

Minneapolis City Planning Department Report

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

BZZ – 688

Date: September 9, 2002

Date Application Deemed Complete: July 25, 2002

End of 60 Day Decision Period: September 23, 2002

End of 120 Day Decision Period: On August 13, 2002, Planning staff sent a letter to the applicant extending the decision period to no later than November 22, 2002.

Applicant: 50th – Arbor Properties LLC

Address of Property: 3717 W. 50th St./5011 Ewing Ave. S.

Contact Person and Phone: Steve Young, 926-8000

Planning Staff and Phone: Jason Wittenberg, 673-2297

Ward: 13 **Neighborhood Organization:** Fulton

Existing Zoning: C2 and R1A. The C2 portion of the lot is within the PO (Pedestrian Oriented) Overlay District.

Proposed Zoning: Add TP (Transitional Parking) Overlay District

Zoning Plate Number: 35

Legal Description of Property Proposed for Rezoning: Parcel 1: The north 60 feet of the west 128 feet of that part of Lot 1, Bull's subdivision of the Northwest Quarter of the Southwest Quarter of Section 17, Township 28, North Range 24, West lying south of West 50th Street as opened by the City and East of Ewing Avenue South. Parcel 2: The Part of Lot 1, Bull's Subdivision of the Northwest Quarter of the Southwest Quarter of Section 17, Township 28 North Range 24 West Described as follows: All of said tract lying East of the East line of Ewing Avenue and West of the alley created by deed in Book 1407 of Deeds page 397, except the North 60 feet thereof and except the South 50 feet thereof. Being registered land as evidenced by Certificate of Title No. 820996.

Note that the City's property info database refers to the property as follows: That part of the North 183 3/10 feet of Lot 1 Lying East of Ewing Avenue and South of 50th Street.

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Proposed Conditional Use: Parking lot serving existing shopping center. As part of the conditional use permit, the applicant seeks a waiver from the standard requiring gating of the parking lot between 10:00 p.m. and 6:00 a.m.

Zoning Code Section Authorizing Proposed Conditional Use Permit: 551.430(1)

Project Name: 50th and Ewing

Proposed Variances:

- A variance to reduce the required front yard setback along Ewing Ave. from 20 ft. or the setback of the residential dwelling to the south, whichever is greater, to 10 ft. for a parking lot;
- A variance to reduce the north interior side yard setback from 5 ft. to 0 ft. within the R1A District for a parking lot;
- A variance to reduce the south interior side yard setback from 5 ft. to 0 ft. within the C2 District for a parking lot;
- A variance from the TP Overlay District standard requiring that each entrance to and exit from such parking lot shall be located at least twenty (20) ft. from any adjacent property located in a residence or office residence district.
- Variance to exceed the maximum number of accessory parking spaces in the Pedestrian Oriented Overlay District from 24 to 28 spaces.

Zoning Code Section Authorizing Proposed Variances: 525.520 (1) & (20)

Previous Actions: On December 29, 1961, the City Council granted a rezoning from Residential to the Multiple Dwelling District and a conditional use permit for a private vehicle parking lot (file 1342) for the lot at 5011 Ewing Ave. S.

Concurrent Review: Rezoning, site plan review, conditional use permit, and variances as noted above

Background: The applicant owns an existing shopping center at the southeast corner of Ewing Avenue South and West 50th Street. The lot in question has split zoning, with the northern 150 feet in the C2 District and the southernmost 33 feet in the R1A District. The applicant proposes to construct a nine-space accessory parking lot south of the shopping center, extending into the R1A District. (The site currently has 19 parking spaces.) As indicated in Table 541-3 of the zoning code, uses located in commercial districts may not locate parking in any residence district. The applicant seeks a rezoning to add the Transitional Parking (TP) Overlay District to the site. The purpose of the TP Overlay District, as indicated in section 551.400, is “to allow parking lots for passenger automobiles in residence and office residence districts when adjacent to zoning districts in need of additional parking for customers and employees that does not meet the requirements of Chapter 541, Off-Street Parking and Loading.” (Alternatively, the applicant could have sought to rezone the entire property to a commercial district.) The applicant has requested the TP Overlay District for the entire site.

A parking area serving the shopping center currently extends into the residence district along the public alley. Note that only the portion that is zoned R1A (rather than the entire site) would need the TP

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Overlay District in order to facilitate the proposed project. Further, as indicated in overlay district language above, only residence and office residence districts are eligible for rezoning to the TP Overlay District. This is reflected in Planning staff's recommendation to rezone only that portion of the lot not located in a commercial district.

The proposed parking lot requires a conditional use permit. The applicant also seeks variances for the proposed parking lot, as noted above.

As a shopping center, the site must be brought into compliance with Chapter 530, Site Plan Review, as indicated in Table 530-1 and section 530.90 of the zoning code.

Note that section 535.210 of the zoning code states that, "Where a lot is bisected by one (1) or more zoning district boundary lines, land in the more restrictive district shall not be included as a part of the required yards or minimum lot area for any structures or uses not allowed in said district."

Findings As Required By The Minneapolis Zoning Code for the Rezoning Application:

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

West 50th Street is designated as a Community Corridor. According to the *Minneapolis Plan* (page 1.4.30), "Community Corridors are locations that support new residential development at medium density and increased housing diversity in our neighborhoods. They support limited commercial uses, which are measured against their impacts on residential character such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented toward the pedestrian experience. The streets, which form the spine of the community corridors, carry fairly high volumes of traffic, but must balance vehicular travel against residential quality of life. These streets are also important identifiers and travel routes for neighborhood residents and pass through traffic."

The area around 50th and France is designated as an Activity Center. The *Minneapolis Plan* (page 1.4.35) indicates that, "Activity Centers attract interest and patrons throughout the city" and, "The concentration of activity, the high pedestrian, automobile and transit traffic generated by travel to and from these centers and the mix of uses located there are all critical elements defining a sense of place...An important consideration...is the balance between the benefits these Centers bring to the city as a whole, and the need to mitigate undesirable impacts, which could range from overflow parking and traffic impacts on neighborhood streets to a need for increased city services such as trash removal or street cleaning."

Planning staff has identified the following goals and policies of the *Minneapolis Plan* as being relevant to the request to add the TP Overlay District to the site.

Relevant policy: **4.2** Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses,

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the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Relevant Implementation Steps:

- Strengthen the residential character of Community Corridors by developing appropriate housing types that represent variety and a range of affordability levels.
- Promote more intensive residential development along these corridors where appropriate.
- Discourage the conversion of existing residential uses to commercial uses, but encourage the development of mixed use residential dwelling units in commercial buildings where appropriate.
- Support the continued presence of small scale retail sales and commercial services along Community Corridors.
- Ensure that commercial uses do not negatively impact nearby residential areas.

Staff comment: The above policy and implementation steps discourage the conversion of existing residential property to uses that accommodate additional commercial activity adjacent to Community Corridors.

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

Relevant Implementation Steps:

- Develop parking facilities and management strategies that accommodate high customer demand, promote shared facilities and minimize visual impact and adverse effects on pedestrian and sidewalk traffic.

Staff comment: The above policy and implementation step suggests that, where activity centers are designated, the City should consider accommodating their parking demand while balancing this against other objectives related to urban design and transportation.

Relevant Policy: **9.24** Minneapolis will support continued growth in designated commercial areas, while allowing for market conditions to significantly influence the viability of commercial presence in undesignated areas of the city.

Relevant Implementation Steps:

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

Staff comment: Rezoning to the TP Overlay District may help achieve vitality in the Activity Center while ensuring through the site plan review process that development in the proposed TP Overlay District is compatible with adjacent property.

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

The rezoning request is to provide off-street parking for a particular property. Thus, the rezoning request is largely to accommodate the interest of a single property owner. To the extent that it removes congestion from the public streets, the amendment may be in the public interest.

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.

The proposed zoning is compatible with the surrounding uses and zoning classifications. The underlying zoning classifications will remain the same. The intent of the TP Overlay District is to allow off-street parking that, through the standards required in section 551.430, is done in a manner that is compatible with residential areas.

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.

The split zoning found on the existing zoning lot essentially prevents the property owner from using the entire lot in a manner that would normally be expected on a site that houses a shopping center.

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 area has become more intensely developed in recent years and parking pressure on area streets has likely increased in conjunction with area development.

Findings As Required By The Minneapolis Zoning Code for the Conditional Use Permit Application:

Note that, as part of the conditional use permit, the applicant requests an exception from the requirement that the parking lot be closed with a secured gate or other mechanism between 10:00 p.m. and 6:00 a.m.

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

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The establishment of a parking lot on the currently vacant area should not prove detrimental to or endanger the public health, safety, comfort or general welfare provided the access points meet the traffic safety and control requirements of the Public Works Department. Staff believes that waiving the evening gate requirement would not prove detrimental to the surrounding area and is consistent with the idea that Activity Centers are active into the evening hours. Note that future use of the parking lot could include late night hours if, for example, the applicant leases to a tenant that obtains a liquor license.

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.

Developing a parking lot on the parcel should not be injurious to the use and development of adjacent parcels so long as setback requirements are adhered to along the south and west property lines. Reducing required setbacks would diminish the residential character of the 5000-block of Ewing Avenue. The applicant must use care to preserve the viability of the mature tree located on the property immediately to the south of the proposed parking lot.

3. Will have adequate utilities, access roads, drainage and/or other necessary facilities.

The Public Works Department has reviewed the preliminary plan and will review the final plan for issues such as drainage and access. Concrete curbing would direct drainage away from the adjacent residential property.

4. Will take measures to minimize traffic congestion in the public streets.

The applicant notes that the parking lot will help to relieve congestion on area streets.

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

In addition to the policies noted in the rezoning analysis above, relevant policies and implementation steps of the *Minneapolis Plan* include the following:

Relevant policy: **4.2** Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Relevant Implementation Step:

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

Staff comment: The Planning Commission, through action on the conditional use permit, site plan review, and variance applications, must ensure that the proposed parking lot does not negatively impact nearby residential areas.

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Relevant Policy: **9.8.** Minneapolis will maintain and strengthen the character of the city's various residential areas.

Relevant Implementation Steps:

- Prohibit new driveways on block faces with alley access and where there are no existing driveways.
- Infill development standards must reflect the setbacks, orientation, pattern, materials, height and scale of surrounding one and two family dwellings.

Staff comment: The applicant proposes a new driveway along Ewing Avenue, which is consistent with Chapter 530 and the Public Works Department's policies regarding separation of commercial traffic and residential alleys. The current parking lot proposal does not respect the setback established by single-family dwellings on the block.

Relevant Policy: **9.10.** Minneapolis will support efforts that recognize both the increased visibility and importance of corner properties and the role of gateways in enhancing the traditional neighborhood character.

Relevant Implementation Step: Require site plan review of new development or major additions to new structures (other than single family homes) on corner properties.

Staff comment: The site is a corner property. Thus, the standards of site plan review (below) are particularly important, as expressed in the above policy.

Relevant Policy: **9.12.** Minneapolis will promote design solutions for automobile parking facilities that reflect principles of traditional urban form.

Relevant Implementation Steps:

- Require the landscaping of parking lots.
- Encourage parking strategies that reduce the need for parking in order to avoid spillover into neighboring residential areas, including residential parking permits and the joint use of available parking in mixed use areas.
- Locate parking lots behind buildings or in the interior of the block to reduce the visual impact of the automobile in mixed use areas.

Staff comment: Although the parking lot would located primarily to the side/rear of the existing building, the lot would extend into the setback area, which would increase its visual impact, contrary to the above Implementation Steps.

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

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Relevant Implementation Steps:

- Provide appropriate physical transition and separation using green space, setbacks or orientation between residential and non-residential uses.
- Require screening and buffering for new developments next to residential areas.
- Use the site plan review process to ensure that lighting and signage associated with non residential uses do not create negative impacts for residentially zoned property.

Staff comment: The parking lot must meet the required setback and required screening along the south side of the property, adjacent to the nearest residence. This includes the area currently shown on the site plan as tapering toward the residential property at the rear of the lot.

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 c.u.p., rezoning, site plan review and variances.

With approval of all association applications in this report, staff is unaware of any conflict between the existing plan and the regulations of the C2 and R1A Districts. As noted elsewhere in this report, however, the current proposal would exceed the maximum number of parking stalls allowed in the PO Overlay District.

Required Findings for Major 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. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C 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.

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- 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 façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- 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 where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

Conformance with above requirements:

The existing building reinforces the street wall along 50th Street. Although the building does not reinforce the street wall along Ewing Avenue, this is an existing situation that essentially renders the “building placement” provisions inapplicable.

The building is located within 8 feet of the lot line along 50th and approximately 30 feet from the lot line along Ewing Avenue. The Ewing Avenue setback is consistent with the setback established by the residence immediately to the south.

The area between the building and front property lines includes some landscaping as well as landscape features. Additional landscaping must be located between the existing parking areas and the public sidewalks (see landscaping section below).

Principal entrances will continue to face the public streets along 50th Street and Ewing Avenue.

The site would not feature new building construction. Building façade and architectural elements are already in place.

The building features brick that is compatible on all sides.

Plain-face concrete block is not used as a primary exterior building material.

Windows make up more than 30 percent of the first floor façade facing both 50th Street and Ewing Avenue.

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.

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- **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 530.140 (b).**

- **Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.**
- **Site plans shall minimize the use of impervious surfaces.**

Conformance with above requirements:

Clear and well-lighted walkways connect the building entrances to the public sidewalks and would also connect the entrances to the proposed parking lot.

There are no transit shelters on the site.

Vehicular/pedestrian conflicts would be minimized to a large degree.

The site currently has off-street parking adjacent to the public alley. The Public Works Department will determine whether alley access is allowed to the parking lot as proposed and what measures must be taken to ensure that vehicles accessing the commercial property do not have negative impact on residential properties in the vicinity.

The applicant has indicated that snow would be accommodated north of the refuse containers.

Impervious surfaces could be further minimized by complying with the front yard setback along Ewing Avenue.

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 shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **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.**
- **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 530.160 (b).**
- **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**
- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**

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- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 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 530.220.**
- **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 530.60, as provided in section 530.230.**

Conformance with above requirements:

The lot in question, including both the residential and commercial sections, is 183 ft. by 127 ft., having 23,241 sq. ft. of area. At least 20 percent of the site area—or 4,648 sq. ft.—must be landscaped. According to the applicant’s statement, 5,466 sq. ft. would be landscaped under the proposal, which equals 23.5 percent of the net site area. The zoning code would require at least 4 trees and 23 shrubs but not less that would be required to meet the “landscaped yard” requirements of Chapter 530. The city’s landscape consultant has reviewed the landscape plan. Proposed species are appropriate. However, landscaping must be added to areas noted below in order to comply with Chapter 530. Comparing the site plan with a previously submitted survey, it appears that three mature deciduous trees (two Locust and an Elm) and two mature coniferous trees (Norway Pines) would be removed to make way for the parking lot. Further, the proposed driveway placement would require removal of an Ash tree located in the public boulevard. **Any tree(s) located in the public boulevard may be removed only upon approval of the Minneapolis Park & Recreation Board.**

Landscaped yards are required between all parking areas and public sidewalks. Landscaping must be added between the existing parking lot along Ewing and the public sidewalk as well as between the existing parking lot along 50th and that adjacent public sidewalk.

Landscaping must also be added between the proposed parking lot and the residence to the south as required by section 530.160(c). Although the required landscaping is supposed to take place outside the required screen (on the south side of the privacy fence, in this case), staff recommends that the commission grant alternative compliance to allow the landscaping to take place north of the fence so that the fence may tie in to the existing privacy fence located in the rear yard of the adjacent residence. Note that the maximum fence height is six feet in the side yard and three feet in the front yard. Staff must review the elevations of the proposed fence design.

Six inch by six inch concrete curbing would be installed around the off-street parking area.

All areas not covered by buildings, walkways, driveways and parking and loading will be covered with turf.

ADDITIONAL STANDARDS:

- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- Site plans shall minimize the blocking of views of important elements of the city.
- Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- 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.
- Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.

Conformance with above requirements:

The applicant's site plan shows "existing flood lighting" on the south side of the building. Lighting must comply with chapters 535 and 541.

The proposed landscaping and screening would effectively prevent headlights from shining onto adjacent residential properties.

Views would not be blocked.

The proposed site plan will have no impact on shadowing of the public sidewalk and will have no impact on wind speed or direction in the vicinity.

From a crime prevention standpoint, the site would be lighted. Landscaping at the edges of the lot would define the parking lot as private space (i.e., territorial reinforcement).

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE: The site is zoned C2 and R1A with a PO (Pedestrian Oriented Overlay District). As indicated in Table 541-3 of the zoning code, uses located in commercial districts may not locate parking in any residence district. This is the basis of the request to rezone to add the TP Overlay District.

Parking and Loading: With four tenant spaces in the shopping center, 16 off-street parking spaces would be required under the current configuration. Section 551.140(f) limits the amount of accessory parking allowed for uses in a PO Overlay District to no more than 150 percent of the minimum required. Thus, the applicant can have no more than 24 spaces on the site under the current building configuration. The applicant has suggested that the building might be divided into more tenant spaces in the future.

Signs: No new business signs are proposed as part of the project.

Maximum Floor Area: The site is in compliance with the maximum permitted floor area ratio allowed in the C2 District.

Yard Requirements: A front yard setback is required along Ewing Avenue. In the area that would remain R1A zoning, the parking lot would be required to meet the front yard setback established by the home on the adjacent property to the south (approximately 30 feet, according to a survey that was submitted by the applicant for a previous approval) as required by section 546.160(b). On the commercial portion of the property, the parking lot would be required to meet a minimum 20 foot setback for the first 40 feet from the residence district boundary as required by section 548.140(b)(1). Parking lots must maintain five foot setbacks from a boundary between a commercial and residence and, when in the residence district, must maintain a side yard setback. The applicant's plan must be changed to reflect a five foot south side yard setback along the entire south lot line, extending to the public alley.

Specific Development Standards: Shopping centers are subject to the following specific development standard, as indicated in section 536.20 of the zoning code:

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.

Hours of Operation: Maximum hours open to the public in the C2 District are as follows: Sunday through Thursday, from 6:00 a.m. to 10:00 p.m. and Friday and Saturday, from 6:00 a.m. to 11:00 p.m. In the TP Overlay District, parking lots must be closed with a secured gate or other appropriate mechanism between the hours of 10:00 p.m. and 6 a.m. The applicant, through the conditional use permit, seeks to waive this TP Overlay District standard.

Dumpster screening: The refuse storage containers, located along the public alley, must be screened as required by section 535.80 of the zoning code.

535.80. Screening of refuse storage containers. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. Single and two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall not be governed by this provision.

MINNEAPOLIS PLAN: For analysis of the project’s consistency with the Minneapolis Plan, please see the conditional use permit application above.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council:

Staff is not aware of a conflict between the proposed use and any development plan or objective adopted by the city council. Staff’s understanding is that the *Fiftieth and France Ave. Master Plan*, supported by the Fulton Neighborhood Association and the 50th and France Business Association, has not been adopted by the City Council. The Master Plan notes that the City conducted a survey in 1994 indicating that “there does not seem to be a particular parking problem in the area, although there are some locations that could become a potential problem.” In terms of the area in which the proposed parking lot would be constructed, the Master Plan placed the area in a “Transitions Zone” between the “Residential Zone” and the “Commercial Zone” and as a potential “alley turnout” in conjunction with a new cul-de-sac on Ewing. The Master Plan states that, “This zone is critical to the master plan in that it establishes an area that allows for an appropriate transition between the two primary land use zones. Without the flexibility this zone offers, the opportunity to achieve the larger objectives of the master plan become much more limited.” Further, the elements of the Transition Zone “serve the mutual interests of both residential property and business owners. They should not be construed as an expansion of the business district nor benefiting one entity over another. Instead, these elements should be considered on the merits of the planning objective that they achieve, namely a smooth and permanent transition between local businesses and residential properties.” See the attached table of guidelines related to on- and off-street parking in the area.

Alternative Compliance. The Planning Commission may approve alternatives to any major 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, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.**
- **Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.**
- **The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.**

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As indicated above, staff is recommending alternative compliance exceptions for the following aspects of the proposal:

- Staff recommends alternative compliance to allow the landscaping required by section 530.160(c) to take place north of the required screen (i.e., north of the privacy fence) rather than “outside” the privacy fence in order to allow the proposed fence to tie into the existing privacy fence.

Findings Required by the Minneapolis Zoning Code for the Proposed Variances:

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

Front yard setback along Ewing: Complying with the front yard setback along Ewing is a reasonable alternative for the property owner. With approval of the accompanying rezoning and conditional use permit applications, the applicant could construct a parking lot south of the existing shopping center without this requested variance. If installing accessible parking stalls close to the building entrance is an important objective for the applicant, the existing four-space parking lot along Ewing should be converted to two accessible spaces. According to a property survey previously submitted by the applicant (in 1999), the adjacent home to the south is set back 30 feet from the front lot line, approximately the same set back as the shopping center. Denying the variance would mandate that the parking lot conform to this uniform setback.

North interior side yard in R1A District: The existing zoning lot straddles the zoning district boundary. Complying with the setback along the zoning district boundary would essentially prevent any commercial construction on the south side of the existing zoning lot.

South interior side yard in C2 District: The existing zoning lot straddles the zoning district boundary. Complying with the setback along the zoning district boundary would essentially prevent any commercial construction on the south side of the existing zoning lot.

Minimum 20 ft. distance of parking entrance/exit from any adjacent residential property: With the particular layout of the property in question, complying with the minimum 20-foot separation between the adjacent residential property and the proposed driveway would essentially force the parking spaces immediately adjacent to the residential property by having the driveway and drive aisle at the north end of the area in question. Varying the separation requirement would prove less intrusive for the adjacent property in this particular case.

Maximum parking requirement: Planning staff believes that it is reasonable for the applicant to comply with the maximum number of off-street parking spaces allowed in the Pedestrian Oriented Overlay District. Essentially, any commercial property owner could make the claim that such a variance should be granted based on potential future tenant changes (e.g., that a restaurant, with a higher parking requirement, is likely to locate in building currently dedicated to retail space). The applicant may choose to delay construction of the parking lot (up to a year from the Planning Commission’s action should the parking lot be approved) until the tenant situation (the number and type of tenants) is resolved. If the building contains seven retail spaces

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within the next year, the PO Overlay District would allow up to 42 off-street parking spaces—more than could be accommodated on the site.

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

Front yard setback along Ewing: Staff has not identified a unique factor that would justify violation of the required front yard setback along Ewing Avenue.

North interior side yard in RIA District: The “split zoning” situation is a unique factor that, as far as Planning staff is aware, has not been created by the applicant.

South interior side yard in C2 District: The “split zoning” situation is a unique factor that, as far as Planning staff is aware, has not been created by the applicant.

Minimum 20 ft. distance of parking entrance/exit from any adjacent residential property: The unique layout of the existing parcel and particular size of the “vacant” land in question are generally not applicable to other properties.

Maximum parking requirement: The applicant has presumably played a role in creating the current number of tenant spaces on the property.

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

Front yard setback along Ewing: Planning staff believes that constructing the parking lot into the normal front yard setback would violate the intent of the ordinance to have a relatively continuous front yard adjacent to residential property. Granting the variance would allow parking to become more visually intrusive, in spite of proposed landscaping. The site would feature parking on three sides of the building and will already be prominently displayed without the proposed variance.

North interior side yard in RIA District: Granting the variance would allow commercial use of the south end of the existing zoning lot. The intent of the zoning ordinance, to create a modest buffer between adjacent uses, would not be violated by granting this variance.

South interior side yard in C2 District: Granting the variance would allow commercial use of the south end of the existing zoning lot. The intent of the zoning ordinance, to create a modest buffer between adjacent uses, would not be violated by granting this variance.

Minimum 20 ft. distance of parking entrance/exit from any adjacent residential property: The intent of the requirement is to reduce the intrusiveness of parking lots on residential property.

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As noted above, granting the variance would actually reduce the proposed parking lot's impact on the neighboring residential property to the south. Note, however, that the particular proposed placement of the driveway would require removal of a public boulevard tree. **Any tree(s) located in the public boulevard may be removed only upon approval of the Minneapolis Park & Recreation Board.**

Maximum parking requirement: Planning staff believes that increasing the maximum number of off-street parking spaces would violate the intent of the ordinance, which is to place a reasonable lid on off-street parking to limit proliferation of off-street parking and the generally negative impacts associated with such a proliferation. Granting the variance would essentially facilitate having off-street surround the building on three sides.

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

Front yard setback along Ewing: Granting of the front yard setback variance along Ewing would likely not endanger public safety or increase street congestion in any way.

North interior side yard in R1A District: Granting the proposed variance would not increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

South interior side yard in C2 District: Granting the proposed variance would not increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Minimum 20 ft. distance of parking entrance/exit from any adjacent residential property: Granting the proposed variance would not increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Maximum parking requirement: Although granting the modest variance would likely not endanger public safety or increase street congestion in any way, proliferation of off-street parking clearly is detrimental to the pedestrian environment and discourages use of alternative modes of transportation.

Recommendation Of The City Planning Department for the Rezoning Application:

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the application to rezone to add the TP Overlay District to that part of the property at 3717 W. 50th St./5011 Ewing Ave. S. not located in a commercial district.

Recommendation of the City Planning Department for the Conditional Use Permit Application:

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The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for a parking lot serving customers and employees at 3717 W. 50th St./5011 Ewing Ave. S. subject to the following conditions:

- 1) Any tree(s) located in the public boulevard may be removed only upon approval of the Minneapolis Park & Recreation Board.
- 2) The TP Overlay District standard requiring closure of the parking lot between 10:00 p.m. and 6:00 a.m. shall be waived.

Recommendation of the City Planning Department for the Site Plan Review Application:

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for a shopping center and accessory parking lot at 3717 W. 50th St./5011 Ewing Ave. S. subject to the following conditions:

- 1) Landscaping and screening shall be installed between all parking areas and public sidewalks as well as between parking areas and the adjacent residential property to the south consistent with sections 530.150 and 530.160 of the zoning code.
- 2) The number of accessory parking spaces shall not exceed one hundred fifty (150) percent of the minimum required parking spaces or ten (10) spaces, whichever is greater, as required by section 551.140 of the zoning code.
- 3) The five (5) foot south side yard setback shall extend the entire length of the south property line along the adjacent residential property.
- 4) The Planning Department shall review and approve the final site and landscaping plans as well as elevations of the proposed fence and refuse storage enclosure.
- 5) If improvements required by Site Plan Review exceed two thousand (2000) dollars, the applicant shall submit a performance bond in the amount of 125 percent of the estimated site improvement costs by December 11, 2002, or the permit may be revoked for non-compliance.
- 6) Site improvements required by Chapter 530 or by the City Planning Commission shall be completed by September 27, 2003, unless extended by the zoning administrator, or the permit may be revoked for non-compliance.

Recommendation of the City Planning Department for the Variance Application to Reduce the Required Front Yard Setback:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **deny** the variance to reduce the required front yard setback along Ewing Ave. from 20 ft. or the setback of the residential dwelling to the south, whichever is greater, to 10 ft. for a parking lot at 3717 W. 50th St./5011 Ewing Ave. S.

Recommendation of the City Planning Department for the Variance Application to the North Interior Side Yard:

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The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the north interior side yard setback from 5 ft. to 0 ft. within the R1A District for a parking lot at 3717 W. 50th St./5011 Ewing Ave. S..

Recommendation of the City Planning Department for the Variance Application to South Interior Side Yard:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance reduce the south interior side yard setback from 5 ft. to 0 ft. within the C2 District for a parking lot at 3717 W. 50th St./5011 Ewing Ave. S..

Recommendation of the City Planning Department for the Variance of the Minimum 20 ft. Distance of Parking Entrance/Exit From Any Adjacent Residential Property:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the variance from the TP Overlay District standard requiring that each entrance to and exit from such parking lot shall be located at least twenty (20) ft. from any adjacent property located in a residence or office residence district at 3717 W. 50th St./5011 Ewing Ave. S. subject to the following condition:

- 1) The driveway and drive aisle shall be located not less than five (5) feet from the adjacent residential property.

Recommendation of the City Planning Department for the Variance of the Minimum 20 ft. Distance of Parking Entrance/Exit From Any Adjacent Residential Property:

The City Planning Department recommends that the City Planning Commission adopt the findings above and **deny** the variance to exceed the maximum number of accessory parking spaces in the Pedestrian Oriented Overlay District from 24 to 28 at 3717 W. 50th St./5011 Ewing Ave. S.

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