

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variance and Site Plan Review
BZZ – 5490

Date: March 26, 2012

Applicant: Everwood Development

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

Project Name: Spirit on Lake

Contact Person and Phone: Scott Nelson, (612) 676-2700

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

Date Application Deemed Complete: March 2, 2012

End of 60-Day Decision Period: May 1, 2012

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

Existing Zoning: C2 Neighborhood Corridor Commercial District

Proposed Zoning: Not applicable

Zoning Plate Number: 26

Legal Description: Not applicable

Proposed Use: Mixed use building including 46 dwelling units and ground floor retail.

Concurrent Review:

- Conditional use permit to increase the maximum height of a building from 56 feet to 57.5 feet to allow taller parapet walls.
- Variance to reduce the interior side yard adjacent to the alley from 11 feet to 0 feet to allow building walls with residential windows.
- Site plan review to allow a mixed use building with 46 dwelling units.

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX Variances, specifically section 525.520 (1) “To vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations;” and Chapter 530, Site Plan Review.

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Background: The applicant proposes to construct a new, 4-story mixed-use building with 46 dwelling units and ground floor retail located at the property of 1238 East Lake Street and 2930 13th Avenue South. One level of below grade parking and surface parking located behind the building is also proposed. A surface parking lot currently exists on part of the site. The rest of the site is vacant.

In 2008, a very similar project was approved on this site. For a number of reasons, that development did not proceed and the previously approved land use approvals have expired. The new proposal increases the number of dwelling units from 41 to 46. The use of the ground floor space adjacent to Lake Street has changed from a place of assembly to retail space. The height of the building is approximately 5 feet taller. The accessible ramp was shifted from the east side of the south building wall to the west side. The west side of the building is also proposed to extend closer to the alley at the southwest corner of the property. Several public easements on this site were also vacated in 2008. Those vacations have not expired. The vacations included a city easement in a previously vacated east-west alley, a landscape easement adjacent to Lake Street and 13th Avenue, and a portion of a north-south alley easement. A decorative fence is located in the vacated landscape easement area that was installed as part of the Lake Street reconstruction project. The applicant should work with the Public Works Department or Hennepin County to find reuse opportunities for the fence.

For the proposed development, the following applications are required:

- A conditional use permit is required to increase the height of the building. The maximum height allowed in the C2 district is 4 stories or 56 feet, whichever is less. The proposed building would be 4 stories and 57.5 feet in height. The height is determined by the vertical distance from the natural grade measured at a point 10 feet away from the front center of the building adjacent to Lake Street to the top of the highest point of the building including parapets. In the public hearing notice, the height was referenced as 59 feet. Staff received revised building elevations showing a shorter height after the notices were sent out. The applicant is proposing to increase the height to 57.5 feet. Upon approval of a conditional use permit, the action must be recorded with Hennepin County as required by state law.
- A variance is required to reduce the interior side yard requirement. For residential uses where windows would face an interior side yard or rear yard, a yard equal to $5+2x$, where x is equal to the number of stories above the first floor, is required. Residential windows would face the alley, which is adjacent to an interior side lot line. An 11-foot interior side yard is required. Where the alley is at an angle, the building would be located up to 0 feet from the side lot line.
- A site plan review is required for any new mixed use building and any building containing 5 or more new dwelling units.

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

CONDITIONAL USE PERMIT: to increase the maximum height of a building from 56 feet to 57.5 feet to allow taller parapet walls.

Findings as required by the Minneapolis Zoning Code:

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

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

Construction of a four story building on the site with a taller parapet on the south side of the building would not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances as well as Public Works Department standards.

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The area north of the site is predominantly low-density residential. Uses along Lake Street are mostly commercial in the immediate area. The height of buildings in the immediate area is typically one to two-stories. Two blocks away, the Midtown Exchange development is much taller. From the north end of the site to the south end, the natural grade slopes down five feet. At the north end of the building, the building is less than 48 feet tall as measured from the public sidewalk grade. The building would also be set back 85 feet from the north lot line. The building would be less than 56 feet in height, except for two parapet walls that extend up higher at the southeast and southwest corners of the building. The increased height should have little, if any, effect on surrounding properties.

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

The site is served by existing infrastructure. Vehicle access would be from 13th Avenue South. The Public Works Department will review the project for appropriate drainage and stormwater management as well as to ensure the safety of the position and design of improvements in or over the public right of way.

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

Increasing the height of the building to allow taller parapets would have no impact on traffic congestion in the public streets.

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

The proposed height would be consistent with the applicable policies of the comprehensive plan. The future land use designation of the site is mixed use and urban neighborhood in *The Minneapolis Plan for Sustainable Growth*. The plan designates Lake Street East as a commercial corridor. The following principals and policies apply to building height:

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

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

Urban Design Policy 10.6: New multi-family development or renovation should be designed in terms of traditional urban building form with pedestrian scale design features at the street level.

10.6.1 Design buildings to fulfill light, privacy, and view requirements for the subject building as well as for adjacent properties by building within required setbacks.

10.6.3 Provide appropriate physical transition and separation using green space, setbacks or orientation, stepped down height, or ornamental fencing to improve the compatibility between higher density and lower density residential uses.

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

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

ADDITIONAL STANDARDS TO INCREASE MAXIMUM HEIGHT

1. Access to light and air of surrounding properties.

The building would be less than 56 feet in height, except for two parapet walls that extend up higher at the southeast and southwest corners of the building. The increased height should have little, if any, effect on surrounding properties access to air and light.

2. Shadowing of residential properties, significant public spaces, or existing solar energy systems.

The site is not adjacent to any significant public spaces. Staff is not aware of any existing solar energy systems near the site. Residences are located north and northwest of the site. The building would be located 85 feet from the north lot line and more than 90 feet from the nearest residential property line to the west. The taller parapets are proposed on the south end of the building. The increased height would have no effect on nearby residential properties.

3. The scale and character of surrounding uses.

The height of buildings in the immediate area is typically one to two-stories. Two blocks away, the Midtown Exchange development is much taller. At the north end of the building, the building is less than 48 feet tall as measured from the public sidewalk grade.

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

The building should not significantly block views of landmark buildings, significant open spaces, or bodies of water.

VARIANCE: To reduce the interior side yard adjacent to the alley from 11 feet to 0 feet to allow building walls with residential windows.

Findings as required by the Minneapolis Zoning Code:

1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.

Where residential uses containing windows face an interior side lot line, an interior side yard of at least five feet plus two feet for each story above the first floor, but not to exceed 15 feet if no other yard requirements apply, are required. Residential windows would face the alley, which is adjacent to an interior side lot line. For a four-story building, the minimum interior side yard requirement is 11 feet. Part of the alley is angled to allow maneuvering and access for a loading dock to a property on the west side of the alley. As a result, the south end of the alley varies from 12 to 30 feet in width. Where the alley is at an angle, the building would be located up to 0 feet from the side lot line. Next to the alley, the dwellings would be located on levels two through four of the building. No residential windows on the west building elevation would be located in the required side yard. Residential windows on the north building elevation would be at least 5 feet from the alley lot line. The proposed building would be at least 30 feet from the property located on the west side of the alley. These circumstances have not been created by the applicant.

2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. Policies of the comprehensive plan also support the purpose of the yard ordinances. Next to the alley, the dwellings would be located on levels two through four of the building. No residential windows on the west building elevation would be located in the required side yard. Residential windows on the north building elevation would be at least 5 feet from the alley lot line. The proposed building would be at least 30 feet from the property located on the west side of the alley. If the property across the alley is redeveloped in the future, the dwellings on the subject property would maintain adequate access to light and air. The request is reasonable and in keeping with the spirit and intent of the ordinance and the comprehensive plan.

3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will

not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

Granting the variance should have little effect on surrounding properties. The subject site is separated from properties located to the west by a public alley. The dwellings would be located on the upper floors of the building and will provide additional natural surveillance opportunities of adjacent spaces.

SITE PLAN REVIEW

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

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

Section A: Conformance with Chapter 530 of the Zoning Code

BUILDING PLACEMENT AND DESIGN:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- 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, windows, and active functions:
 - 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.
- g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.

Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

- **Ground floor active functions:**

Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.

- **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. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.

Conformance with above requirements:

- Most of the building would be located within 8 feet of the lot line adjacent to 13th Avenue except at the southeast corner of the site where the building would be setback 9 feet and more as the corner of the building curves. The building would be set back 13 feet or more from the front property line adjacent to Lake Street. Alternative compliance is requested.
- The area between the building and the front lot lines would contain a handicap access ramp, stairs, an entrance platform, and landscaping.
- A principal entrance for the dwelling would face the intersection of Lake Street and 13th Avenue. Principal entrances for the retail spaces would face Lake Street.
- Residential parking would be located within the building below-grade. Surface parking for the retail uses and residential guest parking would be located behind the building.
- A variety of building materials, recesses, projections, windows, and entries are emphasized to divide the building into smaller identifiable sections.

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- The building would not contain blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length, except on the first floor north and west building walls and the second through fourth floors on the west building wall. Alternative compliance is requested.
- The primary exterior materials would be durable including brick, cementitious panels and siding, and glass. Please note, exterior material changes at a later date would require review by the Planning Commission and an amendment to the site plan review.
- All sides of the building would be similar and compatible.
- Plain face concrete block would not be used as a primary exterior building material.
- To emphasize their importance, the main entrances for the residential and retail uses would be emphasized by windows and awnings.
- Windows are required on the walls facing Lake Street, 13th Avenue and the surface parking area.
 - On the Lake Street walls, 30 percent of the first floor measured between 2 and 10 feet above grade is equal to 295.2 square feet and 10 percent of each upper floor is equal to 135.3 square feet. Thirty percent of the first floor wall would be windows. Both individual retail tenant spaces would have over 30 percent windows. The bottom of the proposed windows would not be within 4 feet of the adjacent grade and alternative compliance is requested. On the second through fourth floors, the proposed amount of windows on each floor would exceed 20 percent.
 - On the 13th Avenue walls, 20 percent of the first floor measured between 2 and 10 feet above grade is equal to 288 square feet and 10 percent of each upper floor is equal to 198 square feet. Over 30 percent of the first floor would be windows and over 20 percent of each upper floor would be windows.
 - On the west building elevation facing the parking lot, 20 percent of the first floor measured between 2 and 10 feet above grade is equal to 201.6 square feet and 10 percent of each upper floor is equal to 138.6 square feet. Over 28 percent of the first floor would be windows and over 20 percent of each upper floor would be windows.
 - On the north building elevation facing the parking lot, 30 percent of the first floor measured between 2 and 10 feet above grade is equal to 151.2 square feet and 10 percent of each upper floor is equal to 69.3 square feet. On the first floor, 19.6 percent of the wall would be windows. All of the windows would be within 4 feet of the adjacent grade. Alternative compliance is requested for the amount of windows proposed. On the second through fourth floors, the proposed amount of windows on each floor would exceed 21 percent.
- All windows would be vertical in proportion and distributed in a more or less even manner.
- The plans do not indicate the light transmittance of the nonresidential windows or fixture plans for the individual tenants. This information will need to be provided on the final approved plans.
- Active uses would occupy more than 70 percent of the ground floor facing each adjacent street.
- A flat roof is proposed. Most of the nonresidential buildings in the area along Lake Street also have flat roofs.

ACCESS AND CIRCULATION:

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

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- **Site plans shall minimize the use of impervious surfaces.**

Conformance with above requirements:

- Walkways that are at least 4 feet in width would connect all entrances to the surface parking area and to the public sidewalk.
- No transit shelters are located on or adjacent to the site.
- A residential property abuts the north side of the site. All vehicle access would be through one 22-foot wide curb cut on 13th Avenue. A 7 foot wide landscaped yard would separate the driveway and parking area from the adjacent residential property. Vehicle access and circulation should have minimal impact on pedestrians and surrounding residential properties.
- The site is adjacent to an alley. Alley access is not proposed.
- Although the amount of proposed surface parking exceeds the minimum nonresidential parking requirement, the parking area would also be available for residential guest parking.

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.**

Conformance with above requirements:

- The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area of the site is approximately 36,481 square feet. The building footprint would be approximately 14,403 square feet. The lot area minus the building footprint therefore consists of approximately 22,078 square feet. At least 20 percent of the net site area (4,415.6 square feet) must

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be landscaped. Approximately 7,386 square feet of the site would be landscaped. That is equal to 33.4 percent of the net lot area.

- The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 9 and 45 respectfully. Nine canopy trees and 170 shrubs are proposed on-site.
- The remainder of the landscaped area would be covered with plants perennials, ornamental grasses, and sod.
- A 7- and 15-foot wide landscaped yard is required between the parking area and 13th Avenue. Screening that is 3 feet in height and not less than 60 percent opaque and at least 3 deciduous canopy trees are also required in the required landscaped yard. The parking area would be set back over 60 feet from 13th Avenue. Landscaping and the driveway leading to the below-grade parking separate the surface parking from the street. An 18-foot wide yard separates the driveway from the street. The required screening would not be provided. Two canopy trees are proposed. Alternative compliance is requested for the screening and tree requirements.
- A 7-foot wide landscaped yard is required between the parking area and the residential property to the north and adjacent to the alley where it is across from a residential property. Screening that is 6-foot tall and not less than 95 percent opaque is required in these yards. A 7-foot wide landscaped yard is proposed on the north side of the parking area. A 5-foot wide landscaped yard is proposed adjacent to the alley. Shrubs that would be taller than 6 feet at maturity and 95 percent opaque are proposed in the required landscaped yards except for a 10-foot wide gap at the northwest corner of the parking area. Alternative compliance is requested for the yard width and screening adjacent to the alley.
- All corners of the parking lot that are not available for parking would be landscaped.
- All of the surface parking spaces would be within 50 feet of an on-site deciduous tree.
- Information provided on the landscaping plan indicates that the installation and maintenance of all landscape materials will comply with minimum standards.

ADDITIONAL STANDARDS:

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

Conformance with above requirements:

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- Continuous 6-inch by 6-inch concrete curbing is proposed. The applicant has indicated that they explored providing on-site retention of stormwater on the east and west sides of the underground parking garage driveway, but found that it was not possible because the rain garden would either overflow to the trench drain at the bottom of the driveway to the underground parking or across the public sidewalk to the street. The proposed rain garden would accommodate stormwater from the roof of the building.
- The building should not impede any views of important elements of the city.
- Effects of shadowing should not be significant.
- Wind currents should not be a major concern.
- Several crime prevention through environmental design best practices are evident in the site plan. Staff is also recommending that several other best practices be incorporated. Requiring nonresidential windows facing Lake Street to not be blocked by shelving, mechanical equipment or other similar fixtures to allow views into and out of the building between 2 and 10 feet above the finished first floor level should increase the security of adjacent outdoor spaces and maximize natural surveillance and visibility. Lighting would be provided in the parking area. Entrances and walkways would be clearly defined and landscaping would help to control and guide movement on the site, and distinguishes between public and non-public spaces at the street edge. Landscaping would also be provided between the alley and parking area. To prevent graffiti, staff is recommending that columnar landscaping or a green screen be provided on the west first floor wall adjacent to the alley where stucco would be used as an exterior material.
- No structures exist on the site.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan and Applicable Small Area Plans Adopted by the City Council

ZONING CODE: The site is zoned C2. A multifamily dwelling with 5 or more units in the C2 district is a permitted use. A coffee shop and general retail sales and services uses are also permitted uses.

Parking and Loading:

Minimum automobile parking requirement: The minimum parking requirement for the residences is 46 spaces (one per unit). The development qualifies for a transit incentive to reduce the parking requirement of a multi-family dwelling by 10 percent because it is located within 300 feet of transit stops with midday service headways of 30 minutes or less in each direction. Therefore the parking requirement is reduced to 41 spaces. For the residences, 43 spaces would be provided in the below grade parking garage. Of those spaces, at least two are required to be accessible. Two accessible spaces are proposed.

The minimum parking requirement for a coffee shop is equal to one space per 500 square feet of gross floor area up to 2,000 square feet plus one space per 200 square feet of gross floor area in excess of 2,000 square feet, but not less than four spaces. The proposed size of the coffee shop is 1,436 square feet; therefore, the minimum requirement is 4 spaces. The minimum parking requirement for general retail sales and services uses is one space per 500 square feet of gross floor area in excess of 4,000 square feet, but not less than four spaces. The proposed retail tenant space is 2,431 square feet in area; therefore, the minimum requirement is four spaces. The total parking requirement for the nonresidential uses is eight spaces. Twenty-seven surface parking spaces would be provided. Of the spaces provided, at least two must be accessible. Two accessible spaces are proposed. All surface parking spaces are

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required to be located at least 6 feet from a dwelling. All surface spaces would be set back at least 6 feet from the residential part of the building.

Maximum automobile parking requirement: There is no maximum residential parking requirement when all spaces are enclosed. The maximum parking requirement for a coffee shop is equal to one space per 75 square feet of gross floor area. With a floor area of 1,436 square feet, the maximum requirement is 19 spaces. The maximum parking requirement for general retail sales and services uses is one space per 200 square feet of gross floor area. With a floor area of 2,431 square feet, the maximum parking requirement for the retail tenant space is 12 spaces. The total maximum parking requirement is 31 spaces for the nonresidential uses.

Bicycle parking requirement: The minimum bicycle parking requirement for a multi-family residence is equal to 0.5 spaces per unit. Not less than 90 percent of the required bicycle parking must meet the standards for long term parking. All required bicycle parking spaces must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be installed to the manufacturer's specifications, including the minimum recommended distance from other structures. In addition, required long-term bicycle parking spaces must be located in enclosed and secured or supervised areas providing protection from theft, vandalism and weather and shall be accessible to intended users. Required long-term bicycle parking for residential uses shall not be located within dwelling units or within deck or patio areas accessory to dwelling units. With 46 dwelling units, the minimum bicycle requirement is 23 spaces of which at least 21 must meet the long-term parking requirements. The applicant will provide 22 long-term spaces in the parking garage and 2 short-term spaces next the entrance accessed from the parking lot.

The minimum bicycle parking requirement for a coffee shop is 3 spaces. For the general retail sales and services use, the minimum requirement is 3 spaces or 1 space per 5,000 square feet of gross floor area, whichever is greater. The total nonresidential use requirement is 6 spaces. Not less than 50 percent of the required bicycle parking must meet the standards for short-term parking. All required bicycle parking spaces must be accessible without moving another bicycle and its placement shall not result in a bicycle obstructing a required walkway. Bicycle racks shall be installed to the manufacturer's specifications, including the minimum recommended distance from other structures. In addition, short term spaces must be located in a convenient and visible area within 50 feet of a principal entrance and must permit the locking of the bicycle frame and one wheel to the rack and must support a bicycle in a stable position without damage to the wheels, frames or components. Required spaces that are not short-term need to comply with the long-term requirements. The applicant would provide 6 bicycle spaces that comply with the standards for required short-term bicycle parking next to the surface parking area. The applicant is encouraged to provide short-term bicycle parking along Lake Street as well.

Loading: There is not a minimum loading requirement for dwellings with less than 100 units. Because the proposed nonresidential uses would occupy less than 20,000 square feet of floor area, adequate shipping and receiving facilities, accessible by motor vehicle off any adjacent alley, service drive or open space on the same zoning lot is required. The amount of surface parking proposed exceeds the minimum parking requirement; therefore loading can be accommodated in the surface parking area.

Proposed Lot Area: The proposed lot area is 36,481 square feet and does not include the alley easement.

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Maximum Floor Area: The maximum FAR allowed in the C2 District is 1.7. The applicant qualifies for a 20 percent density bonus for providing all required residential parking within the building. Therefore the maximum FAR increases to 2.04. The proposed gross floor area of the building is 56,800 square feet, which is an FAR of 1.56.

The maximum floor area allowed for commercial uses in the C2 district is 30,000 square feet. The total commercial floor area proposed is 3,867 square feet.

Minimum Lot Area: The minimum lot area requirement in the C2 district is 700 square feet per dwelling unit, or 32,200 square feet for 46 units.

Dwelling Units Per Acre: The applicant proposes a density of 54.9 dwelling units per acre.

Building Height: The maximum height allowed in the C2 district is 4 stories or 56 feet, whichever is less. The proposed building would be 4 stories and 57.5 feet in height. A conditional use permit is required to increase the height.

Yard Requirements: Where a street frontage includes property zoned as a residence district, a front yard equal to the lesser of the front yard required by such residence district or the established front yard of a residential structure must be provided in a commercial district for the first 40 feet from such residential property. On 13th Avenue, the site is adjacent to a residence district and a residential property. The minimum front yard requirement for the R2B zoning district is 20 feet. The adjacent residential structure is set back 16 feet from the front lot line. Therefore the minimum front yard requirement is 16 feet. The building and parking area would not project into the required front yard.

An interior side yard is required along the north lot line. The minimum interior side yard requirement is equal to $5+2x$, where x is equal to the number of stories above the first floor. A four-story building is proposed; therefore the minimum requirement for the building is 11 feet. The building would be set back 85 feet. The parking area is required to be set back 5 feet. A 7 foot wide yard is proposed.

For residential uses where windows would face an interior side yard or rear yard, a yard equal to $5+2x$, where x is equal to the number of stories above the first floor, is required. Residential windows would face the alley, which is adjacent to an interior side lot line. An 11-foot interior side yard is required. Where the alley is at an angle, the building would be located up to 0 feet from the side lot line. A variance is required to reduce the interior side yard requirement.

Specific Development Standards: Coffee shops are required to regularly inspect and remove litter from the premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet.

Signs: Signs are regulated by Chapter 543 On-Premise Signs in the zoning code. The applicant is proposing to install three wall signs on the south building wall and one wall sign on the east building wall. Each sign would be less than 30 square feet in area and 16 feet above grade. Type of illumination of the signs has not been indicated. Signage is only allowed on primary building walls. Both walls where the new signs are proposed to be located are primary building walls. In the C2 district, up to 1.5

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square feet of signage for every one foot of primary building wall is allowed when there is no freestanding sign on the same zoning lot. The width of the building wall facing Lake Street is 118 feet; therefore a total of 177 square feet of signage is allowed on that building wall. The width of the building wall facing 13th Avenue is 180 feet; therefore a total of 270 square feet of signage is allowed on that building wall. The zoning code does not allow sign area based upon one primary building wall to be placed on any other building wall. The total amount of existing and proposed sign area would not exceed the total permitted sign area on each primary building wall. Also in the C2 district, wall signs are limited to a maximum of 180 square feet in area, can be placed up to 28 feet above the adjacent grade, and can be internally or externally lit, but not backlit. Any proposed signage requires Zoning Office review, approval, and permits.

Refuse screening: Refuse storage containers are required to be effectively screened from the street and residences by screening compatible with the principal structure and not less than two feet higher than the refuse container. Refuse storage containers would be stored on the west side of the building adjacent to the alley. The plans indicate that they will be located in an enclosure, but the enclosure materials and height are not identified. The enclosure will need to comply with the screening requirements with materials identified on the final plans.

Screening of mechanical equipment: All mechanical equipment is required to be arranged so as to minimize visual impact by using screening and must comply with Chapter 535 and district requirements. Mechanical equipment would be located on the west side of the building adjacent to the alley. No screening is indicated. Screening materials will need to be identified on the final plans.

Lighting: Lighting must comply with Chapter 535 and Chapter 541 of the zoning code including:

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

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

- (1) Lighting fixtures shall be effectively arranged so as not to directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light source.
- (2) Lighting fixtures shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb) unless of a cutoff type that shields the light source from an observer at the closest property line of any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility to a person of normal sensitivities when viewed from any permitted or conditional residential use.
- (4) Lighting shall not create a hazard for vehicular or pedestrian traffic.

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- (5) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

MINNEAPOLIS PLAN: In addition to the principals and policies identified in the conditional use permit section of this staff report, the following also apply:

Land Use Policy 1.3: Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit.

- 1.3.1 Require safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way in all new development and, where practical, in conjunction with renovation and expansion of existing buildings.
- 1.3.2 Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.

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

- 1.4.2 Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level.

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

- 1.10.1 Support a mix of uses – such as retail sales, office, institutional, high-density residential and clean low impact light industrial – where compatible with the existing and desired character.
- 1.10.4 Encourage a height of at least two stories for new buildings along Commercial Corridors, in keeping with neighborhood character.
- 1.10.5 Encourage the development of high-density housing on Commercial Corridors.

Urban Design Policy 10.6: New multi-family development or renovation should be designed in terms of traditional urban building form with pedestrian scale design features at the street level.

- 10.6.4 Orient buildings and building entrances to the street with pedestrian amenities like wider sidewalks and green spaces.
- 10.6.5 Street-level building walls should include an adequate distribution of windows and architectural features in order to create visual interest at the pedestrian level.
- 10.6.6 Integrate transit facilities and bicycle parking amenities into the site design.

Urban Design Policy 10.10: Support urban design standards that emphasize a traditional urban form in commercial areas.

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

Urban Design Policy 10.16: Design streets and sidewalks to ensure safety, pedestrian comfort and aesthetic appeal.

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- 10.16.2 Provide streetscape amenities, including street furniture, trees, and landscaping, that buffer pedestrians from auto traffic, parking areas, and winter elements.
- 10.16.4 Employ pedestrian-friendly features along streets, including street trees and landscaped boulevards that add interest and beauty while also managing storm water, appropriate lane widths, raised intersections, and high-visibility crosswalks.

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

- 10.18.1 Require that parking lots meet or exceed the landscaping and screening requirements of the zoning code, especially along transit corridors, adjacent to residential areas, and areas of transition between land uses.
- 10.18.2 Parking lots should maintain the existing street face in developed areas and establish them in undeveloped areas through the use of fencing, walls, landscaping or a combination thereof along property lines.
- 10.18.3 Locate parking lots to the rear or interior of the site.
- 10.18.4 Provide walkways within parking lots in order to guide pedestrians through the site.

Urban Design Policy 10.22: Use Crime Prevention Through Environmental Design (CPTED) principles when designing all projects that impact the public realm, including open spaces and parks, on publicly owned and private land.

- 10.22.1 Integrate “eyes on the street” into building design through the use of windows to foster safer and more successful commercial areas in the city.
- 10.22.6 Use innovative building designs and landscaping to limit or eliminate the opportunity for graffiti tagging.

The northern part of the site is within the boundaries of the *Midtown Greenway Land Use and Development Plan*. This plan was adopted by the City Council in 2007. The future land use designation of the site located within the boundaries of the plan is medium density housing (10-50 units per acre).

Staff comment: With the adoption of the staff recommendation, the development would be consistent with the comprehensive plan. Requiring nonresidential windows facing Lake Street to not be blocked by shelving, mechanical equipment or other similar fixtures to allow views into and out of the building between 2 and 10 feet above the finished first floor level should increase the security of adjacent outdoor spaces and maximize natural surveillance and visibility. The Public Works Department is requiring the applicant to establish a boulevard along 13th Avenue by matching the curb line to what exists at the intersection of 13th Avenue and Lake Street. To prevent graffiti, staff is recommending that columnar landscaping or a green screen be provided on the west first floor wall adjacent to the alley where stucco would be used as an exterior material.

ALTERNATIVE COMPLIANCE:

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

- **The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated**

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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 standards:

Building first floor wall located within 8 feet of front lot lines

Most of the first floor of the building would be located within 8 feet of the lot line adjacent to 13th Avenue, except at the southeast corner of the site where the building would be set back 9 feet and more as the corner of the building curves. The building would be set back 13 feet or more from the front property line adjacent to Lake Street. The greater setback accommodates a handicap access ramp, stairs, an entrance platform, and landscaping. The larger setback is mostly due to the grade change from the north to south end of the site. The applicant has identified three difficulties with lowering the first level of the building that makes complying with this standard impractical:

- 1) Lowering the first floor to match grade at Lake Street would result in a first floor that is partly below-grade at the north end of the building adjacent to 13th Avenue. Dwelling units are located in that part of the building. The windows for those units would be at or slightly below sidewalk level. The grade at the property line cannot be altered because of minimum construction standards for the public sidewalk and street. Windows at grade level pose a security risk and create privacy issues.
- 2) Lowering the first floor to match grade at Lake Street would result in the grade of the ramp leading to the below-grade parking garage becoming too steep. It would add approximately 4 feet to the level change served by the ramp. The ramp is already as steep as it can be at 14 percent. Adding additional length would require an additional 35 to 40 feet of run and would require a switchback or “L” shape. This would result in a loss of parking spaces and green space.
- 3) Lowering the first floor level would also create drainage design challenges for the interior parking lot, and require additional retaining walls and an exterior ramp to the back door.

Although there is concern about negative effects on the success of the retail tenants due to the grade separation between the sidewalk and entrances, the above factors are challenges that affect the placement of the first floor of the building. For these reasons, staff is recommending that the Planning Commission grant alternative compliance.

Blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length

The building would not contain blank, uninterrupted walls that do not include windows, entries, recesses or projections or other architectural elements that exceed 25 feet in length, except on the first floor north and west building walls and the second through fourth floors on the west building wall. Alternative compliance was not requested for this standard in the previous development proposal. The blank north and west first floor walls are both 31 feet in width and are both adjacent to one of the retail tenant spaces. Alternative compliance for the minimum amount of required windows is also requested for the north wall. Providing the required amount of windows would eliminate the need to grant alternative compliance for this standard on the north. The building on the west side of the alley has no windows

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facing the alley. Having a blank first floor wall facing an alley is a concern in preventing graffiti. On the second through fourth floors, each blank wall would be 28 feet in width. Each wall is adjacent to a bathroom, closet and bedroom of a dwelling unit. There are not site location or site conditions that would make adherence to the requirements impractical in the upper levels. For these reasons, staff is recommending that the planning commission not grant alternative compliance for this standard.

Required nonresidential windows

On the Lake Street walls, 30 percent of the first floor, measured between 2 and 10 feet above grade, is equal to 295.2 square feet. Thirty percent of the wall would be windows; however, the bottom of these windows would not be within 4 feet of the adjacent grade. Because of the lower grade adjacent to Lake Street, the bottom of the nonresidential windows would be 5 to 6 feet above the adjacent grade. The elevation of the first floor would also not allow views into and out of the building at eye level in the area between 4 and 7 feet above the adjacent grade. For the reasons noted above, lowering the first floor level to match the Lake Street grade is not practical. There is concern about negative effects on the success of the retail tenants due to the grade separation between the sidewalk and entrances. Staff is recommending that the planning commission grant alternative compliance with the condition that shelving, mechanical equipment or other similar fixtures shall not block the proposed retail windows between 2 and 10 feet above the finished first floor level in order to increase the security of adjacent outdoor spaces and maximize natural surveillance and visibility.

On the north building elevation facing the parking lot, 30 percent of the first floor wall measured between 2 and 10 feet above grade is equal to 151.2 square feet. On the first floor, 19.6 percent of the wall would be windows. An additional 52.2 square feet of windows are required to comply with this standard. Alternative compliance is also requested to allow a part of this wall to be blank and uninterrupted by architectural details for more than 25 feet. There are not site location or site conditions that would make adherence to the requirements impractical. For these reasons, staff is recommending that the planning commission not grant alternative compliance for this standard.

Screening of the surface parking area adjacent to 13th Avenue and number of trees in the required landscaped yard

A 7- and 15-foot wide landscaped yard is required between the parking area and 13th Avenue. Screening that is 3 feet in height and not less than 60 percent opaque and at least 3 deciduous canopy trees are also required in the required landscaping yard. The parking area would be set back over 60 feet from 13th Avenue. The required screening would not be provided. Two canopy trees are proposed. Landscaping and the driveway leading to the below-grade parking separate the surface parking from the street. An 18-foot wide yard separates the driveway from the street and an additional 19 foot wide landscaped area is between the driveway and the parking area. Due to the large setback, the request for alternative compliance for the screening requirement is reasonable. However, a third tree could be planted on the west side of the driveway. Staff is recommending that the planning commission not grant alternative compliance to allow two trees.

Landscaped yard and screening where the parking area is across the alley from a residential property

A 7-foot wide landscaped yard is required between the parking area adjacent to the alley where it is across from a residential property. Screening that is 6-feet tall and not less than 95 percent opaque is required in this yard. A 5-foot wide landscaped yard is proposed adjacent to the alley. Shrubs that would be taller than 6 feet at maturity and 95 percent opaque are proposed in the required landscaped

yard except for a 10-foot wide gap at the northwest corner of the parking area. Increasing the width of the yard would affect the size of the parking spaces or drive aisle. Shifting the parking lot to the east would result in parking spaces being located closer than 6 feet to a dwelling, which requires a variance. The yard would extend the full length of the parking area where it is across the alley from a nonresidential use. The area without screening is located directly across from a residential detached garage. For these reasons, staff is recommending that the Planning Commission grant alternative compliance for these requirements.

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to increase the maximum height of a building from 56 feet to 57.5 feet to allow taller parapet walls for the property located at 1238 East Lake Street and 2930 13th Avenue South, subject to the following conditions:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the interior side yard adjacent to the alley from 11 feet to 0 feet to allow building walls with residential windows for the property located at 1238 East Lake Street and 2930 13th Avenue South.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Site Plan Review:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan review to allow a new mixed use building with 46 dwelling units for the property located at 1238 East Lake Street and 2930 13th Avenue South, subject to the following conditions:

1. Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed 25 feet in length as required by section 530.120 of the zoning code.

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2. First floor windows for the nonresidential uses shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher as required by section 530.120 of the zoning code.
3. At least 30 percent of the north first floor wall facing the surface parking lot shall be windows as required by section 530.120 of the zoning code.
4. Nonresidential windows facing the parking lot shall not be blocked by shelving, mechanical equipment or other similar fixtures to allow views into and out of the building as required by section 530.120(b)(2)(e) of the zoning code. Nonresidential windows facing Lake Street shall not be blocked by shelving, mechanical equipment or other similar fixtures to allow views into and out of the building between 2 and 10 feet above the finished first floor level in order to increase the security of adjacent outdoor spaces and maximize natural surveillance and visibility.
5. At least three, deciduous canopy trees shall be planted between the parking lot and 13th Avenue as required by section 530.170 of the zoning code.
6. Columnar landscaping or a green screen shall be provided on the west first floor wall adjacent to the alley where stucco would be used as an exterior material to prevent graffiti as required by section 530.260 of the zoning code.
7. The applicant shall work with the Public Works Department or Hennepin County to reuse the decorative fence installed as part of the Lake Street reconstruction project before building permits are issued.
8. The applicant is encouraged to provide short-term bicycle parking along Lake Street East.
9. Refuse storage containers and mechanical equipment shall be screened as required by sections 535.70 and 535.80 of the zoning code. Screening materials and height shall be identified on the final plans.
10. Community Planning and Economic Development Department – Planning Division staff review and approval of the final building elevations, floor site, landscape and lighting plans.
11. Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by March 26, 2013, or the permit may be revoked for non-compliance.

Attachments:

1. Preliminary Development Review report
2. Applicant's statement of use and findings
3. Zoning map
4. Plans