



Request for City Council Committee Action from the Department of

Date: November 27, 2006

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal of the City Planning Commission's decision to deny a conditional use permit and site plan review at 1851 Central Ave NE to allow a fast food restaurant with drive-through.

Recommendation: The actions taken by the City Planning Commission on October 30, 2006 are as follows:

A. Rezoning: Application by Trygue Truelson to rezone the property at 1851 Central Ave NE from C1 to C2.

Action: The City Planning Commission recommended that the City Council adopt the findings and **deny** the application for a zoning amendment to change 1851 Central Ave NE from a C1 to a C2 zoning district.

B. Conditional Use Permit: Application by Trygue Truelson for a conditional use permit for a fast food restaurant located at 1851 Central Ave NE.

Action: The City Planning Commission adopted the findings and **denied** the application for a conditional use permit for a fast food restaurant at 1851 Central Ave NE.

C. Site Plan Review: Application by Trygue Truelson for a major site plan review for property located at 1851 Central Ave NE.

Action: The City Planning Commission adopted the findings and **denied** the application for a site plan review at 1851 Central Ave NE.

Ward: 1

Previous Directives: On January 6, 2006 the applicant submitted applications to rezone the property to C4 to allow a fast food restaurant, a conditional use permit to allow a fast food restaurant, and a site plan review. The applicant withdrew the application to allow the City to apply to rezone an adjacent city-owned property to C2, which would then allow the applicant to apply for only C2 zoning for the same proposed use. A fast food restaurant is permitted in a C2 zoning district if there is 660 linear feet of C2 zoning. The city-owned property in question, the 2nd Police Precinct at 1911 Central Ave NE, was previously zoned

C1. The rezoning of 1911 Central Ave NE to the C2 District occurred de facto on May 2, 2006 because a decision was not made and an extension letter was not sent during the 60-day review period. On September 29, 2006 the applicant submitted applications to rezone 1851 Central Ave NE to the C2 District to allow a fast food restaurant, a conditional use permit to allow a fast food restaurant, and a site plan review. On October 30, 2006 the City Planning Commission denied the conditional use permit and site plan review and recommended denial of the rezoning to the City Council.

Prepared by: Tara Beard, Senior Planner

Approved by: Jason Wittenberg, Supervisor, Planning – Development Services

Presenters in Committee: Tara Beard, Senior Planner

Community Impact

- Neighborhood Notification –Windom Park Citizens in Action, the neighborhood in which the project lies, and neighborhood groups adjacent to the site: Holland Neighborhood Improvement Association and Logan Park Neighborhood Association, as well as residents within 350 feet of the project site were notified of this hearing.
- City Goals – To be studied by staff.
- Comprehensive Plan – See finding #1 in the rezoning section of the attached staff report.
- Zoning Code – The concurrent rezoning application for the property is also up for committee action at this time. If the property is rezoned from C1 to C2, a fast food use with a drive-through would be permitted with a conditional use permit and site plan review. These additional applications are what are being appealed in this report.
- End of 60/120-day decision period - The applicant was sent a letter on October 2, 2006 extending the decision period to January 27, 2007.

Supporting Information

The applicant, Trygve Truelson, is appealing the City Planning Commission's decision on October 30, 2006 to deny a conditional use permit and a site plan review for a fast food restaurant with a drive-through at 1851 Central Ave NE. Concurrent with this appeal is a rezoning application on the site from C1 to C2. The City Planning Commission recommended that the City Council deny the rezoning.

Additional comments have been received from neighbors since October 30, 2006, and those have been attached.

**Excerpt from the
CITY PLANNING COMMISSION
MINUTES**

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MEMORANDUM

DATE: November 13, 2006

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of October 30, 2006

The following actions were taken by the Planning Commission on October 30, 2006. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners Present: President Motzenbecker, El-Hindi, Henry-Blythe, Huynh, LaShomb, Norkus-Crampton, Schiff and Tucker – 8

Not Present: Krueger and Nordyke

9. Porky's (BZZ-3251, Ward 1), 1851 Central Ave NE ([Tara Beard](#)).

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C. Site Plan Review: Application by Trygue Truelson for a major site plan review for property located at 1851 Central Ave NE.

Action: The City Planning Commission adopted the findings and **denied** the application for a site plan review at 1851 Central Ave NE.

Staff Beard presented the staff report.

Commissioner Huynh: I would like to recuse myself from item number nine, Porky's. I have a direct working relationship with the rep for the applicant.

Commissioner LaShomb: Can you give us the history of why, I believe it's 1835, is zoned C2 and what is that property? Is that the Police Precinct station?

Staff Beard: No, that would 1911, just to the north. The property at 1835 is a mixed-use storefront building. I don't know the exact businesses inside, but that is zoned C2. There is a small building, 1839, that is within the C1 portion...

Commissioner LaShomb: So, am I correct in assuming that 1851 and 1911 would create the 600 feet to allow this to be a C2 if that was approved?

Staff Beard: Because of the large block of OR3 zoning to the south, there is no amount of southern rezoning that could provide the 660 feet.

Commissioner LaShomb: But the 1835 would be counted in those 600 feet?

Staff Beard: It would be broken up by the 1839 property unless that was also rezoned to C2.

Commissioner LaShomb: Ok, I see, I'm sorry. Can you give me a little history about the 1911 property, when that was rezoned to C2 and why it was rezoned?

Staff Beard: That is the 2nd Police Precinct and that was rezoned this year in the summer. The applicant in that case was the City. My understanding is that City Council gave approval for the City to apply to rezone that property in order to provide the 660 feet if a C2 zoning were to occur at 1851 as well.

Commissioner LaShomb: Do you recall the Planning Commission action that was taken on 1911?

Staff Beard: Staff recommendation in that case was to deny the rezoning for a lot of the similar findings in the Comprehensive Plan about...and primarily because we tend to recommend denials of rezonings when there's no proposed new development change, which there was none in this case. The Planning Commission concurred with staff findings. It did go on to the Zoning and Planning Committee, but staff error resulted in a defacto approval of the rezoning.

Commissioner LaShomb: I don't remember that in the discussion. How did that happen?

Staff Beard: It happened after it came to the Planning Commission. It went on as regularly scheduled to Zoning and Planning. At that point it was realized that an extension letter, extending the 60 day review period had not been sent and so the 60 day review period had already expired and so that resulted in a defacto approval.

Commissioner LaShomb: We have some new Planning Commissioners here and I just want them to understand there is a history to this Porky's issue. What you're telling me is that the City Council approved this rezoning because the 60 day letter had expired?

Staff Beard: Correct. Nobody was trying to hide the fact, the applicant or otherwise, that this proposed rezoning was to allow the Porky's to apply for their rezoning. That wasn't hidden from anybody, but that did prevent the policy discussion to occur about this project and that stage of it. I expect that policy discussion to occur in Z&P and Planning Commission time as I have already sent the extension letter.

Commissioner LaShomb: I was just going to say that I can site probably a million mistakes I have made in the last year so if the staff only makes one mistake a year then I'd say...

Staff Beard: Not the only, but it's the biggest.

Commissioner LaShomb: I'm not trying to scold you, I just want the Planning Commissioners to understand that there was a history about 1911 and I might have more comments about that later because I was a little agitated when that went through and maybe I will be agitated again, but the basic point about this is that if the 1911 property had not been rezoned to C2, this issue wouldn't even be here.

Staff Beard: Correct, the original application in early 2006 for the Porky's was a rezoning application to C4 which would allow the same use without needing any contiguous zoning. That was withdrawn in order to seek this option which was perceived to be more supportable.

Commissioner LaShomb: When I think about this site, I think about the Porky's that's on University in St. Paul. That was a drive-in restaurant, but this is not a drive-in restaurant so there should be no misunderstanding that this isn't going to be a drive-in restaurant, it's going to be a drive-thru restaurant.

Staff Beard: That is correct.

President Motzenbecker: Thank you Ms. Beard. Can I get a show of hands for how many people are here to speak about Porky's? If you're going to speak I am going to ask you that you do sign in on the sign-up sheet outside the door. You can do that after you leave. When you do come up to speak, please give your name and address for the record. We do, as was outlined in the staff report, have a nice ream of letters and we have the idea so I am going to ask if there are a lot of comments we're going to limit the commentary to two minutes each and to please not repeat what you've already written to us because we do have it.

President Motzenbecker opened the public hearing.

Aaron Roseth [not on sign-in sheet]: I want to reflect for a second on Lauren abstaining from this. This project is done outside of the firm that we happen to be colleagues at. I am doing this as an independent project as a friend to Trygue Truelson. I'm an architect in the community and I am representing Trygue Truelson and Norah Truelson on behalf of Porky's. I have a couple of things and I think it may be easier to just address questions. I have a very brief description of the purpose of why we've looked at this site and why we think it's important that you look at it as a potential site for Porky's and then go through a few of the things I believe are going to come up as points of opposition and support for the project. The site is on Central Avenue. Central Avenue right now is going through a great resurgence of activity including new restaurants. There's a new art community. It's going through a change that I think is important to the city and important to the neighborhood and important to developers and commercial people that may be interested in moving into that area. Trygue and his family have owned

Porky's for over 50 years with several different locations. At one point, in the life span of Porky's, they operated four different ones throughout the city. It is a family owned restaurant and is intended to always be a family owned restaurant. The idea for them is that as the city develops they can find new locations that might work similarly to the way their old locations have worked. Currently there is only one location that is open and running, it's the location on University Avenue. There's no in house seating in that location and it's all a drive-thru and not a drive-in. I want to talk a little about that definition because I think it's important to this family-run business outside of the way that we think of typical fast food. Along those lines, I think it's important to note that this is fresh food. It is fast food in the sense that it's prepared quickly, but it's very different than... it's not processed food. Everything is fresh. I think that's important, again, because this isn't a typical chain restaurant coming in to here. Along the resurging growth that I mentioned, we have had very good support from a number of people in the community. There was an economist hired by the Northeast Neighborhood Activist Group.

President Motzenbecker: We have all that information.

Aaron Roseth: There was proposed conditions of operations for Porky's that were sent to me this afternoon that we would be willing to meet if staff found that they were in favor of this project. Without repeating any of the information that you have in front of you, I guess I will just wait for questions.

Commissioner Norkus-Crampton: One of the things handed to us at the last minute here was a document from Windom Park with a police report. It seems that they are trying to make a case for the problems at the Porky's on University site. I was curious... it looks like a lot of the disturbances happen at all hours, but certainly some of them are happening at one in the morning, two in the morning, three in the morning... what are the hours that you're proposing for this particular site?

Aaron Roseth: The hours proposed I don't have in front of me right now, but they would meet the C2 which is, I believe, closing at 11 p.m. Friday and Saturday and closing at 10 p.m. Sunday through Thursday.

Commissioner Norkus-Crampton: I guess the follow-up question is it seems like there is a lot of reports about drunkenness. You're not going to be serving liquor at this facility so I am just trying to figure out why that's the case, but it does look like there have been some problems and I am just curious if you can give us any idea of what that's about.

Aaron Roseth: I am probably not the best person to speak to this. The owner probably should talk to this, but my understanding is that they do not have problems whatsoever on site. They've worked with the St. Paul police to work through some of their more difficult times with traffic in terms of when the State Fair is open and when they have car shows when there is an increased number of cars in the area. I know that they've worked through those issues with them, but specific incidences I can't speak to.

Commissioner Tucker: I would like to go back to the suggested conditions in the staff report and let you respond to those individually. I found three or four. One is moving the building up to within eight feet of the property line.

Aaron Roseth: Yep. I don't think that's a problem at all. The idea by setting it back eight feet is that we allow for outdoor seating along Central. If this is passed today and we have the ability to work with the neighborhood group in the future that if that is something that they think is important we would like to work with that as well.

Commissioner Tucker: The second one is to move the entrance to Central.

Aaron Roseth: Not a problem.

Commissioner Tucker: A third is 25 feet of blank wall, is that something you can correct?

Aaron Roseth: It is corrected.

Commissioner Tucker: I think there's one more here. If site plan is approved staff would recommend alternative compliance for the roof not being flat. How would you address that?

Aaron Roseth: The majority of the roof is not flat. The only portion of the roof that is currently flat is where we're trying to screen all of the mechanical equipment and duct work. If you look at the rendering, this is all sloped and in the center, basically like a doughnut, the very inner part of that is where the hoods come up and we're trying to screen it without putting a fence on top.

Commissioner Tucker: I think staff's point is that most buildings adjacent have flat roofs and this one has a distinctly not flat roof and suggest alternative compliance. Is that something that you talked to staff about?

Staff Beard: In a situation like this where we're recommending denial of all applications we go through the site plan review and look at everything that is not being met and what we would be likely to recommend alternative compliance for if it were approved and what we wouldn't. In this situation, because it's a stand alone building, it's quite far away from the storefront-type buildings and the materials and the signage are going to so clearly differentiate it that it would be kind of forcing it to...

Commissioner Tucker: So your alternative compliance would be to waive the requirement.

Staff Beard: Right. That's not actually a discussion I had with the applicant, it was just something in reviewing the site plan review, staff...

Commissioner Tucker: So really there are just the three that you're suggesting? Move it up within eight feet, move the entrance to Central and get rid of the blank wall.

Staff Beard: The only other condition of approval, which I don't think I heard you talk about, that staff would recommend is replacing some of the proposed evergreen trees with canopy deciduous trees which is clearly spelled out in the code as the intent requirement.

Peter Vevang (1006 Lowry Ave NE): I'm a resident of the area. My main objection to this project is based on the site plan. There has been a lot of talk about how the thing actually looks, but I think we need to look at also how this thing functions. There has been some talk about pedestrians. This flies in the face of what we need to do in order to build solid pedestrian traffic in the area because there are going to be big curb cuts, lots of cars, wide open expanses of asphalt and it really is not the kind of environment you, as a pedestrian, would want to go through. Right near by this area are store fronts. It's a main street type of environment. For them, pedestrian traffic is absolutely critical. If we sacrifice pedestrian traffic for this project, all the other businesses around there and buildings around there are going to be harmed by that. I think there are successful templates for dealing with development in northeast. There is the area by Surdyk's, the area by 28th and Johnson where we have these little store fronts which have come back and been restored. There are alternatives to this that meet pedestrian goals. There are also clear examples of harm from this kind of project. Just down the street at 18th and Central, is a Burger King which has a site plan that looks remarkably similar to this plan and that is not a successful project for the community. It detracts from property values. There are already a few problems to the west of Central with non-homeowner occupied housing and it's not kept up as well as it should be. If you put a business like this next to a home owner, people aren't going to want to live there. It will be more likely to be a rental property. There's always going to be problems from nuisances like trash and so on...

President Motzenbecker: Summarize for us please, Mr. Vevang.

Peter Vevang: I think this is a very, very harmful project to the neighborhood in terms of the way it works. When Porky's is gone, whether that's 10 or 20 years from now, this zoning is still going to be there and this harm is going to be ongoing so I would urge you to object this.

Matt Novachis (1900 Polk St NE): This is my house right here and that is exactly where the drive-thru would be. My driveway is right here. I'm strongly opposed to this as are most of my neighbors except for the people in the high-rise. I know that this developer is capable of building a restaurant that is not fast food. He's the developer of Tryg's in south Minneapolis on Lake Street. It's a nice, fine dining establishment. It's something along the lines of Pop! and Snap! up in northeast. My wife and I make a point to go to the Convention Grill in Edina. We get out of our car, we go get a hamburger, we walk around, we go to the rug shop, we go to the liquor store there and we support other businesses in the area. The biggest thing that the supporters of this want is a good hamburger and a good place to eat and I support that fully. I would love to walk out my back door and go to a nice restaurant and eat. I don't want drive-thru traffic stacked up to my driveway along 19th to Central. It would be very difficult for me to run

my life, my property value would drop. The house right next to it and the duplex next to that are both owner occupied. They're both going to move if this is built and then I've got two more rental properties next to me. The other thing about the slanted roof is you can't see the mechanicals from Central, but you can see it from my yard. I would be looking straight into the mechanicals of a Porky's fast food drive-thru. The noise and the trash are a big concern. I don't know about the crime, traffic or garbage in St. Paul, but I have driven by and I have seen what happens there and I don't feel like that's fitting to Central Avenue.

Dave Buchanan (2107 19th Ave NE): I'm just coming here to oppose this rezoning for the drive-thru just for the fact that the drive-thru doesn't fit. I've already written a letter and there are just a couple things that came to me yesterday that relate to this I think. I don't know if any of you are familiar with 50th and France, it's kind of a main street type of area and recently, in the last two years, they have torn down an Arby's fast food that was right in the middle of all that and replaced it with condominiums and mixed-use development. I remember going to that drive-thru when it was an Arby's and what it was like trying to get through all that pedestrian traffic. It seemed like a huge hindrance. The second thing I'd like to cover is that I have spoken to people from Merriam Park in St. Paul and Jay Benanav, a City Councilman, and they both gave me documents that address the crime and pollution and noise issues along with traffic and how St. Paul has had to allocate police just for that area. It's not to say that this would happen on Central, but who knows 10 years from now if University has a light-rail, that might kind of migrate down to Central and that could become the new drag strip. I can submit these if you like.

President Motzenbecker: Submit them to the clerk. Anyone else?

Chris Bubser (1027 20th Ave NE): I live a couple of blocks from this site. I have been a resident of northeast for seven years and Minneapolis for ten. I have been practicing architecture since 1991. I oppose this rezoning and the conditional use permit as well. I think there is a letter from my wife and myself in your packet so I will try to avoid the points that I made in there. I think that I made the point pretty clearly about advocating for pedestrian friendly development and transit friendly development. I'd like to hitch on to what Dave said. I've reviewed the information that he has seen and the main point there is that I've been told that the owners of Porky's have not been cooperative in terms of mitigating some of these outstanding issues. I want to make my objection chiefly on the grounds that this project is clearly designed not to serve the neighborhood; it's designed to serve through traffic, people coming through the neighborhood. It will not add to Central Avenue because the people who patronize Porky's will not leave their cars. They will get their food and drive on so it's not going to enhance the business activity on Central Avenue. The final point I'd like to make is hitching on to some of the other things that Matt said. One of my hobbies, I walk my kids around and pick up trash because I hate having a dirty neighborhood. I think it detracts from the livability of our area. This is the trash I picked up in just 20 minutes last night in the dark. I could've gone out farther, but I just went around one block and I came back when the bucket was full. I had to step on it to get stuff in here. This is mostly from a business near my house that we've repeatedly, as a neighborhood, tried to get them to help clean up the trash better. It's mandated that they do that, but they are not doing a good job. There are also a lot of fast food wrappers in here from White Castle and Wendy's which are nowhere near my house. I also pick up a lot Taco Bell, McDonald's, Burger King and other fast food wrappers. I promise you I would be picking up Porky's wrappers if this project goes through. Thank you.

Jeff Kraker (1510 Jefferson St NE): A couple of things I could say. This is really hard. I am listening to both sides and I'm also a chairperson of the Logan Park Neighborhood Association. I have attended some of the meetings. I enjoy a good hamburger and I will drive to get a Juicy Lucy or go to Lion's Tap and things like that. I have visited Porky's. I can see both sides to the situation with the homeowners and wanting to have... not have this drive-thru in their neighborhood and all the other associated things and I also see the need for development on Central Avenue and bringing in what I think is an exciting looking building. It doesn't really fit with the other things that are on the street, but I think to keep things all the same maybe is a little bit short sided so I support the change of zoning and the development there. We haven't taken a formal vote for Logan Park, but in general I can represent that many of the board members would support the continued development on Central Avenue and that would include this Porky's.

Karen Peterson [not on sign-in sheet]: I work for the Holland Neighborhood Improvement Association and I am here on the behalf of the directors of the Holland Neighborhood to reiterate Holland's support for the Windom Park residents who are here this evening and also to remind you that, the in past, Holland residents and the Holland board have reviewed car eccentric projects on the avenue. In particular, between 18th and 26th, and we have overwhelmingly and consistently been against those even when the business has been something that the neighbors were in favor of. For example, the community was very much in favor of a flower shop that was proposed for the avenue, now in the location of the east side food co-op, however, the proposal included a drive-thru which minimized the size of the building and pedestrian access and so the proposal was rejected. I believe that you have the full content of this letter in your packet.

Doron Clark (1914 Ulysses St NE): I'm approximately three quarters of a mile from this site. I am the co-chair of Windom Park Citizens in Action. We have come out very strongly against this and we continue to reiterate that. I brought along additional letters from individuals who are opposed to the site. I will turn them into the clerk. I spoke with people from St. Paul today, as well as in the past I have talked to Jay Benanav's office and what they said is that the traffic there, around the St. Paul Porky's, is unbelievable. Metro Transit has to reroute busses off of University on nights of these big car shows. Aldine Street is close to this location as well and approximately seven or eight years ago they added traffic circles because Aldine was the main route back to the Porky's site from when they would cruise by and then get back to Fairview. They added traffic circles to prevent people from making this a drag strip. Additionally, there is mention of a petition out there from the senior high-rise. We respect the senior high-rise and their signatures, however, we have collected 200 signatures as well and many of those also came from the senior high-rise. I'll be happy to ask the neighbor to submit that petition. The main thing I want to talk about is that Windom Park has had [tape ended]...of this 25 different meetings. In each time, neighbors have said that this is not appropriate. I will also turn this into the clerk. The developer has not been at each of those 25 meetings. The 25 meetings have been public meetings and this topic has come up and each time the overriding statement is that this is not appropriate. Windom Park's views on this are that we are creating a main street feel for Central Avenue. There is a deliberate checkerboard zoning on Central Avenue to allow a variety of businesses on there. The accidental rezoning of the police station is the only thing that allows this to come forward. The only reason it was able to be rezoned was the 60 days expired and by state law it had to get in there.

President Motzenbecker: If you could summarize, please.

Doron Clark: Certainly. The summary is this; we need to look at this as land use. The land use has a drive-thru exiting on 19th. We've tried signs before in other places to make people turn left and they don't work. There is crime issues associated with the Porky's in St. Paul. If you look at the crime report, the crime starts going when the weather heats up. There have been 22 incidents between May of this year and now. There were 29 incidents between May of 2005 and October of 2005. This is not something that we want to invite to Central Avenue and to change our feel of Central Avenue. Central Avenue has opportunities. We are growing. Central Avenue is something that we know is continuing to improve. I implore you embrace the staff report, the overwhelming consideration of the neighbors, and the Windom Park Citizens in Action, Holland and others who have said no to this.

Paul Ostrow (Ward 1 Council Member): When this proposal was first presented, my view then and my view continues to be, that I would support this under the right circumstances. I do believe that the analysis of this particular site raises some very significant planning issues that you should all consider in terms of our Minneapolis Plan and also how we do planning. First of all, frankly, the Central Avenue Plan does not, as is suggested, preclude this use at this site. I actually was involved in that going to 6 a.m. meetings more than 10 years ago. What the Central Avenue Plan talked about back then was how to create the right mix of activities on Central Avenue that is going to foster success. Clearly in that plan there is an emphasis on pedestrian orientation but also a mix of use. Frankly, there is no discussion in that plan of a drive-thru. If you do nothing else today in your decision making, frankly, the use of that plan as a reason to reject this, I think would be inappropriate. It has not been adopted by the City as official City policy. It certainly needs to be looked at again. I also would really encourage you to think about how we define the different areas of our commercial corridors. Central and Lowry is an activity center. From 22nd to 26th is a pedestrian overlay district. Also from 22nd to 26th is our special service district. That's where we assess property owners for snow removal and other activities to support those pedestrian activities. From 18th to 29th is the commercial corridor in this particular area. Then when you get north of 29th and south of 18th, then you have a community corridor. Our commercial corridor in our Minneapolis Plan, frankly, includes the following language. It talks about the streets having a mix of uses, with commercial uses dominating. It goes on to say that the commercial element typically includes some auto service uses and/or drive-thru facilities. It also suggests that impacts of those facilities need to be looked at and the negative implications of those uses need to be mitigated. I would suggest to you that just in terms of rational planning processes, if we're looking at restricting pedestrian orientation, or promoting pedestrian orientation, we ought to do it by way of our pedestrian oriented development districts which we have on Central Avenue. I was specifically persuaded not to expand that area when I worked with staff several years ago saying that "no 22nd to 26th is the appropriate area for this particular use". Let's also remember that this is a site that has been vacant for almost a decade. We have a couple very important vacant sites on the avenue which need to be developed. I do believe that a Porky's restaurant run well with the right conditions is going to be an amenity and a positive at this location. It's across the street from the precinct, which was brought up by several of you, which is about as auto-oriented a use as you can get, quite frankly, with a huge sea of parking and squad cars coming in and out all day. Also, diagonal from this is a car wash. This part of Central Avenue is not the pedestrian orientation that we have elsewhere on the avenue in that core activity center. How do we balance all of these interests? I think we need to make sure we have very strong conditions on this applicant.

That's something that staff didn't get to, frankly, because staff, as soon as they recommended against the rezoning, don't really get to conditions. I think those conditions here will be strong. I have suggested and encouraged and they are looking at much more of a drive-in component. There is some unique technologies that allow you to order right from your car that I know are being looked at as being included in this particular site. They're looking at using that in the late hours so there's not noise into the neighborhood. We've also insisted that the traffic not go into the neighborhood and that 19th Avenue have not just signage, but an actual structural barrier or that it will be structurally developed so it will be extremely difficult to take that right turn into the neighborhood. We have worked with Public Works, in particular, who generally approve of that approach. There have been other site plan changes and I won't go through all of those.

President Motzenbecker: If you could give a summary that would be outstanding.

Paul Ostrow: The neighborhood and community are split on this. There's not doubt that the residents of the high-rise, as long as I have been a representative of this area, have been looking for more options in terms of eating on the avenue and the vast majority of them are strongly supportive. The Chamber of Commerce is very supportive of this because they see a real need to make sure that this blighted vacant site be developed. There are some very strong views that you've heard tonight about the drive-thru and what that means for long term philosophy of development on Central Avenue. The community is split. I believe we ought to work with this applicant. We ought to have very strong conditions, but that we ought not reject this proposal tonight because I think that if it is done correctly that it can, in fact, be something that would attract more people to the avenue and be a positive and I think it's consistent with our planning goals. I know that I am out of time. I do want to file a petition that I thought could be filed directly with the clerk, but apparently I was told that I should provide it. This is a petition that our office received. I know that other letters have been received as well on this. I think you have a memo that summarizes who signed this petition, but I will present that to the clerk.

Molly Coyne (2314 Lowry Ave)[not on sign-in sheet]: I'm four blocks away from the proposed site. I do agree with Paul. We need positive development on Central. I think that the neighborhood agrees with Paul. I am on the neighborhood group board and we talk about it a lot and we do a lot of work around that. Doron just handed me a photo and it was a good reminder of the art that we've been working to put up on that site as it's been sitting there not looking very good for quite some time. After that point of "yes we want development on Central" is where I start to disagree. I don't think we want just any development, we want positive development. I bought my house in northeast six years ago. I bought my house there because I thought it was a growing, flourishing neighborhood. It had a long way to go, I liked that. I wanted to join my community group and make it a better place. I think we've done a lot of things to move it in that direction. This is not a turn in that direction. This is not an improvement. This will add to the noise that I listen to every night while I am trying to sleep. It is already a struggling neighborhood, but we're struggling to get better not to take a step backward and add tremendous amounts of traffic to a pedestrian neighborhood. The proximity, simply of the house, to where the drive-thru will come out is ridiculous. There are plenty of other good locations for drive-thru's and this is not one of them. Just because we are not block by block, we're two blocks off, of what is currently the proposed pedestrian overlay doesn't mean we don't want people walking in our neighborhood. Most of the neighborhoods in northeast have already formed walking groups for the evening to increase safety, but also to increase the presence of neighbors in the neighborhood. We want to be able to walk around. Now we're

going to get to 18th and not be able to walk any further? It doesn't make sense, it doesn't fit. They may make great hamburgers and there may be a couple of people in the high-rise who are very vocal who want a good hamburger and nothing wrong with a good hamburger, but to say the community is split when there are several people in a high-rise that won't be affected by the noise and pollution of a drive-thru is not an accurate statement. There is not a car wash across the street from this proposed site as Paul has just mentioned. It is further down Central Avenue as you saw from the overview, but there are stores there. All I am asking is that you think about noise, think about the people who live there and where we would like to see the neighborhood go. Allow us to sleep through the night. Thank you.

Gail Bonneville [not on sign-in sheet]: I'm the staff person for the Windom Park Citizen's in Action neighborhood group. You've heard some theme that this is maybe an orphan site blighted and that nobody wants it and we have to take the first development that comes down the pike. I just wanted to add from the office of the Windom Park neighborhood organization standpoint that there have been about four developers coming forward in the last four years so this is not a situation where we feel desperate and we hope you see that the same way.

President Motzenbecker closed the public hearing.

Commissioner LaShomb: About a year and a half ago, maybe longer, I went to a fund raiser up in the park that is half in Minneapolis and half in Columbia Heights and as I was driving on Central Avenue, as a Planning Commissioner I always look to see how things are going on a street, and I was very impressed with what was going on on Central Avenue from the river all the way up to Columbia Heights. A lot of good stuff is going on; a lot of new stuff is going on. I live very close to Lake Street and so I said to myself that I wish that we folks on Lake Street could figure out how to do all the stuff they're doing on Central Avenue which is a little unfair to Lake Street because they're doing well. The problem, I think, with this is the same problem we had when the issue of the police station came up here which is that a drive-thru restaurant is disruptive to a neighborhood anyway you cut it. There is noise, there are cars that honk, there are people jamming the streets trying to get into the drive aisles and it's a difficult issue trying to deal with pedestrian traffic. We had a fatality in south Minneapolis about six months ago where a woman was killed coming out of the door of a drive-thru because they didn't have the right traffic pattern. It's just a burden any way you cut it. The fundamental question to me is, is it an appropriate thing to do on a streetscape like this. The answer to me is that fundamentally it's not a good thing to do. In fact, I stopped going to drive-thru's a long time ago with my car because basically I didn't like them. I didn't like being in cue, I didn't like any of that stuff. More importantly, I started to realize how disruptive it is to the neighborhood. We all knew this was going to come at us after the police station thing. People who were promoting rezoning of the police station didn't hide the fact that the real reason was to allow a rezoning for the Porky's site so I give them credit, at least they were being honest at the time. At that time I referred to it as a Trojan Horse, well now we're in the middle of Troy and the Trojan Horse made it through despite my crying and weeping about it. The fundamental principal isn't any different than it was when we were doing the police station so I am going to move the staff recommendation on the denial of the rezoning (Tucker seconded).

President Motzenbecker: All those in favor? Opposed?

The motion carried 6-0 (Huynh recused herself).

Commissioner LaShomb: I am going to move the conditional use permit denial (Tucker seconded).

President Motzenbecker: All those in favor? Opposed?

The motion carried 6-0 (Huynh recused herself).

Commissioner LaShomb: I will move the denial of the site plan (Tucker seconded).

President Motzenbecker: All those in favor? Opposed?

The motion carried 6-0 (Huynh recused herself).

Department of Community Planning and Economic Development – Planning Division

Zoning Amendment (Rezoning), Conditional Use Permit, Site Plan Review

BZZ-3251

Date: October 30, 2006

Applicant: Trygue Truelson

Address of Property: 1851 Central Ave NE

Project Name: Porky's

Contact Person and Phone: Aaron Roseth, 1072 Ruggles St, Roseville MN 55113, (612) 205-7231

Planning Staff and Phone: Tara Beard, (612) 673-2351

Date Application Deemed Complete: September 29, 2006

End of 60-Day Decision Period: November 28, 2006

End of 120-Day Decision Period: The applicant was sent a letter on October 2, 2006 extending the decision period to January 27, 2007.

Ward: 1 **Neighborhood Organization:** Windom Park Citizens in Action, adjacent to Holland Neighborhood Improvement Association and Logan Park Neighborhood Association.

Existing Zoning: C1 Neighborhood Commercial District

Proposed Zoning: C2 Neighborhood Corridor Commercial District

Zoning Plate Number: 10

Legal Description of Property Proposed for Rezoning: The land referred to is situated in the State of Minnesota, County of Hennepin, and is described as follows:

Provos addition to Minneapolis, block 2, lots 12 to 15 incl.

Lot area: 14,040 square feet

Proposed Use: The new construction of a Porky's drive thru restaurant.

Concurrent Review:

- Rezoning from a C1 to a C2 zoning district
- Conditional Use Permit to allow a fast food restaurant
- Site Plan Review

Applicable zoning code provisions: Chapter 525: Article VI Zoning Amendments; Article VII Conditional Use Permits; Chapter 530 Site Plan Review Chapter 54: Commercial Districts.

Background: The applicant, Trygve Truelson, submitted multiple land use applications to build a new Porky's restaurant at 1851 Central Ave NE in 2005. At that time, C4 zoning was needed to allow a fast food use. A stand-alone fast food restaurant is permitted as a conditional use in C2 zoning only if 660 feet of linear C2 zoning exists. At the time of the previous application, the site was surrounded by C1 zoning. The application was then withdrawn to allow an adjacent property (1911 Central Ave NE) to be considered for rezoning from C1 to C2. That rezoning was approved de facto; a rezoning of 1831 Central Ave NE to C2 would now provide the required linear feet of C2 zoning to allow the conditional use of a fast food restaurant.

The project site was formerly a gas station and has been vacant for some time. The site is adjacent to residential dwellings, a police station, and other commercial uses.

A fast food restaurant is a conditional use in all commercial districts; however, drive-through facilities are prohibited in C1 districts. Fast food restaurants that are not a part of a storefront building are permitted in C2 districts if the property is a part of 660 feet of contiguous C2 zoning. If rezoned to C2, this property would be a part of 660 feet of linear C2 zoning.

In addition to the rezoning and conditional use permit applications, site plan review is required.

The applicant has been working with Windom Park Citizens in Action. Staff has not received an official response from the neighborhood at the printing of this report with respect to this most recent application, although communication has been occurring throughout the process.

ZONING AMENDMENT -

Required Findings for a zoning amendment:

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

The portion of Central Ave where the proposed project is located is designated a Commercial Corridor in *The Minneapolis Plan*. It is four blocks south of the Activity Center designated by the Plan at Lowry Ave NE. Specific chapters of *The Minneapolis Plan* that pertain to this project are as follows:

The Minneapolis Plan, Chapter 4.3 states: "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." One of the implementation plans for this section of the plan is to "support a mix of uses on Commercial Corridors--such as retail sales, office, institutional, higher density residential (including Major Housing Sites where designated), and clean low-impact light industrial--where compatible with the existing and desired character of the street." Rezoning the property to C2 allows more flexibility in the uses permitted at the site in question, since some auto-oriented uses require 660 feet of linear C2 zoning, which would be accomplished by this rezoning. However, commercial corridors are also meant to support a mix of zoning, including C1. Rezoning 1851 Central Ave NE to C2 zoning makes C2 the dominant zoning in the three block section of Central from 18 ½ Ave NE to 22nd Ave NE. Such concentration of C2 zoning on a commercial corridor may be more appropriate at the Activity Center at Central and Lowry.

Policy 4.3's implementation strategies also include regulating "impacts of commercial uses, and in some cases prevent some uses from locating on designated Commercial Corridors, due to their adverse impacts on the viability of nearby residential areas." The project is located across a public alley from an 8-unit multi-family dwelling with R5 zoning, and is within a quarter of a mile of many single-family homes. The portion of Central Ave NE around the site is sprinkled with mainly C1 and C2 uses, with R5 zoning providing a buffer between the Commercial Corridor and the lower-density (R2B) residential zoning to the east. The checkerboard nature of the C1 and C2 districts along this portion of Central Ave NE eliminates the more intense uses that are possible with 660 feet of contiguous C2 zoning that could be detrimental to the surrounding residential uses.

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

The rezoning is in the interest of the property owner, as the Central Avenue Plan (not adopted but widely used by the community) calls for pedestrian oriented uses on this portion of Central Ave NE. Rezoning to C2 would not only allow the fast food restaurant that the applicant is proposing, but also allows the drive-through that is also proposed.

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

There is no current use of the property, which was a gas station but has been vacant for years. The site is adjacent to C2 and R5 zoning (although the adjacent use in the R5 district is a single family home); the proposed rezoning is potentially compatible with adjacent zoning but the linear feet of C2 that would be created by this proposal would allow uses that are not consistent with The Minneapolis Plan

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

Many pedestrian oriented commercial uses are permitted in the C1 district, including restaurants (other than fast food), mixed use (up to 18 dwelling units) and multiple-family dwellings (up to 15 dwelling units).

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

The portion of Central this project is located in hasn't changed much – it has been historically and is intended to be in the long term a commercial corridor. Central Avenue has had traditional building form in places and auto-oriented form in others but the long-term preference in the Central Avenue plan (not adopted but widely used by the community) is that the uses along the avenue become more mixed-use, traditional in form and pedestrian-oriented.

A large, mixed use development was recently construction directly across the street from this site (1900 Central Ave NE). Part of this site was already C2 and the rest was rezoned to C2 in accordance with staff recommendation. In this case, the C2 rezoning did not result in 660 linear feet required for more auto-oriented uses.

CONDITIONAL USE PERMIT -

Required Findings for the Conditional Use Permit to allow a fast food restaurant:

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

The rear of the site is across an alley from a single family home that could be adversely affected by the lights and noise that can be caused by a fast food restaurant with a drive-through.

- 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.**

Allowing a fast food restaurant on this site may discourage the future development of pedestrian oriented, storefront buildings that are desired in the area. Enjoyment of the residents of nearby single family homes may also be reduced because of the vehicular traffic encouraged by a fast food use with a drive-through.

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

There is no indication that the necessary utilities and other measures are not adequate for the site.

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

There are two existing curb cuts off Central Ave NE and one curb cut off 19th Ave NE. The applicant is proposing to close the curb cut off Central that is closest to the intersection and move the curb cut off 19th to accommodate the site plan.

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

See finding #1 in the rezoning section.

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.

In addition to the Rezoning and Conditional Use Permit, the proposed project requires Site Plan Review. The applicant must also comply with the following specific development standards found in Chapter 536.20:

Restaurant, fast food.

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.

Finally, at the time of the printing of this report, the applicant has not been scheduled for Preliminary Development Review (PDR). PDR must take place before final plans will be accepted.

SITE PLAN REVIEW

Findings as Required By the Minneapolis Zoning for 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 FAÇADE:

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

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

- a. Windows shall be vertical in proportion.
- b. Windows shall be distributed in a more or less even manner.

- Nonresidential uses:

Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the

importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:

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

Minimum window area shall be measured as indicated in section 530.120 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.**

Conformance:

- The building is placed at the corner of Central Ave NE and 19th Ave NE.**
- The building is on a corner lot and is less than 8 feet from 19th Ave NE. Approximately one-third of the building frontage along Central Ave NE is within 8 feet of the property line; the remaining two-thirds of the Central Ave building frontage is within 10 feet of the property line. If the site plan is approved, staff would recommend that the entire Central Ave NE building frontage be within 8 feet of the property line as a condition of approval.**
- The area between the building and the property line along Central Ave NE is proposed to be used for outdoor seating in the summer months. The area between the building and the property line along 19th Ave NE is landscaped on the submitted plans.**
- The platting of the block on which the site is located indicates that 19th Ave NE is the front lot line; the principal entrance shown faces the parking lot. Central Ave NE is a designated commercial corridor and therefore staff would recommend alternative**

compliance for an entrance facing Central Ave NE instead of 19th Ave NE. The applicant has indicated a willingness to move the principal entrance to face Central Ave NE.

- On site parking is provided to the south of the building, and has frontage on Central Ave NE. The site dimensions are such that surface parking would be difficult to accommodate entirely in the rear of the site.
- Windows are required on 30% of the elevation for three sides of the building because they face a public street or on-site parking lot. The proposed windows provided are as follows:
 - 19th Ave NE elevation
 - 1st floor facing a public street: 30% required, 10% provided
 - Central Ave NE elevation
 - 1st floor facing a public street: 30% required, 51% provided
 - South elevation
 - 1st floor facing an on-site parking lot: 30% required, 70% provided

Staff would support alternative compliance for the percentage of windows facing 19th Ave NE as Central Ave NE and the parking lot are likely to have more pedestrians and customers to look through those windows, and each of these elevations provide more than the required amount of fenestration.

- Windows are mostly square or slightly horizontal individually, but are distributed horizontally in a more or less even manner.
- There is one section of the building's east elevation that has more than 25 feet of blank wall. If the site plan were approved, staff would recommend requiring that this be corrected as a condition of approval.
- Three different materials would be used for the exterior of the building: Metal tiles, stucco, and glass. The majority of the building is clad in checkered red and white metal tiles, with a portion of the northwest corner in stucco that raises above the proposed roof and storefront windows facing the west and the south.
- Plain-face concrete block is not proposed as an exterior material for any part of the building.
- The proposed roof is slanted; most adjacent non-residential building roofs are flat. If the site plan is approved, staff would recommend alternative compliance for this condition as it is a stand alone building and does not resemble the other commercial buildings in the area in materials or signage, either.

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.**

Conformance:

- The building is sited on a concrete patio that connects to the public sidewalks and steps down to the parking lot.

- There is an existing transit shelter in front of the site on Central Ave NE. There is an existing light next to the transit shelter.
- There are two proposed curb cuts for the project; three curb cuts currently exist to the site. A curb cut off Central Ave NE will be entrance only, and a curb cut off 19th Ave NE will be exit only and left turn only to prevent traffic from impacting the residential neighborhood to the east.
- The orientation of the parking spaces would allow headlights to face the adjacent single-family home, but a 6 foot privacy fence is proposed to mitigate that impact.
- The concrete patio proposed to surround the west and south sides of the building could be landscaped, but the applicant would like to allow outdoor seating in those locations in the summer months.

LANDSCAPING AND SCREENING:

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
- **Not less than twenty (20) percent of the site not occupied by buildings, including all required landscaped yards, shall be landscaped as specified in section 530.160 (a).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Except as otherwise provided, required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**
 - **A decorative fence.**
 - **A masonry wall.**
 - **A hedge.**
- **Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.170 (b), including providing landscape yards along a public street, public sidewalk or public pathway and abutting or across an alley from a residence or office residence district, or any permitted or conditional residential use.**
- **The corners of parking lots where rows of parking spaces leave areas unavailable for parking or vehicular circulation shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks or bicycle parking.**
- **In parking lots of ten (10) spaces or more, no parking space shall be located more than fifty (50) feet from the center of an on-site deciduous tree. Tree islands located within the interior of a parking lot shall have a minimum width of seven (7) feet in any direction.**
- **All other areas not governed by sections 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.**
- **Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.210.**
- **The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.80, as provided in section 530.220.**

Conformance:

- The lot area (14,040 sq. ft.) less the building footprint (2,076 sq. ft.) yields a net site of 11,964 sq. ft. The Code requires a minimum of 2,393 sq. ft. of landscaping, 5 trees and 24 shrubs. The total landscaping proposed by the applicant is 2,133 sq. ft. This equals 18% of the net site. The proposed project includes 12 trees and 61 shrubs; however, all proposed trees are evergreens. If this site plan is approved, staff recommends requiring at least 5 canopy trees on the site as specified in section 530.160 (1) of the code. If the site plan is approved, staff would furthermore recommend alternative compliance for the amount of landscaping on the site because of the additional trees being provided.
- Screening is required between the surface parking lot and the public right-of-way along Central Ave NE and between the parking area and the residential use across the alley to the east. Such screening is provided for the required frontage on Central Ave NE via a landscape hedge. Screening between the parking area and the alley across from a residential use is provided via a 6 foot wooden privacy fence.
- Seven feet of landscaping is required between the surface parking lot and the property line along Central Ave NE, and between the parking area and the alley across from a residential use to the east. Along Central Ave only 3 feet 7 inches of landscaping is provided; at least 7 feet of landscaping is provided between the alley and parking area. If the site plan is approved, staff would recommend alternative compliance for the reduced landscaping along Central because of the narrow width of the site and the excess of screening (up to 13 feet 8 inches) between the parking areas and the alley across from the single family dwelling. Staff would recommend decorative fencing be added in this location to warrant alternative compliance.
- There are no corners created by the parking layout that should be landscaped.
- All surface parking stalls are within 50 feet of an on-site tree; however these trees are specified as evergreens. If the site plan is approved, staff recommends requiring that the necessary trees be replaced with deciduous trees to meet the requirements of section 530.170 (e) of the code.
- All areas not occupied by buildings, the proposed concrete patio, parking and loading facilities or driveways will be covered with turf grass, native grasses, or other perennial flowering plants, vines, mulch, shrubs or trees.

ADDITIONAL STANDARDS:

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

eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

Conformance:

- No wheel stops are shown for the surface parking spaces. If the site plan is approved, staff recommends requiring wheel stops be added as a condition approval per the requirements of section 530.230 of the code.
- Most drainage from the surface parking lot will be directed to the City's stormwater system.
- The project will not block views of important elements of the city nor create any substantive shadows on adjacent buildings and open spaces.
- The project would not be expected to contribute significantly to ground-level winds.
- The site design and landscape plan allows views from the public sidewalk into the site.

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.**

Conformance: Staff is not recommending alternative compliance for this project. While there are items in the site plan that are not meeting the requirements of Chapter 530 that could be appropriate for alternative compliance, staff is recommending denial of the site plan and therefore alternative compliance would not be granted. However, if the site plan is approved, staff would support alternative compliance for the following items:

- Approximately one-third of the building frontage along Central Ave NE is within 8 feet of the property line; the remaining two-thirds of the Central Ave building frontage is within 10 feet of the property line. If the site plan is approved, staff would recommend that the entire Central Ave NE building frontage be within 8 feet of the property line as a condition of approval. Staff would not recommend alternative compliance for this condition.
- The platting of the block on which the site is located indicates that 19th Ave NE is the front lot line; the principal entrance shown faces the parking lot. Central Ave NE is a designated commercial corridor and therefore staff would recommend alternative

compliance for an entrance facing Central Ave NE instead of 19th Ave NE. The applicant has indicated a willingness to move the principal entrance to face Central Ave NE.

- There is one section of the building's east elevation that has more than 25 feet of blank wall. If the site plan were approved, staff would recommend requiring that this be corrected as a condition of approval, and would not recommend granting alternative compliance.
- Staff would support alternative compliance for the percentage of windows facing 19th Ave NE (30% is required, 10% is provided) as Central Ave NE and the parking lot are likely to have more pedestrians and customers to look through those windows, and each of these elevations provide more than the required amount of fenestration.
- The proposed roof is slanted; most adjacent non-residential building roofs are flat. If the site plan is approved, staff would recommend alternative compliance for this condition as it is a stand alone building and does not resemble the other commercial buildings in the area in materials or signage, either.
- If the site plan is approved, staff would recommend alternative compliance for the amount of landscaping on the site because of the additional trees being provided.
- The Code requires a minimum of 5 trees and 24 shrubs for this project. The proposal includes 12 trees and 61 shrubs; however, all proposed trees are evergreens. If this site plan is approved, staff recommends requiring at least 5 canopies trees on the site as specified in section 530.160 (1) of the code. Staff would not recommend granting alternative compliance for this condition.
- If the site plan is approved, staff would recommend alternative compliance for the reduced landscaping along Central because of the narrow width of the site and the excess of screening (up to 13 feet 8 inches) between the parking areas and the alley across from the single family dwelling. Staff would recommend decorative fencing be added in this location to warrant alternative compliance.
- All surface parking stalls are within 50 feet of an on-site tree; however these trees are specified as evergreens. If the site plan is approved, staff recommends requiring that the necessary trees be replaced with deciduous trees to meet the requirements of section 530.170 (e) of the code. Staff would not recommend alternative compliance.

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

Zoning Code: The proposed use is permitted in the C2 District with a conditional use permit. A fast food restaurant is prohibited in the C1 District.

Off-Street Parking and Loading: The parking requirement calculated per Chapter 541 is based on the capacity of the restaurant. The proposed restaurant would seat up to 21 customers, which requires 7 parking spaces. Nine parking spaces are provided.

Because the proposal includes a drive-through, a minimum of 6 stacking spaces must be provided for the drive-through. The current site plan only shows room for 4 stacking spaces. The applicant has indicated that final plans would show the 6 required stacking spaces. It is likely that such a change would have a significant impact on the site plan and may result in another public hearing by the City Planning Commission if the Zoning Administrator deems such changes significant under sections 525.360 and 530.100 of the zoning code.

Maximum Floor Area: The maximum floor area ratio for the C2 district is 1.7. The applicant's proposal would result in a floor area ratio of 0.15.

Building Height: Building height in the C2 District is limited to 4 stories or 56 feet, whichever is less. The proposed building would be one floor, but 2 stories as the building height exceeds 14 feet. The building's highest point is 25 feet.

Minimum Lot Area: The minimum lot area requirement in the C2 district for a food and beverage use with a drive-through facility is 12,000 sq. ft. The site is 14, 040 sq. ft.

Yard Requirements: The only setback for the property occurs in the northeast corner where the property is across an alley from a residential use. The first 40 feet of the site must match the front yard setback of the adjacent residential district, or 15 feet. The current site plans show a trash enclosure in this setback, which is not a permitted obstruction. The applicant has indicated that the trash enclosure would be moved further south, outside of the front yard in the final plans.

Specific Development Standards: The following specific development standards apply:

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.

Hours of Operation: The proposed hours are from 10AM to 10PM Sunday – Thursday and from 10AM to 11PM on Friday and Saturday. These are within the permitted hours of operation in the C2 district.

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

Signs: There is one proposed wall sign on the west building elevation. The proposed sign is larger than is permitted by Table 543-2 of the zoning code. The proposed sign is 120 sq. ft.; only 70 sq. ft. are allowed. The applicant has indicated that final plans would show signage in compliance with Chapter 543 of the code.

Refuse storage: **All storage of refuse and recyclable materials will located in a trash enclosure in northeast corner of the site.**

Minneapolis Plan: See finding #1 of the rezoning section.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the zoning amendment change from C1 zoning to C2 zoning district:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **deny** the application for a zoning amendment to change 1851 Central Ave NE from a C1 to a C2 zoning district.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit to allow a fast food restaurant:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for a conditional use permit for a fast food restaurant at 1851 Central Ave NE.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for a site plan review at 1851 Central Ave NE.

Attachments:

1. Statement of use
2. Findings
3. Correspondence

4. Site Plan, Floor Plans, Elevations, & Zoning map
5. Photos