



**Request for City Council Committee Action from the Department of Community Planning
& Economic Development – Planning Division**

Date: January 30, 2008
To: Council Member Gary Schiff, Chair of Zoning and Planning Committee
Referral to: Zoning and Planning Committee
Subject: Referral from the January 28, 2008 City Planning Commission Meeting
Recommendation: See report from the City Planning Commission

Prepared by: Lisa Baldwin, Planning Commission Committee Clerk (612-673-3710)

Approved by: Jason Wittenberg, Supervisor, CPED Planning-Development Services

Presenter in Committee:

5. Acme Tag Redevelopment, BZZ-3903, 2838 Fremont Ave S, Becca Farrar, x3594

Community Impact (use any categories that apply)

Other: See staff report(s) from the City Planning Commission

Background/Supporting Information Attached

The attached report summarizes the actions taken at the City Planning Commission meeting held on January 28, 2008. The findings and recommendations are respectfully submitted for the consideration of your Committee.

REPORT

of the

CITY PLANNING COMMISSION

of the City of Minneapolis

The Minneapolis City Planning Commission, at its meeting on January 28, 2008 took action to **submit the attached comment** on the following items:

5. Acme Tag Redevelopment (BZZ-3903, Ward: 10), 2838 Fremont Ave S ([Becca Farrar](#)).

A. Rezoning: Application by BKV Group, Inc., on behalf of Fremont Development Partners, LLC, for a petition to rezone the I1 (Light Industrial) portion of the parcel to the R6 (Multi-family) district and removal of the TP (Transitional Parking) Overlay District on the existing R6 parcel for the property located at 2838 Fremont Ave S.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to change the zoning classification of the property located at 2838 Fremont Ave S from the I1 district to the R6 district and removal of the TP Overlay District.

Department of Community Planning and Economic Development – Planning Division
Rezoning, Conditional Use Permits, Variances and Site Plan Review
BZZ-3903

Date: January 28, 2008

Applicant: Fremont Development Partners, LLC, Attn: Brent Rogers, 129 North Second Street,
Ste. 100, Minneapolis, MN 55401, (612) 630-2542

Addresses of Property: 2838 Fremont Avenue South

Project Name: Acme Tag Redevelopment

Contact Person and Phone: BKV Group, Inc., Attn: Gretchen Camp, 222 North
Second Street, Minneapolis, MN 55401, (612) 373-9122

Planning Staff and Phone: Becca Farrar, (612)673-3594

Date Application Deemed Complete: December 13, 2007

End of 60-Day Decision Period: February 10, 2008

End of 120-Day Decision Period: On January 10, 2008, Staff sent the applicant a letter
extending the decision period to no later than April 10, 2008.

Ward: 10 **Neighborhood Organization:** Lowry Hill East Neighborhood Association
(LHENA)

Existing Zoning: I1 (Limited Industrial) District and R6 (Multi-family) District with TP
(Transitional Parking) Overlay District

Proposed Zoning: R6 (Multi-family) District and remove the TP Overlay District

Zoning Plate Number: 24

Lot area: 70,228 square feet or approximately 1.6 acres

Legal Description: Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12, Block 10, Windoms Addn to
Minneapolis. Lots 5 and 6, Block 7, Windoms Addn to Minneapolis. A portion of the above
being registered property described as follows: Lot 11, Block 10, Windoms Addn to
Minneapolis, Hennepin County, Minnesota.

Proposed Use: A 237 unit residential development.

Concurrent Review:

- Petition to rezone the I1 (Light Industrial) portion of the parcel to the R6 (Multi-family) district and removal of the TP (Transitional Parking) Overlay District on the existing R6 parcel.
- Conditional Use Permit to allow 237 residential dwelling units.
- Conditional Use Permit to increase the maximum permitted height to 8 stories or 84 feet at the tallest portion of the proposed structure.
- Variances of the yard requirements as follows:
 - Variance of the front yard setback adjacent to Girard Avenue South from 15 feet, 2 inches (due to a front yard increase) to 9 feet, 6 inches at the closest point for patios and balconies that exceed 50 square feet in size.
 - Variance of the front yard setback adjacent to Fremont Avenue South from 26 feet, 7 inches (due to a front yard increase) to 14 feet, 4 inches at the closest point for the proposed structure and to 12 feet, 5 inches at the closest point for patios and balconies that exceed 50 square feet in size.
 - Variance of the interior side yard setback adjacent to the north property line from 19 feet to 17 feet for patios and balconies that exceed 50 square feet in size.
 - Variance of the interior side yard setback adjacent to the south property line from 19 feet to 12 feet for patios and balconies that exceed 50 square feet in size.
 - Variance to allow walkways greater than 6 feet in width within the front yard setback adjacent to Girard Avenue South and Fremont Avenue South and within the interior side yards adjacent to the north and south property lines.
- Variance of the minimum lot area per dwelling unit to allow 237 dwelling units from 334 square feet per dwelling unit to 296 square feet per dwelling unit or a variance of approximately 11.4%.
- Site Plan Review for an 8-story, 237 unit multi-family residential development on the vacant former Acme Tag and Label Company property.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments, Article VII, Conditional Use Permits, Article IX, Variances & Chapter 530 Site Plan Review.

Background: The applicant proposes to construct a 237-unit, multi-family residential development on the vacant former Acme Tag and Label Company property located at 2838 Fremont Avenue South. The subject site is bounded by Fremont Avenue to the east, Girard Avenue to the west, and the Midtown Greenway to the south. The property is composed of two parcels, one zoned I1 (Light Industrial) and the other, which is separated from the larger parcel by the public alley, R6 (Multiple-family) with a TP (Transitional Parking) Overlay District. The applicant proposes to rezone the I1 parcel to the R6 district and remove the TP Overlay District from the existing R6 parcel. Conditional use permits are required for the proposed 237 dwelling units as well as for a proposed increase in the maximum allowable height to 8 stories or 84 feet. Several yard variances are also required based on the proposal which will be detailed below, as well as a variance of the minimum lot area requirement. Site plan review is also required.

The proposed apartments would consist of a variety of dwelling types including street-level walk-ups, terrace units, flats and two-story loft units from 550 square feet in size to 1,300 square

feet in size. The apartments will have underground parking at a one to one ratio. The project would incorporate a community room and open spaces on the subject property as well as a public promenade along the south side of the site adjacent to the Midtown Greenway, a large central courtyard incorporating walkways, plantings and a reflecting pool as well as a large landscaped area on the parcel located to the north of the public alley.

Staff has not received any official correspondence on the proposed applications from the Lowry Hill East Neighborhood Association (LHENA) prior to the printing of this report. Neighborhood letters received have been attached for reference. All letters received prior to the Planning Commission meeting will be forwarded on for consideration.

REZONING

Findings as Required by the Minneapolis Zoning Code:

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

According to the *Minneapolis Plan*, the subject parcel is located within relative close proximity to an Activity Center (located at the intersection of Hennepin Avenue and West Lake Street) and near two Commercial Corridors, Lagoon Avenue and Hennepin Avenue. Further, the *Minneapolis Plan* identifies the Midtown Greenway Corridor as a Major Housing Site. There is a mixture of zoning classifications and uses within the subject area including various single and multi-family uses, as well as commercial and industrial uses. The site, located on the north side of the Midtown Greenway is adjacent to an I2 zoned property to the east across Fremont Avenue South, however, the majority of the zoning classifications within the immediate vicinity are zoned R6, as is a portion of the subject site. According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal:

4.7 *Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.*

4.8 *Minneapolis will grow by increasing its supply of housing.*

Implementation Steps:

- Support the development of new medium and high-density housing in appropriate locations throughout the city.

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

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 mixed-income housing development that offers a range of dwelling unit sizes and levels of affordability.

4.17 Minneapolis will promote housing development that supports a variety of housing types at designated Major Housing Sites throughout the city.

Implementation Steps:

- Concentrate new housing developments in close proximity to amenities or in locations where value will be sustained over time.
- Promote the development of new housing that is compatible with existing development in the area as well as to existing historic or older housing stock where appropriate.

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

9.6 Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.

9.22 Minneapolis will promote increased housing production in designated areas of the City in order to accommodate population growth.

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

The proposal to rezone the parcel to the R6 district is in conformance with the above noted principles, policies and implementation steps of the comprehensive plan. Further, the zoning classification is consistent with the other zoning classifications within the immediate vicinity.

There are two additional plans that must be considered when evaluating the proposal which include the *Midtown Greenway Land Use & Development Plan*, which was adopted by the City Council on February 23, 2007, and the *Uptown Small Area Plan* which is yet to be adopted but will be heard at the January 14, 2008, Planning Commission meeting which will follow the printing of this report. A portion of the *Uptown Small Area Plan* study area overlaps with the *Midtown Greenway Land Use & Development Plan* area. Parcels north of Lagoon Avenue, east of Humboldt Avenue, south of 28th Street, and west of Bryant Avenue are included in both plans.

The *Midtown Greenway Land Use & Development Plan*, includes parcels on each side of the Midtown Greenway from the western boundary of the City to Hiawatha Avenue and designates the subject site as a high-density housing site on the future land use plan as well as a Transit-Oriented Development District which allows density typically allowed in the R6, C3A or OR3 districts. There are three building types that are identified within the plan that would be considered suitable based on those designations which include: (1) apartments (which include

for-sale and rental buildings 3 to 5 stories in height, etc.); (2) Tall apartments (which include for-sale and rental building that exceed 5 stories); and (3) Greenway buildings (which are structures that effectively form part of the wall of the greenway trench and that have a lower level with doors or windows that face the Greenway. The plan also recommends that projects adjacent to the Midtown Greenway include an 8 foot wide pedestrian promenade, which the applicant is proposing as part of the development. The guidelines outlined in the *Midtown Greenway Land Use & Development Plan* are more general, whereas those identified in the *Uptown Small Area Plan* are more specific and focus on the Greenway in relation to the retail center and the four neighborhoods of Uptown.

The *Uptown Small Area Plan*, which as previously noted will be heard at the January 14, 2008, Planning Commission meeting will not be adopted by the City Council prior to the public hearing on the proposed Acme redevelopment. The *Uptown Small Area Plan* provides more specific guidance on height than the *Midtown Greenway Land Use & Development Plan*. As previously noted, the Midtown Greenway plan contains design guidelines and sample building types that describe appropriate scale and design features along the Greenway. The Uptown plan builds on this and provides additional guidance on height along the Greenway, suggesting that taller buildings (or taller portions of buildings) should be located along the major corridors of Lake Street, Lagoon Avenue, and Hennepin Avenue. The Uptown Plan suggest that building should be stepped back on the south side of the Greenway to prevent shadowing and also suggests that height on the north side of the Greenway should be lower than that in the core of Uptown in order to provide a transition into the residential area to the north.

Both plans contain maps showing suggested development intensity and sample building types. These maps are designed to complement the future land use plans and suggest building forms that might be appropriate. Both plans use intensity categories of Neighborhood Oriented, Urban Oriented, and Transit Oriented, with Transit Oriented being the most intense. The development parcel in question is identified as Transit Oriented. The suggested building types in the two plans vary because of the difference between a context that is limited to the Greenway in the Midtown Greenway plan and a context of the Uptown business district and Uptown neighborhoods in the Uptown Small Area Plan. The development intensities are very similar on the parcels contained in both plans.

In the Uptown plan, the height and scale of new construction is dealt with in three contexts, (1) by dividing the study area into various “character areas” and indicates that most large scale new development should occur in the core of Uptown (the Activity Center and Urban Village); (2) the plan discusses the existing character of each character area and outlines preferred heights. Preferred heights are suggested to acknowledge the interest in being responsive to the existing character of each sub-area. The preferred height outlined for the parcel in question is 3-5 stories. The plan continues on to describe height in an additional context, (3) that of a suggested “building envelope” that shows how buildings can be shaped to have stepped back height and how height can transition down from the core of Uptown to the neighborhoods.

The plan indicates that buildings with stepped back upper floors with portions potentially reaching up to 84’ are appropriate along major corridors in the Activity Center and Urban

Village. To provide transitions, the building envelope suggests buildings with heights of 56' north of the Midtown Greenway and on the south side of Lake Street. The plan states that buildings that exceed this outlined building envelope should offset their potential impact with public amenities, and a broader public discussion that weighs the overall public contributions of an individual project should be expected in the event that a taller building is proposed.

It is Planning Staff's opinion that the rezoning is in conformance with the adopted *Midtown Greenway Land Use & Development Plan* and elements of the proposed development support the goals of the *Uptown Small Area Plan*.

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

The amendment would allow the entire site to be categorized and developed under one zone district classification. A rezoning to the R6 district would be considered in the interest of both the property owner, as it would allow a higher intensity residential zoning classification, and in the public interest insofar as it would allow a level of density and uses that support the other commercial and cultural uses in the area, as well as the mass transit. Further, the rezoning could be considered in the public interest by eliminating industrial zoning where there is no policy basis for such zoning.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The site is currently zoned I1 and R6 with a TP overlay district. The site is located on the north side of the Midtown Greenway and is bordered by R6 zoning to the north, east and west side of the property. There is also C3A zoning to the west and I2 zoning to the east. Across the Midtown Greenway to the south, there is predominantly C3A zoning. Adjacent uses include a mixture of commercial, residential and industrial uses. Given the surrounding zoning classifications and uses in the area Staff believes that the R6 zoning district would be compatible in this location.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

There are reasonable uses of the property permitted under the I1 zoning district, however the uses would likely result in the under utilization of the subject site due to the area in which the parcel is located. The I1 zoning district is a Light Industrial district. Permitted uses in the I1 district include, but are not limited to, the following:

- Research, development and testing laboratory

- Art gallery
- Restaurants
- Clinic, medical or dental
- Coffee shop
- Child care center

The uses allowed by the current zoning would not be consistent with adopted policy for the site and the area.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

Under the 1963 Zoning Code, the subject property and the surrounding area were zoned M1-2 (Light Manufacturing District). The property formerly supported the Acme Tag and Label Company, but is now vacant. There has been a change in the in the character and trend of development within the general area as numerous properties along both sides of the Midtown Greenway have been rezoned and redeveloped. Due to the proximity to R6 zoning as well as the mix of uses within the general area as well as the immediate vicinity, Staff believes that the rezoning request is reasonable and appropriate and is consistent with the trend of redevelopment as well as additional high density, mixed use development in the area.

CONDITIONAL USE PERMIT – (1) to allow 237 residential dwelling units; (2) to increase the maximum permitted height to 8 stories or 84 feet at the tallest portion of the proposed structure.

Findings as required by the Minneapolis Zoning Code for a Conditional Use Permit: to allow 237 dwelling units

The Minneapolis Department of Community Planning and 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 237-unit residential development should not have negative impacts on the area. The proposed development complements other uses in the area and the additional residential units would strengthen the existing commercial base within the neighborhood. The proposal is over the allowable density for the site as 210 units are allowed with a 20% bonus for enclosed parking. However, if the parcel to the north, which is separated from the site by a public alley, were to be included for purposes of lot area, the proposal would be within the allowable density. A variance is technically required; however, it is Staff's opinion that 237 residential dwelling units is appropriate

on the site provided the lot to the north is included as open space in perpetuity for the proposed development. Staff does not believe that the project would prove detrimental to public safety, comfort or general welfare.

- 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 site is currently vacant. The proposed density of the project would prove compatible with the surrounding uses and should not impede normal and orderly development of the area provided an adequate transition/setback through landscaping and setbacks is maintained between the project and the residential dwellings to the north of the site. Further, utilizing the site for 237 units of apartments would provide additional opportunities for housing within the neighborhood as well as support the existing commercial uses within the general area.

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

The site would be accessed off of Fremont Avenue South via one curb cut. The Public Works Department has reviewed the preliminary plan and will review the final plan for compliance with standards related to access and circulation, drainage, and sewer/water connections. The applicant will be required to continue to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development should the applications be approved. This would be required to ensure that all procedures are followed and that the development complies with all city and other applicable requirements.

The applicant is working with Public Works on a TDMP (Travel Demand Management Plan) for the site. The applicant is aware that all applicable plans are expected to incorporate any applicable comments or modifications as required by the Public Works Department.

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

Chapter 541 of the zoning code requires one off-street parking space per dwelling unit, therefore a total of 237 parking spaces would be required for the proposed development. The applicant proposes to provide 237 parking spaces for the proposed development in an underground parking garage which meets the requirement. The proposal includes parking for 237 bicycles as well which would be located adjacent to each individual parking stall. Further, bicycle racks will be provided adjacent to the main entry along Fremont Avenue South. The site is also in close proximity to the Uptown Transit Station. The loading requirement for the proposed development is as approved by conditional use permit. The applicant is not providing any off-street loading for the proposed development. Planning Staff believes that the applicant should contact Public Works

regarding designation of a temporary loading zone either along Fremont Avenue South or Girard Avenue South in order to allow for individuals to move in and out of the proposed building.

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

See the above listed response to finding #5 in the rezoning application.

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 rezoning request, relevant variances, and site plan review.

If all land use/zoning applications are approved, including a rezoning, conditional use permits, variances and site plan review, the proposal would comply with all provisions of the R6 District.

CONDITIONAL USE PERMIT - to increase the maximum permitted height to 8 stories or 84 feet at the tallest portion of the proposed structure.

Findings as Required by the Minneapolis Zoning Code:

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

1. Will be detrimental to or endanger the public health, safety, comfort or general welfare.

Staff does not believe that allowing a structure that would fit in terms of feet within the district guidelines of the R6 district at 84 feet would be detrimental to or endanger the public health, safety, comfort or general welfare. The conditional use permit is required as the proposed development would exceed the height allowed by right in the R6 district (assuming the rezoning application is approved) by two additional stories. The R6 district allows a maximum building height of 6 stories, not to exceed 84 feet. Recent developments in the general vicinity have applied for and received varying approvals of conditional use permits for increased height. The floor heights are less than the maximum of 14 feet allowed, thus allowing additional stories that are able to conform to the overall height allowed in terms of feet. The U-shaped building is tallest adjacent to the Midtown Greenway at 8 stories and steps down to 5 stories, 4 stories and a minimum of 3 stories or 32 feet, 6 inches on the north side of the site. Further, based on the allocation and configuration of height on the site which Staff believes is appropriately directed toward the south of the property adjacent to the Midtown Greenway, only a portion of the proposed building would actually exceed the height limitation. Planning Staff would recommend that the applicant consider stepping the upper floors back in

order to further reduce the apparent mass and height, resulting in less of an impact on the Midtown Greenway and neighboring properties.

2. **Will be injurious to the use and enjoyment of other property in the vicinity and will impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

This vacant property is located in a fully developed area. The proposal to construct a U-shaped multi-family residential structure that results in two additional stories, but is within the allowable height of the R6 district would not be expected to be injurious to the use and enjoyment of other property in the vicinity nor should it impede on possible future development. The existing structure would exceed the proposed underlying district allowance of 6 stories or 84 feet at 8 stories or 84 feet in the portions of the building adjacent to the Midtown Greenway. Other development located within the general vicinity has been approved for comparable heights. Additionally, the distribution of the building mass into a variety of building heights could arguably be regarded as positive for the surrounding neighborhood as it allows for additional open space amenities on the site, including the lot to the north of the public alley which further buffers the structure from the existing neighborhood. The proposed public promenade to be located along the south side of the site adjacent to the Midtown Greenway is an amenity as well. Planning Staff will recommend that Commission require the construction of the public promenade as a condition of approval. Planning Staff would recommend that the applicant consider stepping the upper floors back in order to further reduce the apparent mass and height, resulting in less of an impact on the Midtown Greenway and neighboring properties.

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

As previously mentioned, the site would be accessed off of Fremont Avenue South. The Public Works Department has reviewed the preliminary plan and will review the final plan for compliance with standards related to access and circulation, drainage, and sewer/water connections. The applicant would be required to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development should the plan be approved. This would be required to ensure that all procedures are followed in order to comply with city and other applicable requirements.

The applicant is working with Public Works on a TDMP (Travel Demand Management Plan) for the site. The applicant is aware that all applicable plans are expected to incorporate any applicable comments or modifications as required by the Public Works Department.

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

The additional height of the development should have no effect on the traffic congestion in the area. Measures have been provided in regard to minimizing traffic congestion from a parking perspective as the applicant would be providing adequate off-street parking for the proposed development as well as additional bicycle parking.

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

According to the *Minneapolis Plan*, the subject parcel is located within relative close proximity to an Activity Center (located at the intersection of Hennepin Avenue and West Lake Street) and near two Commercial Corridors, Lagoon Avenue and Hennepin Avenue. Further, the *Minneapolis Plan* identifies the Midtown Greenway Corridor as a Major Housing Site. There is a mixture of zoning classifications and uses within the subject area including various single and multi-family uses, as well as commercial and industrial uses. According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal:

- 4.9 *Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.*
- 9.6 *Minneapolis will support the development of residential dwellings of appropriate form and density.*
- 9.6 *Minneapolis will work with private and other public sector partners to invest in new development that is attractive, functional and adds value to the physical environment.*
- 9.24 *Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.*

The proposal to allow an 8-story, 84 foot tall building on the parcel is in conformance with the above noted principles, policies and implementation steps of the comprehensive plan.

There are two additional plans that must be considered when evaluating the proposal which include the *Midtown Greenway Land Use & Development Plan*, which was adopted by the City Council on February 23, 2007, and the *Uptown Small Area Plan* which is yet to be adopted but will be heard at the January 14, 2008, Planning Commission meeting which will follow the printing of this report. A portion of the *Uptown Small Area Plan* study area overlaps with the *Midtown Greenway Land Use & Development Plan* area. Parcels north of Lagoon Avenue, east of Humboldt Avenue, south of 28th Street, and west of Bryant Avenue are included in both plans.

The *Midtown Greenway Land Use & Development Plan*, includes parcels on each side of the

Midtown Greenway from the western boundary of the City to Hiawatha Avenue and designates the subject site as a high-density housing site on the future land use plan as well as a Transit-Oriented Development District which allows density typically allowed in the R6, C3A or OR3 districts. There are three building types that are identified within the plan that would be considered suitable based on those designations which include: (1) apartments (which include for-sale and rental buildings 3 to 5 stories in height, etc.); (2) Tall apartments (which include for-sale and rental building that exceed 5 stories); and (3) Greenway buildings (which are structures that effectively form part of the wall of the greenway trench and that have a lower level with doors or windows that face the Greenway. The plan also recommends that projects adjacent to the Midtown Greenway include an 8 foot wide pedestrian promenade, which the applicant is proposing as part of the development. The guidelines outlined in the *Midtown Greenway Land Use & Development Plan* are more general, whereas those identified in the *Uptown Small Area Plan* are more specific and focus on the Greenway in relation to the retail center and the four neighborhoods of Uptown.

The *Uptown Small Area Plan*, which as previously noted will be heard at the January 14, 2008, Planning Commission meeting will not be adopted by the City Council prior to the public hearing on the proposed Acme redevelopment. The *Uptown Small Area Plan* provides more specific guidance on height than the *Midtown Greenway Land Use & Development Plan*. As previously noted, the Midtown Greenway plan contains design guidelines and sample building types that describe appropriate scale and design features along the Greenway. The Uptown plan builds on this and provides additional guidance on height along the Greenway, suggesting that taller buildings (or taller portions of buildings) should be located along the major corridors of Lake Street, Lagoon Avenue, and Hennepin Avenue. The Uptown Plan suggest that building should be stepped back on the south side of the Greenway to prevent shadowing and also suggests that height on the north side of the Greenway should be lower than that in the core of Uptown in order to provide a transition into the residential area to the north.

Both plans contain maps showing suggested development intensity and sample building types. These maps are designed to complement the future land use plans and suggest building forms that might be appropriate. Both plans use intensity categories of Neighborhood Oriented, Urban Oriented, and Transit Oriented, with Transit Oriented being the most intense. The development parcel in question is identified as Transit Oriented. The suggested building types in the two plans vary because of the difference between a context that is limited to the Greenway in the Midtown Greenway plan and a context of the Uptown business district and Uptown neighborhoods in the Uptown Small Area Plan. The development intensities are very similar on the parcels contained in both plans.

In the Uptown plan, the height and scale of new construction is dealt with in three contexts, (1) by dividing the study area into various “character areas” and indicates that most large scale new development should occur in the core of Uptown (the Activity Center and Urban Village); (2) the plan discusses the existing character of each character area and outlines preferred heights. Preferred heights are suggested to acknowledge the interest in being responsive to the existing character of each sub-area. The preferred height outlined for the parcel in question is 3-5 stories. The plan continues on to describe height in an additional context, (3) that of a suggested

“building envelope” that shows how buildings can be shaped to have stepped back height and how height can transition down from the core of Uptown to the neighborhoods.

The plan indicates that buildings with stepped back upper floors with portions potentially reaching up to 84’ are appropriate along major corridors in the Activity Center and Urban Village. To provide transitions, the building envelope suggests buildings with heights of 56’ north of the Midtown Greenway and on the south side of Lake Street. The plan states that buildings that exceed this outlined building envelope should offset their potential impact with public amenities, and a broader public discussion that weighs the overall public contributions of an individual project should be expected in the event that a taller building is proposed. Although the proposed structure does not step back from the Midtown Greenway at the upper floors, it steps down to the neighborhood. Planning Staff would encourage the applicant to consider stepping the upper floors back in order to further reduce the apparent mass and height, resulting in less of an impact on the Midtown Greenway and neighboring properties.

It is Planning Staff’s opinion that the proposed development is in conformance with the adopted *Midtown Greenway Land Use & Development Plan* and elements of the proposed development support the goals of the *Uptown Small Area Plan*. The *Uptown Small Area Plan* promotes the stepping back of height toward the neighborhood and the provision of public amenities. The proposed project steps down from 8 stories to 3 stories and provides a publicly accessible promenade and plaza space as well as open space on the north side of the alley. Moreover, the site is adjacent to a mass transit station and as such, designated for Transit Oriented intensity in both plans.

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

With the approval of the rezoning, conditional use permits, variances and the site plan review this development would be in conformance with the applicable regulations of the zoning code.

ADDITIONAL STANDARDS TO INCREASE MAXIMUM HEIGHT

In addition to the conditional use standards, the city planning commission shall consider, but not be limited to, the following factors when determining the maximum height:

1. Access to light and air of surrounding properties.

This development would be expected to have some impacts on the amount of light and air that surrounding properties receive as the site would be transitioning from a vacant site to a fully developed site. However, if evaluated in terms of what is allowed in the R6 district versus what is being requested in terms of height, Planning Staff would not expect two additional stories within the overall allowed feet would result in any substantive impacts. Further, Planning Staff would argue that the impacts are somewhat mitigated by the proposed “U-shaped” design of the structure as the bulk and massing of the building is

oriented towards the Midtown Greenway, and away from the residential properties to the north. The 8-story portions of the proposed structure are located more than 100 feet away from the adjacent residences to the north and are further separated by additional residential uses to the east and west by both Girard Avenue South and Fremont Avenue South.

2. Shadowing of residential properties or significant public spaces.

Due to the fact that the project would be constructed on the north side of the Greenway, shadowing of the Midtown Greenway and the adjacent public promenade along the south property line would be minimal. However, there would be shadowing of adjacent residential properties. It is likely that any redevelopment of the site under the R6 district scenario would result in some shadowing of the properties north, northeast and northwest of the subject site. As one would expect, the most significant shadowing occurs late fall through early spring, with the peak being in mid-December. The most significant shadowing will occur on the existing single-family home due north of the subject site along Girard Avenue South. Additional shadowing impacts will occur on the residential properties across Girard Avenue South and Fremont Avenue South as well. The shadow studies have been attached for reference.

3. The scale and character of surrounding uses.

The scale and character of the buildings as well as the architectural styles of the surrounding properties in this area are varied. The project will clearly be taller than existing surrounding structures, but as previously mentioned, would be within the 84 foot height limitation for buildings located in the R6 district in which adjacent residential properties are also located. Recent developments in the general vicinity have applied for and received varying approvals of conditional use permits for increased height. The floor heights are less than the maximum of 14 feet allowed, thus allowing additional stories that are able to conform to the overall height allowed in terms of feet. The U-shaped building is tallest adjacent to the Midtown Greenway at 8 stories and steps down to 5 stories, 4 stories and a minimum of 3 stories or 32 feet, 6 inches on the north side of the site. The design and distribution of height on site would render the building compatible with the surrounding uses.

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

The landmark buildings located within the area would include the Old Walker Library and the Uptown Theater. However, significant shadows would not affect the landmark buildings, any significant open spaces or water bodies near the development site. The adjacent Midtown Greenway is a nationally designated historical district; however, this segment of the Greenway is located below grade within a trench, south of the site.

VARIANCE – (1) Variance of the front yard setback adjacent to Girard Avenue South from 15 feet, 2 inches (due to a front yard increase) to 9 feet, 6 inches at the closest point for patios and balconies that exceed 50 square feet in size; (2) Variance of the front yard setback adjacent to Fremont Avenue South from 26 feet, 7 inches (due to a front yard increase) to 14 feet, 4 inches at the closest point for the proposed structure and to 12 feet, 5 inches at the closest point for patios and balconies that exceed 50 square feet in size; (3) Variance of the interior side yard setback adjacent to the north property line from 19 feet to 17 feet for patios and balconies that exceed 50 square feet in size; (4) Variance of the interior side yard setback adjacent to the south property line from 19 feet to 12 feet for patios and balconies that exceed 50 square feet in size; (5) Variance to allow walkways greater than 6 feet in width within the front yard setback adjacent to Girard Avenue South and Fremont Avenue South and within the interior side yards adjacent to the north and south property lines; (6) Variance of the minimum lot area per dwelling unit to allow 237 dwelling units from 334 square feet per dwelling unit to 296 square feet per dwelling unit or a variance of approximately 11.4%.

Findings as Required by the Minneapolis Zoning Code for the Variances:

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.

Variance of the yard requirements:

- Front yard setback requirement adjacent to Girard Avenue South from 15 feet, 2 inches (due to a front yard increase) to 9 feet, 6 inches at the closest point for patios and balconies that exceed 50 square feet in size: The property could be put to a reasonable use under the conditions allowed, however, strict adherence to the regulations of the zoning ordinance would cause undue hardship. The structure is not encroaching into the required yard; however, the obstructions which are typically permitted require a variance as they are larger in size than what is permitted. Planning Staff believes that allowing larger patios and balconies within the required yard is a reasonable use of the subject site, especially considering the front yard increase, as well as the likelihood that an overall increase in size of the patios and balconies will render them more usable, thus creating more eyes on the street.
- Front yard setback adjacent to Fremont Avenue South from 26 feet, 7 inches (due to a front yard increase) to 14 feet, 4 inches at the closest point for the proposed structure and to 12 feet, 5 inches at the closest point for patios and balconies that exceed 50 square feet in size: The property could be put to a reasonable use under the conditions allowed, however, strict adherence to the regulations of the zoning ordinance would cause undue hardship. Typically, a 15 foot setback would be required for the proposed development, however, due to the adjacent structure and zoning to the north, a front yard increase is required resulting in a setback of 26 feet, 7 inches. The applicant requests a variance to 14 feet, 4 inches for the proposed structure. Additionally, variances for patios and balconies over the allowable size are being requested within the required setback as well. Planning Staff believes that a setback of 14 feet, 4 inches for the building is a reasonable request based on the fact that the majority of the building is setback from 15 feet, 5

inches to 19 feet, 10 inches which would be consistent with the underlying district requirement. Further, the portion of the building requiring the setback variance is located as close as possible to the south property line which would be the furthest from the residential property to the north that resulted in the 26 foot, 7 inch setback requirement. Additionally, the structure is meeting all other required yards. Regarding the proposed patios and balconies, Planning Staff believes that allowing larger patios and balconies within the required yard is a reasonable use of the subject site, especially considering the front yard increase, as well as the likelihood that an overall increase in size of the patios and balconies will render them more usable, thus creating more eyes on the street.

- Variance of the interior side yard setback adjacent to the north property line from 19 feet to 17 feet for patios and balconies that exceed 50 square feet in size: The property could be put to a reasonable use under the conditions allowed; however, strict adherence to the regulations of the zoning ordinance would cause undue hardship. Planning Staff believes that allowing larger patios and balconies within the required yard is a reasonable use of the subject site, especially considering that the building conforms with the required setback of 19 feet, as well as the likelihood that an overall increase in size of the patios and balconies will render them more usable, thus creating a safer pedestrian environment throughout the subject site.
- Variance of the interior side yard setback adjacent to the south property line from 19 feet to 12 feet for patios and balconies that exceed 50 square feet in size: The property could be put to a reasonable use under the conditions allowed; however, strict adherence to the regulations of the zoning ordinance would cause undue hardship. Planning Staff believes that allowing larger patios and balconies within the required yard is a reasonable use of the subject site, especially considering that the building conforms with the required setback of 19 feet, as well as the likelihood that an overall increase in size of the patios and balconies will render them more usable, thus creating a safer pedestrian environment throughout the subject site.
- Variance to allow walkways greater than 6 feet in width within the front yard setback adjacent to Girard Avenue South and Fremont Avenue South and within the interior side yards adjacent to the north and south property lines: The property could be put to a reasonable use under the conditions allowed, however, strict adherence to the regulations of the zoning ordinance would cause undue hardship. The 8-foot walkway adjacent to the south property line is actually a recommendation in the Council adopted *Midtown Greenway Land Use & Development Plan*. In an effort to maintain a consistent appearance as well as promote walkability throughout the site, the sidewalk widths have been increased. Planning Staff would argue that walkways of a wider width would be appropriate with a multi-family development of this scale.

Variance of the minimum lot area per dwelling unit: The property could be put to a reasonable use under the conditions allowed, but strict adherence to the regulations of the zoning ordinance would cause undue hardship. A variance of the minimum lot area is required to allow 237 dwelling units from 334 square feet per dwelling unit to 296 square feet per dwelling unit or a variance of approximately 11.4%. Historically, the platted lot to the north of the subject site

which is separated from the larger parcel by a public alley, was considered part of the larger parcel. However, the Zoning Administrator has determined that the Zoning Ordinance supports the interpretation that the lot is not part of the larger parcel due to the fact that it is indeed separated by a public alley. If the lot area were to include the platted lot to the north, a variance of the minimum lot area per dwelling unit would no longer be required, as 237 dwelling units would be allowed on the subject site with the additional lot area. The applicant has committed, and Planning Staff will condition, that the lot to the north always be tied to the proposed development for the purposes of open space.

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.

Variance of the yard requirements:

- Front yard setback requirement adjacent to Girard Avenue South from 15 feet, 2 inches (due to a front yard increase) to 9 feet, 6 inches at the closest point for patios and balconies that exceed 50 square feet in size: The circumstances could be considered unique as the parcel is subject to two front yard increases due to adjacent residential structures and zoning classifications to the north. Planning Staff believes that the request is reasonable based on the circumstances, and that allowing patios and balconies larger than what is permitted in a required yard which in turn makes them more usable, allows for more eyes on the street. Further the building placement conforms to the required setback.
- Front yard setback adjacent to Fremont Avenue South from 26 feet, 7 inches (due to a front yard increase) to 14 feet, 4 inches at the closest point for the proposed structure and to 12 feet, 5 inches at the closest point for patios and balconies that exceed 50 square feet in size: The circumstances could be considered unique as the parcel is subject to two front yard increases due to adjacent residential structures and zoning classifications to the north. The front yard in question would typically be 15 feet, however based on the residential property to the north, that setback is further increased to 26 feet, 7 inches. Planning Staff believes that a setback of 14 feet, 4 inches for the building is a reasonable request based on the fact that the majority of the building is setback from 15 feet, 5 inches to 19 feet, 10 inches which is consistent with the underlying district requirement. Further, the portion of the building requiring the setback variance is located as close as possible to the south property line which would be the furthest from the residential property to the north that resulted in the 26 foot, 7 inch setback requirement. Additionally, the structure is meeting all other required yards. Planning Staff believes that the request is reasonable based on the circumstances, and that allowing patios and balconies larger than what is permitted in a required yard which in turn makes them more usable, allows for more eyes on the street. Further the building placement conforms to the required setback.
- Variance of the interior side yard setback adjacent to the north property line from 19 feet

to 17 feet for patios and balconies that exceed 50 square feet in size: The circumstances could be considered unique as the lot line slightly jogs adjacent to the north property line. Further, allowing patios and balconies that are larger in size than what is typically permitted would result in more usable space and results in a more pedestrian friendly environment.

- Variance of the interior side yard setback adjacent to the south property line from 19 feet to 12 feet for patios and balconies that exceed 50 square feet in size: The circumstances could be considered unique as the property is adjacent to the Midtown Greenway on this portion of the subject site. Further, allowing patios and balconies that are larger in size than what is typically permitted would result in more usable space and results in a more pedestrian friendly environment.
- Variance to allow walkways greater than 6 feet in width within the front yard setback adjacent to Girard Avenue South and Fremont Avenue South and within the interior side yards adjacent to the north and south property lines: The circumstances could be considered unique as the applicant is intending to provide for a public realm that is inviting for pedestrians and bicyclist alike. Further, the portions of the walkways exceeding the allowable width are minimal at most.

Variance of the minimum lot area per dwelling unit: The circumstances could be considered unique as historically the lot to the north which is bisected from the larger lot by a public alley was once considered part of the larger lot. However, the Zoning Administrator has determined that the Zoning Ordinance supports the interpretation that the lot is not part of the larger parcel due to the fact that it is indeed separated by a public alley. If the lot area were to include the platted lot to the north, a variance of the minimum lot area per dwelling unit would no longer be required, as 237 dwelling units would be allowed on the subject site with the additional lot area. The applicant has committed, and Planning Staff will condition, that the lot to the north always be tied to the proposed development for the purposes of open space.

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.

Variance of the yard requirements:

- Front yard setback requirement adjacent to Girard Avenue South from 15 feet, 2 inches (due to a front yard increase) to 9 feet, 6 inches at the closest point for patios and balconies that exceed 50 square feet in size: The granting of the variance to allow patios and balconies larger than 50 square feet in size in the required yard adjacent to the west property line would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use and enjoyment of other property in the vicinity.
- Front yard setback adjacent to Fremont Avenue South from 26 feet, 7 inches (due to a front yard increase) to 14 feet, 4 inches at the closest point for the proposed structure and

to 12 feet, 5 inches at the closest point for patios and balconies that exceed 50 square feet in size: The granting of the variance to allow the structure, as well as patios and balconies larger than 50 square feet in size in the required yard adjacent to the east property line would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use and enjoyment of other property in the vicinity.

- Variance of the interior side yard setback adjacent to the north property line from 19 feet to 17 feet for patios and balconies that exceed 50 square feet in size: The granting of the variance to allow patios and balconies larger than 50 square feet in size in the required yard adjacent to the north property line would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use and enjoyment of other property in the vicinity.
- Variance of the interior side yard setback adjacent to the south property line from 19 feet to 12 feet for patios and balconies that exceed 50 square feet in size: The granting of the variance to allow patios and balconies larger than 50 square feet in size in the required yard adjacent to the south property line would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use and enjoyment of other property in the vicinity.
- Variance to allow walkways greater than 6 feet in width within the front yard setback adjacent to Girard Avenue South and Fremont Avenue South and within the interior side yards adjacent to the north and south property lines: The granting of the variance to allow walkways greater than 6 feet in width within the required yards adjacent to the north, south, east and west property lines would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use and enjoyment of other property in the vicinity.

Variance of the minimum lot area per dwelling unit: The granting of the variance to allow 237 dwelling units on the subject site, or a reduction in the minimum lot area per dwelling unit from 334 square feet per dwelling unit to 296 square feet per dwelling unit or a variance of approximately 11.4% would be in keeping with the spirit and intent of the ordinance and would not alter the essential character of the locality or be injurious to the use and enjoyment of other property in the vicinity. This is assuming that the approval would be conditioned on the property to the north being tied in perpetuity to the parcel in question. The lot to the north is designated as open space and as such would not ever be able to be developed.

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.

Variance of the yard requirements:

- Front yard setback requirement adjacent to Girard Avenue South from 15 feet, 2 inches (due to a front yard increase) to 9 feet, 6 inches at the closest point for patios and balconies that exceed 50 square feet in size: The granting of a variance to allow patios

and balconies larger than 50 square feet in size in the required yard adjacent to the west property line would not substantially increase the congestion of the public street, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

- Front yard setback adjacent to Fremont Avenue South from 26 feet, 7 inches (due to a front yard increase) to 14 feet, 4 inches at the closest point for the proposed structure and to 12 feet, 5 inches at the closest point for patios and balconies that exceed 50 square feet in size: The granting of a variance to allow the building to encroach into the required yard as well as patios and balconies larger than 50 square feet in size adjacent to the east property line would not substantially increase the congestion of the public street, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.
- Variance of the interior side yard setback adjacent to the north property line from 19 feet to 17 feet for patios and balconies that exceed 50 square feet in size: The granting of a variance to allow patios and balconies larger than 50 square feet in size in the required yard adjacent to the north property line would not substantially increase the congestion of the public street, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.
- Variance of the interior side yard setback adjacent to the south property line from 19 feet to 12 feet for patios and balconies that exceed 50 square feet in size: The granting of a variance to allow patios and balconies larger than 50 square feet in size in the required yard adjacent to the south property line would not substantially increase the congestion of the public street, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.
- Variance to allow walkways greater than 6 feet in width within the front yard setback adjacent to Girard Avenue South and Fremont Avenue South and within the interior side yards adjacent to the north and south property lines: The granting of a variance to allow walkways greater than 6 feet in width within the required setbacks adjacent to the north, south, east and west property lines would have no effect on the congestion of the public street, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Variance of the minimum lot area per dwelling unit: The granting of a variance to allow 237 dwelling units on the subject property would not be expected to have substantial effects on the congestion of the public street, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety assuming that the lot to the north bisected by the public alley always be tied to the development and utilized for open space. Additionally, all required parking for the proposed development is being provided in an underground parking garage.

SITE PLAN REVIEW:

Required Findings for 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 Zoning Code

BUILDING PLACEMENT AND DESIGN:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances and windows:
- Residential uses:
 - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - Nonresidential uses:
Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

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

Minimum window area shall be measured as indicated in section 531.20 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.**

The development is subject to required yards along all sides of the property. There are front yard requirements along both Fremont and Girard that are increased due to the adjacent residential uses and zoning classification to the north. The interior side yards adjacent to the north and south property lines have a setback requirement as well. A singular U- shaped, principal structure would be located on the subject site. The building is oriented towards the streets as well as toward the Midtown Greenway located on the south side of the site, as well as toward the interior side yard on the north side of the site. The principal entry and corresponding lobby would face a public street as both would be located off of the Fremont Avenue frontage. The use of progressive design and street-oriented building alignments is reinforced with the proposed development. The design also maximizes natural surveillance and visibility, and facilitates pedestrian access and circulation both through and around the subject site. The area between the buildings and the public streets will have new and existing shrub and tree plantings along both street frontages, as well as in between the required setbacks and adjacent property lines within the interior side yards. Based on the configuration of active uses proposed for the residential development, Staff considers this to be a pedestrian oriented development. Further, the applicant is providing an 8 foot wide public promenade on the south side of the site adjacent to the Midtown Greenway. Additionally, a large plaza area is located within the interior of the site, as is additional open space located on a parcel to the north that is bisected from the larger lot by a public alley. Staff will encourage the applicant to reconsider the uses indicated within the northern lot as a fire pit and gathering area may be less appropriate in that location than other uses such as a community garden due to the adjacent residential uses.

The façade of the building along both street frontages, as well as along both interior side yards incorporates windows that exceed the 20% window requirement. Windows between 2 and 10 feet are required in order to provide natural surveillance and visibility by having active uses located along public streets. The proposal is meeting the intent of this

requirement by integrating active uses at the ground level on all elevations. The proposed development meets the 10% window requirement on each floor above the first floor that faces the public street and public sidewalk.

As previously mentioned, the building is U-shaped, and varies in height from 8 stories or 84 feet at the tallest portion of the structure facing the Midtown Greenway (south property line) and steps down to 3 stories or 32 feet, 6 inches, adjacent to the north property line. There are residential units facing the exterior and interior of the subject site and all incorporate balconies and patios. There are various private, linear terraces on the northern half of the building which total approximately 1,400 square feet as well as common terraces on the 6th floor which is approximately 1,848 square feet in size (66 feet x 28 feet) and on the 8th floor which is approximately 1,650 square feet in size (66 feet x 25 feet). The extent of the treatments on the upper level terraces would be raised planters not green roofs, and the raised planters would not be more than 20% of the entire terrace areas.

The exterior materials and appearance of the rear and side walls of the proposed building would be similar to and compatible with the front of the building. The materials on the proposed structure would be brick, painted cement fiberboard, metal canopies, walls and other metal elements. The proposed buildings incorporate architectural elements including recesses and projections, windows and entries. Along the north elevation of the proposed building adjacent to the public alley there is a blank uninterrupted wall that exceeds 25 feet in width. According to the floor plans, this is the ramp down to the underground parking. Staff believes that it is practical to comply with this requirement and will require as a condition of approval that windows, entries, recesses or projections or other architectural elements be incorporated into the façade to meet this requirement. Staff would suggest that columnar metal elements be extended to the ground level on that elevation to break up the blank wall.

There is a 2-story underground parking ramp proposed for the development which is accessed off of Fremont Avenue South. The parking ramp has been designed so that sloped floors do not dominate the appearance of the façade as the ramp is completely underground.

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.

The principal residential entrance to the proposed building and lobby is located adjacent to the public sidewalk along Fremont Avenue South. The principal entry is connected via a walkway to the public sidewalk.

There are no transit shelters within the development.

The proposed development has been designed to minimize conflicts with pedestrian traffic and surrounding residential uses as the proposal is incorporating extensive walkways within the interior of the site as well as on all sides of the proposed development, open space and utilizing only one curb cut off of Fremont Avenue South.

There would not be expected to be significant impacts on the adjacent residential properties. The setback variances requested for the proposed development are predominantly related to permitted obstructions, and the proposed increase in height was evaluated in the conditional use permit section listed above. One additional question/potential concern that was evaluated by Staff was whether having walk-out units oriented towards the north property line, which in turn oriented entries toward the single-family home to the north was an issue. After analyzing this specific issue, Staff felt that there was enough of a separation, at most 27 feet, 10 inches to 20 feet, 5 inches at the closest point for this portion of the building, that the orientation was a non-issue. Further, the building in that location exceeds the setback requirement of 19 feet; and is no different than other structures which have been approved in the past with side entries.

There is a public alley adjacent to the site, however, the development will only utilize the alley for trash pick-up. The principal entry to the underground garage will be accessed off of Fremont Avenue South.

The site has been somewhat designed to minimize the use of impervious surfaces through the use of landscaping throughout the site as the proposal meets the 20% requirement, however, 74% of the site is impervious surfaces. More than half of the site is covered by the proposed building, and much of the rest of the site includes the interior courtyard, walkways and plantings. The property to the north of the alley is also included as a part of the proposed development as open space. As previously mentioned, Staff believes that improvements to this open space should be made, including the potential removal of the fire pit and the potential inclusion of a community garden that would be expected to have less of an impact on the adjacent residential properties to the north.

LANDSCAPING AND SCREENING:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
 - Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**
 - **A decorative fence.**
 - **A masonry wall.**
 - **A hedge.**

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

The proposal meets the 20% landscape requirement. The total site area is 70,228 square feet or 1.6 acres and the proposed building footprint on the site would be 34,541 square feet (which would not include any of the below grade parking). A total of 7,137 square feet of landscaping would be necessary to meet the 20% requirement. The applicant is providing 18,294 square feet or approximately 51% of the site not occupied by buildings. The zoning code requires that there be at least 15 trees and 72 shrubs. The applicant is proposing to provide 63 trees (15 deciduous, 48 ornamental), 632 shrubs and 56 perennials on the site, far exceeding the minimal requirements.

Further, the applicant is proposing to landscape the lot to the north of the subject site and provide as open space for the proposed development in lieu of a variance of the minimum lot area per dwelling unit. A total of 7,822 additional square feet of landscaping would be provided on the subject lot. Therefore, in total, 26,116 square feet of landscaping would be provided on the site.

ADDITIONAL STANDARDS:

- **All parking lots and driveways shall be designed with wheel stops or discontinuous curbing to provide on-site retention and filtration of stormwater. Where on-site retention and filtration is not practical, the parking lot shall be defined by six (6) inch by six (6) inch continuous concrete curb.**
- **To the extent practical, site plans shall minimize the blocking of views of important elements of the city.**
- **To the extent practical, buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **To the extent practical, buildings shall be located and arranged to minimize the generation of wind currents at ground level.**
- **Site plans shall include crime prevention design elements as specified in section 530.260 related to:**
 - **Natural surveillance and visibility**
 - **Lighting levels**
 - **Territorial reinforcement and space delineation**
 - **Natural access control**
- **To the extent practical, site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where**

rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

There is no surface parking proposed for the development. All parking would be provided in a 2-story underground garage accessed off of the east side of the site on Fremont Avenue South.

Due to the proposed heights of the building within the development, some blocking of views would be expected as would some shadowing of public space and adjacent properties. However, due to the fact that the development is located on the north side of the greenway, and the fact that the height is congregated on the south side of the site adjacent to the Midtown Greenway, and steps down toward the neighborhood to the north, Planning Staff believes that shadowing will have less impacts than expected. The shadow studies have been attached for reference. The proposed buildings would also be expected to have some impacts on light, wind and air in relation to the surrounding area.

The site is vacant. There are no historic structures on the subject site although the property is adjacent to the Midtown Greenway which is a nationally designated historical district; however, this segment of the Greenway is located below grade within a trench, south of the site. Additionally, the subject site is in close proximity to two landmark buildings, the Old Walker Library and the Uptown Theatre.

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 proposed use is conditional in the R6 District.

With the approval of the rezoning, conditional use permits, variances and site plan review this development would meet the requirements of the R6 zoning district.

Parking and Loading: Chapter 541 of the zoning code requires one off-street parking space per dwelling unit, therefore a total of 237 parking spaces would be required for the proposed development. The applicant proposes to provide 237 parking spaces for the proposed development in an underground parking garage which meets the requirement. The proposal includes parking for 237 bicycles as well which would be located adjacent to each individual parking stall. Further, bicycle racks would be provided adjacent to the main entry along Fremont Avenue South. The loading requirement for the proposed development is as approved by conditional use permit. The applicant is not providing any off-street loading for the proposed development. Planning Staff believes that the applicant should contact Public Works to consider designation of a temporary loading zone either along Fremont Avenue South or Girard Avenue South in order to allow for individuals to move in and out of the proposed building.

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. There is a trash and recycling room located on the north side of the structure adjacent to the public alley.

Signs: No signs are proposed at this time. Any new signage is required to meet the requirements of the code. A separate permit will need to be attained through the Zoning Office should signage be requested for the subject site.

Lighting: The applicant is proposing to install decorative pedestrian and wall mounted light fixtures throughout the site. A photometric plan was not submitted as part of the application but will be required with the final submittal. All lighting will need to be downcast and shielded to avoid undue glare. All lighting shall comply with Chapters 535 and 541 and Planning Staff shall review the details of the fixtures in the final review prior to permit issuance.

Maximum Floor Area: The maximum F.A.R. for multiple-family dwelling units in the R6 District is the gross floor area of the building which would be 225,985 square feet divided by the area of the lot which is 70,228 square feet. The outcome is 3.2 which is greater than the maximum of 3.0 that is permitted in the R6 District. The proposed development is eligible for one density bonus as the parking for the proposed development is completely underground which would allow a maximum F.A.R. of 3.6. The proposal meets the requirement.

Minimum Lot Area: The project would meet the minimum lot width requirements of the R6 District as the development is situated on a lot greater than 40 feet in width, however a variance is being requested to vary the minimum lot area requirement per dwelling unit. Multiple-family developments in the R6 District require 5,000 square feet of lot area or 400 square feet per dwelling unit. A 237-unit development with a bonus for enclosed parking would require a lot having an area of no less than 79,158 square feet. The subject parcel is 70,228 square feet in size. A variance is being requested to minimize the minimum lot area per dwelling unit from 334 square feet per dwelling unit to 296 square feet per dwelling unit or a variance of approximately 11.4%.

Dwelling Units per Acre: With 237 dwelling units on a site having 70,228 square feet of lot area, the proposal would include approximately 147 dwelling units per acre.

Height: Maximum building height for principal structures located in the R6 District is 6 stories or 84 feet, whichever is less. The maximum allowable floor height is 14 feet. The proposed height of the residential structure is 8 stories or 84 feet at the tallest point. A conditional use permit to increase the maximum permitted height is required for the proposed development.

Yard Requirements: The required yards are as follows:

- *Front yards* –
 - *Fremont Avenue South:* 26 feet, 7 inches. Typically, the R6 district requires a 15 foot front yard setback. However, due to the adjacent residential structure to the north, a front yard increase is required.
 - *Girard Avenue South:* 15 feet, 2 inches. Typically, the R6 district requires a 15 foot front yard setback. However, due to the adjacent residential structure to the north, a front yard increase is required.

- *Interior side yards(5+2x):* 19 feet

Building coverage: The maximum building coverage in the R6 District is 70 percent. Buildings would cover approximately 49 percent of the site.

Impervious surface area: The maximum impervious surface coverage in the R6 District is 85 percent. Impervious surfaces would cover approximately 74 percent of the site.

MINNEAPOLIS PLAN

See the above listed response to finding #5 in the conditional use permit application for increasing the maximum permitted height.

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

See the above listed response to finding #5 in the rezoning application.

ALTERNATIVE COMPLIANCE

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

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

Alternative compliance is requested by the applicant to meet the following standard:

Blank, uninterrupted walls greater than 25 feet in width: Along the north elevation of the proposed building adjacent to the public alley there is a blank uninterrupted wall that exceeds 25 feet in width. According to the floor plans, this is the ramp down to the underground parking. Staff believes that it is practical to comply with this requirement

Department of Community Planning and Economic Development – Planning Division
BZZ-3903

and will require as a condition of approval that windows, entries, recesses or projections or other architectural elements be incorporated into the façade to meet this requirement. Staff would suggest that columnar metal elements be extended to the ground level on that elevation to break up the blank wall.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the rezoning:

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 rezoning petition to change the zoning classification of the property located at 2838 Fremont Avenue South from the I1 district to the R6 district and removal of the TP Overlay District.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow 237 residential dwelling units on the property located at 2838 Fremont 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. The northern parcel, bisected from the larger parcel by the public alley shall be required to be included as part of the development proposal in perpetuity. A legal document shall be drafted and recorded at Hennepin County in compliance with this requirement.
3. An 8-foot wide public promenade shall be constructed along the south property line adjacent to the Midtown Greenway.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow an increase in the maximum permitted height to 8 stories or 84 feet at the tallest portion of the proposed structure on the property located at 2838 Fremont 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.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and approve the application for a variance of the front yard setback adjacent to Girard Avenue South from 15 feet, 2 inches (due to a front yard increase) to 9 feet, 6 inches at the closest point for patios and balconies that exceed 50 square feet in size on the property located at 2838 Fremont Avenue South.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and approve the application for a variance of the front yard setback adjacent to Fremont Avenue South from 26 feet, 7 inches (due to a front yard increase) to 14 feet, 4 inches at the closest point for the proposed structure and to 12 feet, 5 inches at the closest point for patios and balconies that exceed 50 square feet in size on the property located at 2838 Fremont Avenue South.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and approve the application for a variance of the interior side yard setback adjacent to the north property line from 19 feet to 17 feet for patios and balconies that exceed 50 square feet in size on the property located at 2838 Fremont Avenue South.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and approve the application for a variance of the interior side yard setback adjacent to the south property line from 19 feet to 12 feet for patios and balconies that exceed 50 square feet in size on the property located at 2838 Fremont Avenue South.

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

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

application for a variance to allow walkways greater than 6 feet in width within the front yard setback adjacent to Girard Avenue South and Fremont Avenue South and within the interior side yards adjacent to the north and south property lines on the property located at 2838 Fremont Avenue South.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance of the minimum lot area per dwelling unit to allow 237 dwelling units from 334 square feet per dwelling unit to 296 square feet per dwelling unit or a variance of approximately 11.4% on the property located at 2838 Fremont Avenue South subject to the following condition:

1. The northern parcel, bisected from the larger parcel by the public alley shall be required to be included as part of the development proposal in perpetuity. A legal document shall be drafted and recorded at Hennepin County in compliance with this requirement.

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

The Department of Community Planning and Economic Development– Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for property located at 2838 Fremont Avenue South subject to the following conditions:

1. Planning Staff review and approval of the final site, elevation and landscaping plans.
2. All site improvements shall be completed by February 29, 2009 unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. The applicant shall submit a lighting plan showing foot candle measurements before final plans are approved.
4. The Travel Demand Management Plan must be approved by the Planning Director prior to submission of plans for final approval and building permit issuance.
5. Incorporation of windows, entries, recesses, projections or other architectural elements along the north ground floor elevation of the proposed building to break up the blank uninterrupted wall that exceeds 25 feet in width per Section 530.120 of the zoning code.
6. The open space on the north side of the alley must be redesigned to have less of an impact on neighboring properties to the north.

Attachments:

1. Statement of use and Rezoning, CUP and Variance Findings
3. Correspondence – CM Remington, LHENA, neighborhood letters etc.
4. Zoning map
5. Plans – site survey, site plan, floor plans, elevations, landscape plans
6. Renderings and shadow studies
7. Pictures of the existing conditions
8. PDR notes

