

Department of Community Planning and Economic Development – Planning Division
Rezoning, Conditional Use Permits, and Variance
BZZ-2115

Date: January 24, 2005

Applicant: Celeste and Abbie Shahidi dba Stadium Village Mall

Address of Property: 212 Ontario Street SE and 825 Washington Avenue SE

Project Name: Stadium Village Mall

Contact Person and Phone: Laura Boyd – Boyd & Associates 763-413-8887

Planning Staff and Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: December 23, 2004

End of 60-Day Decision Period: February 21, 2005

Ward: 2 Neighborhood Organization: Prospect Park/East River Road Improvement Association

Existing Zoning: C1 Neighborhood Commercial

Existing Overlay District: PO Pedestrian Overlay District.

Proposed Zoning: C2 Neighborhood Corridor Commercial or C3A Community Activity Center

Zoning Plate Number: 22

Legal Description: Lots 1 and 2, except the North 100 feet thereof, Edwards and Lewis' Subdivision of Lots 1, 2, 3, and 4, Block 6, Baker's Addition to St. Anthony, according to the plat thereof on file or record in the office of the Register of Deeds in and for said County; and

All of Lot 5 and those parts of lots 8 and 9, Block 6, Baker's Addition to St. Anthony, described as follows: Commencing at the Northwesterly corner of Lot 8; thence Southerly along the Westerly line of Lot 8 to a point 99 feet Southerly from the Northwesterly corner of Lot 5; thence Easterly and at a right angle to Ontario Street, to a point distant 93'2" West from said Westerly line of Ontario Street; thence Southerly and at a right angle to the Southerly line of Lot 9; thence in an Easterly direction along the Southerly line of Lot 9 a distance of 93'2" to the Southeasterly corner of Lot 9; thence in a Northerly direction along the Easterly boundary lines of Lots 9 and 8 to the Northeasterly corner of Lot 8; thence Westerly along the Northerly line of Lot 8 to the point of beginning, according to the plat thereof on file or of record in the office of the Register of Deeds in and for said County.

Proposed/Existing Use: Shopping center with restaurant uses.

Concurrent Review:

Rezoning: From C1 Neighborhood Commercial to C2 Neighborhood Corridor Commercial.

Rezoning: From C1 Neighborhood Commercial to C3A Community Activity Center.

Conditional Use Permit: To allow a fast food restaurant (Pita Pit) in one of the tenant spaces. This application was accepted in error and will be returned with the fee to the applicant.

Conditional Use Permit: To allow the Pita Pit to remain open until 3:00 a.m. everyday.

Variance: To reduce the required parking from 131 to 84 spaces.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits; Chapter 525 Article XI, Variances, specifically Section 525.520(7) “to reduce the applicable off-street parking requirements up to one hundred (100) percent, provided the proposed use or building serves pedestrian or transit-oriented trade or occupancy, or is located near an off-street parking facility that is available to the customers, occupants, employees and guests of the use”; and Chapter 530 Site Plan Review.

Background: Stadium Village Mall is a multi-tenant building that is defined as a shopping center by the zoning code. In 2001, an application for a parking variance to allow an additional restaurant into the mall (BZZ-338) was withdrawn. In 2003, a site plan review for the shopping center and its parking lots was approved (BZZ-1004). There are two parking lots serving the mall; one on the east side of Ontario and the other on the west side of Ontario.

The building owner is coordinating all applications for the building for this review. There are several uses in the building. Historically they have been offices for the University of Minnesota and three restaurants; Perry’s Pizza, Baja Taco, and Subway. Perry’s is closed and will be split into three tenant spaces, one of which will be a restaurant. Baja Taco is closed and a Pita Pit is a restaurant proposed for this tenant space. Subway will remain in its present space. There are several other proposed uses including a yoga school, a credit union, a recreation center, and a games store. They are permitted uses. However, if the Yoga School adds changing rooms or exercise equipment it will be classified as a sports and health facility, which requires a conditional use permit.

Pita Pit restaurant is a proposed tenant. It is classified as a fast food restaurant. Fast food restaurants require a conditional use permit in the C2 and C3A Districts. However, they are only allowed in storefront buildings existing on the effective date of the zoning ordinance. Stadium Village is a shopping center, and by definition can not be a storefront building. Staff accepted the conditional use permit in error. It will be returned to the applicant along with the fee. If Pita Pit modifies their operations, so they are no longer classified as a fast food restaurant, they could go into the space as a permitted use. They are also requesting a conditional use permit for extended hours.

The owner of the building is requesting a parking variance for the entire building. Because some of the office spaces are being converted to uses that have a greater parking requirement (restaurant, yoga school, recreation center) than the office uses, the parking requirement has increased. The building is required to provide 131 parking spaces and can provide 33 spaces in the two lots. The building has grandfather rights to 54 spaces. A variance is required for the difference of 47 spaces. This is a 36 percent variance. There is an indoor area that is used for contract parking. As of the writing of this

report the applicant has not provided information on this parking, but any legal spaces that are available in this area shall be applied to the required parking.

REZONING (from C1 to C2 or C3A)

Findings As Required By The Minneapolis Zoning Code:

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

This site is located in the Stadium Village Activity Center. *The Minneapolis Plan* defines Activity Centers as follows:

- Activity Centers generally have a diversity of uses that draw traffic from citywide and regional destinations, but do not generally support automobile uses.
- Activity Centers are complimented by medium and high density residential uses, and also accommodate retail and commercial services, entertainment uses, educational campuses, or other large-scale cultural or public facilities.
- Activity Centers have a traditional urban form (building siting and massing).
- Activity Centers have a significant pedestrian and transit orientation, as service and features of these areas are already good.
- Activity Centers have uses that are active all day long and into the evening.
- A mix of uses occurs within structures and within the larger boundaries of Activity Centers.
- Activity Centers have a unique urban character that distinguishes them from other commercial areas because of the mix and complementary type of uses as well as the traffic the area generates.

To summarize the concept, Activity Centers are destinations that attract large numbers of visitors, workers, and residents. They include a concentration of activities throughout the day and into the evening—including high pedestrian, automobile, and transit traffic, and a mix of uses located that result in a well-defined sense of place.

The C3A Community Activity Center District was established to provide for the development of major urban activity and entertainment centers with neighborhood scale retail sales and services. In addition to entertainment and commercial uses, residential uses, institutional and public uses, parking facilities, limited production and processing and public services and utilities are allowed. The C3A districts are mapped in areas designated as Activity Centers in the comprehensive plan.

The C2 District was established to provide an environment of sales and commercial services that are larger in scale than allowed in the C1 District and to allow a broader range of automobile related uses. In addition to commercial uses, residential uses, institutional uses and public uses, parking facilities, limited production and processing and public services and utilities uses are allowed.

It is the opinion of Planning staff that that both the C3A and C2 districts can be appropriate districts in

CPED - Planning Division Report
BZZ-2115

an Activity Center and would be in conformance with the goals of the comprehensive plan for this area. However, because this is a pedestrian oriented area, the C3A district is preferred over the C2 District, because a wider range of automobile oriented uses are allowed in the C2 District.

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

The rezoning is in the interest of the applicant. However, a rezoning will allow a wider range of uses in the building making the site more active and less likely to fail financially or remain partially vacant. This is in the interest of the neighborhood.

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

The surrounding area is a mix of commercial, residential, and public uses including apartments, restaurants, retail, a fire station, and university property. There is C2 zoning to the south and east of the site and OR2 and OR3 to the north and west respectively. The site is also in a Pedestrian Overlay District. Both C2 and C3A would be compatible with the surrounding uses and zoning.

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

The existing C1 District allows a range of commercial and residential uses.

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

There has not been a significant change in the area since the site was zoned C1 in 1999 as a part of the general remapping of the City with the adoption of the zoning code.

CONDITIONAL USE PERMIT (to allow a fast food restaurant)

CPED - Planning Division Report
BZZ-2115

Pita Pit restaurant is a proposed tenant. It is classified as a fast food restaurant. A fast food restaurant is an establishment whose design or principal method of operation includes five (5) or more of the following characteristics. In addition, any restaurant with a drive-through facility shall be considered a fast food restaurant.

- (1) A permanent menu board is provided from which to select and order food.
- (2) Customers pay for food before consuming it.
- (3) A self-service condiment bar is provided.
- (4) Trash receptacles are provided for self-service bussing.
- (5) Furnishing plan indicates hard finished stationary seating arrangement.
- (6) Most main course food items are substantially prepared or cooked on premises and packaged in individual, nonreusable containers.

Pita Pit meets five of these characteristics (but will not have a drive-through), so it is classified as a fast food restaurant. Fast food restaurants require a conditional use permit in the C2 and C3A Districts. However, they are only allowed in storefront buildings existing on the effective date of the zoning ordinance. Stadium Village is a shopping center, and by definition can not be a storefront building. Staff accepted the conditional use permit in error. It will be returned to the applicant along with the fee. If Pita Pit modifies their operations, so they are no longer classified as a fast food restaurant, they could go into the space as a permitted use.

CONDITIONAL USE PERMIT (to allow extended hours)

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.

Pita Pit restaurant proposes to be open until 3:00 a.m. everyday. Under the C3A zoning the site could be open until 1:00 a.m. everyday. The site is in an Activity Center and is at an intersection with commercial uses. There is significant pedestrian traffic from the University of Minnesota. The extended hours should not be detrimental to this area.

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.

CPED - Planning Division Report
BZZ-2115

Staff uses the following criteria to determine compatibility of extended hours with the surrounding area:

- a) Proximity to permitted or conditional residential uses. There are apartments to the south across Washington Avenue SE.
- b) Nature of the business and its impacts of noise, light and traffic.
The business is a fast food restaurant. It is located inside the shopping center and will not have a drive-through. Noise and light should be mitigated by the restaurants location within the building.
- c) Conformance of use. The proposed use is allowed as a conditional use in the C2 and C3A districts. The site has received site plan review approval in 2003, but it has not yet received Public Works approval. A parking variance is necessary for the building. The zoning code limits operating hours in the C2 District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday and from 6:00 a.m. to 1:00 a.m. everyday in the C3A District. If the conditional use permit for extended hours is approved, if the parking variance is approved, and if the site plan is approved, then the proposed hours will be in conformance with the code.
- d) Complaints received. The use is new, so there is no record of complaints. There were 22 calls for service for the entire building in 2004 (please see attached report).

The addition of a new tenant in an existing space that was previously used as a restaurant space will not impede orderly development or improvement of surrounding property.

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

All roads and utilities are existing and adequate.

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

This site is near the University of Minnesota campus and has a large amount of pedestrian traffic. Many of the uses will cater to students. It is anticipated that the bulk of the traffic to the site will be pedestrian oriented rather than vehicular.

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

The Comprehensive plan designates Stadium Village as an Activity Center. *The Minneapolis Plan* states that "Activity Centers are destinations that attract large numbers of visitors, workers and

residents. They support a wide range of commercial, office-residential and residential uses, a busy streetlife and levels of activity throughout the day and into the evening. They are heavily oriented towards pedestrians, and maintain a traditional urban form and scale. While many commercial uses are permitted in these areas, it is important to note that some commercial uses on these streets will be evaluated on the basis of negative impacts the use generates relative to the location and its surroundings. These impacts may include noise, fumes and negative aesthetics, and will be addressed from the perspective of how nearby residential areas are affected by such impacts.” Extended hours can be appropriate in an Activity Center.

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.

The use meets all applicable regulations of the zoning code if the parking variance for the entire shopping center is approved and if the conditional use permit for extended hours is approved. Section 536, Specific Development Standards for a fast food restaurant, requires:

- 1) The premises, all adjacent streets, sidewalks, and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purposes of removing litter.

VARAINCE (to reduce the required parking from 131 spaces to 84 spaces – 33 actual)

Findings Required by the Minneapolis Zoning Code:

- 1. The property may not 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 owner of the building is requesting a parking variance for the entire building. Because some of the office spaces are being converted to uses that have a greater parking requirement (restaurant, yoga school, recreation center) than the office uses, the parking requirement has increased. The building is required to provide 131 parking spaces and can provide 33 spaces in the two lots. The building has grandfather rights to 54 spaces. A variance is required for the difference of 47 spaces. This is a 36 percent variance. There is an indoor area that is used for contract parking. As of the writing of this report the applicant has not provided information on this parking, but any legal spaces that are available in this area shall be applied to the required parking.

There is no room for the additional parking on the site. The site is located near bus lines making transit very accessible. It will not be possible to use this large building for many other uses other than offices if some parking variance is not available and the applicant states that this is a hardship. Requiring that this use provide the full parking requirement when there is evidence that there will be significant pedestrian

traffic and when there is transit available may not allow 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.**

There is no room for additional parking. This site is located near the University of Minnesota and near transit. Therefore, a significant amount of the traffic to this site should be pedestrian and transit oriented. This situation is not generally applicable to other properties in the city.

- 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 the parking requirement is to provide adequate parking spaces to meet the parking demands of a use. The pedestrian and transit oriented use variance was designed to recognize that some uses may not need all of the parking required by code since the use may draw pedestrian traffic or may have access to transit. The University of Minnesota and bus routes are near the site and a large public parking facility is located one block to the south. There should be significant pedestrian and transit traffic to the site. Granting a variance that recognizes the pedestrian and transit trade is within the spirit of the ordinance.

- 4. The proposed variance may 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 danger of fire or endanger public safety, since many of the businesses' customers are anticipated to be from the surrounding neighborhood. It should not cause congestion in the street as much of the business to the site is expected to be pedestrian oriented.

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning application from C1 to C3A for the Stadium Village Mall located at 212 Ontario Street SE and 825 Washington Avenue SE.

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the above findings and **return** the conditional use permit application and fee for a fast food restaurant in the Stadium Village Mall located at 212 Ontario Street SE and 825 Washington Avenue SE.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the conditional use permit for extended hours:

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application for extended hours for Pita Pit restaurant in the Stadium Village Mall located at 212 Ontario Street SE and 825 Washington Avenue SE subject to the approval of the following condition:

- 1) The use is not classified as a fast food restaurant.

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

The Community Planning and Economic Development Department recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the required parking from 131 to 84 spaces for the Stadium Village Mall located at 212 Ontario Street SE and 825 Washington Avenue SE subject to the following condition:

- 1) All of the legal contract parking spaces that are available shall be dedicated for public use.

Attachments:

- 1) Letter and findings from the applicant.
- 2) Property information.
- 3) Zoning map.

CPED - Planning Division Report
BZZ-2115

- 4) Floor plans.
- 5) Photos.