

Department of Community Planning and Economic Development - Planning Division
Rezoning, Conditional Use Permit, and Variance
BZZ-3826

Date: November 13, 2007

Applicant: Modesto Reyes

Address of Property: 1501-07 East Lake Street and 3013-3021 15th Avenue South

Project Name: Megusta Place

Contact Person and Phone: Kevin Conley – Conley Associates 612-827-3256

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

Date Application Deemed Complete: October 5, 2007

End of 60 Day Decision Period: December 4, 2007

Date Extension Letter Sent: November 8, 2007

End of 120 Day Decision Period: February 2, 2008

Ward: 9 **Neighborhood Organization:** Powderhorn Park

Existing Zoning: C1 Neighborhood Commercial and TP Transitional Parking Overlay Districts.

Proposed Zoning: C2 Neighborhood Corridor Commercial District (and to remove TP Overlay)

Zoning Plate Number: 26

Legal Descriptions: **For 1501-1507 (parcels staff is recommending approval of the rezoning to C2):** That part of the following described property: Lot 17, Block 001, Williams Addition to Minneapolis lying north of the south 9 feet thereof and Lots 18, 19, and 20 which lies westerly of a line described as follows: beginning at a point on the north line of Lot 20 distant 83.68 feet easterly from the northwest corner, thence southerly to a point on the south line of the above described property distant 83.45 feet easterly from the southwest corner thereof and said line there terminating. **For 3013-3021 15th Avenue South (parcels that staff is recommending the denial of the rezoning to C2):** Lots 13, 14, 15, 16, and the south 9 feet of Lot 17, Block 001, Williams Addition to Minneapolis. **For 3013-3017 15th Avenue South (parcels that staff is recommending the approval of the removal of the TP Overlay District):** The north 15 feet of Lot 14, Lot 15, Lot 16, and the south 9 feet of Lot 17, Block 001, Williams Addition to Minneapolis.

Existing/Proposed Use: Reception or meeting hall.

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Concurrent Review:

Rezoning: Rezoning from the C1 Neighborhood Commercial District (and removal of the TP Overlay District) to the C2 Neighborhood Corridor Commercial District.

Conditional Use Permit: To extend the hours of operation for the reception or meeting hall from 11:00 p.m. on Friday and Saturday and from 10:00 p.m. on Sunday until 2:00 a.m.

Variance: To reduce the required parking for the reception or meeting hall from 31 spaces to zero spaces.

Applicable zoning code provisions: Chapter 525, Article VI, Zoning Amendments; Chapter 525, Article VII Conditional Use Permits; Chapter 525, Article IX, Variances, specifically Section 525.520(7) “to vary applicable off-street parking requirements.”

Background: The applicant proposes to add a reception or meeting hall to the second story of the building located at 1507 East Lake Street. The first floor and basement are used for office/retail space. This building and the one-story building next door at 1507 East Lake Street, which has a restaurant tenant, both share the parking area to the south at 3013-3027 15th Avenue South. A reception or meeting hall is not allowed in the C1 Commercial District and is first allowed in the C2 Commercial District, so the applicant is requesting a rezoning of the site to the C2 Commercial District.

Hours of operation in the C1 and C2 Commercial Districts are from 6:00 a.m. to 10:00 p.m. Sunday through Thursday and from 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant proposed to be open until 2:00 a.m. Friday, Saturday, and Sunday. A conditional use permit is required for the extended hours.

The existing office, retail, and restaurant uses at 1501-1507 require 43 Parking spaces and 43 are provided in the parking lot to the south. The proposed reception or meeting hall requires an additional 50 parking spaces. The applicant proposes to lease 19 spaces in a lot across Lake Street to the north at 2920 Bloomington Avenue South. This leaves a deficit of 31 spaces and the applicant is requesting a variance to reduce this required parking to zero.

In 2001, a rezoning and site plan review applications were approved (P-66, SP-270, & PW#7139), to allow the construction of the new buildings at 1501-1507 and a new parking lot to the south. The site where the buildings are located was zoned C1 Commercial, but the area to the south was zoned R2B residential, with the TP Transitional Parking Overlay District, which allows parking for commercial uses in a residential district. This area was rezoned to the C1 District. At that time, the TP Transitional Parking Overlay District should have been removed, as it is an overlay for residential districts. Staff is now including the removal of the TP Overlay as a housekeeping measure that should be approved regardless of the action on the rezoning application for the C2 District.

A reception or meeting hall is required to obtain a license from the city and there are specific rules for serving alcohol at the site. In addition, the Fire Department and Plan Review (building permit) division will need to review and approve plans for the space before it may be utilized as a reception hall. The landscaping of the parking lot and the accessible space requirements are not in conformance with the approved site plan. In addition, there is some graffiti on the buildings and litter around the site. Regardless of the current applications, these items are required to be corrected in compliance with applicable regulations. As of the writing of this report, staff has not received any correspondence from the neighborhood group, but will forward comments, if any, at the Planning Commission meeting.

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REZONING (from C1 Commercial to C2 Commercial; Removal of TP Overlay)

Findings As Required By The Minneapolis Zoning Code:

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

The Minneapolis Plan designates this part of East Lake Street as a commercial corridor. It states the following about Commercial Corridors: “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. Some uses may not be allowed on commercial corridors because of their impacts and the repercussions these impacts have on nearby residential areas. Commercial uses on these streets will be supported insofar as they do not create excessive negative impacts relative to the location and its surroundings. These impacts include consequences such as fumes, noise, significant automobile traffic, late night activity, and negative aesthetics that may be associated with businesses such as major automobile repair and automobile sales. The streets that form the spine of these corridors carry large traffic volumes and must balance significant vehicular through- traffic capacity with automobile and pedestrian access to commercial property”

The plan has the following relevant policies and implementation steps for commercial corridors and commercial areas:

4.3 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.

Implementation Steps

Support a mix of uses on Commercial Corridors--such as retail sales, office, institutional, higher density residential (including Major Housing Sites where designated), and clean low-impact light industrial--where compatible with the existing and desired character of the street.

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

Regulate impacts of commercial uses, and in some cases prevent some uses from locating on designated Commercial Corridors, due to their adverse impacts on the viability of nearby residential areas.

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.

Ensure that parking structures and surface lots conform with identified design principles.

Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

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4.4 Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.

Implementation Steps

Provide for a range of commercial districts that provide the services required by the residents and businesses.

Plan, implement and monitor projects and programs that encourage and support the city's neighborhood commercial areas.

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

Encourage coordination and communication between business associations and neighboring residents groups.

While certain aspects of the proposed project may not be in conformance with these goals, the C2 District is an appropriate district for a commercial corridor. There could be cases where a rezoning to the C2 District may not be appropriate on a commercial corridor based on the character of the area surrounding the specific site. Staff is concerned with the expansion of the C2 District to the south into the residential area and does not believe the C2 District is appropriate, or in conformance with the above noted policies and implementation steps, for the entire site. Therefore, staff is recommending that 1501-1507 be rezoned to the C2 District, but that the area to the south at 3013-3027 remains in the C1 District. The buildings would be entirely on the lots that would be zoned C2, so there would not be any split zoning on a building or individual parcel. The zoning lot would have split zoning. This would limit the creation of a 12,000 square foot parcel zoned C2 that would allow many of the auto-oriented uses that are found 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 primarily in the interest of the property owner.

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.

There are residential, retail, office, and restaurant uses zoned C1, C2, and C4 along this part of East Lake Street with residential uses to the north and south mainly in the R2B Two-family District. The rezoning, if limited to the Lake Street frontage, would be compatible with the zoning and uses in the surrounding area.

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- 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 C1 Neighborhood Commercial District allows a range of commercial, office, residential, and institutional uses, which would be a reasonable use of the property.

- 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.**

This portion of East Lake Street has seen a general revitalization in the past years, but much of this was already underway when the site was placed in the C1 District as a part of the general remapping of the City with the adoption of a revised zoning code in 1999.

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. May be detrimental to or endanger the public health, safety, comfort or general welfare.**

The permitted hours of operation 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. The applicant proposes to be open until 2:00 a.m. Friday, Saturday, and Sunday. While there are other uses operating with late night hours on Lake Street the extended hours for the reception hall may have an impact on the residential properties to the south and north of the site, especially with the traffic leaving the parking areas. This could be detrimental to the surrounding residential properties. Staff does believe that allowing the hall to be open until midnight on Saturday and Sunday could be a reasonable, if the applicant manages noise and traffic from the site.

- 2. May 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.**

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

- a) Proximity to permitted or conditional residential uses.** The site is bordered by residential uses to the south, otherwise the uses is bordered by commercial uses. The leased parking to the north has residential uses adjacent to the north.

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b) Nature of the business and its impacts of noise, light and traffic.

The business is a reception and meeting hall. There is a potential for large groups of people to be leaving late from events at the site. This could generate noise and traffic that would have an effect on the nearby residential properties.

c) Conformance of use. The proposed use is a permitted use in the C2 zone. The site has received site plan review approval in 2002. The landscaping of the parking lot and the accessible space requirements are not in conformance with the approved site plan. In addition, there is some graffiti on the buildings and litter around the site. The zoning code limits operating hours to 10 p.m. (11 p.m. Fri/Sat). If the conditional use permit for extended hours is approved, and the site plan issues are corrected, then the proposed hours will be in conformance with the code.

d) Complaints received. The proposed use is new, although Licensing issued a cease and desist order in September of 2007 for events occurring in the building, without the proper zoning and licensing approvals. There have been 5 calls for service in 2006 and 10 so in 2007 at the site in 2003 (please see attached report), but it does not appear that many are necessarily related to the uses in the building.

Based on the potential of negative impacts at the site, especially noise and traffic, the history of noncompliance with City regulations, and the applicant's lack of information on how the potential impacts would be mitigated, staff would not recommend the extension of operating hours until 2:00 a.m., but an additional hour on Saturday and Sunday, on a commercial corridor would be reasonable if the applicant provide a plan for managing noise and traffic from the site.

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

Roads and utilities are existing and adequate. The site has an approved site plan that addresses these issues (PW#7139).

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

The applicant cannot provide parking for the use and is requesting a variance from 31 to zero spaces. Since there is an opportunity for shared parking, leased parking, and access to transit, staff is recommending approval of the variance. If the variance is granted the site will be in conformance with code requirements. The parking lot has room for 43 spaces and the applicant will lease 19 off-site parking spaces in a lot at 2920 Bloomington Avenue South.

5. May not be consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan shows this part of East Lake Street as a commercial corridor. The plan states the following about uses on commercial corridors: "The corridors support all types of commercial uses, with

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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. Some uses may not be allowed on commercial corridors because of their impacts and the repercussions these impacts have on nearby residential areas. Commercial uses on these streets will be supported insofar as they do not create excessive negative impacts relative to the location and its surroundings. These impacts include consequences such as fumes, noise, significant automobile traffic, late night activity, and negative aesthetics that may be associated with businesses such as major automobile repair and automobile sales.”

While the use of the building as a reception hall is in conformance with this language of the comprehensive plan, the impact on the residential uses to the south until 2:00 a.m. is not in conformance with this language of the plan.

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 conditional use permit, rezoning, parking variance, and compliance with the previous site plan approval, the conditional use permit will conform to the applicable district regulations.

VARIANCE (to reduce the required parking from 31 to zero spaces)

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 existing office, retail, and restaurant uses at 1501-1507 require 43 Parking spaces and 43 are provided in the parking lot to the south. The proposed reception or meeting hall requires an additional 50 parking spaces. The applicant proposes to lease 32 spaces in a lot across Lake Street to the north at 2920 Bloomington Avenue South; however, zoning office records indicate that only 19 are not dedicated to another uses and can be legally counted as parking space under the requirements of the zoning code. This leaves a deficit of 31 spaces (50-19 =31) and the applicant is requesting a variance to reduce this required parking to zero.

The reception hall will typically operate from 8:00 or 9:00 p.m. to 11:00 p.m., 12:00 p.m. or 2:00 a.m., depending on what hours the Planning Commission approves. The other uses in the 1507 building are vacant or closed by 6:00 and the restaurant in the 1507 building closes at 10:00. p.m. This provides an opportunity for shared parking. Assuming the office/retail spaces are closed before the reception hall opens this would open up an equivalent of eight spaces. Further, it is reasonable to assume that the restaurant will not utilize all of the remaining 35 spaces in the adjacent lot (even though required by code) and that the intensity at the restaurant will decline as it gets closer to closing time. This in conjunction with the access to transit on Lake Street would be reasonable factors for granting a variance and a reasonable use of the property. Requiring the applicant to provide the total number of spaces required by the code, while not considering, activity, transit, and shared parking would be a hardship.

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- 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 site is on a major bus route and there is an opportunity for shared parking. These are not conditions generally applicable to properties in the C2 Districts.

- 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 ordinance is to provide adequate parking for uses. Since there is a 43 space lot to the south of the building, access to transit, opportunities for shared parking, and the ability to lease 19 off-site spaces, the intent of the ordinance should be met.

- 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 variance should not increase the danger of fire. Since the uses at the site operate at different times, there is leased off-site parking, and access to transit the variance should not increase congestion in the public streets. If the reception hall were to be opened during the day there could be congestion problems.

RECOMMENDATIONS:

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and City Council adopt the findings above and **approve** the rezoning from the C1 Neighborhood Commercial District to the C2 Neighborhood Corridor Commercial District for property located at 1501 -1507 East Lake Street; **deny** the rezoning from the C1 Neighborhood Commercial District to the C2 Neighborhood Corridor Commercial District for property located at 3013-3021 15th Avenue South; and **approve** the removal of the TP Transitional Parking Overlay District for property located at 3013-3017 15th Avenue South.

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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 - Planning Division recommends that the City Planning Commission adopt the findings above and **deny** the extended hours until 2:00 a.m. and in lieu thereof **approve** extended hours, for the reception or meeting hall only, until 12:00 a.m. (midnight) Friday and Saturday for property located at 1501-1507 East Lake Street and 3013-3021 15th Avenue South 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 one year of approval.
- 2) The applicant shall develop a plan to mitigate noise and traffic leaving the site during extend hours that may include security, parking lot attendants, or signage to limit parking lot noise.
- 3) The handicapped accessible stalls shall be replaced as shown on the approved site plan before the reception hall may operate and the landscaping in conformance with the approved site plan shall be installed by June 30, 2008. The approved site plan is referenced by file numbers by PW#7139.

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required parking from 31 spaces to zero spaces for property located at 1501-1507 East Lake Street and 3013-3027 15th Avenue South subject to the following condition:

- 1) The provision of 19 leased off-street spaces that meet the zoning code requirements in chapter 541 for shared parking. The lease agreement shall be recorded with Hennepin County.

Attachments:

1. Statements from applicant.
2. Recap report.
3. Zoning maps.
4. Site plans and floor plans.
5. Photos.