



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: August 20, 2009

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Ahmad Al-Hawari, with Lyndale Liquor, Inc., has filed an appeal of the decision of the City Planning Commission in regard to the Lake Wine and Cheese development located at 404 West Lake Street. The appeal is associated with the decision of the City Planning Commission to approve a conditional use permit for a liquor store.

Recommendation: At the July 27, 2009, City Planning Commission meeting five of the ten Planning Commission members were present. All five of the Planning Commissioners voted to approve the conditional use permit as part of the consent agenda.

Ward: 6

Previous Directives: Not applicable

Prepared by: Hilary Dvorak, Senior Planner Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Hilary Dvorak, Senior Planner
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Community Impact

- Neighborhood Notification: Notice of the Planning Commission hearing was mailed on July 2, 2009, and notice of the appeal was mailed on August 10, 2009.
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: A 60-day extension letter was mailed on August 6, 2009, extending the 120-day decision period to October 28, 2009.

Supporting Information

Ahmad Al-Hawari, with Lyndale Liquor, Inc., has filed an appeal of the decision of the City Planning Commission in regard to the Lake Wine and Cheese development located at 404 West Lake Street. The appeal is associated with the decision of the City Planning Commission to approve a conditional use permit for a liquor store.

The original staff report and the actions from the July 27, 2009, City Planning Commission meeting are attached.

The appellant has stated that the decision to approve the conditional use permit is being appealed as a result of the arbitrary and capricious actions of the staff of the City's Licensing Division. Please see the appellant's complete statement and reasons for the appeal that are attached.

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit
BZZ-4467

Date: July 27, 2009

Applicant: Binh and Christina Le

Address of Property: 404 West Lake Street

Project Name: Lake Wine and Cheese

Contact Person and Phone: Binh and Christina Le, (612) 242-0073

Planning Staff and Phone: Hilary Dvorak, (612) 673-2639

Date Application Deemed Complete: June 30, 2009

End of 60-Day Decision Period: August 29, 2009

End of 120-Day Decision Period: Not applicable for this application

Ward: 6 **Neighborhood Organization:** Whittier Alliance

Existing Zoning: C2, Neighborhood Corridor Commercial District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 25

Legal Description (properties to be rezoned): Not applicable for this application

Proposed Use: Liquor store

Concurrent Review:

Conditional use permit: for a liquor store

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits

Background: The applicants, Binh and Christina Le, are proposing to open up a wine and cheese (liquor store) store located at 404 West Lake Street. The property is zoned C2. Liquor stores are a conditional use in the C2 zoning district and are subject to specific development standards. The applicants are proposing to construct a new entryway to the building, add a new cornice line and awnings above the windows along West Lake Street and install an outdoor patio area near West Lake Street.

Parking lots of more than four parking spaces are subject to the landscaping, screening and curbing requirements of Chapter 530 Site Plan Review. When improvements are made to a parking area the site is also subject to review by Public Works, Police and Fire.

CONDITIONAL USE PERMIT – for a liquor store

Findings as Required by the Minneapolis Zoning Code:

The Department of Community Planning and Economic Development – 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.

The Planning Division does not believe that a liquor store would be detrimental to or endanger the public health, safety, comfort or general welfare of the surrounding area. Currently, the building is vacant. Converting the building to a use that will have employees and customers coming and going will increase surveillance of the surrounding area including the parking lot and public streets and sidewalks.

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

The Planning Division does not believe that a liquor store would be injurious to the use and enjoyment of other property in the vicinity or impede the normal or orderly development and improvement of surrounding property. The applicants are proposing to add an entryway addition to the building and install an outdoor patio area near West Lake Street. The entryway will have an entrance facing West Lake Street and the existing parking lot located on the west side of the building. The outdoor patio will be constructed out of brick pavers and a trellis will be built over it to provide some shelter for those utilizing it. As part of the Lake Street reconstruction project a decorative metal fence and a landscape buffer were installed on this property between the parking area and the public sidewalk. Although a section of the fence and some of the landscaping will need to be removed in order to make way for the building addition the remaining improvements will stay on the site. Prior to the removal of the decorative metal fence and landscaping the applicant will need to contact the Lake Street reconstruction project manager for approval.

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

The applicant will be working closely with the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

The parking lot is existing and located on the west side of the building. For loading purposes there is a shipping and receiving area located towards the back of the building. Both the parking area and the shipping and receiving area can be accessed from the alley or from the curb cut located along Grand Avenue.

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

The minimum parking requirement for a liquor store is one space per 500 square feet of gross floor area. The liquor store is approximately 5,000 square feet so the parking requirement is ten spaces. There are currently seven spaces on the site. The applicant is proposing to have nine parking spaces on the site. The last use of the building was a furniture store (general retail sales and services) which has the same parking requirement as a liquor store. Since the total number of parking spaces on the site is increasing the applicant does not need to apply for a parking variance. Increasing the number of parking spaces on the site does reduce the number of grandfather parking rights the property has from three to one.

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

The site is located along West Lake Street which is a designated Commercial Corridor. In the update to *The Minneapolis Plan* West Lake Street is also designated as a Commercial Corridor. According to the principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Support development in Commercial Corridors where it enhances the street’s character, improvise its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered (Policy 4.3).
- 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 (Implementation Step for Policy 4.3).
- 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 (Policy 4.4).

The Planning Division believes that using the vacant building for a liquor store is in conformance with the above policies of *The Minneapolis Plan*.

In the *Lyn-Lake Small Area Plan*, which was adopted by the Minneapolis City Council on June 26, 2009, the site is called out to be commercial, mixed-use. Again, the Planning Division believes that using the vacant building for a liquor store is in conformance with the above policies of the *Lyn-Lake Small Area Plan*.

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

- **Use:** Liquor stores are a conditional use in the C2 zoning district.
- **Off-Street Parking and Loading:**

Minimum automobile parking requirement: The minimum parking requirement for a liquor store is one space per 500 square feet of gross floor area. The liquor store is approximately 5,000 square feet so the minimum parking requirement is ten spaces. There will be a total of nine parking spaces on the site.

Maximum automobile parking requirement: The maximum parking requirement for a liquor store is one space per 200 square feet of gross floor area. The liquor store is approximately 5,000 square feet so the maximum parking requirement is 25 spaces. There will be a total of nine parking spaces on the site.

Bicycle parking requirement: Existing buildings have grandfathered rights from the bicycle parking requirements.

Loading: There is no loading requirement for a liquor store that is smaller than 10,000 square feet. However, for uses that do not meet the minimum size requirement for loading requirement purposes they shall provide an adequate shipping and receiving facility that is accessible by motor vehicle and located off of an adjacent alley, service drive or open space on the same zoning lot. There is a shipping and receiving area located towards the back of the building. There is adequate room for a delivery truck to pull up next to the back of the building and unload.

- **Maximum Floor Area:** No changes are proposed to the size of the building.
- **Building Height:** No changes are proposed to the height of the building.
- **Minimum Lot Area:** No changes are proposed to the size of the lot.
- **Yard Requirements:** No changes are proposed to setbacks.
- **Maximum lot coverage:** No changes are proposed to the size of the building.
- **Maximum impervious surface:** No changes are proposed to the amount of impervious surface on the site.
- **Specific Development Standards:** Liquor stores are subject to specific development standards:

Liquor store:

- 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.
- 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.

- **Hours of Operation:** The hours of operation for the C2 District are Sunday through Thursday, 6 am to 10 pm, and Friday and Saturday, 6 am to 11 pm. The applicant has indicated that the use will be open Monday through Saturday from 9 am until 10 pm.
- **Signs:** Signs are subject to the requirements of Chapter 543, On-premise Signs. In the C2 zoning district one can have one-and-a-half square feet of signage for every one foot of primary building wall. However, if there is a freestanding sign on the zoning lot then there can only be one square foot of signage for every one foot of primary building wall. Wall signs are limited to 180 square feet in size. Projecting signs are limited to 16 square feet in size. The height limitation for both wall signs and projecting signs is 24 feet and neither are permitted to extend above the roofline of the building. Freestanding signs are limited to 80 square feet and can be no taller than 25 feet. The zoning code also limits the number of freestanding signs on a zoning lot to one.

The applicant has not submitted a sign plan.

- **Refuse storage:** The applicant is proposing to enclose the refuse storage containers and locate them along the north property line of the site. Elevations of the enclosure have not been submitted. The Planning Divisions is recommending that the refuse storage containers be enclosed as required by Section 535.80 of the zoning code.
- **Lighting:** Lighting exists at the site.

RECOMMENDATIONS

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the conditional use permit application to allow for a liquor store located at 404 West Lake Street 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. Approval of the final site plan and building elevations by the Department of Community Planning and Economic Development – Planning Division.
3. All site improvements shall be completed by July 27, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

Department of Community Planning and Economic Development – Planning Division
BZZ-4467

5. The refuse storage container shall be screened with an enclosure as required by Section 535.80 of the zoning code.
6. The existing decorative fence column that will be removed to make way for the addition shall be reinstalled at the east end of the fence once construction is complete.

Attachments:

1. Written description of the project and conditional use permit findings
2. June 29, 2009, e-mail to Council Member Lilligren and the Whittier Alliance
3. Zoning Map
4. Aerial photo
5. Site plan, floor plans and elevation rendering
6. Photos of the property

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)
Planning Division**

250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2526 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: August 10, 2009

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of July 27, 2009

The following actions were taken by the Planning Commission on July 27, 2009. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Commissioners present: President Motzenbecker, Cohen, Huynh, Luepke-Pier, and Tucker – 5

Not present: Bates, Gorecki, Nordyke, Norkus-Crampton and Schiff

Committee Clerk: Lisa Baldwin (612) 673-3710

2. Lake Wine and Cheese (BZZ-4467, Ward: 6), 404 W Lake St ([Hilary Dvorak](#)).

[Staff report](#)

A. Conditional Use Permit: Application by Binh and Christina Le have for a conditional use permit for a liquor store located at 404 W Lake St.

Recommended Motion: The City Planning Commission adopted the findings and **approved** the conditional use permit application to allow for a liquor store located at 404 W Lake St 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. Approval of the final site plan and building elevations by the Department of Community Planning and Economic Development – Planning Division.
3. All site improvements shall be completed by July 27, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
4. The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
5. The refuse storage container shall be screened with an enclosure as required by Section 535.80 of the zoning code.
6. The existing decorative fence column that will be removed to make way for the addition shall be reinstalled at the east end of the fence once construction is complete.

President Motzenbecker opened the public hearing.

No one was present to speak to the item.

President Motzenbecker closed the public hearing.

Commissioner Tucker moved approval of the staff recommendation (Cohen seconded).

The motion carried 4-0.