

30 December 2005

Ms. Hilary Dvorak
Minneapolis Dept. of Community Planning & Economic Development
250 S. Fourth St. #300
Minneapolis, MN 55415

Re: CARAG appeal of Planning Commission approval of Calhoun Square expansion

Dear Ms. Dvorak:

The CARAG neighborhood voted at our December 20, 2005 monthly meeting to appeal the Planning Commission's December 20th approval of expansion plans for Calhoun Square. Specifically, we are appealing the commission's approval of the site plan and conditional use permits for a planned commercial development, for 108 dwelling units, and for expansion of the parking ramp.

CARAG's appeal is based on the following points:

1. The heights of two of the proposed new buildings—five stories at 31st and Hennepin and seven stories on Lake St.—are incompatible with the character and scale of existing development. It would also conflict with numerous city policies contained in the comprehensive plan and zoning code. This is the primary basis for our appeal.
2. The project's proposed amenities generally are insufficient to warrant an exception to the four-story height limit and specifically do not address, as required, the impacts of the height exception.
3. There are several design issues that we were not able to address at the Planning Commission's December 20th meeting as there was no public hearing.

This appeal statement also includes CARAG's recommended conditions for approval of the Calhoun Square project.

We sincerely regret having to appeal the approval of the Calhoun Square project. CARAG has tried to work closely and cooperatively with the project developer since the project began in July 2004. We appreciate the developer's willingness to work with CARAG to try to address the community's concerns. Though the project has improved in some significant ways, we have only partially succeeded in addressing some of the fundamental issues the project poses for the community. We want Calhoun Square to grow, change, and succeed, and we want it to be a good neighbor to the surrounding CARAG community. We have found it necessary as an organization and a neighborhood to appeal the Planning Commission's approval of the project because we feel compelled to find a better, more sustainable balance between the Hennepin/Lake Street part of our neighborhood and the rest of the neighborhood that adjoins it.

We were, unfortunately, not allowed to speak at the December 20th Planning Commission meeting at which the project was approved, following a second set of revisions. Had we been allowed to speak, at least some of the issues raised in our recommended conditions for project approval, detailed below, might have been addressed and resolved.

Height

The heights of the proposed five-story 31st and Hennepin building and seven-story Lake St. building are not in keeping with the scale, height, and character of development in the surrounding commercial and residential areas. They conflict with the following city plans and policies:

Minneapolis Plan

- *Policy 4.3. Minneapolis will support development in Commercial Corridors where it enhances the street's character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.*

Implementation Steps:

Ensure that commercial uses do not negatively impact nearby residential areas.

Develop plans for the City's major Commercial Corridors which articulate the desired character of the street.

The proposed five and seven story buildings would not enhance the street's character; they would radically alter it. They would negatively impact nearby residential areas by significantly changing the scale and character of development in the area and by replacing sky views with midrise buildings. There are no plans of which we are aware that articulate the desired character of the street or area to be a midrise district.

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

Implementation Steps:

Develop a master plan for each designated Activity Center that . . . b) addresses the identity, role and design features of the Center; [and] c) gives guidance to the mix of land uses, scale and size of development in these areas

Preserve traditional urban form in buildings where it currently exists and encourage new development to relate to traditional siting and massing, where it is already established.

The proposed building heights would not preserve the intensity of land uses. They would radically change, rather than enhance, the unique features and character of the area. The proposed heights do not relate to the traditional massing of buildings existing in the area.

The city has not prepared a master plan for the Hennepin Lake Activity Center, so no plan exists that calls for significantly changing the scale and character of the area.

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

Implementation Steps:

Identify commercial areas in the city that reflect traditional urban form and develop appropriate standards and preservation objectives for these areas.

The introduction to Activity Centers in Chap. 9 states "Activity Centers have a traditional urban form (building siting and massing)."

The proposed five and seven story buildings are contrary to the traditional urban form of the Uptown area where buildings are generally one to three stories in height.

- *Policy 9.15. Minneapolis will protect residential areas from the negative impacts of non-residential uses by providing appropriate transitions.*

The proposed project lacks an appropriate buffer or transition between the proposed seven-story Lake St. building and the adjacent two-story residential area to the south.

- *Policy 9.21. Minneapolis will preserve and enhance the quality of living in residential neighborhoods, [and] regulate structures and uses which may affect the character or desirability of residential areas....*

The proposed five and seven story buildings would adversely impact the quality of life and affect the character and desirability of surrounding residential areas.

Zoning Code

CHAPTER 520. INTRODUCTORY PROVISIONS

520.30. Purpose. This zoning ordinance is adopted for the following purposes:

- (1) To implement the policies of the comprehensive plan.*
- (4) To protect the character and stability of residential, commercial and industrial areas within the city, and to promote the orderly and beneficial development of those areas.*

The proposed project conflicts with the comprehensive plan policies cited above. It would harm the character and stability of the sensitive residential area between Lake and 31st streets by setting a precedent for midrise development which would discourage investment in the lower density residential area.

525.340. Required findings for conditional use permits. The city planning commission shall make each of the following findings before granting a conditional use permit:

- (1) The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.*
- (2) The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.*
- (5) The conditional use is consistent with the applicable policies of the comprehensive plan.*

The conditional use permits for the planned commercial development and for 108 dwelling units, and resulting midrise buildings, would be detrimental to the general welfare by allowing midrise development where city plans and zoning do not call for it, thereby significantly changing the scale and character of the area in an unplanned manner.

The conditional use would be injurious to the enjoyment of other property in the vicinity by allowing development that is inconsistent with the height, scale and character of surrounding development.

The conditional use is inconsistent with the comprehensive plan policies cited above.

527.280. Required findings. In addition to the conditional use permit standards contained in Chapter 525, Administration and Enforcement, before approval of a planned unit development the city planning commission also shall find:

- (1) That the planned unit development complies with all of the requirements and the intent and purpose of this chapter. In making such determination, the following shall be given primary consideration:*
 - d. The appearance and compatibility of individual buildings and parking areas in the proposed planned unit development to other site elements and to surrounding development, including but not limited to building scale and massing, microclimate effects of the development, and protection of views and corridors. (emphasis added)*

The scale of the planned five and seven story buildings is not compatible with that of surrounding development to the south and east respectively.

The proposed five and seven story (64 ft. and 85 ft.) buildings are too tall and are not in keeping with the character, scale, and massing of development on the site and in the surrounding area. Buildings in the area are generally one to four stories; several five-story buildings have been or will be built *north* of Lake St. The zoning code allows buildings up to four stories in height in this area without a conditional use permit. CARAG supports new development that increases height and density and that also respects and reflects the character and scale of the existing commercial area and the surrounding residential area. The proposed building heights are not in keeping with the existing or desired scale and character of the area.

CARAG voted at our November 2005 meeting to support a maximum of four stories along 31st St., with setbacks above the second story as shown in the plans, four stories along Lake St. (graduated, with at least one-third of the frontage closest to Fremont at three stories), and four-story development on Hennepin going further north from 31st St. than proposed. The CARAG Zoning Committee voted in December to alter this position by supporting a building ranging from three to five stories on Lake St.

The City's zoning code and plans are our framework, if not blueprint, for development. If we, as a community, and/or the City want to significantly change the nature of development in Uptown by allowing buildings taller than four stories, and taller than the character and scale of the vast majority of existing development, then the community and the City need to develop a plan, and perhaps zoning code revisions, that clearly lay out our vision for Uptown for the future. We do not like opposing midrise developments one at a time and we do not want to. We want a plan for Uptown. The City is acting irresponsibly to allow significant exceptions to the zoning code and comprehensive plan policies, without a plan that lays out the vision, in order to generate more tax revenue.

During the December 20th Planning Commission discussion about Calhoun Square, Commissioner Schiff referred to a new Lake St./Midtown midrise district. We find this reference inappropriate and distressing. We refuse to allow the City to create a midrise district by approving two Uptown projects that would set an important precedent for future development in the area. We insist and demand that, if the City wants to create a Lake Street midrise district, it must work with the adjacent communities and other stakeholders to create a plan that lays out a clear vision and details. We will not allow the Planning Commission to rezone an entire swath of the city by fiat, nor do we want to see development projects substituted for real planning. If Minneapolis wants to grow, we have to plan for it. We want the City and the Planning Commission to do some real, deliberate planning for Uptown, and we want to participate. We would love to see some planning at the Planning Commission and not just development approvals.

Commissioner Schiff's reference to the Sears and Calhoun buildings along Lake St. as taller precedents also misses the mark. Those buildings are historic anomalies not located in Uptown. There is no doubt that the proposed Calhoun Square buildings would significantly change the scale and character of Uptown.

CARAG is opposed to the heights of the proposed five and seven story buildings based largely on the merits and context of the particular project but also because of the important precedent it would set for the entire area. As noted above, we want the City to plan and zone for taller development if buildings greater than four stories are to be routinely or regularly allowed. Commissioner Schiff said at the December 20th meeting that Calhoun Square's planned seven-story Lake St. building "will help set the future vision for guiding development in this corridor." We insist and maintain that this is no way for a great city like Minneapolis, with its tradition of citizen participation, to plan its future.

Finally, Commissioner Schiff asked at the December 20th meeting how one could say seven stories is too tall when the City approved a 10-story building one block away. It's a good question, but we believe in a different answer. There are very important differences between the Lagoon and Calhoun Square projects. When the Planning Commission and City Council approved the Lagoon project, we in the community were told by commissioners and council members that the project was unique, for a unique site, and not a precedent. The factors that make that project unique include:

1. The site is isolated from existing residential development (whereas there is a two-story residential neighborhood immediately adjacent to the seven-story Calhoun Square building site).
2. The tallest building is located at the center of the site; it does not have street frontage. Supporters of the project insisted the taller building would have minimal visibility from nearby Uptown streets.
3. The Lagoon project has always had a very high quality design, with high quality materials, and numerous amenities that are of significant value to the community.

The features cited in item #3, immediately above, are precisely the intent of a PUD—features largely missing from the Calhoun Square project. The Lagoon project includes a large central plaza, a pedestrian bridge over and connection down to the Midtown Greenway, and infrastructure for a transit station built into the base of the project. These amenities represent a value to the community and a cost to the developer that is not similar to the Calhoun Square project.

The Calhoun Square site and project are qualitatively different from the Lagoon site and project. The City can indeed say “yes” to the latter and “no” to the former. The City has significant discretion in granting conditional use permits—and ought not grant such permits out of fear of litigation, particularly when the proposed uses fail to meet the conditions. The Calhoun Square site immediately adjoins a largely two-story residential area to the south and east, unlike the Lagoon project site. This context also differentiates the Calhoun Square site from that of other nearby projects, including the Lumen, Uptown City Apartments, and the Hornig project. The Midtown Lofts project includes four-story buildings adjacent to the greenway and, as a transition, two-story buildings adjacent to the older surrounding neighborhood. The Edgewater is not a model to follow.

One Planning Commission member mentioned at a meeting in which Calhoun Square was being discussed that there seems to be a scale shift happening around Lake and Hennepin. While a number of buildings have been approved at five stories, none have been approved for seven stories or more, with the exception of the “unique” Lagoon project.

Amenities

The proposed project does not include sufficient amenities of benefit to the community and general public to merit an exception to allow building heights of up to seven stories—75 percent greater than otherwise allowed by the zoning code. In addition, the amenities do not address the impacts of the height of the Lake St. building. The location and value of the proposed amenities do not adequately compensate for, or justify the trade off for, the code exception regarding height. Lastly, the proposed plaza has the potential to be a great outdoor urban space but that opportunity is not realized.

The proposed project fails to conform to the following zoning code requirements regarding amenities for planned unit developments.

CHAPTER 527. PLANNED UNIT DEVELOPMENT

527.10. Purpose. This chapter establishes the procedures and standards for the development of areas as unified, planned developments in accordance with the intent and purpose of this zoning ordinance, and the applicable policies of the comprehensive plan. Because of the larger size of sites, the provisions of this chapter provide for flexibility in the use of land and the placement and size of buildings in order to better utilize the special features of sites and to obtain a higher quality of development which incorporates high levels of amenities and which meets public objectives for protection and preservation of natural and historic features. (emphasis added)

*527.120. Exceptions to zoning ordinance standards. The city planning commission may approve exceptions to the zoning regulations applicable to the zoning district in which the planned unit development is located as authorized in this chapter **only upon finding that the planned unit development includes adequate site amenities to address any adverse effects of the exception.** Site*

amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities which are developed as part of the planned unit development, bicycle parking, preservation of natural features, restoration of previously damaged natural environment, the rehabilitation and reuse of locally designated historic structures or structures that have been determined to be eligible to be locally designated as historic structures, and design of new construction which is similar in form, scale and materials to existing structures on the site and to surrounding development. Nothing in this chapter shall be construed to provide a property owner with any property right or other legal right to compel the city to grant exceptions to this zoning ordinance. (emphasis added)

The proposed amenities, the plaza and Girard pedway, do not in any way address the adverse effects of the exception to allow a seven-story building in a zoning district in which height is otherwise limited to four stories. (The plaza and the design of the five-story 31st and Hennepin building do address the adverse effects of the height exception for that building.)

The PUD has not resulted in a higher quality development or a higher level of amenities. That is why the Planning Commission laid over the project twice before approving it. The modifications to the project's design that resulted in its approval bring the project to adequate or sufficient. It does not rise to the level of higher quality, which is the required standard. The project's amenities are a pedestrian way occupying the middle 50 percent of vacated Girard, adjacent to a five-story parking ramp, perhaps filled with sidewalk cafes and vendors, and an outdoor plaza at 31st and Girard. The design for the plaza is underwhelming. The plaza has potential to be a great outdoor urban space, but the owner, developer, and architect have not demonstrated a commitment or ability to design and create an exceptional, or even very good, space. Hiring a good landscape architecture firm to design the mall's outdoor spaces would be a big benefit to the project and the community.

The proposed project would result in the destruction of a historic feature of the community—the existing building at the northeast corner of 31st and Hennepin. CARAG requested several times that this gateway building, which forms a pair with the building to the west across Hennepin, be preserved via facadectomy. It is not clear if the developer seriously considered this request.

Design

CARAG has concerns and suggestions about some specific design elements of the project that we were unable to address as the Planning Commission allowed no public testimony regarding the revised project design at its December 20th meeting.

1. The entries to the two retail spaces in the seven-story Lake St. building are located at the corners of the building—which creates an entire block-long façade with no retail entrances except at the corners. The retail entrances should be located midblock to create more visual interest and physical activity. The traditional urban form is to have retail entrances every 25 or 30 feet. We want to emulate the pattern on the west side of Hennepin between Lake and 31st and avoid the pattern on the east side of that block of Hennepin (the existing Calhoun Square).
2. The second story windows on the proposed midblock Hennepin building have a strong horizontal orientation that is uncharacteristic of the building pattern in the area.
3. We applaud the proposed green wall sections on the east elevation of the parking ramp and believe there should be two more such sections between the three sections shown.
4. One Planning Commissioner expressed concern about pedestrian/vehicular conflicts on Girard near Lake St. This might be mitigated by making wider the western Girard sidewalk between Lake St. and the ramp entry (and making narrower the eastern sidewalk) to make a stronger pedestrian connection.
5. Noise mitigation/abatement is necessary along the east elevation of the parking ramp.
6. We requested several times that the elevator/mechanical penthouses be shown on the plans and elevations but they are not. The elevator penthouse on the 31st and Hennepin building will be particularly visible as it is adjacent to 31st St.

Proposed Conditions for Approval

Given all of the above issues raised in this appeal, CARAG requests that the City Council modify the project's approval to include the following conditions:

1. The building proposed for Lake St. between Fremont and Girard shall be limited in height to a maximum of five stories and 63 ft. and shall have the same third and fourth floor setbacks from Fremont Av. as the Hennepin and 31st building does from Hennepin.
2. The fifth story of the building proposed for 31st and Hennepin shall be eliminated.
3. The two primary retail entrances for the taller Lake St. building shall not be located at the corners of the building.
4. The second story window openings on the proposed new Hennepin midblock building shall be redesigned to have a vertical nature related to that of other buildings in the area.
5. Two sections of green wall shall be added to the east elevation of the parking ramp. They shall be centered between the proposed three major sections of green wall and shall be as wide as the ramp bays, i.e., span from column to column, as do the proposed northern and southern green wall sections.
6. The sidewalk on the west side of Girard and south of Lake shall be widened, possibly by narrowing the eastern sidewalk, in order to create a clearer pedestrian connection.
7. The east elevation of the parking ramp shall provide some type of sound abatement/screening/mitigation, such as diagonal baffles, in order to reduce the amount of noise heard by residents across the alley (which is particularly a problem during night-time hours).
8. The developer has agreed to replace interior ramp lighting to reduce glare and to add baffles to the top of the ramp's east and south walls to shield SUV headlights; these shall be added as conditions.
9. The outdoor plaza shall be redesigned in order to make it a very high quality amenity, subject to staff approval.
10. Plans and elevations shall show any rooftop penthouses and equipment, including stairway, elevator, and mechanical.

Conclusion

CARAG and East Calhoun representatives had a very good, three hour meeting with the Calhoun Square developer and architects on December 5 to discuss issues and potential solutions. The CARAG Zoning Committee had suggested several alternatives in order to reduce the building height on Lake St.: put four-story buildings all along 31st St., including in front of the ramp and shrinking or eliminating the plaza, and extend a four-story building along Hennepin further north from 31st St. than proposed. The meeting resulted in several positive changes to the project, including improved architectural design and the addition of green walls to the east elevation of the ramp. The meeting was ultimately, however, too late, as it followed the Planning Commission's second layover of the project. The developer had already gone through a significant redesign of the project following the first layover—and was unfortunately unwilling to meet with community representatives until after that redesign.

We in CARAG understand that the city needs to grow, and add density, and we support that. We believe that transit corridors are a good place for increased height, density and activity. We also believe there needs to be an appropriate scale and balance for commercial areas and the residential neighborhoods that surround them. We strongly believe that the proposed project, approved by the Planning Commission, does not represent a good, strong, healthy vision and direction for our community. We ask that the City Council grant our appeal—and direct the City's Planning Division to start work on a Hennepin Lake Activity Center plan as soon as possible...or sooner.

Sincerely,

Howard Verson, President

Aaron Rubenstein, Zoning Committee Chair