

**Department of Community Planning and Economic Development - Planning Division**  
Conditional Use Permit, Variance, and Site Plan Review  
BZZ-4160

**Date:** September 8, 2008

**Applicant:** Tom Vaith

**Address of Property:** 2400 Como Avenue SE

**Project Name:** Vaith Office Building

**Contact Person and Phone:** Tom Vaith – Vaith Construction 612-670-5211

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

**Date Application Deemed Complete:** August 13, 2008

**End of 60 Day Decision Period:** October 12, 2008

**Ward: 2 Neighborhood Organization:** Southeast Como Improvement Association

**Existing Zoning:** C1 Neighborhood Commercial

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 16

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

**Existing/Proposed Use:** Second floor expansion to an existing commercial building.

**Concurrent Review:**

**Conditional use permit:** To allow a contractor's office.

**Variance:** To reduce the required east side yard setback from 7 feet to 2 feet to allow a second story building addition.

**Site Plan Review:** For an approximately 1,228 square foot addition to an existing building.

**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..."; and Chapter 530, Site Plan Review.

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**Background:** The applicant proposes to convert the vacant service station at 2400 Como Avenue SE to an office building with some area on the first floor dedicated to parking and equipment storage for his contractor's business. He also proposes to add a one-story approximately 1,228 square foot second-story addition to the building to be used as office space. This requires site plan review and a variance for the addition to encroach into the east side setback in line with the first floor. The office space will be used for a real estate business and space for Vaith Construction, a general contractor. The contractor's office requires a conditional use permit.

A site plan review for an existing service station was approved by the City Planning Commission in 2002 (BZZ-475, BZZ-742, and PW# 7247). This project included required parking across the street at 951 Weeks Avenue SE and because that additional parking is no longer necessary upon the approval of this application it will be severed from this site.

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

### **CONDITIONAL USE PERMIT (for a contractor's office)**

#### **Findings as required by the Minneapolis Zoning Code:**

The Minneapolis City Planning Department 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.**

The zoning code defines a contractor's office as, "an office providing construction or property maintenance services, and which does not involve outdoor storage of machinery or equipment. Examples include, but are not limited to plumbing, electrical, and cleaning contractors." In addition, in the C1 Commercial District truck and other commercial vehicle parking is limited to operable, single rear axle vehicles of not more than fifteen thousand (15,000) pounds gross vehicle weight. A contractor's office, which is subject to the above noted standards of the zoning code along with the site plan review and recommended conditions of approval, should not be detrimental to the surrounding area.

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

The surrounding area is fully developed and predominantly residential. The applicant has stated that there will be approximately three full-time employees for the contracting business that will work mainly off-site. The proposed use should have little impact on surrounding properties beyond a professional office if the parking area is properly landscaped and screened and with the prohibition on machinery and material storage and limits on truck parking.

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

All utilities and roads are existing and adequate. Public Works and the Fire Department have reviewed the site regarding access and circulation and find them acceptable subject to the comments in the attached PDR report.

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

A contractor's office should not contribute significantly to traffic congestion in the area beyond the historic use of the site as a service station. Four parking spaces are required and three and a bike rack are provided.

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

*The Minneapolis Plan* does not have a designation for this area, but it has the following relevant policy and implementation steps for the land use:

**4.4 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.**

**Implementation Steps**

Provide for a range of commercial districts that provide the services required by the residents and businesses.

Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

The draft *Minneapolis Plan for Sustainable Growth* shows this part of Como as a Community Corridor, which support the continued presence of existing small-scale retail and commercial services.

The proposed reuse of this existing commercial building is in conformance with these policies in the current and draft comprehensive plans.

**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 contractor's office 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.

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**VARIANCE (to reduce the required east side interior setback from 7 feet to 2 feet)**

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

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

The east side interior yard setback is determined by the building height. It is required to meet five feet plus two additional feet for each floor over the first floor. The building is proposed to be two stories, so this requires a seven foot setback for the interior yard. The existing building is currently built two feet from the east property line and requiring the addition to be moved in seven feet would put the upper wall out of line with the lower wall and this can be a hardship. The adjacent property is setback 11 feet from the property line for a total separation between the buildings of 13 feet, which would be similar to the separation between buildings that do not encroach into the setbacks. This is a reasonable use of the property.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The first floor of the building is already located two feet from the east property line and the applicant proposes to build in line with the first floor. This is a situation that is not generally applicable to other properties in the C1 districts.

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

The intent of rear and interior setbacks is to ensure access to light and air. The reduced setback for the second story will increase shadowing on the residential property more than if the seven foot setback were required; however, there is a grade separation between the subject building and the house to the east that will mitigate the height of the second story making a larger setback less necessary.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Granting the variance will not increase traffic to the site significantly more than the previous use as a service station. Granting the variance should not be detrimental to the public welfare or safety or increase the danger of fire.

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**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.

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- b. Windows shall be distributed in a more or less even manner.
- **Nonresidential uses:**
  - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:**
    - a. Windows shall be vertical in proportion.
    - b. Windows shall be distributed in a more or less even manner.
    - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
    - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
    - e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
    - f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.

Minimum window area shall be measured as indicated in section 530.20 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 existing building is setback 19 feet from the Como Avenue SE right-of-way and from zero up to 13 feet away from the Weeks Avenue SE right-of-way. The proposed addition will not be up to the Como Avenue or Weeks Avenue property lines, but staff recommends alternative compliance, because the addition would have to be much larger, would eliminate parking, and would not recognize the existing location of the first floor. There will be landscaping, decorative fencing, and a brick patio between the building and the public streets that are amenities, but there will be parking between the building and Como that is an existing condition. Staff is recommending the parking be reconfigured (see staff recommendation) to add landscaping between the parking and the public sidewalk.

The existing entrance faces Como Avenue SE.

The parking area is located to the front of the building, but this is an existing condition.

The exterior materials of the addition are durable and are made of brick and stone veneer. The new building walls will contain architectural detail including brick patterns and windows that are designed to complement the existing building. The east face does not meet the prohibition on blank facades greater than 25 feet in length. Staff recommends alternative compliance as it is not possible to add windows to this elevation, because openings are prohibited within three feet of a property line by the building code. The applicant is using brick on this elevation and has varied the pattern by adding soldier courses and reveals to provide visual interest. Changes in materials may require review and approval by the City Planning Commission.

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Non-residential uses are required to provide 30 percent windows on the first floor and 10 percent windows on the second floor of facades facing a public street or on-site parking lot, for the new construction, and the existing windows on the first floor can not be reduced below the amount currently provided. All of the facades on the first floor will have the same or greater percentage of windows except for the southwest elevation. Staff does not recommend alternative compliance and recommends that the square footage of windows on the first floor of this elevation is not decreased below the percentage existing. The second floor addition meets the window requirements and provides 50 percent windows on the north elevation, 18 percent on the northwest elevation, 12 percent on the west elevation, 30 percent on the southwest elevation, and 26 percent on the south elevation (see elevation key attached to the site plan).

The roof is flat. The majority of structures in the immediate area are residential and have pitched roofs; however, most of the commercial and larger multifamily building along Como to the east and west have flat roofs, so a flat roof is appropriate for a commercial building in this case.

**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 entrance to the building opens onto the parking lot and staff is recommending that a walkway connect the entrance to the on-street parking on Weeks Avenue SE where there is no public sidewalk. It is not possible to have a walkway connect to Como as it would interfere with the parking, but there is a clear way from the public sidewalk to the entrance through the small parking area.

There are no transit shelters on the site.

Vehicular access and circulation has been designed to minimize conflict with pedestrians. There are no adjacent alleys.

Public Works and the Fire Department have reviewed the site plan for access and circulation and find them acceptable. The applicant is required to provide a van accessible space (16' x 18') and is only showing a car accessible space (13' x 18'). Planning staff is recommending the parking layout be changed to be parallel with the Como Avenue sidewalk, add a van accessible space, and add a walkway to Weeks Avenue, all while not reducing the required parking (please see attached staff recommendation site plan).

The site has been designed to minimize impervious surfaces and all areas that are not covered by buildings, pedestrian access, and paved areas necessary for parking, loading, and the associated maneuvering are pervious surfaces used for landscaping and stormwater management.

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**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 site plan shows 30 percent landscaping. The zoning lot area is 2,990 square feet and the footprint of the building is 1,130 square feet. This leaves 1,860 square feet, of which 20 percent (372 square feet) is required to be landscaped. The applicant is providing approximately 550 square feet of landscaped area on site.

The development is required to provide a minimum of one tree and three shrubs on site. The site plan shows no trees on site and five shrubs. Staff recommends granting alternative compliance for the tree, as there is no place on the site that can accommodate a tree without it conflicting with an existing right-of-way tree, parking, or retaining walls. In addition, the applicant is proposing to plan trees in the adjacent boulevard along Weeks Avenue, subject to Park Board approval, as an amenity in lieu of the on-site requirement.

The site plan does not have the required seven foot wide landscaped yard with three-foot high screening between the parking and the sidewalk on Como Avenue SE and between the parking and the right-of-way on Weeks Avenue SE. Staff recommends alternative compliance for the seven foot yards as it is not possible to provide them and the required parking due to the size and shape of the parcel. The staff recommendation will provide a buffer between the parking and the sidewalk on Como and there is a wide boulevard on Weeks that are practical alternatives to the seven foot yards.

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Staff does not recommend alternative compliance for the three-foot high screening. The final site plan shall show three foot high landscaping screening for the parking area, subject to Public Works encroachment permit approval.

Parking lots with under 10 spaces are not required to have all parking spaces will within 50 feet of an on-site deciduous tree, but if the site will have all parking within 50 feet of a deciduous tree if the proposed trees in the boulevard are allowed.

All other areas not occupied by buildings, walks, plazas, parking, loading, and associated drives are landscaped.

### **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.

Curbing is not necessary around all of the parking area, but staff recommends that it be installed between the parking and the Como Avenue SE sidewalk (please see attached staff recommended site plan) to prevent vehicles and drainage from crossing the public sidewalk, except at the curb cut.

The building addition has been designed to minimize the impact of blocking important views of the city and shadowing public spaces and adjacent properties. It should not significantly generate wind currents at ground level.

The plan meets the CPTED guidelines. The site is designed with landscaping, fencing, and architectural features to delineate space and control access while allowing views into and out of the site. Staff recommends that proper lighting be provided and that the landscaping follow the three-foot seven-foot rule to allow proper views into and out of 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:** An office building is permitted use in the C1 Neighborhood Commercial District.

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**Off-Street Parking and Loading:** The zoning code requires 1 space per 300 square feet of gross floor area in excess of 4,000 square feet for offices, but not less than four spaces. The gross floor area is approximately 2,358 square feet. This results in a parking requirement of four spaces. Three spaces are provided (one is inside the building) and the applicant has received a credit for one space for the installation of a bike rack of not less than four spaces. One handicapped van accessible spaces is required and is provided. The site plan will be changed to show the accessible space as a van accessible space. No loading spaces are required.

**Maximum Floor Area:** The maximum FAR in the C1 District is 1.7. The zoning lot in question is 2,990 square feet in area. The site will contain approximately 2,358 square feet of gross floor area on the lot, an FAR of 0.79.

**Building Height:** Building height in the C1 District is limited to 2.5 stories or 35 feet, whichever is less. The existing building is one story and with the addition it will be two stories or 29 feet 6 inches to the top of the parapet.

**Minimum Lot Area:** There is no minimum lot size for offices in the C1 District.

**Dwelling Units per Acre:** There are no residential units proposed.

**Yard Requirements:** In general, there are no setback requirements in C1 District unless adjacent to residential zoning. There is R1A Single-family Residence District zoning adjacent to the site to the east, so a seven foot setback is required along this property line. The applicant has requested a variance to reduce this setback to two feet and staff is recommending approval of this variance.

**Specific Development Standards:** There are no Specific Development Standards for offices or a contractor's office in the C1 District.

**Hours of Open to the Public:** In the C1 District, uses may be open to the public during the following hours: Sunday through Thursday from 6:00 a.m. to 10:00 p.m. and Friday and Saturday from 6:00 a.m. to 11:00 p.m. The office will be open 7:00 a.m. to 5:00 p.m. everyday.

**Signs:** Signs are subject to 531 and 543 of the Zoning Code. All new signs are required to meet the requirements of Chapter 543 of the zoning code and permits are required from the Zoning Office. While the sign plan has not yet been finalized, the preliminary sign plan meets the standards of the zoning code. The applicant proposes to replace the copy in the existing freestanding sign on the site. The applicant is aware that all signage requires Zoning Office review and approval and permits.

**Refuse storage:** 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. The refuse containers are stored inside the building, but if in the future they are located outside the building then they shall be screened per code.

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

535.590. Lighting. (a) In general. No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance. (b) Specific standards. All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively arranged so as not to directly or indirectly cause illumination or glare in excess of one-half ( $\frac{1}{2}$ ) 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.
- (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 policy and implementation steps listed under finding number five in the conditional use permit section of the staff report, the comprehensive plan has the following relevant policy and implementation steps regarding urban design:

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

**Implementation Steps**

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

Enhance pedestrian and transit-oriented commercial districts with street furniture, tree planting, and improved transit amenities.

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

Require storefront transparency to assure both natural surveillance and an inviting pedestrian experience.

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**9.15 Minneapolis will protect residential areas from the negative impact of non-residential uses by providing appropriate transitions between different land uses.**

**Implementation Steps**

Provide appropriate physical transition and separation using green space, setbacks or orientation between residential and non-residential uses.

Encourage site planning for new developments that orients the “back” of proposed buildings to the “back” of existing development.

Require screening and buffering for new developments next to residential areas,

Promote quality design and building orientation of commercial and industrial development that is appropriate with the surrounding neighborhoods.

Use the site plan review process to ensure that lighting and signage associated with non-residential uses do not create negative impacts for residentially zoned property.

Mitigate, through screening and buffering, limiting the size and scale of a building, and a business' hours of operation, the effects of commercial properties on residential areas.

With the conditions of approval the site plan and building design are in conformance with these policies of the comprehensive plan.

**SMALL AREA PLANS ADOPTED BY COUNCIL:**

There are no small area plans approved by the City Council for this specific area beyond the Comprehensive Plan.

**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.**

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

- Building placement within eight feet of the front lot line.

The existing building is setback 19 feet from the Como Avenue SE right-of-way and from zero up to 13 feet away from the Weeks Avenue SE right-of-way. The proposed addition will not be up to the Como Avenue or Weeks Avenue property lines, but staff recommends alternative compliance, because the addition would have to be much larger, would eliminate parking, and would not recognize the existing location of the first floor.

- Blank walls exceeding 25 feet.

The east face does not meet the prohibition on blank facades greater than 25 feet in length. Staff recommends granting alternative compliance as it is not possible to add windows to this elevation, because openings are prohibited within three feet of a property line by the building code. The applicant is using brick on this elevation and has varied the pattern by adding soldier courses and reveals to provide visual interest.

- Windows.

Non-residential uses are required to provide 30 percent windows on the first floor and 10 percent windows on the second floor of facades facing a public street or on-site parking lot, for the new construction, and the existing windows on the first floor can not be reduced below the amount currently provided. All of the facades on the first floor will have the same or greater percentage of windows except for the southwest elevation. Staff does not recommend alternative compliance and recommends that the square footage of windows on the first floor of this elevation is not decreased below the percentage existing.

- Number of trees on site.

The development is required to provide a minimum of one tree the site plan shows no trees on site. Staff recommends granting alternative compliance for the tree, as there is no place on the site that can accommodate a tree without it conflicting with an existing right-of-way tree, parking, or retaining walls. In addition, the applicant is proposing to plan trees in the adjacent boulevard along Weeks Avenue, subject to Park Board approval, as an amenity in lieu of the on-site requirement.

- Seven foot wide landscaped yard.

The site plan does not have the required seven foot wide landscaped yard between the parking and the sidewalk on Como Avenue SE and between the parking and the right-of-way on Weeks Avenue SE. Staff recommends alternative compliance for the seven foot yards as it is not possible to provide them and the required parking due to the size and shape of the parcel. The staff recommendation will provide a buffer between the parking and the sidewalk on Como and there is a wide boulevard on Weeks that are practical alternatives to the seven foot yards.

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- Three-foot high screening.

The site plan does not have the required three-foot high screening between the parking and the sidewalk on Como Avenue SE and between the parking and the right-of-way on Weeks Avenue SE. Staff does not recommend alternative compliance for the three-foot high screening. The final site plan shall show three foot high landscaping screening for the parking area, subject to Public Works encroachment permit approval.

**RECOMMENDATIONS:**

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the conditional use permit for a contractor's office for property located at 2400 Como Avenue SE, subject to the following condition:

- 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 east side interior yard setback variance:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required east side yard interior setback 7 feet to 2 feet for property located at 2400 Como Avenue SE.

**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 findings above and **approve** the site plan review for property located at 2400 Como Avenue SE subject to the following conditions:

- 1) CPED Planning staff review and approve the site plan, lighting plan, landscaping plan, and elevations before permits may be issued.
- 2) All site improvements shall be completed by September 8, 2009, (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.

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- 3) The percentage, or square footage, of windows on the first floor elevations shall not be decreased below the existing percentage of windows as required by Section 535.95 of the Zoning Code.
- 4) The parking area shall be reconfigured to have the spaces run parallel to Como Avenue to allow room for a van accessible parking space as show on the attached staff recommended site plan.
- 5) The final landscaping plan shall show the required three-foot high 60 percent opaque screening between the parking and the Como Avenue SE and Weeks Avenue SE frontages as required by Section 530.170 of the Zoning Code and subject to Public Works encroachment permit approval. The screening be landscaped materials.
- 6) Provision of curbing between the parking and right-of-way along the Como Avenue frontage along the south side of the parking area running from the westerly extent of the parking lot east to the curb cut as required by Section 530.230 of the Zoning Code.

### **Attachments:**

1. Statements from applicant.
2. PDR report.
3. Zoning maps.
4. Site plans, floor plans, and elevations.
5. Photos and aerials.