- 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.

No landscaping is provided at the rear of the site. There is very little room at the rear of the site available for landscaping as it is almost entirely covered by buildings. The remainder of the site is almost entirely utilized for parking and loading. There is small area of approximately 500 square feet (please see cross hatched area on the attached site plan) that is not covered by buildings, parking and loading that should be landscaped. If this is done, approximately 15 percent of the site minus the buildings would be landscaped. Staff will require a landscaping plan that provides bushes, ground cover, and mulch in these areas. Staff recommends a variety of sizes and types of bushes be planted and that the number of bushes provided be 10 to 30 depending on the species and arrangement. It would be impractical to provide trees. Staff recommends alternative compliance to reduce the landscaping to 15 percent and to waive the tree requirement.

ADDITIONAL STANDARDS:

- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- Site plans shall minimize the blocking of views of important elements of the city.
- Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- 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.
- Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

The lighting will comply with Chapters 535 and 541 including the following standards:

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).

CPED - Planning Division Report
BZZ-2210

- (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.

The City's crime prevention through environmental design (CPTED) standards recommend that all vegetation should follow the 3 foot - 7 foot rule, which states that plantings should not exceed three feet in height and that the canopies of trees should be over seven feet in height allowing a window of visibility into the site.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE:

Pedestrian Oriented Overlay District:

The proposed site plan is in conformance with the requirements of the PO Overlay District, with the exception of meeting the required 1.0 floor area ratio (FAR) at the Lake Street Station area. Building permits were issued for the infill buildings on December 15, 2004 and construction commenced before the PO Overlay regulations became effective on January 22, 2005, so this project is not subject to the 1.0 FAR requirement. The PO Overlay encourages the use of awnings and canopies to provide protection for pedestrians and shall be placed to emphasize individual uses and entrances. Staff recommends that awnings be added to the Lake Street and Cedar Avenue facades, subject to Public Works approval of the encroachment into the public right-of-way. The entire facades do not have to have awnings.

Specific Development Standards (Section 536) for a shopping center:

- (1) Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.
- (2) Uses which require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this zoning ordinance.

CPED - Planning Division Report
BZZ-2210

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

Hours of Operation: Hours of operation allowed under the C2 Neighborhood Corridor Commercial District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant proposes to be open from 7:00 a.m. to 10:00 p.m. everyday.

Dumpster screening: Section 535.80. 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 residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. A dumpster enclosure is provided.

Window obstructions: 543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330.

Signage: Signage plans are not finalized at this time. All new signage will require Zoning Office review and approval and permits.

MINNEAPOLIS PLAN: Please see finding number 5 under the conditional use permit section of this report.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

There are several plans adopted for this area. They include:

The *Lake Street at the Crossroads* (1996) plan has the goals of supporting business development, employment and training, and improving the streetscape along this portion of Lake Street. It encourages shared parking and utilization of mass transit. It shows multistory buildings up to the street on the conceptual response map on page 81 of the plan. In general, the building and site improvements are in conformance with these goals of the plan; however, they are not multi-story buildings as shown in the plan.

The *Lake Street/Midtown Greenway Corridor Framework Plan* (2000) envisions mixed use development and streetscape improvements along this part of Lake Street. The buildings are in conformance with the

façade and other design guidelines of this plan, but they do not provide the second story for the entire Lake Street frontage as envisioned by the plan (p20).

The *Hiawatha/Lake Station Area Master Plan* (2000) indicates that multi-story mixed use buildings are appropriate for this area. While the proposed building meets many of the design guidelines of the plan it does not provide the multi-level structures with higher density residential above the first floor retail.

The *Corcoran Midtown Revival Plan* (2002) indicates that multi-story mixed use buildings are appropriate for this area. While the proposed building meets many of the design guidelines of the plan it does not provide the multi-level structures with higher density residential above the first floor retail.

Alternative Compliance. The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

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

Alternative compliance is necessary to allow less than 20 percent landscaping of the site minus the buildings. Staff recommends that alternative compliance be granted recognizing that the physical constraints of the site make it very difficult to provide any significant landscaping. The plan shall provide landscaping in those areas not covered by the building, parking and loading.

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 **deny** the conditional use permit

CPED - Planning Division Report
BZZ-2210

application for a shopping center for property located at 1825 East Lake Street and 3005-3011 Cedar Avenue South.

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 **deny** the variance application to reduce the required parking from 58 spaces to 4 spaces for property located at 1825 East Lake Street and 3005-3011 Cedar 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 site plan review application for a shopping center located at 1825 East Lake Street and 3005-3011 Cedar Avenue South subject the following conditions:

- 1) Staff review and approval of the building elevations, final site, landscaping, and snow removal plans. All site improvements shall be completed by March 28, 2006 (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 2) If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement by June 10, 2005.
- 3) The site is subject to the applicable development standards for shopping centers found in Chapter 536 of the Zoning Ordinance.
- 4) Provision of a landscaping plan for those areas at the rear of the site that do not contain buildings, parking, or loading.
- 5) The applicant provide proof of ownership of the property before a site plan is approved.
- 6) Addition of awnings to the first floor along the Lake Street and Cedar Avenue facades for at least 50 percent of the windows.
- 7) Provision of 30 percent windows along the west façade of the new infill building where it faces the parking area as required by section 530.110 of the zoning code.