

Background: The site is currently occupied by a vacant building. The applicant proposes to demolish the existing structure and construct a new single-story, approximately 21 foot tall, 6,328 square foot restaurant on the property. A small accessory stand-alone taco hut is proposed within the outdoor patio area that totals approximately 250 square feet. The subject property is zoned C2 (Neighborhood Corridor Commercial) and the property is located within the MR (Mississippi River Critical Area) Overlay District. The proposed use of the site as a restaurant is a permitted use in the C2 district. The subject parcel, while located within the boundaries of the MR Overlay District is located just outside of the 300 foot boundary in which the Shoreland Overlay District regulations apply; as a result the height that applies on the subject site is consistent with the allowable C2 district regulations of 4 stories or 56 feet, not 2.5 stories or 35 feet.

The applicant proposes to install a ferris wheel or revolving patio on the premises to offer views of the Mississippi River that is slightly taller than maximum allowable height of 4 stories or 56 feet at 60 feet; therefore, a conditional use permit to increase the maximum allowable height is required. In addition, all uses in the commercial districts are subject to the enclosed building requirement which requires that all production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, with some exceptions. The applicant proposes to install the ferris wheel as well as an outdoor miniature golf course on the premises. Both of these outdoor features trigger the application to vary the enclosed building requirement. Site plan is also required.

The existing structure on the premises, the former location of Psycho Suzi's, is approximately 3,000 square feet in size with an approximately 5,000 square foot patio. The proposed structure would total approximately 6,328 square feet and include a 3,500 square foot patio that includes outdoor seating, the ferris wheel/revolving patio and the miniature golf course. It is anticipated that the new restaurant would accommodate seating for approximately 200 guests indoors with 18 on the patio and an additional 56 on the rotating patio; this would result in a total capacity of 200 individuals in the winter and approximately 270 individuals during the rest of the year.

Staff has not received official correspondence from the Concerned Citizens of Marshall Terrace or any neighborhood correspondence prior to the printing of this report. Any correspondence received prior to the Planning Commission meeting will be forwarded on for consideration.

CONDITIONAL USE PERMIT – to increase the maximum permitted height of a ferris wheel/revolving patio from 4 stories or 56 feet to approximately 60 feet at the tallest point.

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division 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.

Allowing a 60 foot tall ferris wheel on the property that exceeds the district maximum height allowance of 4 stories or 56 feet would not be detrimental to or endanger the public health, safety, comfort or general welfare. The proposal is unique in the fact that the proposed building on site complies with the height allowance at 1 story or approximately 21 feet, but the proposed ferris wheel/revolving patio exceeds the height by approximately 4 feet based on the preferred mounting method. Given the ferris wheel/revolving patio's profile and the proposed location of the structure, away from the residential uses to the east of the subject site and adjacent to the public right-of-way along Marshall Street NE, no adverse impacts are anticipated. Further, the

impacts of the structure could be arguably deemed to be less significant and have less of an impact than a building constructed on the premises constructed at the allowable 4 stories or 56 feet.

2. Will not be injurious to the use and enjoyment of other property in the vicinity and will impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

This property is located in a fully developed area and allowing additional height for a contributing but primarily accessory structure would not be expected to be injurious to the use and enjoyment of other property in the vicinity nor should it impede on possible future development. The applicant has stated that no music, noise or flashing lights are associated with the ferris wheel/revolving patio and that the hours of operation would be regulated to further mitigate any potential adverse impacts on other properties in the vicinity.

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

The site would be accessed via a singular curb cut essentially in the same location as the existing curb cut off of Marshall Street NE; however, it would be reduced in width to comply with City requirements. The parking lot as proposed would accommodate a total of 19 off-street parking stalls.

The Public Works Department has reviewed the preliminary plan and will review the final plan for compliance with standards related to access and circulation, drainage, and sewer/water connections. The applicant would be required to continue to work closely with the Public Works Department, the Plan Review Section of CPED and the various utility companies during the duration of the development should the applications be approved. This would be required to ensure that all procedures are followed and that the development complies with all city and other applicable requirements. The applicant is aware that all applicable plans are expected to incorporate any applicable comments or modifications as required by the Public Works Department.

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

The additional height of the ferris wheel/revolving patio should have no effect on the traffic congestion in the area. Measures have been provided in regard to minimizing traffic congestion from a parking perspective as the applicant would be providing adequate off-street parking for both vehicles (19 spaces) and bicycles (16 spaces). Further, the site is located within close proximity to multiple bus lines along Lowry Avenue NE and Marshall Street NE.

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

According to *The Minneapolis Plan for Sustainable Growth*, the subject parcels are located along Marshall Street NE and one parcel north of Lowry Avenue NE, which is a designated Community Corridor. Marshall Street NE is a designated Community Corridor south of the intersection of Marshall Street NE and Lowry Avenue NE. The property is also located within the boundaries of the Lowry Avenue NE and Marshall Street NE Neighborhood Commercial Node. The property is further designated for mixed-use development. According to *The Minneapolis Plan for Sustainable Growth*, "Community Corridors support new residential development from low- to high-density in specified areas, as well as increased housing diversity in neighborhoods. Community Corridors support limited commercial uses that are frequently concentrated in Neighborhood Commercial Nodes. Proposed commercial uses are evaluated according to their impacts on residential character." Regarding Neighborhood Commercial Nodes, they "are typically comprised of a

handful of small- and medium-sized businesses focused around one intersection. These nodes primarily serve the needs of the immediate surrounding area, although they may also contain specialty stores that serve a regional client base.” Regarding the mixed-use designation the plan states that “it allows for mixed-use development, including mixed-use with residential. Mixed use may include either a mix of retail, office or residential uses within a building or within a district.” Further, there is no requirement that every building be mixed-use. The following policies and implementation steps of *The Minneapolis Plan for Sustainable Growth* apply to this proposal:

Land Use Policy 1.1 states, “Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.” This policy includes the following applicable implementation steps: (1.5.1) “Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

Land Use Policy 1.2 states, “Ensure appropriate transitions between uses with different size, scale, and intensity.” This policy includes the following applicable implementation steps: (1.2.1) “Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area”; (1.2.2) “Ensure that lighting and signage associated with non-residential uses do not create negative impacts for residential.”

Land Use Policy 1.3 states, “Ensure that development plans incorporate appropriate transportation access and facilities, particularly for bicycle, pedestrian, and transit.” This policy includes the following applicable implementation steps: (1.3.1) “Require safe, convenient, and direct pedestrian connections between principal building entrances and the public right-of-way in all new development and, where practical, in conjunction with renovation and expansion of existing buildings”; (1.3.2) “Ensure the provision of high quality transit, bicycle, and pedestrian access to and within designated land use features.”

Land Use Policy 1.4 states, “Develop and maintain 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.” This policy includes the following applicable implementation steps: (1.4.1) “Support a variety of commercial districts and corridors of varying size, intensity of development, mix of uses, and market served”; (1.4.2) “Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level”; (1.4.4) “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”.”

Land Use Policy 1.5 states, “Promote growth and encourage overall city vitality by directing new commercial and mixed use development to designated corridors and districts.” This policy includes the following applicable implementation step: (1.5.1) “Support an appropriate mix of uses within a district or corridor with attention to surrounding uses, community needs and preferences, and availability of public facilities.

Land Use Policy 1.9 states, “Through attention to the mix and intensity of land uses and transit service, the City will support development along Community Corridors that enhances residential livability and pedestrian access.” This policy includes the following applicable implementation steps: (1.9.1) “Support the continued presence of existing small-scale retail sales and commercial services along Community Corridors”; (1.9.2) “Support new small-scale retail sales and services, commercial services, and mixed uses where Community

Corridors intersect with Neighborhood Commercial Nodes”; and (1.9.3) “Discourage uses that diminish the transit and pedestrian oriented character of Community Corridors, such as automobile services and drive-through facilities.

Land Use Policy 1.11 states, “Preserve and enhance a system of Neighborhood Commercial Nodes that includes a mix of housing, neighborhood-serving retail, and community uses.” This policy includes the following applicable implementation step: (1.11.2) “Support the continued presence of small-scale, neighborhood-serving retail and commercial services in Neighborhood Commercial Nodes.”

Urban Design Policy 10.10 states, “Support urban design standards that emphasize a traditional urban form in commercial areas.” This policy includes the following applicable implementation steps: (10.10.3) “Enhance pedestrian and transit-oriented commercial districts with street furniture, street plantings, plazas, water features, public art and improved transit and pedestrian and bicycle amenities”; (10.10.4) “Orient new buildings to the street to foster safe and successful commercial nodes and corridors”; (10.10.6) “Require storefront window transparency to assure both natural surveillance and an inviting pedestrian experience.”

Urban Design Policy 10.11 states, “Seek new commercial development that is attractive, functional and adds value to the physical environment.” This policy includes the following applicable implementation steps: (10.11.1) “Require the location of new commercial development (office, research and development, and related light manufacturing) to take advantage of locational amenities and coexist with neighbors in mixed-use environments”; (10.11.2) “Ensure that new commercial developments maximize compatibility with surrounding neighborhoods.”

There are additional plans that must be considered when evaluating the proposal which are the *Above the Falls Master Plan Update* adopted by the City Council on June 14, 2013, the *Mississippi River Critical Area Plan* adopted by the City Council on June 16, 2006, and the *Lowry Avenue Corridor Plan* adopted by the City Council on July 12, 2002.

The City and Park Board adopted the Above the Falls Plan in 2000. The *Above the Falls Master Plan Update* builds on the guidance and progress made with new information and analysis on existing conditions and feasibility; more specific and strategic guidance on implementation; new approaches to land use change, in light of changes to legal and regulatory framework; new vision for parks from international design competition and RiverFirst process; and new focus on public health, supporting benefits for local community.

The subject parcel is located in the Lowry Avenue NE Riverfront Node or Subarea 14 in the plan. “This subarea is a riverfront node, with existing commercial uses on three of the four corners. The fourth corner is part of an existing park and includes a large stormwater management feature. It sits at the base of the new Lowry Avenue Bridge, connecting to the Lowry Avenue NE corridor. This area is guided for mixed use development, with commercial and residential uses. Uses that are compatible with the riverfront location are particularly encouraged. The Lowry Avenue Bridge will have trail connections down to the adjacent parklands on both sides, and under the bridge along the bank. Within this subarea sits the headquarters of the Mississippi Watershed management Organization (MWMO). Currently, conversation is ongoing between Hennepin County, MPRB and MWMO to develop a pedestrian connection along the riverbank under the recently-completed Lowry Bridge. Improved neighborhood pedestrian and bicycle connections along Lowry Avenue NE are encouraged. The new Lowry Avenue Bridge is an iconic structure that brings interest to the upper riverfront. New development should take into account views of the bridge as an amenity, and not block access to them when possible.” Further, “Marshall Street NE serves a variety of purposes in the local and regional community. It is a thoroughfare connecting downtown and northeast Minneapolis to Anoka County; a residential street and a place of business; a commercial truck route; a park border; and commuter bicycle facility. Marshall is also currently designated as the Mississippi River Trail route through the study area.”

Also, north of 14th Avenue NE it is recommended that incremental property acquisition along that segment should be investigated in order to allow for the establishment of on-street parking bays, which would in turn allow space for bicycle lanes and greening of the corridor.”

The *Mississippi River Critical Area Plan* is an update of the 1989 Critical Area Plan and includes additional policies. It documents the City's river corridor resources and sets forth those policies and implementation strategies the City has adopted to protect the natural, cultural, historic, commercial, and recreational value of the river corridor. The plan fulfills the requirements of both the State of Minnesota Mississippi River Critical Area order and the *Management Plan* for the Mississippi National River and Recreation Area by the National Park Service. The Critical Area order established three districts within the Minneapolis Critical Area corridor that recognize existing land uses. The subject parcel is located within the Urban Diversified District identified as south of 48th Avenue North to Franklin Avenue and includes a mix of industry, businesses, office buildings, housing, a barge terminal, two power plants, parks and parkways, and the University of Minnesota campus. Due to differing boundary definitions, there are areas within the Mississippi River Critical Area that are not located within the City's Shoreland Overlay District. These interstitial areas are governed by existing zoning and the Mississippi River Critical Overlay District which govern development on slopes and building height, scale and massing as appropriate. The stipulations outlined in the plan are general in nature and none are specific to the subject site.

The *Lowry Avenue Corridor Plan* was developed through a cooperative effort of Hennepin County, the City of Minneapolis, other public agencies, and the residents and business owners along Lowry. The study envisions a coordinated, phased plan for the entire Lowry Avenue corridor, and was based on three goals adopted by the County for the Lowry Avenue corridor: enhance access to jobs through public transportation; effectively link civic spaces through transit, bicycle and pedestrian connections; and congregate services, retail and office space around transit centers/nodes. The Study Area for the Lowry Avenue Corridor Plan includes the first block both north and south of Lowry Avenue on the entire corridor; although recommendations that pertain to the subject site are more general in nature and include roadway improvements, pedestrian/bicycle improvements and key redevelopment opportunity areas. The plan references the node at Lowry and Marshall, and further encourages a land use pattern that concentrates commercial activities at key intersections and reinforces the primarily residential nature of neighborhoods between the nodes.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

With the approval of the conditional use permit, variance and site plan review this development would be in conformance with the applicable regulations of the Zoning Code.

ADDITIONAL STANDARDS TO INCREASE MAXIMUM HEIGHT

In addition to the conditional use standards, the city planning commission shall consider, but not be limited to, the following factors when determining the maximum height:

1. Access to light and air of surrounding properties.

This development would not be expected to have impacts on the amount of light and air that surrounding properties receive as the existing structure on the premises, is a single-story restaurant that is approximately 16 feet tall and the proposed structure is also a single-story restaurant that is approximately 21 feet tall but would have an accompanying ferris wheel/revolving patio that is approximately 60 feet tall. If this were a typical building proposed at 60 feet on the premises, one would expect that it would have some impacts on

light and air as well as some shadowing impacts; however, as previously noted, the structure that would exceed the allowable height by approximately 4 feet is a ferris wheel/revolving patio with a relatively modest profile and that is an open structure not solid. It is important to note that to the north, south and east of the site are primarily commercial and industrial uses; and to the east are residential uses.

2. Shadowing of residential properties or significant public spaces.

The proposed ferris wheel/revolving patio would have very limited, minor, intermittent shadowing impacts on the rear yards of the residential properties to the east depending on the time of day and the season. The attached shadow studies are attached for reference. Further, the shadowing impacts would not be anticipated to be any greater or any more impactful at 4 feet taller than what the district allows compared to a ferris wheel/revolving patio installed on the premises that complies with the maximum height allowance on site.

3. The scale and character of surrounding uses.

The scale and character of the buildings as well as the architectural styles of the surrounding properties in this area are varied as a result of the diversity of uses in the immediate vicinity. While it is difficult to compare a ferris/wheel revolving patio to the existing built form in the area due to its uniqueness, Staff concludes that the proposal is compatible with the scale and character given the context in the area.

4. Preservation of views of landmark buildings, significant open spaces or water bodies.

There are no landmark buildings, significant open spaces or water bodies near the development site that would be affected by the development. While the Mississippi River is located just over 300 feet from the subject site, the proposed development would not impact the view from the river.

VARIANCE – of the enclosed building requirement.

Findings as Required by the Minneapolis Zoning Code for the Variance:

1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.

Enclosed building requirement: As previously noted, all uses in the commercial districts are subject to the enclosed building requirement which requires that all production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, with some exceptions. The applicant proposes to install a ferris wheel/revolving patio as well as an outdoor miniature golf course on the premises. Both of these outdoor features trigger the application to vary the enclosed building requirement. The two proposed components of the project that require the variance are integral to the restaurant concept proposed on site. While a restaurant with outdoor dining could operate on site without this variance, the unique components that are proposed are meant to create a destination and identity that is not found elsewhere in Minneapolis. As a result practical difficulties do exist in complying with the ordinance; it would not be possible to fully enclose the proposed ferris wheel/revolving patio and enclosing the miniature golf component would defeat the purpose of incorporating the proposed outdoor amenity space.

2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

Enclosed building requirement: The proposal to allow a variance of the enclosed building requirement in conjunction with the proposed restaurant is reasonable and would be in keeping with the spirit and intent of the ordinance and the comprehensive plan. The proposed ferris wheel/revolving patio and outdoor miniature golf component comprise approximately 10.8% of the total lot area. No music, noise or flashing lights would emanate from the proposed ferris wheel/revolving patio and the hours of operation would be limited; no late night or early morning hours. Further, the applicant proposes to locate the ferris wheel/revolving patio directly abutting Marshall Street NE, or as close as possible to the public street and the commercial use to the south rather than the residential uses to the east of the subject site. While the miniature golf course is also located adjacent to the commercial use to the south, the course is located relatively close to the public alley and residential uses exist across the alley to the east. Similar to the proposed ferris wheel/revolving patio, the hours of operation would be limited and no music, noise or flashing lights would be associated with the miniature golf course. In addition, a 6-foot tall solid wood fence is proposed around the perimeter of the site to buffer all of the outdoor components of the use.

3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

Enclosed building requirement: The proposal to vary the enclosed building requirement in order to allow a ferris wheel/revolving patio and outdoor miniature golf course would not adversely alter the essential character of the locality or be injurious to the use and enjoyment of other properties in the vicinity. Nor would it be detrimental to the health, safety, and/or welfare of the general public or of those utilizing the property or nearby properties. Provided the facility is well-managed, that the outdoor components are restricted so that no music, noise or flashing lights are associated with the outdoor features and that the hours of operation are regulated the proposal should not have adverse impacts on other properties in the vicinity.

SITE PLAN REVIEW

Findings as Required by the Minneapolis Zoning Code:

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan and applicable small area plans adopted by the city council. (See Section B Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND DESIGN:

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street. In the case of a corner lot, the principal entrance shall face the front lot line.

- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building walls shall provide architectural detail and shall contain windows as required by Chapter 530 in order to create visual interest and to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility.
- In larger buildings, architectural elements, including recesses or projections, windows and entries, shall be emphasized to divide the building into smaller identifiable sections.
- Blank, uninterrupted walls that do not include windows, entries, recesses or projections, or other architectural elements, shall not exceed twenty five (25) feet in length.
- Exterior materials shall be durable, including but not limited to masonry, brick, stone, stucco, wood, metal, and glass.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited fronting along a public street, public sidewalk, public pathway, or adjacent to a residence or office residence district.
- Entrances, windows, and active functions:
 - Residential uses:
 - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as porches and roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Twenty (20) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - Nonresidential uses:
 - Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs or other details that express the importance of the entrance. Multiple entrances shall be encouraged. Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:
 - a. Windows shall be vertical in proportion.
 - b. Windows shall be distributed in a more or less even manner.
 - c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
 - d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 0.6 or higher.
 - e. First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade. However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
 - f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.
 - g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.
Minimum window area shall be measured as indicated in section 530.120 of the zoning code.
Minimum window area shall be measured as indicated in section 530.120 of the zoning code.

- **Ground floor active functions:** Except for industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, the first floor or ground level of buildings shall be designed to accommodate active functions by ensuring that parking, loading, storage, or mechanical equipment rooms are limited to no more than thirty (30) percent of the linear building frontage along each wall facing a public street, public sidewalk, or public pathway.
- **The form and pitch of roof lines shall be similar to surrounding buildings.**
- **Parking Garages:** The exterior design shall ensure that sloped floors do not dominate the appearance of the walls and that vehicles are screened from view. In addition to compliance with minimum window requirements, principal and accessory parking garages shall comply with provisions requiring active functions on the ground floor. In the downtown districts, the more restrictive parking garage provisions of Chapter 549, Downtown Districts, shall apply.

An approximate 6,328 square foot restaurant is proposed on the property that also includes a small, 250 square foot accessory stand-alone building that is proposed within the outdoor patio area. The development is not subject to any yard requirements. The majority of the building as proposed complies with the requirement that the building be within 8 feet of the front lot line along Marshall Street NE as the building is setback approximately 5 feet; however, approximately 10 feet of the building are recessed approximately 26 feet as a patio/gathering space is located outside of the principal entrance to the building. Alternative compliance would be necessary. CPED Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance. The setback or relief in the location of the building wall allows for a recessed entry that can accommodate patrons. Further the increased setback is limited to a very small portion of the building adjacent to the off-street parking lot.

The proposed building is oriented towards Marshall Street NE and the use of progressive design and street-oriented building alignments is reinforced. The design also promotes natural surveillance and visibility, and facilitates pedestrian access and circulation along the street frontage. The principal entrance to the restaurant faces the public street and is connected via a walkway wider than 4 feet to the public sidewalk, but as previously noted, the principal entrance is recessed approximately 26 feet from the property line along Marshall Street NE.

The west and north elevations of the building are subject to a 30% window requirement. Windows between 2 and 10 feet are required in order to provide natural surveillance and visibility by having active uses located along public streets and facing on-site parking areas.

On the west elevation of the proposed structure facing Marshall Street NE, the proposal meets the 30% window requirement as a total of 30% are provided. The windows are somewhat vertical in nature and evenly distributed.

On the north elevation of the proposed structure facing the on-site surface parking lot, the proposal does not meet the 30% window requirement as a total of 14% are provided overall on the elevation. The windows that qualify are vertical in nature but not evenly distributed as the windows are congregated towards the front half of this elevation. Alternative compliance is necessary for overall percentage and window distribution. Staff would recommend that the Planning Commission grant partial alternative compliance in this circumstance; full compliance with the overall 30% window requirement but allow for uneven distribution on the elevation to allow for the back of house operations/kitchen/food prep areas to be windowless.

The building complies with the active functions provision as outlined above along Marshall Street NE.

The exterior materials and appearance of the rear and side walls of the proposed building would be similar to and compatible with the front of the building. There are numerous materials on the proposed structure and the materials would include glass, stucco, block, brick, wood and hardi-board panels. Staff will require that the

applicant provide material calculations for each elevation of the building. Cement board materials shall not exceed more than 30% coverage on any single elevation of the proposed building.

The proposed building incorporates architectural elements including recesses and projections, windows and entries. There are blank uninterrupted walls that exceed 25 feet in width on the north, south and east elevations of the building. Alternative compliance is necessary. Staff would recommend that the Planning Commission require compliance with the provision as it would be practical to do so given the fact that the proposed building is a new structure. The principal roof line of the building would be a gable roof; there is also a flat roof incorporated at the rear of the structure. In the area both pitched roofs and flat roofed buildings can be found.

A total of 19 off-street parking spaces are proposed on site within a surface parking lot. No ramp is proposed.

ACCESS AND CIRCULATION:

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.150 (b) related to alley access.**
- **Site plans shall minimize the use of impervious surfaces.**

As proposed, the principal entrance to the structure is located on the west elevation of the building that is located along Marshall Street NE. The principal entrance is connected to the public sidewalk via a walkway that is greater than 4 feet in width.

The site is located along and within close proximity to several bus lines that are well within walking distance of the subject site.

Provided a 4-foot wide walkway is installed along the north side of the building to allow for pedestrians to safely access their vehicles, the proposed development would be designed to minimize conflicts with pedestrian traffic and surrounding residential uses. The off-street parking for the proposed development would be located within a surface parking lot on the south side of the site abutting an adjacent industrial use with access via a single curb cut off of Marshall Street NE. The proposed curb cut is located in the same general vicinity as the existing curb cut to the site, however, the width on the northerly end would be reduced to comply with City requirements.

There is a public alley adjacent to the site; however, access to the alley is prohibited and a fence will be constructed that blocks access.

The site has been somewhat designed to minimize the use of impervious surfaces as a total of approximately 15.5% of the site not occupied by buildings is pervious as a result of providing some perimeter landscaping, as well as planting areas within the outdoor patio space located on the south side of the site. Overall, a net of 88% of the site is impervious, however.

LANDSCAPING AND SCREENING:

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

The Zoning Code requires that at least 20% of the site not occupied by the building be landscaped. The lot area of the site is 22,441 square feet and the footprint of the building is 6,328 square feet. When you subtract the footprint from the lot size the resulting number is 16,113 square feet; 20% of this number is 3,223 square feet. According to the applicant's landscaping plan there is 2,501 square feet of landscaping on the site or approximately 15.5% percent of the site not occupied by the building which does not meet the minimum requirement. Alternative compliance is necessary. Staff would recommend that the Planning Commission require compliance with the minimum requirement as it would be practical to comply with the requirement given the fact that the property is being completely redeveloped.

The Zoning Code requires at least 1 canopy tree for each 500 square feet of required green space and at least 1 shrub for each 100 square feet of required green space. The tree and shrub requirement for this site is 7 trees and 32 shrubs. The applicant has submitted an inadequate landscaping plan as not all plant species are identified. The applicant is proposing to plant 6 canopy trees on site, 1 is existing and would be maintained for a total of 7 trees; a total of 53 shrubs are proposed as they remain on site. Staff would require that the applicant provide a complete landscaping plan as part of the final approvals.

A seven-foot wide landscaped yard and screening, 3 feet in height and equal to 60% opacity is required between the parking area and Marshall Street NE. The applicant is not proposing a landscaped yard or any landscaping in this area. Alternative compliance is necessary. Staff would recommend that the Planning Commission require compliance with this provision as it would be practical to require with the provision.

A seven-foot wide landscaped yard and screening that is 95% opaque is required between the parking area and the east property line, which is located across from residential uses. The applicant proposes a solid 6-foot tall fence along the alley within a landscaped area that varies from 1 foot to 6 feet in width. Alternative compliance would be necessary. Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the reduced width allows for vehicle maneuvering in the parking lot.

In parking lots of 10 spaces or more, no parking space shall be located more than 50 feet from an on-site deciduous tree. In addition, tree islands in parking lots must have a minimum width of 7 feet in any direction. The applicant is proposing a total of 19 off-street parking spaces in the surface parking lot. Not all parking spaces are within 50 feet of an on-site deciduous tree; 10 spaces on the east end of the parking lot comply, but the 9 remaining spaces closest to Marshall Street NE on the west side of the site do not comply. Alternative compliance would be necessary. Staff would recommend that the Planning Commission require compliance with this provision. No tree islands are proposed. Regarding the provision that requires 1 tree per 25 linear feet of parking along a public street, the development does not comply with the provision along the west property line abutting Marshall Avenue NE. Alternative compliance would be necessary. Staff would recommend that the Planning Commission require compliance with this provision as it would be practical to include a canopy tree in a landscaped area abutting Marshall Street NE.

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.**

The surface parking area would be designed with curb openings so that stormwater runoff drains towards the perimeter green space areas on the site.

Staff would not expect the two-story (1 floor) building or the proposed 60 foot tall ferris wheel/revolving patio to result in the blocking of any significant views or to have any measurable shadowing impacts on adjacent properties or on public spaces. A shadow study is attached for reference. Staff would also not expect the proposal to have any impacts on light, wind and air in relation to the surrounding area.

The site appears to incorporate many of the applicable CPTED principles. The active uses proposed within the ground level of the building facing Marshall Street NE and portions of the surface parking lot provide natural surveillance that will allow people to observe adjacent public spaces and the entrances are connected to the public sidewalk. The site appears to be adequately lit; however the final lighting plan shall comply with all Zoning regulations. Staff has no additional comments or concerns at this time regarding site safety.

There are no designated or eligible historic structures on the subject property. The property currently is occupied by a vacant restaurant.

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

ZONING CODE - The proposed restaurant use is a permitted use in the C2 District. With the approval of the conditional use permit, variance and site plan review, this development would meet the requirements of the C2 zoning district.

In addition, sit down restaurants are subject to two specific development standards as outlined in Section 536.20 of the Zoning Code as follows:

Restaurant, sit down

- (1) Where alcoholic beverages are served, not less than sixty (60) percent of total gross sales revenue shall be from the sale of food and beverages not containing alcohol, and the use shall comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter.
- (2) 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.

Parking and Loading:

Minimum automobile parking requirement: According to Chapter 541 of the Zoning Code, sit down restaurants have a minimum parking requirement of 1 space per 500 square feet of gross floor area up to 2,000 square feet plus 1 space per 300 square feet of gross floor area in excess of 2,000 square feet. As proposed, the restaurant would total 6,328 square feet resulting in an off-street parking requirement of 18 spaces. The applicant proposes to provide a total of 19 off-street parking spaces within the surface parking lot located on the north side of the site (1 accessible, 5 compact and 13 standard spaces). All compact spaces shall be clearly labeled as such in compliance with Section 541.330 of the Zoning Code.

Maximum automobile parking requirement: The maximum automobile parking requirement for a sit down restaurant is 1 space per 75 square feet of gross floor area. As a result, the maximum requirement would be 84 off-street parking spaces. The applicant proposes to provide a total of 19 spaces on site within a surface parking lot. The development complies with the maximum requirement.

Bicycle parking requirement: Restaurants require 3 bicycle parking spaces. Therefore, a minimum of 3 bicycle parking spaces must be provided for the proposed development of which not less than 50 percent of the required bicycle parking shall meet the standards for short-term bicycle parking which is as follows:

- *“Required short-term bicycle parking spaces shall be located in a convenient and visible area within fifty (50) feet of a principal entrance and shall permit the locking of the bicycle frame and one (1) wheel to the rack and shall support a bicycle in a stable position without damage to the wheels, frame*

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or components. With the permission of the city engineer, required bicycle parking may be located in the public right-of-way. Public bicycle parking spaces may contribute to compliance with required bicycle parking when located adjacent to the property in question.”

The applicant is proposing to locate 16 bicycle parking spaces on site that meet the short-term stipulations. The development exceeds the minimum requirement.

Loading: There is no loading requirement for the proposed development. Restaurants have a “Low” loading requirement and developments that are assigned this rating and that are below 20,000 square feet do not have to provide a designated loading space.

Dumpster screening: 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 residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. The dumpster is located at the rear of the building and the enclosure is built into the building wall. The design of the dumpster enclosure meets the requirements of the Zoning Code.

Signs: All signage must meet the requirements as outlined in Chapter 543 of the Zoning Code. Separate permits are required from the Zoning Office for any proposed future signage. The applicant is proposing to reface the existing 22 foot tall pole sign located on the premises. Pole signs are prohibited by the zoning ordinance. However, the Zoning Administrator has determined that as long as it is merely being refaced with the current square footage maintained (approximately 21 square feet), it would be permissible. The applicant also proposes a 23 square foot mounted sign that would be up-lit and approximately 6 feet in height from grade. The height and square footage complies with the C2 district regulations for the wall sign; however, the sign detail/mounting diagram would need to be modified as it is unclear whether the sign meets the definition of a wall sign at this time. The applicant concurs that the signage shall be modified to meet the requirements of the Zoning Code.

Lighting: All lighting would need to be downcast and shielded to avoid undue glare. All lighting shall comply with Chapters 535 and 541 of the Zoning Code. A detailed lighting plan including fixtures shall be required as part of the final submittal.

Maximum Floor Area: The maximum FAR for all structures in the C2 zoning district is the gross floor area of the building, which is 6,328 square feet, divided by the area of the lot which is 22,441 square feet. The outcome is .28 which is less than the maximum of 1.7 permitted in the C2 District. The development is in compliance with the allowable FAR.

Minimum Lot Area and Lot Width: Restaurant uses do not have a minimum lot area or lot width requirement. Not applicable for this development.

Dwelling Units per Acre: Not applicable for this development.

Height: Maximum building height for principal structures located in the C2 zoning district is 4 stories or 56 feet, whichever is less. The height of the proposed building is 1 story or approximately 21 feet and the proposed ferris wheel/revolving patio is approximately 60 feet tall. The applicant has applied for a conditional use permit to increase the maximum permitted height for the ferris wheel/revolving patio. See the above-listed findings as noted above.

Yard Requirements: Not applicable for this development.

Building coverage: Not applicable for this development.

Impervious surface area: Not applicable for this development.

THE MINNEAPOLIS PLAN FOR SUSTAINABLE GROWTH

See the above listed response to finding #5 in the conditional use permit application to increase the maximum permitted height as the policies and implementation steps identified apply to the site plan review application as well.

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

See the above listed response to finding #5 in the conditional use permit application to increase the maximum permitted height as the policy guidance provided in this section on the *Above the Falls Master Plan Update*, *Mississippi River Critical Area Plan*, and the *Lowry Avenue Corridor Plan* apply to the site plan review application as well.

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, green roof, decorative pavers, ornamental metal fencing, architectural enhancements transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
- The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

Alternative compliance is requested by the applicant to meet the following standards:

Building placement: The majority of the building as proposed complies with the requirement that the building be within 8 feet of the front lot line along Marshall Street NE as the building is setback approximately 5 feet; however, approximately 10 feet of the building are recessed approximately 26 feet as a patio/gathering space is located outside of the principal entrance to the building. Alternative compliance would be necessary. Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance. The setback or relief in the location of the building wall allows for a recessed entry that can accommodate patrons. Further the increased setback is limited to a very small portion of the building adjacent to the off-street parking lot.

Window percentage and distribution: On the north elevation of the proposed structure facing the on-site surface parking lot, the proposal does not meet the 30% window requirement as a total of 14% are provided overall on the elevation. The windows that qualify are vertical in nature but not evenly distributed as the windows are congregated towards the front half of this elevation. Alternative compliance is necessary for overall percentage and window distribution. Staff would recommend that the Planning Commission grant

partial alternative compliance in this circumstance; full compliance with the overall 30% window requirement but allow for uneven distribution on the elevation to allow for the back of house operations/kitchen/food prep areas to be windowless.

Blank uninterrupted walls: The proposed building incorporates architectural elements including recesses and projections, windows and entries. There are blank uninterrupted walls that exceed 25 feet in width on the north, south and east elevations of the building. Alternative compliance is necessary. Staff would recommend that the Planning Commission require compliance with the provision as it would be practical to do so given the fact that the proposed building is a new structure.

20% landscaping requirement: The Zoning Code requires that at least 20% of the site not occupied by the building be landscaped. The lot area of the site is 22,441 square feet and the footprint of the building is 6,328 square feet. When you subtract the footprint from the lot size the resulting number is 16,113 square feet; 20% of this number is 3,223 square feet. According to the applicant's landscaping plan there is 2,501 square feet of landscaping on the site or approximately 15.5% percent of the site not occupied by the building which does not meet the minimum requirement. Alternative compliance is necessary. Staff would recommend that the Planning Commission require compliance with the minimum requirement as it would be practical to comply with the requirement given the fact that the property is being completely redeveloped.

Landscaping and screening requirement along the west property line (Marshall Street NE): A seven-foot wide landscaped yard and screening, 3 feet in height and equal to 60% opacity is required between the parking area and Marshall Street NE. The applicant is not proposing a landscaped yard or any landscaping in this area. Alternative compliance is necessary. Staff would recommend that the Planning Commission require compliance with this provision as it would be practical to require with the provision.

Landscaping and screening requirement along the east property line: A seven-foot wide landscaped yard and screening that is 95% opaque is required between the parking area and the east property line, which is across the alley from a residential area. The applicant proposes a solid 6-foot tall fence along the alley within a landscaped area that varies from 1 foot to 6 feet in width. Alternative compliance would be necessary. Staff would recommend that the Planning Commission grant alternative compliance in this specific circumstance as the reduced width allows for vehicle maneuvering in the parking lot.

50-foot distance to tree provision: In parking lots of 10 spaces or more, no parking space shall be located more than 50 feet from an on-site deciduous tree. The applicant is proposing a total of 19 off-street parking spaces in the surface parking lot. Not all parking spaces are within 50 feet of an on-site deciduous tree; 10 spaces on the east end of the parking lot comply, but the 9 remaining spaces closest to Marshall Street NE on the west side of the site do not comply. Alternative compliance would be necessary. Staff would recommend that the Planning Commission require compliance with this provision.

25-foot linear tree provision: Regarding the provision that requires 1 tree per 25 linear feet of parking along a public street, the development does not comply with the provision along the west property line abutting Marshall Avenue NE. Alternative compliance would be necessary. Staff would recommend that the Planning Commission require compliance with this provision as it would be practical to include a canopy tree in a landscaped area abutting Marshall Street NE.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development for the conditional use permit:

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to allow an increase in height for a ferris wheel/revolving patio from 4 stories or 56 feet to approximately 60 feet for property located at 2519 Marshall Street NE subject to the following conditions:

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 two years of approval.
2. No music, noise or flashing lights shall be associated with the ferris wheel/revolving patio.

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

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance of the enclosed building requirement to allow a ferris wheel/revolving patio and outdoor miniature golf course on the property located at 2519 Marshall Street NE subject to the following condition:

1. No music, noise or flashing lights shall be associated with the outdoor features that include the ferris/wheel revolving patio and outdoor miniature golf course.

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

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application to allow a new single-story, approximately 6,328 square foot restaurant on the property located at 2519 Marshall Street NE subject to the following conditions of approval:

1. Staff review and approval of the final site, elevation, lighting and landscaping plans before building permits may be issued.
2. All site improvements shall be completed by August 12, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
3. A lighting plan shall be provided in compliance with Chapters 535 and 541 of the Zoning Code.
4. A detail of all proposed fencing shall be provided in the final submittal.
5. All signs require separate permits from the Zoning Office and must comply with Chapter 543 of the Zoning Code.
6. The north elevation of the proposed structure facing the on-site parking lot shall be modified to meet the 30% window requirement as outlined in Section 530.120 of the Zoning Code.
7. The north, south and east elevations shall be modified to comply with the blank wall provision outlined in Section 530.120 of the Zoning Code.

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8. The final elevations shall include the applicable material calculations for each elevation of the building. Cement board materials shall not exceed more than 30% coverage on any single elevation of the proposed building.
9. The final landscaping plan shall be modified to comply the following standards as outlined in Section 530.160 and 530.170 of the Zoning Code including: the 20% landscaping requirement, the applicable landscaping and screening provisions along the west property line as well as the 25-foot linear tree provision, and the 50 foot distance to tree provision.
10. The final landscape plan shall identify the types and sizes of all proposed and existing landscaping on the premises.
11. A 4-foot wide walkway shall be installed along the north side of the building to allow for pedestrians to safely access their vehicles.
12. Compliance with all applicable specific development standards as outlined in Chapter 536 of the Zoning Code.
13. Any changes to the site plan as a result of Preliminary Development Review may result in another public hearing by the City Planning Commission if the Zoning Administrator deems such changes significant under sections 525.360 and 530.100 of the Zoning Code.

Attachments:

1. Statement of use and description of the project
2. Findings for the CUP and Variance
3. General correspondence
4. Zoning map
5. Plans - site, landscape, floor, elevations, civils, rendering, photos
6. Shadow studies