

Department of Community Planning and Economic Development (CPED)
Conditional Use Permits, Variance and Site Plan Review
BZZ-6276

Date: October 28, 2013

Applicant: Plymouth & Second, LLC

Addresses of Property: 129 Plymouth Avenue North

Project Name: Shopping Center

Contact Person and Phone: Aaron Diederich with Lupe Development, (612) 436-3200, ext. 203

CPED Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: September 27, 2013

End of 60-Day Decision Period: November 26, 2013

End of 120-Day Decision Period: Not applicable for this development

Ward: 7 and adjacent to 5 **Neighborhood Organization:** North Loop Neighborhood Association, Near North Neighborhood and Northside Residents Redevelopment Council

Existing Zoning: C2 Neighborhood Corridor Commercial District, DP Downtown Parking Overlay District and MR Mississippi River Critical Area Overlay District

Proposed Zoning: Not applicable for this development

Zoning Plate Number: 13

Legal Description: Not applicable for this development

Proposed Use: Shopping Center

Concurrent Review:

Conditional Use Permit: to allow a shopping center.

Conditional Use Permit: to allow a fast food restaurant.

Conditional Use Permit: to allow an accessory parking lot located within the DP Downtown Parking Overlay District.

Variance: to exceed 20 surface parking spaces within the DP Downtown Parking Overlay District.

Site Plan Review: for a new principal non-residential building.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits, Chapter 525, Article IX, Variances, specifically Section 525.520(20) “to vary the standards of any overlay district,

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other than the SH Shoreland Overlay District or the FP Floodplain Overlay District”, Chapter 530 Site Plan Review.

Background: In 2009, the applicant proposed to construct the same development project that is being proposed as part of this application. CPED staff did not support the development. Notwithstanding the staff recommendation, the City Planning Commission approved the development applications required for the project including:

- A rezoning from the I1 District to the C2 District and to remove the IL Industrial Living Overlay District;
- A conditional use permit to allow a shopping center;
- A conditional use permit to allow a fast food restaurant;
- A conditional use permit to allow an accessory parking lot within the DP Downtown Parking Overlay District; and
- Site plan review for a new principal non-residential building.

The City Council also approved the rezoning application. The applicant had also applied for a variance to exceed 20 surface parking spaces within the DP Downtown Parking Overlay District in 2009. The applicant intended to have 22 parking spaces on the site. Ultimately, the applicant withdrew this application.

The applicant is now proposing to construct the same development that was proposed in 2009. The applicant must reapply for the same applications as the development approvals for the 2009 project expired in July of 2011.

129 Plymouth Avenue North is located on the southeast corner of Plymouth Avenue North and Second Street North. The site is located within the Industrial Employment District boundary which was established as part of the adoption of the *Industrial Land Use and Employment Policy Plan* in 2006. With the adoption of the plan, seven industrial employment districts were established to protect prime industrial space, provide an opportunity for the City to support targeted industries and business clusters, and to redevelop underutilized sites for economic development purposes. The designated Industrial Employment Districts preserve properties for the retention, expansion, and attraction of existing and new industrial firms in areas of the city with good transportation access, minimal conflict with nearby land uses, and proximity to recent market investment. This development proposal is not believed to be consistent with the policies of the *Industrial Land Use and Employment Policy Plan*.

The currently vacant site is 33,690 square feet in size and the applicant wishes to develop it as a single story multiple tenant retail shopping center with a drive through restaurant. The development as proposed includes a 10,020 square foot shopping center with one 4,976 square foot fast food restaurant with a drive through, and three other potential tenant spaces ranging from 1,042 square feet to 2,787 square feet.

Shopping centers and fast food restaurants are conditional uses within the C2 zoning district and accessory parking facilities are conditional uses within the DP Downtown Parking Overlay District; the applicant is applying for a conditional use permit for each of these uses in addition to a variance to increase the number of surface parking spaces allowed in the DP Downtown Parking Overlay District

from the maximum of 20 spaces to 21 spaces. Because this is a new building, site plan review is also required.

Neighborhood Comments: Neither the North Loop Neighborhood Association, the Near North Neighborhood or the Northside Residents Redevelopment Council have commented formally on these applications.

CONDITIONAL USE PERMIT: to allow a shopping center, a fast food restaurant and an accessory parking lot located within the DP Downtown Parking Overlay District.

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department has analyzed the application and from the findings above concludes that:

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

Shopping Center: The applicant proposes to develop the site as a suburban style shopping center with a fast food restaurant and an accessory parking lot fronting Second Street North. The proposal does not meet the site plan review regulations. The developer could redesign the project in a manner that could be consistent with current adopted policy. The building placement component of this project as proposed will likely be detrimental to the comfort and general welfare of those that work and/or live nearby. Setting the building back from Plymouth Avenue North does not reinforce the street wall, diminishes natural surveillance of the surrounding area and does not facilitate pedestrian access to the building or through the site.

Fast Food Restaurant: A redesign of the building could include a storefront building facing Second Street North and/or Plymouth Avenue North with a separate or attached building for the proposed fast food restaurant and drive through facility. The building placement component of this project as well as the location of the restaurant with the drive through as proposed will likely be detrimental to the comfort and general welfare of those that work and/or live nearby. The placement of the building on the site and the inclusion of a fast food restaurant with a drive through requires a second curb cut along Plymouth Avenue North. The curb cut associated with the drive through is located very close to the railroad bridge that crosses over Plymouth Avenue North. Because of the grade changes along Plymouth Avenue North cars exiting the drive through will have to encroach into the sidewalk in order to be able to see up and down the street before turning into the street.

Accessory parking lot located within the DP Downtown Parking Overlay District: A conditional use permit for an accessory parking lot would likely be more supportable if the development could comply with general zoning code standards and district regulations and if the site were redesigned to locate the accessory parking to the rear or interior side of the site. The location of the parking as proposed in front of the building is contradictory to general regulations and therefore will endanger the public health, safety, comfort or general welfare of the public.

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.

Shopping Center: Developing the site as proposed is not compatible with the other types of development in the area and supporting it as proposed would most likely impede the normal or orderly development and improvement of property nearby.

Fast Food Restaurant: A conditional use permit for a fast food restaurant could be supported with a redesign of the site that would comply with current zoning regulations. Because the applicant does not wish to comply with current regulations, the use as proposed will be injurious to the use and enjoyment of other property in the vicinity.

Accessory parking lot located within the DP Downtown Parking Overlay District: Allowing an accessory parking facility that does not meet location standards will impede normal development in the area.

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

Shopping Center, Fast Food Restaurant, and Accessory parking lot located within the DP Downtown Parking Overlay District: Adequate utilities, access roads, drainage, necessary facilities or other measures are provided. While the site has access from two public streets, the placement of the building on the site and the inclusion of a fast food restaurant with a drive through requires a second curb cut along Plymouth Avenue North. The curb cut associated with the drive through is located very close to the railroad bridge that crosses over Plymouth Avenue North. Because of the grade changes along Plymouth Avenue North cars exiting the drive through will have to encroach into the sidewalk in order to be able to see up and down the street before turning into the street; inevitably creating conflicts with pedestrians in the immediate vicinity.

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

Shopping Center, Fast Food Restaurant, and Accessory parking lot located within the DP Downtown Parking Overlay District: The applicant is proposing one curb cut along Second Street North and two along Plymouth Avenue North. The curb cut along Second Street North will provide access to both the parking lot and the drive through whereas the eastern-most curb cut along Plymouth Avenue North will provide access to the parking lot and the western-most curb cut along Plymouth Avenue North will be used primarily by those exiting the drive through.

The applicant is proposing 21 surface parking spaces including two accessible spaces. One of the parking spaces also doubles as a loading space. The parking requirement for uses located in the DP Downtown Parking Overlay District is one space per every 4,000 square feet of gross floor area in excess of 4,000 square feet. In the DP Downtown Parking Overlay District the four space minimum parking requirement does not apply. The maximum accessory surface parking spaces allowed in the DP Downtown Parking Overlay District is 20. The building is 10,020 square feet so the minimum parking

requirement is two spaces. A variance to the standards of the DP Downtown Parking Overlay District is necessary to increase the maximum parking from 20 to 21 spaces.

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

Shopping Center, Fast Food Restaurant, and Accessory parking lot located within the DP Downtown Parking Overlay District: The site is located on the southeast corner of Plymouth Avenue North and Second Street North. The future land use map in *The Minneapolis Plan for Sustainable Growth* designates the property as industrial. The site is located in downtown Minneapolis which is a Growth Center as designated in *The Minneapolis Plan for Sustainable Growth*. The site is also located within an Industrial Employment District boundary which was established as part of the adoption of the *Industrial Land Use and Employment Policy Plan* in 2006. According to the principles and policies outlined in *The Minneapolis Plan for Sustainable Growth* and the *Industrial Land Use and Employment Plan*, the following apply to this proposal:

Land Use Policy 1.15: Support development of Growth Centers as locations for concentration of jobs and housing, and supporting services.

Economic Development Policy 4.10: Prioritize Industrial Employment Districts for industrial uses. This policy includes the following applicable implementation step: (4.10.1) Secure vacant and underutilized sites within Industrial Employment Districts for industrial uses.

Economic Development Policy 4.14: Encourage recruitment and retention of retailers in Downtown that fill a functional need for office workers and residents.

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

Urban Design Policy 10.11: Seek new commercial development that is attractive, functional and adds value to the physical environment. This policy includes the following applicable implementation steps: (10.11.2) Ensure that new commercial developments maximize compatibility with surrounding neighborhoods and (10.11.3) Continue to curb the inefficient use of land by regulating minimum height, setbacks, build-to lines and parking through master planning methods and zoning code regulations.

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

Shopping Center, Fast Food Restaurant, and Accessory parking lot located within the DP Downtown Parking Overlay District: In addition to the conditional use permits, a variance to exceed the maximum number of surface parking spaces within the DP Downtown Parking Overlay District and a site plan review application are required to develop the subject site as a shopping center with a fast food restaurant and accessory surface parking lot.

VARIANCE: to exceed 20 surface parking spaces within the DP Downtown Parking Overlay District.

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.

The applicant is seeking a variance to exceed the maximum surface parking requirement within the DP Downtown Parking Overlay District from 20 to 21 spaces. The parking requirement for uses located in the DP Downtown Parking Overlay District is one space per every 4,000 square feet of gross floor area in excess of 4,000 square feet. In the DP Downtown Parking Overlay District the four space minimum parking requirement does not apply. The maximum accessory surface parking spaces allowed in the DP Downtown Parking Overlay District is 20. The building is 10,020 square feet so the minimum parking requirement is two spaces. Practical difficulties do not exist in complying with the ordinance because of circumstances unique to the property. The applicant could eliminate the need for the variance by reducing the number of parking spaces in the parking lot from 21 to 20.

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.

The purpose of the DP Downtown Parking Overlay District is to preserve significant and useful buildings and to protect the unique character of the downtown area and the mixed-use downtown neighborhoods by restricting the establishment or expansion of surface parking lots and establishing certain minimum and maximum off-street parking standards in the downtown area. New developments have the ability to propose parking either within enclosed structures, completely below grade, or in a manner that meets the conditional use permit standards for accessory parking facilities within the overlay district. The DP Downtown Parking Overlay District has set a standard for no more than 20 surface spaces of accessory parking and while there may be circumstances that support a variance to increase the maximum amount of spaces allowed, it should not be at the expense of meeting the design requirements of Chapter 530, Site Plan Review. The site plan review standards require that parking spaces be located to the rear or interior side of the site. The applicant has not proposed to meet this regulation and therefore, CPED's position is that the applicant is proposing to use the property in an unreasonable manner. Further, ample parking exists in the area as on-street parking is available on the west side of Second Street North and a public parking ramp is located at the intersection of Washington Avenue North and 10th Avenue North approximately one block away from the subject site.

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 of this variance will alter the essential character of the locality and be injurious to the use and enjoyment of other property in the vicinity. In addition, granting of the variance will be detrimental to the health, safety, and welfare of the general public or of those utilizing the property or nearby

properties. There has been a significant amount of housing development in the surrounding area in the past several years. The form in which these developments have been constructed have been traditional in their siting. In addition, the commercial development located to the north across Plymouth Avenue North was required to comply with the building placement provisions outlined in Chapter 530 when it was constructed. Allowing a shopping center to be constructed with a surface parking lot in front of it undermines the type of development that is desired in the City of Minneapolis and further undermines the design standards that all other surrounding developments have been subject to in recent years.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- 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, 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.**

Minimum window area at the first or ground level shall be measured between two (2) and ten (10) feet above the adjacent grade. Minimum window area on walls above the first floor shall be measured between the upper surface of a floor and the upper surface of the floor above.

- **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 at the first or ground level shall be measured between two (2) and ten (10) feet above the adjacent grade. Minimum window area on walls above the first floor shall be measured between the upper surface of a floor and the upper surface of the floor above.

- **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.

CPED RESPONSE:

- The building somewhat reinforces the street wall along Plymouth Avenue North as it is located between four and 14 feet from the property line, but it does not reinforce the street wall along Second Street North as it is located between 52 and 85 feet from the property line. The design of the building facilitates pedestrian access as each tenant has an entrance that is accessible from a common walkway on the site; however, those utilizing the surface parking lot proposed in front of the building must cross a drive-aisle in order to access the walkway. Natural surveillance of the surrounding area is maximized along the west and south sides of the building as there are windows on these sides; however, the majority of the windows on the north side of the building are located at a height greater than four feet and there are very few windows on the east side of the building so natural surveillance along these sides of the site is minimized.
- The first floor of the building is required to be located within eight feet of the front and corner side property lines. The building is located between four and 14 feet from the property line along Plymouth Avenue North and between 52 and 85 feet from the property line along Second Street North. The applicant is proposing alternative compliance in lieu of this requirement.
- In addition to the parking lot, the applicant is proposing to have a seating area, bicycle parking, moveable planters and landscaping located in between the building and the front property line.
- Each of the tenant spaces within the building has a principal entrance. There is one entrance oriented towards Plymouth Avenue North and four entrances oriented towards Second Street North.
- The overall size of the building has been minimized through the use of recesses and projections, windows and a mixture of exterior building materials.
- The on-site parking area is proposed to be located between the building and the property line along Second Street North. This is not in compliance with the site plan review standards of locating the parking to the rear or interior side of the site. The applicant is proposing alternative compliance in lieu of this requirement.
- The primary exterior materials of the building include brick and rockface block, stone veneer and metal. All sides of the building are similar to and compatible with the front of the building.
- The majority of the building does not contain areas that are over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements. However, a portion of the east wall of the building contains an area that is 31 feet in length and void of windows, entries, recesses or projections, or other architectural elements. Alternative compliance is required since this provision is not being met.

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- At least 30 percent of the first floor building wall that faces a public street, public sidewalk, public pathway, or on-site parking lot is required to be windows. The bottom of any window used to satisfy the ground floor window requirement may not be more than four feet above the adjacent grade. The window requirement pertains to the Plymouth Avenue North and Second Street North sides of the building. The analysis of the project's compliance with these requirements follows:
 - Plymouth Avenue North: the percentage of windows on the first floor is 19 percent. Alternative compliance is required since this provision is not being met.
 - Second Street North: the percentage of windows on the first floor is 55 percent.
- The windows in the building are vertical in nature and are evenly distributed along the building walls.
- The entire building frontage along both Plymouth Avenue North and Second Street North will contain active functions.
- The roof line of the building will be flat which is similar to the majority of the buildings in the area.

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.**

CPED RESPONSE:

- A four-foot walkway connects each of the building entrances to the public sidewalk along Plymouth Avenue North. The walkway pavement continues across the drive-through lane on the south side of the property and out to Second Street North.
- No transit shelters are proposed as part of this development.
- There will be a total of three curb cuts leading to and from the site. Two of the curb cuts are proposed to be located along Plymouth Avenue North: one will accommodate two-way traffic and the other will accommodate one-way traffic exiting the drive through. The third curb cut is proposed to be located along Second Street North and will accommodate two-way traffic.
- There is no alley associated with this site.
- There are currently no buildings on the site. The overall site area is 33,690 square feet and the total proposed building area is 10,020 square feet. The applicant is supplying 4,867 square feet of green space and therefore, the total impervious surface coverage including buildings is proposed to be 28,823 square feet or approximately 86 percent of the site.

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.**

CPED RESPONSE:

- The zoning code requires that at least 20 percent of the site not occupied by the building be landscaped. The lot area of the site is 33,690 square feet. The footprint of the building is 10,020 square feet. When you subtract the footprint from the lot size the resulting number is 23,670 square feet. Twenty percent of this number is 4,734 square feet. According to the applicant's landscaping plan there is 4,867 square feet of landscaping on the site or approximately 21 percent of the site not occupied by the building.
- 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 nine and 47 respectfully. The applicant is providing a total of nine canopy trees (eight Northfire Maples and one Northern Acclaim Honeylocust) and 43 shrubs (13 Anthony Waterer Spirea and 30 Bailey Compact Cranberries) on the site. Alternative compliance is required since this provision is not being met.
- Not less than one tree shall be provided for each 25 linear feet, or fraction thereof, of parking or loading area lot frontage. The parking and loading area has 47 feet of frontage along Plymouth Avenue North and 187 feet of frontage along Second Street North. These dimensions require that two canopy trees be planted along Plymouth Avenue North and that seven canopy trees be planted along Second Street North. The applicant is proposing to have one tree planted along Plymouth

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Avenue North and seven trees planted along Second Street North. The applicant is required to provide one additional canopy tree along Plymouth Avenue North in order to comply with this requirement. Alternative compliance is required since this provision is not being met.

- The zoning code requires that a seven-foot wide landscaped yard be provided along a public street, sidewalk or pathway when adjacent to a parking lot or a loading area. The applicant is providing an eight-foot wide landscaped yard along Plymouth Avenue North and a seven-foot wide landscaped yard along Second Street North.
- Screening three feet in height and equal to 60 percent opacity is required around parking lots and loading areas in order to screen them from a public street, sidewalk or pathway. The applicant is proposing to install a 48-inch high aluminum fence along Plymouth Avenue North and Second Street North. In addition to the eight canopy trees located around the parking lot the applicant is proposing to plant a combination of Bailey Compact Cranberries, Stella D'Oro Daylilies and Karl Forester Reed Grasses in a few locations around the parking lot. These plant materials will not meet the screening requirements. Alternative compliance is required since this provision is not being met.
- In parking lots of 10 spaces or more, no parking space shall be located more than 50 feet from an on-site deciduous tree. This requirement is being met. In addition, tree islands in parking lots must have a minimum width of 7 feet in any direction. This requirement is being met.
- Around the plant materials the applicant is proposing to have hardwood mulch.

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.**

CPED RESPONSE:

- Stormwater runoff from the parking area will be drained towards the on-site landscape areas.
- This building should not impede any views of important elements of the city.
- This building should not significantly shadow the adjacent streets or properties.

- This building should have minimal wind effects on the surrounding area.
- The site plan complies with most of the crime prevention design elements. There is a walkway that connects the public sidewalk to the building entrances, there are lights located throughout the parking lot, there is a fence located around two sides of the site and natural surveillance of the surrounding area is maximized along the west and south sides of the building as there are windows on these sides. However, the majority of the windows on the north side of the building are located at a height greater than four feet and there are very few windows on the east side of the building so natural surveillance along these sides of the site is minimized. This is problematic since the area is isolated given the adjacent railroad tracks.
- This site is neither historically designated nor located in a historic district.

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:

- **Use:** Shopping centers and fast food restaurants are a conditional use in the C2 zoning district and accessory parking lots are a conditional use in the DP Downtown Parking Overlay District.
- **Off-Street Parking and Loading:**

Minimum automobile parking requirement: The parking requirement for uses located in the DP Downtown Parking Overlay District is one space per every 4,000 square feet of gross floor area in excess of 4,000 square feet. In the DP Downtown Parking Overlay District the four space minimum parking requirement does not apply. The maximum accessory surface parking spaces allowed in the DP Downtown Parking Overlay District is 20. The building is 10,020 square feet so the minimum parking requirement is two spaces. A variance to the standards of the DP Downtown Parking Overlay District is necessary to increase the maximum parking from 20 to 21.

Maximum automobile parking requirement: The maximum parking requirement is one space per every 200 square feet of gross floor area. The building is 10,020 square feet so the maximum parking requirement is 50 spaces. However, since the site is located within the DP Downtown Parking Overlay District the number of accessory parking spaces that can be provided in a surface lot on the site is limited to 20 spaces.

Bicycle Parking: The bicycle parking requirement is three spaces or one space per 5,000 square feet of gross floor area, whichever is greater. The building is 10,020 square feet so the bicycle parking requirement is three spaces. The applicant is proposing to locate six bicycle racks in front of the building that will be able to accommodate up to 12 bicycles and an additional three bicycle racks in front of the building along Plymouth Avenue North that will be able to accommodate up to six bicycles.

Loading: The size of the building and the individual uses within the building do not trigger a loading requirement.

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- **Maximum Floor Area:** The maximum FAR in the C2 zoning district is 1.7. The lot area is 33,690 square feet. The proposed structure is 10,020 square feet. The floor area ratio is 0.297.
- **Building Height:** Building height in the C2 zoning district is limited to four stories or 56 feet. The building is 24 feet tall at its highest point so by zoning code definition the building is two stories in height, but it is only one floor.
- **Minimum Lot Area:** Food and beverage uses with a drive through facility have a minimum lot area requirement of 12,000 square feet in the C2 zoning district.
- **Minimum Lot Width:** Food and beverage uses with a drive through facility have a minimum lot width requirement of 100 feet in the C2 zoning district.
- **Dwelling Units per Acre:** Not applicable for this development.
- **Yard Requirements:** There are no yard requirements for this development.
- **Specific Development Standards:** The specific development standards for a shopping center are:

Shopping center.

- (1) *Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.*
- (2) *Uses which require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this zoning ordinance.*
- (3) *The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.*

The specific development standard for a restaurant, fast food is:

Restaurant, fast food.

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

- **Signs:** In the C2 zoning district one can have one-and-a-half square feet of signage for every one foot of primary building wall. However, if there is a freestanding monument sign on the zoning lot then there can only be one square foot of signage for every one foot of primary building wall. Wall signs are limited to 180 square feet in size. Projecting signs are limited to 20 square feet in size. The height limitation for both wall signs and projecting signs is 28 feet. Freestanding monument signs are limited to 80 square feet and can be no taller than 8 feet. The zoning code also limits the number of freestanding signs on a zoning lot to one.

The applicant is proposing to locate a freestanding monument sign on the corner of Plymouth Avenue North and Second Street North. The freestanding sign is 60 square feet in size and eight feet

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in height. Since there is a freestanding sign proposed on the site there can only be one square foot of signage for every one foot of primary building wall. The Plymouth Avenue North side of the building is 88 feet in length and the Second Street North side of the building is 173 feet in length. The plans show a total of 45 square feet of signage on the Plymouth Avenue North side of the building and 182 square feet of signage on the Second Street North side of the building. The plans also show a 30 square foot sign on the south building wall. Since this is not a primary building wall signs cannot be placed on this side of the building without a variance. The applicant did not apply for any sign variances.

Menu boards for fast food restaurants are considered a sign. Their size is included in the overall amount of signage allowed on the site. Menu boards are required to be less than six feet in height. Menu boards are exempt from the restriction on the maximum number of freestanding signs on a site, provided there are no more than two menu boards on a lot. In addition, menu boards may only have writing or graphics on one side.

- **Refuse storage:** The trash and recycling storage area is proposed to be located on the south side of the building. The enclosure will be made out of concrete block with wood doors and will surround the containers on all 4 sides.
- **Lighting:** A lighting plan showing footcandles was not submitted as part of the application materials. Lighting levels shall not be greater than .5 footcandles at a property line of any permitted or conditional residential use and not greater than 5 footcandles measures at the street curb line of any nonresidential property line.

MINNEAPOLIS PLAN:

The site is located on the southeast corner of Plymouth Avenue North and Second Street North. The future land use map in *The Minneapolis Plan for Sustainable Growth* designates the property as industrial. The site is located in downtown Minneapolis which is a Growth Center as designated in *The Minneapolis Plan for Sustainable Growth*. The site is also located within an Industrial Employment District boundary which was established as part of the adoption of the *Industrial Land Use and Employment Policy Plan* in 2006. According to the principles and policies outlined in *The Minneapolis Plan for Sustainable Growth* and the *Industrial Land Use and Employment Plan*, the following apply to this proposal:

Land Use Policy 1.15: Support development of Growth Centers as locations for concentration of jobs and housing, and supporting services.

Economic Development Policy 4.10: Prioritize Industrial Employment Districts for industrial uses. This policy includes the following applicable implementation step: (4.10.1) Secure vacant and underutilized sites within Industrial Employment Districts for industrial uses.

Economic Development Policy 4.14: Encourage recruitment and retention of retailers in Downtown that fill a functional need for office workers and residents.

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

Urban Design Policy 10.11: Seek new commercial development that is attractive, functional and adds value to the physical environment. This policy includes the following applicable implementation steps: (10.11.2) Ensure that new commercial developments maximize compatibility with surrounding neighborhoods and (10.11.3) Continue to curb the inefficient use of land by regulating minimum height, setbacks, build-to lines and parking through master planning methods and zoning code regulations.

Urban Design Policy 10.18: Reduce the visual impact of automobile parking facilities. This policy includes the following applicable implementation steps: (10.18.3) Locate parking lots to the rear of interior of the site

CPED's position is that the proposed development is not in conformance with the above policies of *The Minneapolis Plan for Sustainable Growth*. The site is designed in a non-urban manner. The building is significantly set back from Second Street North, the floor level of the building along Plymouth Avenue North sits between zero and four feet above grade, the majority of the windows along the Plymouth Avenue North side of the building are located at a height greater than four feet and all of the parking for the development is located in front of the building.

The site is also located within the Industrial Employment District boundary which was established as part of the adoption of the *Industrial Land Use and Employment Policy Plan* in 2006. The designated Industrial Employment Districts preserve properties for the retention, expansion, and attraction of existing and new industrial firms in areas of the city with good transportation access, minimal conflict with nearby land uses, and proximity to recent market investment. CPED does not believe that the proposed development is consistent with the policies of the *Industrial Land Use and Employment Policy Plan*.

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 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.**

CPED RESPONSE:

- **The placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation. And, the first floor of the building shall be located not more than eight feet from the front lot line. If located on a corner lot, the building wall abutting each street shall be subject to this requirement.** The site is a corner property. The building is located between four and 14 feet from the property line along Plymouth Avenue North and between 52 and 85 feet from the property line along Second Street North.

The applicant has indicated that the site is physically constrained by its shape and size, the steeply sloping grade to the east, the location of the railroad embankment to the east and the physical limitations of Plymouth Avenue North and Second Street North. For these reasons the applicant has decided to locate the building between 52 and 74 feet from Second Street North. The applicant has indicated that the alternatives that are being providing in lieu of locating the building up to Second Street North include adequate screening of the parking lot through the use of trees, vegetation and decorative fencing. CPED's position is that the City Planning Commission should not grant alternative compliance for building placement. It is practical to design the site to accommodate a storefront building, a fast food restaurant with a drive through and adequate parking located to the rear or interior side of the site.

As for the setback from Plymouth Avenue North, the northeast corner of the building is setback between four and 14 feet. It was designed to taper back in order to provide better visibility for pedestrians. Given the location of the driveway on the east side of the building CPED believes that this is a good design solution for the location.

- **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.** The on-site parking area is proposed to be located between the building and the property line along Second Street North. This is not in compliance with the building standards of locating the parking to the rear or interior side of the site.

The applicant has indicated that the site is physically constrained by its shape and size, the steeply sloping grade to the east, the location of the railroad embankment to the east and the physical limitations of Plymouth Avenue North and Second Street North. For these reasons the applicant has decided to locate the on-site parking area between the building and the front lot line along Second Street North. The applicant has indicated that the alternatives that are being providing in lieu of locating the parking to the rear or interior side of the site, within the principal building served, or entirely below grade include adequate screening of the parking lot through the use of trees, vegetation and decorative fencing. CPED's position is that the City Planning Commission should not grant alternative compliance for the location of the on-site parking area. It is practical to design the site to accommodate a storefront building, a fast food restaurant with a drive through and adequate parking located to the rear or interior side of the site. Further, as previously noted, allowing a shopping center to be constructed with a surface parking lot in front of it undermines the type of development that is desired in the City of Minneapolis and further undermines the design standards that all other surrounding developments have been subject to in recent years.

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- **Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed 25 feet in length.** The majority of the building does not contain areas that are over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements. However, a portion of the east wall of the building contains an area that is 31 feet in length and void of windows, entries, recesses or projections, or other architectural elements.

The applicant did not address this site plan review requirement in their request for alternative compliance. CPED's position is that the City Planning Commission should not grant alternative compliance to allow a wall that is over 25 feet in length and void of windows, entries, recesses or projections, or other architectural elements. New buildings can be designed to incorporate windows, entries, recesses or projections, or other architectural elements in compliance with City standards.

- **At least 30 percent of the first floor building wall that faces a public street, public sidewalk, public pathway, or on-site parking lot is required to be windows.** The window requirement pertains to the Plymouth Avenue North and Second Street North sides of the building. Along Plymouth Avenue North the percentage of windows on the first floor is 19 percent and along Second Street North the percentage of windows on the first floor is 55 percent.

The applicant did not address this site plan review requirement in their request for alternative compliance. CPED's position is that the City Planning Commission should not grant alternative compliance to allow less than 30 percent windows along Plymouth Avenue North. New buildings can be designed to meet the window requirement. If the building were moved to within eight feet of Second Street North CPED believes that the 30 percent window requirement could be met along Second Street North.

- **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 nine and 47 respectfully. The applicant is providing a total of nine canopy trees and 43 shrubs on the site. **Not less than one tree shall be provided for each 25 linear feet, or fraction thereof, of parking or loading area lot frontage.** The parking and loading area has 47 feet of frontage along Plymouth Avenue North and 187 feet of frontage along Second Street North. These dimensions require that two canopy trees be planted along Plymouth Avenue North and that seven canopy trees be planted along Second Street North. The applicant is proposing to have one tree planted along Plymouth Avenue North and seven trees planted along Second Street North. **Screening three feet in height and equal to 60 percent opacity is required around parking lots and loading areas in order to screen them from a public street, sidewalk or pathway.** The applicant is proposing to install a 48-inch high aluminum fence along Plymouth Avenue North and Second Street North. In addition to the eight canopy trees located around the parking lot the applicant is proposing to plant a combination of Bailey Compact Cranberries, Stella D'Oro Daylilies and Karl Forester Reed Grasses in a few locations around the parking lot. These plant materials will not meet the screening requirements.

The applicant did not address these site plan review requirements in their request for alternative compliance. CPED's position is that the City Planning Commission should not grant alternative

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compliance to allow less than the minimum landscaping requirements. It is practical to design the site to accommodate all of the landscaping requirements.

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the findings above and **deny** the conditional use permit to allow a shopping center located at 129 Plymouth Avenue North.

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the findings above and **deny** the conditional use permit to allow a fast food restaurant located at 129 Plymouth Avenue North.

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the findings above and **deny** the conditional use permit to allow an accessory parking lot within the DP Downtown Parking Overlay District located at 129 Plymouth Avenue North.

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the above findings and **deny** the variance to exceed 20 surface parking spaces within the DP Downtown Parking Overlay District located at 129 Plymouth Avenue North.

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the above findings and **deny** the site plan review for a new principal non-residential building located at 129 Plymouth Avenue North.

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Attachments:

1. Application submittal from the applicant
2. Responses to the conditional use permit and variance findings
3. September 27, 2013, letters to Council Members Goodman and Samuels and the North Loop Neighborhood Association
4. September 18, 2013, North Loop Neighborhood Association meeting agenda
5. Letters from the public
6. Zoning map
7. Site, civil and architectural plans
8. Photos of the site