

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permits, Variances and Site Plan Review  
BZZ 4286

**Date:** February 2, 2009

**Applicant:** JB Perkins Architects

**Address of Property:** 1120 West Broadway

**Project Name:** 1120 West Broadway

**Contact Person and Phone:** Jerry Perkins, (651) 436-6966

**Planning Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** December 23, 2008

**End of 60-Day Decision Period:** February 21, 2009

**Ward: 5      Neighborhood Organization:** Jordan Area Community Council, adjacent to Northside Residents Redevelopment Council

**Existing Zoning:** C2 Neighborhood Corridor Commercial District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 8

**Legal Description:** Not applicable for this application

**Proposed Use:** Expansion of an existing automobile convenience facility and adding a fast food restaurant to the existing building

**Concurrent Review:**

- **Conditional use permit** to allow for the expansion of an existing automobile convenience facility
- **Conditional use permit** to allow for a fast food restaurant
- **Variance** to reduce the north interior side yard from 9 feet to 4 feet 8 inches to allow for a drive-through access lane
- **Variance** to reduce the minimum drive aisle width to access parking areas and pump islands
- **Site plan review**

**Applicable zoning code provisions:** Chapter 520 General Provisions; Chapter 525, Article VII

Conditional Use Permits; Chapter 525, Article IX Variances; Chapter 530 Site Plan Review; Chapter 541 Off-Street Parking; Chapter 548 Commercial Districts.

**Background:** This application was continued from the January 22, 2009, City Planning Commission public hearing to allow for the project to be discussed by the Committee of the Whole for the CPC on January 22, 2009.

The applicant has submitted land use applications to allow for an expansion of an existing automobile convenience facility, a use that is deemed to have a conditional use permit. The applicant intends to eliminate an existing carwash within the structure and remodel the interior to allow for a larger convenience store and a delicatessen restaurant. These proposed changes require an amendment to the conditional use permit.

The applicant has also proposed to install drive-through to the proposed deli. Any restaurant that includes a drive-through facility is defined in the zoning code as a fast food restaurant. A fast food restaurant is a conditional use in the C2 District. In addition, fast food restaurants established after the effective date of the ordinance shall be located only in storefront buildings existing on the effective date of this ordinance, provided further that no significant changes shall be made to the exterior of the structure and freestanding signs shall be prohibited, except where the property is part of an area of at least six hundred sixty (660) feet of continuous C2, C3S, C4 or industrial zoning fronting along the same side of the street as the fast food restaurant, without interruption by a residence, office residence, C1, C3A or Pedestrian Oriented Overlay District. The subject property is part of an area with 3,331 linear feet of continuous C2, C3S and industrial zoning.

In addition, the proposed drive-through is located within a required interior side yard along the north property line. The adjacent use to the property is a three-story church, which is zoned OR1. Where a side lot line abuts a side lot line in an office residence district, a yard equal to the minimum side yard of the permitted use shall be provided. The church requires a minimum interior side yard setback of 9 feet; the applicant has proposed to locate the drive-through 4 feet 8 inches to the north property line. Therefore, a variance is required to allow for the drive-through location.

Finally, with the expansion of the automobile convenience facility and the addition of the drive-through, the applicant is subject to site plan review.

Staff has received a letter of support for the project from the Jordan Area Community Council neighborhood organization and it is included in the attachments to this staff report.

**CONDITIONAL USE PERMIT:** to allow for an expansion of an existing automobile convenience facility

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

The automobile convenience facility was constructed in 1950. This site is zoned C2 Neighborhood Corridor Commercial District and is located on a commercial corridor. The

building footprint will not change and the applicant is proposing to add several windows and principal entrances to the building and a number of landscaping and screening improvements to the property. The expanded convenience store and continued use of the automobile convenience facility will not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes and life safety ordinances.

**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.**

The continued use of the site as an automobile convenience facility should not be detrimental to the surrounding area. Automobile services uses are an appropriate use on a commercial corridor. The building was originally constructed in 1950 and is setback from West Broadway; however, the applicant is proposing a number of site improvements, including the addition of windows to the existing building, landscaping and screening, to move closer to conformance with the goals of traditional urban design.

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

The site is served by existing infrastructure. The Public Works Department has reviewed the project for appropriate drainage and stormwater management in or over the public right of way for compliance. In addition, the applicants have amended their original site plan to reflect the requested changes from the Public Works Department for the proposed access and curb cuts.

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

Presently, the automobile convenience facility and car wash are required to provide 6 off-street parking spaces. The proposed floor plan also requires 6 off-street parking spaces. The applicant has provided four parking spaces, while the other two spaces are grandfathered, and has therefore met the parking requirement.

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

**THE MINNEAPOLIS PLAN (2000)**

*The Minneapolis Plan* designates this portion of West Broadway as a commercial corridor. The plan states that, “Commercial Corridors are streets that are available for development including more intensive commercial and high traffic activities. The buildings and structures on these streets are generally similar to traditional commercial storefronts and the siting and massing of new structures should respect this typology. These corridors must balance both pedestrian and automobile orientation in their design and development. The corridors support all types of commercial uses, with some light industrial and high density residential uses as well. While the character of these streets is commercial, residential areas are nearby and impacts from commercial uses must be mitigated as appropriate.”

*The Minneapolis Plan*, Chapter 2.8 states: “Minneapolis will develop the existing economic base by emphasizing business retention and expansion.” One of the implementation steps is to

promote business start-ups, retention and attractions. This business has operated at this location for almost sixty years. The applicant is proposing the very first site plan improvements that will include landscaping and screening of the property.

*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 steps is to ensure that commercial uses do not negatively impact nearby residential areas. Another is to develop parking facilities and management strategies that balance the following goals: improved customer access, protection of sidewalk traffic; reduced visual impacts and shared use of parking facilities. The applicant is proposing to guide traffic, both vehicular and pedestrian, through the site using CPTED principles through the installation of landscaping and screening.

#### **THE MINNEAPOLIS PLAN FOR SUSTAINABLE GROWTH (2009)**

The site is designated as mixed use and located on a commercial corridor, West Broadway. The plan states that “Commercial Corridors can accommodate intensive commercial uses and high levels of traffic. The corridors support all types of commercial uses, with some light industrial and high density residential uses as well. While the character of these streets is mainly commercial, residential areas are nearby and impacts from commercial uses must be mitigated as appropriate. These corridors frequently carry large traffic volumes and must balance significant vehicular through-traffic capacity with automobile and pedestrian access to commercial property.

Policy 1.4 recommends the development and maintenance of strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users. One of the implementation steps is to continue to encourage principles of traditional urban design including site layout that screens off-street parking and loading, buildings that reinforce the street wall, principal entrances that face the public sidewalks, and windows that provide “eyes on the street”. In addition to providing screening, landscaping and striped stalls, the facades that face Fremont Avenue North and West Broadway will now have windows, where presently there are only two small windows.

#### **WEST BROADWAY ALIVE (2008)**

The subject property is within the designated Hawthorn Crossings/Historic Storefronts section of the West Broadway Alive Plan. The plan identifies this area as a sub-district of the commercial core of West Broadway and area with great promise for being activated as a main street style shopping area.

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

In addition to the conditional use permit, a conditional use permit to allow for a fast food restaurant, variance to allow for the drive-through location, variance for a reduced drive aisle and site plan review, the proposed expansion of the automobile convenience facility is subject to the following Specific Development Standards, addressed in Chapter 536:

*Automobile convenience facility.*

- (1) The sale or repair of vehicles shall be prohibited.
- (2) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vaportight fittings to preclude the escape of gas vapors from the fill pipes.
- (3) Service area canopy light fixtures shall be completely recessed within the canopy so that the lenses shall not extend beyond the surface of the canopy.
- (4) 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.
- (5) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

The building and intended use shall comply with all of the development standards.

**CONDITIONAL USE PERMIT** to allow for a new fast food restaurant within an existing building

**Findings as Required by the Minneapolis Zoning Code:**

The Minneapolis City Planning Department has analyzed the application and from the findings above concludes that the establishment, maintenance, or operation of the proposed conditional use:

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

The automobile convenience facility was constructed in 1950 and the attached car wash was added to the building in 1975. This site is zoned C2 Neighborhood Corridor Commercial District and is located on a commercial corridor. The existing car wash does not meet the current site plan review requirements for maneuvering and encourages stacking within the alley. The applicant is proposing to add a drive-through for the proposed deli within the existing structure in lieu of operating the existing car wash. The deli would be a permitted use without the drive-through and a conditional permit would not be required for a fast food restaurant. The building footprint will not change and the applicant is proposing site plan improvements to control the access and maneuverability to reduce off-site impacts and conflicts with pedestrians and other vehicles. The substitution of the car wash for the drive-through should not prove detrimental to public health, safety, comfort or general welfare provided the development complies with all applicable building codes, life safety ordinances and public works standards.

**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.**

The proposed drive-through has been designed to minimize traffic conflicts on and off the site. The existing conditions of the site include the entire east property line open to traffic along the alley and a 60 foot wide curb cut along Fremont Avenue North. Vehicles readily cut-through the property along the north from the alley to Fremont Avenue North to avoid traffic along West Broadway. The applicant proposes to direct traffic for the drive-through either through the site or

through a portion of the existing alley and around the rear of the property and out a reduced curb cut, specifically for the drive-through, along Fremont Avenue North. The adjacent use to the north is a three-story church with fixed windows on the second and third floors. Staff does not believe that the proposed drive-through will be injurious to the use and enjoyment of other property in the vicinity, nor will it impede on the normal or orderly development and improvement of surrounding property for permitted uses in the district.

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

The site is served by existing infrastructure. The Public Works Department has reviewed the project for appropriate drainage and stormwater management in or over the public right of way for compliance.

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

Presently, the automobile convenience facility and car wash are required to provide 6 off-street parking spaces. The proposed floor plan also requires 6 off-street parking spaces. The applicant has provided four parking spaces, while the other two spaces are grandfathered, and has therefore met the parking requirement. In addition, the applicant is required to provide a minimum of three bicycle parking spaces per Table 543-1 Bicycle Parking Requirements.

**5. The conditional use is consistent with the applicable policies of the comprehensive plan.**

See Finding #5 under Conditional Use Permit to allow for the expansion of an existing automobile convenience facility.

**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.**

With the approval of the concurrent applications and compliance with the following specific development standards, addressed in Chapter 536, the conditional use would be in conformance with the applicable regulations in the C2 District.

*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.

**VARIANCE** – to reduce the interior side yard setback to allow for the proposed drive-through

**Findings Required by the Minneapolis Zoning Code:**

**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.**

The proposed drive-through has been designed to minimize traffic conflicts on and off the site. The existing conditions of the site include the entire east property line open to traffic along the alley and a 60 foot wide curb cut along Fremont Avenue North. Vehicles readily cut-through the property

along the north boundary from the alley to Fremont Avenue North to avoid traffic along West Broadway. The applicant proposes to direct traffic for the drive-through through a portion of the existing alley and around the rear of the property and out a reduced curb cut, specifically for the drive-through, along Fremont Avenue North. The adjacent use to the north is a three-story church with fixed windows on the second and third floors. Due to the adjacency of OR zoning, there is reflective setback for the proposed drive-through of 9 feet. The existing church, adjacent to the property, was constructed approximately 1 foot away from the property line. The applicants have proposed the drive-through approximately 4 feet 8 inches to the north property line. The area between the convenience store and the church is currently be used as a driveway and strict adherence to the zoning ordinance would cause undue hardship. Staff believes that the proposed drive-through is a reasonable use of the property.

- 2. 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.**

The proposed drive-through has been designed to minimize traffic conflicts on and off the site. The existing conditions of the site include the entire east property line open to traffic along the alley and a 60 foot wide curb cut along Fremont Avenue North. Vehicles readily cut-through the property along the north from the alley to Fremont Avenue North to avoid traffic along West Broadway. Staff believes that the circumstances are unique to the property and that the circumstances have not been created by the applicant.

- 3. 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.**

The intent of having yard controls is to provide for the orderly development and use of land and to minimize conflicts among land uses and provide adequate light, air, open space and separation of uses. The existing church, adjacent to the property, was constructed approximately 1 foot away from the property line. The proposed drive-through has been designed to minimize impacts to nearby land uses. Staff does not believe that the proposed drive-through will be injurious to the use and enjoyment of other property in the vicinity, nor will it alter the essential character of the locality. In addition, staff is recommending that the applicant provide a row of dense columnar, prickly shrubbery along the north property line, adjacent to the church to further mitigate any potential nuisance.

- 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.**

The proposed variance should not substantially increase the congestion of the public streets. Instead the applicant has made several site modifications to control access and maneuverability for ingress and egress to the property. In addition, the variance will not increase the danger of fire or endanger public safety provided the development complies with all applicable building codes and life safety ordinances.

**VARIANCE** – to reduce the drive aisle due to the installation of a landscaped area

**Findings Required by the Minneapolis Zoning Code:**

**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.**

The applicant has proposed to install a four-foot landscaped area between West Broadway and the pump aisles in order to move towards compliance per Chapter 530 Site Plan Review. The minimum drive aisle width is 12 feet and the applicant is proposing to reduce that to 10 feet. The location of the pump islands are existing and the proposed variance will allow for reasonable use of the property by allowing the site to move towards compliance with the landscaped yard requirement per Chapter 530 Site Plan Review and would otherwise cause undue hardship.

**2. 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.**

The applicant has proposed to install a four-foot landscaped area between West Broadway and the pump aisles in order to move towards compliance per Chapter 530 Site Plan Review. The minimum drive aisle width is 12 feet and the applicant is proposing to reduce that to 10 feet. The location pump islands are not a circumstance that has been created by the applicant.

**3. 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.**

Granting of the variance to reduce the drive aisle to allow for compliance with the required landscaped yard is in keeping with the spirit and intent of the ordinance. Staff believes that 10 feet is sufficient width to allow for the maneuvering of vehicles adjacent to the landscaped area. The reduced drive aisle should not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

**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.**

The proposed variance should not increase the congestion of the public streets or the danger of fire or endanger public safety.

**SITE PLAN REVIEW**

**Findings as required by the Minneapolis Zoning Code for the 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 the Zoning Code**

**BUILDING PLACEMENT AND DESIGN:**

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

The existing structure is located towards the rear of the property. No additions are proposed to the structure.

There are three pedestrian entrances; all of them will be oriented towards West Broadway.

The parking area is currently undefined. The applicants are proposing to stripe four parking spaces; one handicapped stall directly adjacent to the west of the existing building and three located at the corner of West Broadway and Fremont Avenue North.

The building would include sufficient architectural detail and amounts of windows to avoid large blank walls, not exceeding twenty-five (25) feet in length along Fremont Avenue North and West Broadway. There is one blank wall, twenty-eight feet in length, along the east wall; however, no new construction is proposed and therefore the applicant is not required to meet this standard.

The applicant has proposed to upgrade the exterior materials of the building to have a silver corrugated metal façade with a color accents for the majority of the building. The west and southwest portions of the building are proposed to be face brick, with a brick or stone base and internally illuminated canopies.

Plain face concrete block will not be used as a primary exterior building material.

The principal entrances will be clearly defined and will be surrounded by windows and in some cases lit canopies.

The applicant is not proposing new construction and is therefore not required to provide a minimum of 30% glazing on the first floor on the three elevations of the convenience store that face a public street, pathway or parking area on the south, west and east facades. However, the applicant is proposing to provide the following percentages: 31% on the South elevation facing West Broadway, 25% on the West elevation along Fremont Avenue North and 0% on the East elevation along the alley.

All of the proposed windows will be vertical in proportion and evenly distributed. All of the 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 required windows between four and seven feet above the adjacent grade.

A flat roof is proposed. Many buildings in the area also have flat roofs.

#### **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 530.140 (b).**
- **Site plans shall minimize the use of impervious surfaces.**

#### ***Conformance with above requirements:***

The applicant has provided a new walkway in front of the principal entrances connecting to the adjacent parking area. Due to the existing location of the building, it would be impractical to

connect a new walkway connecting the principal entrances to the adjacent public sidewalk. Walkways between the building and the parking area shall be kept free of obstructions (e.g., pillars, ice machines, etc.) in a manner that allows four (4) foot wide clearance. Such walkway(s) shall be protected from encroachment of vehicles by curbing, wheel stops, bollards, or similar barriers.

There are no transit shelters on the site.

The current conditions of the site include an existing 60 foot wide curb cut along Fremont Avenue North and a 32.5 foot wide curb cut along West Broadway and alley access. The applicant is providing three locations of ingress; one along Fremont Avenue North via a 25 ft. wide curb cut and two along West Broadway, through a 25 ft. curb cut and the alley. Staff believes that the new design will reduce conflict between vehicular and pedestrian traffic and the surrounding residential uses.

The site plan shows a decrease in the amount of impervious surface than what currently exists on the site.

#### **LANDSCAPING AND SCREENING:**

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**

- **Not less than twenty (20) percent of the site not occupied by buildings 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.**

- **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.**

- **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.**

The zoning code requires that a least 20 percent of the site not occupied by buildings be landscaped. The lot area is 15,710 square feet and the proposed building footprints are 3,080 square feet. The lot area minus the building footprints therefore consists of approximately 12,630 square feet. At least 20 percent of the net site area (2,526 square feet) must be landscaped and the applicant is providing 2,526 square feet, which equals 20 percent of the net site area.

The zoning code requires at least one canopy tree for each 500 square feet of required green space and at least one shrub for each 100 square feet of required green space. In addition, not less than one (1) tree shall be provided for each twenty-five linear feet or fraction thereof of parking lot frontage along a public street. The tree and shrub requirement for this site is 10 and 25 respectfully. The applicant has shown 11 trees (6 are canopy trees) and 45 shrubs. The applicant has requested alternative compliance from 10 canopy trees to 6 to allow for trees with a smaller caliper to encourage successful development within the 4 ft. wide landscaped area adjacent to West Broadway. Staff is recommending that the planning commission grant alternative compliance.

A seven-foot landscaped yard is required on all four sides of the property, due to adjacency to a public street and pathway and residential uses and zoning classification. The applicant is requesting alternative compliance to reduce the landscaped yard requirement on all sides of the property allow for adequate maneuvering area for vehicles and with consideration to existing conditions, including the location of the building and pump islands by instead providing an open, decorative fence around the majority of the perimeter of the property. Staff is recommending that the planning commission grant alternative compliance.

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. There are only four parking stalls proposed.

Screening, not less than 3 feet in height and less than 60% opaque is required along Fremont Avenue South, West Broadway and the alley. The applicant has proposed a 42", open decorative fence. Screening, not less than 6 feet high and 95% opaque, is required for approximately 133 feet along the north property line due to the adjacency the OR1 zoning classification. The applicant is requesting alternative compliance to screening along the north property line due to the

adjacency of the location of the neighboring structure. Staff is recommending the installation of dense, columnar and prickly shrubbery along the north elevation adjacent to the neighboring structure.

Turf, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees shall cover all areas that are not paved or landscaped.

**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 with above requirements:*

With the recommend landscaping, the property should be able to support a fair amount of on-site filtration.

The building should not impede any views of important elements of the city.

The building should not significantly shadow the adjacent streets or properties.

Wind currents should not be major concern.

The site design provides natural surveillance and visibility to allow views into the area. The proposal controls and guides to movement on the site with clearly defined walkways between the

principal entrance and the parking areas and distinguishes between public and non-public spaces with the new window openings and the recommended and proposed screening and landscaping.

The existing structures are neither historic nor eligible for historic designation.

**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 site is zoned C2. Automobile convenience facilities and fast food restaurant uses are conditional uses in the C2 District.

**Off-Street Parking and Loading:**

*Minimum automobile parking requirement:* 6 off-street parking spaces

*Maximum automobile parking requirement:* 15 off-street parking spaces

*Bicycle parking requirement:* 3 bicycle parking spaces; 50% of which shall meet the minimum standards for short term bicycle parking

*Loading:* No loading required; however adequate shipping and receiving facilities shall be provided per section 541.490

**Maximum Floor Area:** The maximum floor area ratio in the C2 District is 1.7. The lot area is 15,710 square feet. The proposed structures are 3,080 square feet. The floor area ratio is .196.

**Height and Bulk:** The maximum building height in the C2 District is limited to four stories or 56 feet, whichever is less. The existing building is one story; two stories by definition, approximately 15 feet 4 inches tall.

**Minimum Lot Area:** Automobile services uses with fuel pumps or car washes have a minimum lot area of 12,000 square feet in the C2 District. Food and beverage uses with a drive-through facility have a minimum lot area of 12,000 square feet in the C2 District. These requirements are not cumulative.

**Dwelling Units per Acre:** There are no existing or proposed dwelling units.

**Yard Requirements:** The subject site is zoned C2 and there are yard requirements along the north property line due to adjacency to the office residence zoning classification. The applicant has requested a variance to reduce the interior side yard along the north property line to allow for the proposed drive-through.

**Hours of Operation:** The permitted hours of operation in the C2 District are 6:00 am – 10:00 pm Sunday through Thursday and 6:00 am – 11:00pm Friday and Saturday. The use has been in existence prior to the limitation of hours and has consistently operated from 6:00am – 12:00 am, seven days per week.

**Signs:** The freestanding sign is required to be landscaped to screen the base of the sign with materials capable of screening the site all year and shall be well maintained as required by section 543.240(d) of the zoning code. All new signage is required to meet the requirements of the code.

**Refuse screening:** The proposed refuse containers and screening is shown in the northeast corner of the site and will be collected on site off of the alley. Staff is recommending that the refuse container meet section 535.80. 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 uses.

**Lighting:** Lighting proposed for the development complies with Chapter 536 Specific Development Standards for the canopy lighting, Chapter 535 and Chapter 541 of the zoning code including:

**535.590. Lighting.** (a) *In general.* No use or structure shall be operated or occupied as to create light or glare in such an amount or to such a degree or intensity as to constitute a hazardous condition, or as to unreasonably interfere with the use and enjoyment of property by any person of normal sensitivities, or otherwise as to create a public nuisance.

(b) *Specific standards.* All uses shall comply with the following standards except as otherwise provided in this section:

- (1) Lighting fixtures shall be effectively shielded and arranged so as not to shine directly on any residential property. Lighting fixtures not of a cutoff type shall not exceed two thousand (2,000) lumens (equivalent to a one hundred fifty (150) watt incandescent bulb).
- (2) No exterior light source located on a nonresidential property shall be visible from any permitted or conditional residential use.
- (3) Lighting shall not create a sensation of brightness that is substantially greater than ambient lighting conditions as to cause annoyance, discomfort or decreased visual performance or visibility from any permitted or conditional residential use.
- (4) Lighting shall not directly or indirectly cause illumination or glare in excess of one-half (1/2) footcandle measured at the closest property line of any permitted or conditional residential use, and five (5) footcandles measured at the street curb line or nonresidential property line nearest the light.
- (5) Lighting shall not create a hazard for vehicular or pedestrian traffic.
- (6) Lighting of building facades or roofs shall be located, aimed and shielded so that light is directed only onto the facade or roof.

#### **MINNEAPOLIS PLAN AND RELEVANT SMALL AREA PLANS:**

See findings under #5 for both of the Conditional Use Permit applications.

**Alternative Compliance.** The Planning Commission 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, 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.**

Alternative compliance is requested by the applicant for the following standards:

- Not less than one (1) canopy tree for each 500 square feet of required landscaping.

Ten canopy trees are required for the property. The applicant has shown 11 trees (6 are canopy trees). The applicant has requested alternative compliance from 10 canopy trees to 6 to allow for trees with a smaller caliper to encourage successful development within the 4 ft. wide landscaped area adjacent to West Broadway. Staff is recommending that the planning commission grant alternative compliance.

- Parking and loading landscaped area

A seven-foot landscaped yard is required on all four sides of the property, due to adjacency to a public street and pathway and residential uses and zoning classifications. The applicant is requesting alternative compliance to reduce the landscaped yard requirement on all sides of the property allow for adequate maneuvering area for vehicles and with consideration to existing conditions, including the location of the building and pump islands by instead providing an open, decorative fence around the majority of the perimeter of the property. Staff is recommending that the planning commission grant alternative compliance.

- Parking area screening

Screening, not less than 6 feet high and 95% opaque, is required for approximately 133 feet along the north property line due to the adjacency the OR1 zoning classification. The applicant is requesting alternative compliance to screening along the north property line due to the adjacency of the location of the neighboring structure. Staff is recommending the installation of dense, columnar and prickly shrubbery along the north elevation adjacent to the neighboring structure.

## **RECOMMENDATIONS**

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow for the expansion of an existing automobile convenience facility located 1120 West Broadway in the C2 Neighborhood Corridor Commercial District, subject to the following conditions of approval:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. The conditional use shall comply with the specific development standards for automobile convenience facility in Chapter 536 of the zoning code.

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow for a fast food restaurant located 1120 West Broadway in the C2 Neighborhood Corridor Commercial District, subject the following conditions of approval:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. The conditional use shall comply with the specific development standards for fast food restaurants in Chapter 536 of the zoning code.
3. Bicycle racks shall be provided to accommodate no fewer than three (3) bicycles on the property and shall meet the minimum requirements for short term bicycle parking. The bicycle parking may be located in the public right-of-way with permission of the city engineer.

### **Recommendation of the Community Planning and Economic Development Department - Planning Division for the Variance:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the north interior side yard from 9 feet to 4 feet 8 inches to allow for a drive-through access lane for the property located at 1120 West Broadway in the C2 Neighborhood Corridor Commercial District, subject to the following condition:

1. Screening, not less than 6 feet high and 95% opaque shall be provided as dense, columnar and prickly shrubbery along the north property line along the adjacent structure.

**Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the minimum drive aisle width to access parking areas and pump islands for the property located at 1120 West Broadway in the C2 Neighborhood Corridor Commercial District.

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

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for site plan review for the property located at 1120 West Broadway, subject to the following conditions of approval:

1. CPED Planning staff review and approval of the final site, elevations and landscaping plans.
2. All of the proposed windows shall be vertical in proportion and evenly distributed. All of the 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 required windows between four and seven feet above the adjacent grade.
3. At least 2,526 square feet (20 percent of the net lot area) of landscaped area shall be provided on-site and at least 6 canopy trees, 5 deciduous trees and 25 shrubs shall be provided as required by section 530.160 of the zoning code. The applicant is encouraged to plant native grasses and perennials in addition to the required trees and shrubs.
4. Walkways between the building and the parking spaces shall be kept free of obstructions (e.g., pillars, ice machines, etc.) in a manner that allows four (4) foot wide clearance. Such walkway(s) shall be protected from encroachment of vehicles by curbing, wheel stops, bollards, or similar barriers.
5. The freestanding sign shall be landscaped to screen the base of the sign with materials capable of screening the site all year and shall be well maintained as required by section 543.240(d) of the zoning code.
6. All site improvements shall be completed by February 2, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

**Attachments:**

1. PDR Report
2. Statement of use and findings
3. December 5, 2008, letters to CM Samuels, Jordan Area Community Council and Northside Residents Redevelopment Council
4. January , 2009, letter from Jordan Area Community Council
5. Neighborhood correspondence
6. Zoning map
7. Site plan, building elevations and floor plans
8. Photos of the site and surrounding area
9. Oblique aerials