

## Arnold, Amanda T.

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**From:** Bruce Bermel [bbermel@cchaseco.com]  
**Sent:** Tuesday, June 12, 2007 10:22 AM  
**To:** Arnold, Amanda T.  
**Cc:** semmons111@aol.com; bbermel@cchaseco.com  
**Subject:** RE: Zoning information

Well then I must go "on the record" as saying I disagree with this policy; "fast food" without a drive through should be permitted as that is what people like when they "walk about". There is nothing unsafe about them pedestrian-wise if there is no drive through.

Why would the city discriminate against say Arby's or Subway, Dairy Queen, ice cream stores, or others ? The goal seems to be to get people to walk around these areas and I don't get why the city would therefore prefer say an office user to a food user.

I would appreciate your forwarding this email on to the appropriate people for consideration, as I will be unable to make the upcoming meeting this week due to a conflict.

Thanks Amanda,

Bruce

-----Original Message-----

**From:** Arnold, Amanda T. [mailto:Amanda.Arnold@ci.minneapolis.mn.us]  
**Sent:** Monday, June 11, 2007 4:03 PM  
**To:** bbermel@cchaseco.com  
**Cc:** Bernard, Joseph A.  
**Subject:** RE: Zoning information

Bruce,

No, sorry, I was trying to say that you could put a car rental place back in the Enterprise space and a different fast food place in the Subway space (if you didn't change the fast food space much). If you want to put a restaurant in the Enterprise space it needs to be deemed by the City to not meet the definition of fast food in the code (i.e. it can't meet 5 or more of those criteria).

Amanda

Amanda Arnold, AICP, Principal City Planner  
Community Planning & Economic Development (CPED) -  
Planning Division  
City of Minneapolis  
350 South 5th Street - Room 210  
Minneapolis, MN 55415  
Phone: 612-673-3242  
Fax: 612-673-2728

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-----Original Message-----

**From:** Bruce Bermel [mailto:bbermel@cchaseco.com]  
**Sent:** Monday, June 11, 2007 2:44 PM  
**To:** Arnold, Amanda T.  
**Subject:** RE: Zoning information

6/12/2007

Thanks; I don't intend to demolish either building during my lifetime. Thus, if I undersand it from what you wrote below, I could replace Enterprise with a food use without having to deal with the six criteria ? There will be NO drive through as the property would lose too much parking if a drive lane were installed.

-----Original Message-----

**From:** Arnold, Amanda T. [mailto:Amanda.Arnold@ci.minneapolis.mn.us]

**Sent:** Monday, June 11, 2007 2:16 PM

**To:** bbermel@cchaseco.com

**Cc:** semmons111@aol.com; Bernard, Joseph A.

**Subject:** RE: Zoning information

Bruce,

If you put a new tenant in the same building, you don't have to meet the building placement requirements of the Pedestrian Oriented Overlay, and as I mentioned you have the rights replace the "conditional use" of rental car sales with another rental car facility up to a year after Enterprise leaves. If you tear down the building and replace it, you would have to meet the building requirements of the pedestrian overlay (for example building set back and window requirements) or request a variance.

Arby's and Subway would likely both be considered fast food, but since Subway is your current tenant they can stay there as a "legally non-conforming use" indefinitely. You can replace one legally non-conforming use with another (like with the "conditional use", the rights are with the property not the tenant) if the layout remains basically the same. You should discuss the layout details with Joseph Bernard or someone else from our zoning office if you are in the situation of replacing one non-conforming use with another.

I agree that some Subway restaurants can be a nice asset to a shopping and dining area. However, the zoning code can not call out one "brand" over another, and that's why there are broad categories, like "fast food" with criteria for how they are defined.

Just let me know if you have other questions.

Amanda

Amanda Arnold, AICP, Principal City Planner  
Community Planning & Economic Development (CPED) -  
Planning Division  
City of Minneapolis  
350 South 5th Street - Room 210  
Minneapolis, MN 55415  
Phone: 612-673-3242  
Fax: 612-673-2728

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-----Original Message-----

**From:** Bruce Bermel [mailto:bbermel@cchaseco.com]

**Sent:** Monday, June 11, 2007 11:15 AM

**To:** Arnold, Amanda T.

**Cc:** semmons111@aol.com

**Subject:** RE: Zoning information

Thank you for this information, Amanda. In paragraph 4 you speak of "new" construction. If a new food tenant comes to Enterprise bldg, is that considered "new construction" ?

Under the definitions you presented, it appears that users like both Arby's and Subway would be precluded as they have fixed menu board, fixed seating, etc. I have Subway in my building. Kids like Subway and generally ride bikes or walk there just as the city is trying to encourage. I don't understand why they would be excluded. Can you help with that reasoning process for me please ?

-----Original Message-----

**From:** Arnold, Amanda T. [mailto:Amanda.Arnold@ci.minneapolis.mn.us]

**Sent:** Friday, June 08, 2007 2:47 PM

**To:** bbermel@cchaseco.com

**Cc:** Bernard, Joseph A.

**Subject:** Zoning information

Bruce,

I have more information for you about the potential impacts of the suggested rezoning on S. Lyndale. I'll take it from the top (some of this we've already discussed, but I thought it would be good to have all the information in one place).

For your property at 5309 Lyndale City staff is suggesting two changes: the removal of the residential zoning and transitional parking overlay that cover the rear of your lot and the addition of a Pedestrian Oriented Overlay district. These zoning changes are being suggested as implementation step for the S. Lyndale Corridor Master Plan which was adopted by the City Council in January 2006.

The removal of the residential zoning and transitional parking overlay shouldn't have any impacts on your property as you're using it today. It makes your lot all one zoning category, in this case C2, instead of being split between two different zones.

As we discussed the Pedestrian Oriented Overlay district contains requirements for the design of new construction and prohibits future fast food restaurants, drive-through facilities, automotive service uses, and transportation uses. Whether or not a restaurant is considered "fast food" is based on 6 criteria that I e-mailed you. A restaurant has to meet five or more of those criteria to be considered "fast food". If you have a potential future restaurant tenant, you will need to meet with the City's zoning staff to get a determination of what type of restaurant it is (some establishments that are widely recognized as "fast food" may actually be defined as a "delicatessen" or "sit down" restaurant by our zoning code). Automotive service uses are defined as automotive convenience facilities, automobile rental, automobile repair, automobile sales, and car washes.

I know Enterprise Rental Car is currently a tenant on your property, but that they will likely be leaving Sept. 1. Car rental facilities are considered a "conditional use" in C2 zoning. If Enterprise were staying on your site, they would be considered a "legally non-conforming use" in the Pedestrian Oriented Overlay zone. That would mean they could operate indefinitely unless they vacated the site for more than a year. Future expansions or alterations of such a use would be required to gain approval from the City Planning Commission.

Because the rights to a "conditional use" lie with the property and not the tenant, you have the right to bring on another rental car tenant within one year of Enterprise's departure provided the building size and parking allocation for the use does not change. If you do that,

the new rental car facility would be a "legal non-conforming use" and the provisions mentioned in the paragraph above would apply.

If you plan to lease to another rental car company, I suggest that you write a letter to the planning department expressing that interest so we have documentation of that. You should send that letter to Joseph Bernard in the Community Planning and Economic Development Department Zoning Division, Room 300, Public Service Center, 250 South 4th Street, Minneapolis, MN 55415. Joe can also assist you if you have questions about other future uses of your property. He can be reached at 673-2422.

Please feel free to call me as well.

Amanda

Amanda Arnold, AICP, Principal City Planner  
Community Planning & Economic Development (CPED) -  
Planning Division  
City of Minneapolis  
350 South 5th Street - Room 210  
Minneapolis, MN 55415  
Phone: 612-673-3242  
Fax: 612-673-2728

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-----Original Message-----

**From:** Bruce Bermel [mailto:bbermel@cchaseco.com]  
**Sent:** Thursday, June 07, 2007 2:16 PM  
**To:** Arnold, Amanda T.  
**Subject:** RE: FW: Zoning information

Many thanks for your help, Amanda. It is good to work with "staff" who is so communicative and timely. It does not always happen.

Bruce

-----Original Message-----

**From:** Arnold, Amanda T.  
[mailto:Amanda.Arnold@ci.minneapolis.mn.us]  
**Sent:** Thursday, June 07, 2007 2:06 PM  
**To:** bbermel@cchaseco.com  
**Subject:** RE: FW: Zoning information

Bruce,

I will pass on your comments.

I'm looking into the issues related to the rental car use. I determined that rental car facilities are considered "automotive services" and thus prohibited in the pedestrian overlay district. However, rental car facilities are a "conditional use" in the C2 district (your base zoning), and I'm trying to figure out how long you have rights to that conditional use in this situation.

Use of the site at 55<sup>th</sup> and Lyndale for a car rental facility at 55<sup>th</sup> and Lyndale has not yet been approved by the Planning

Commission. However, if it is, the owners and tenant are aware that when the rezoning is implemented as proposed it would become a non-conforming use.

I'll be in touch.  
Amanda

Amanda Arnold, AICP, Principal City Planner  
Community Planning & Economic Development (CPED) -  
Planning Division  
City of Minneapolis  
350 South 5th Street - Room 210  
Minneapolis, MN 55415  
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-----Original Message-----

**From:** Bruce Bermel [mailto:[bbermel@cchaseco.com](mailto:bbermel@cchaseco.com)]  
**Sent:** Thursday, June 07, 2007 11:28 AM  
**To:** Arnold, Amanda T.  
**Cc:** [bbermel@cchaseco.com](mailto:bbermel@cchaseco.com)  
**Subject:** RE: FW: Zoning information

Thanks for the explanation-interpretation. It certainly does help. However, I have a few additional comments.

Please pass on to the city staff, Planning Commission and Council as an owner of the property for 35 years, the city should "welcome" (non drive-thru) food users in a "pedestrian district" rather than say, an office user. When out "walking about" especially in the warm months of the year, people enjoy ice cream and food services. It is one of the reasons that people go out for a walk.

As far as my question asked earlier about what is the definition of "transportation uses", I would still request a definition and would like you to pass on for consideration by Planning Commission and Council my feelings that car rental should be permitted in the proposed overlay zone. In my experience with Enterprise Rent-a-Car for the past ten years while they have been a tenant in my building, there have been no issues. They are allowed seven exclusive parking spaces of the 78 on the property for storage of their cars. These cars are new, not used. Like other retailers, their clients come to this location, sign paperwork and drive off with a car. This is no different than any other customer coming to a retail place to do business. Overall, this user has been an exemplary tenant. Unlike other car service users, they do not wash cars or service cars at this location. They should be allowed in a commercial zoning just as they have always been. Enterprise leaves this location Sept. 1st for a location on Lyndale (former Sinclair station) where they can drive into the building and have a wash bay and more storage for cars.

Speaking of the Sinclair station on 55th St., from the map it appears that Lyndale Ave at 55th where the Sinclair station is located (SWQ) is in this new zone and I am wondering why

there use is being allowed since it is precluded under the new overlay. Enterprise will be washing and storing cars as well as renting them. I would appreciate your explanation on this, as well.

Thanks, Amanda.

Bruce Bermel

-----Original Message-----

**From:** Arnold, Amanda T.  
[mailto:Amanda.Arnold@ci.minneapolis.mn.us]  
**Sent:** Thursday, June 07, 2007 9:21 AM  
**To:** bbermel@cchaseco.com  
**Cc:** semmons111@aol.com  
**Subject:** RE: FW: Zoning information

Bruce,

To be considered "fast food" a restaurant has to meet *five or more* of the criteria in the list. So by simply not having stationary seating or a self-serving condiment bar, the operation would not be considered fast food. It's really about the design and operation of a facility. For, example, I don't think Noodles and Company would be considered fast food because the seats aren't stationary and people don't bus there own tables. Starbucks and Caribou would be classified as coffee shops in the City's code. There is also a category of "delicatessen" in the City's code and many chain restaurants could fall into that category.

It's not the City's intent to prohibit these popular restaurants. It's a matter of having them designed in a way that creates a better environment.

I hope that helps.

Amanda

Amanda Arnold, AICP, Principal City Planner  
Community Planning & Economic Development (CPED) -  
Planning Division  
City of Minneapolis  
350 South 5th Street - Room 210  
Minneapolis, MN 55415  
Phone: 612-673-3242  
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-----Original Message-----

**From:** Bruce Bermel [mailto:bbermel@cchaseco.com]  
**Sent:** Wednesday, June 06, 2007 3:06 PM  
**To:** Arnold, Amanda T.  
**Cc:** bbermel@cchaseco.com; semmons111@aol.com  
**Subject:** FW: FW: Zoning information

Amanda, my partner raises a good question. Would appreciate your comments.

Bruce

-----Original Message-----

**From:** SEmmons111@aol.com

[mailto:SEmmons111@aol.com]

**Sent:** Wednesday, June 06, 2007 2:55 PM

**To:** bbermel@cchaseco.com

**Subject:** Re: FW: Zoning information

You should ask her based on the definition of fast food if the following are consider fast food and if they are, what the City find offensive in these highly sought after retail food retailers.

Caribou Coffee

Starbucks

Leeann Chins

Chiplote

Brueggers

Noodles

D'Amico and Sons

Boston Market

Papa John's Pizza

Punch Pizza

Papa Murphy's

All of these under their definitions would be fast food and that means they do not want them on Lyndale Ave. in this district. What do they know about retail is really the problem?

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