

**Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES**

**Minneapolis Community Planning & Economic Development (CPED)  
Planning Division**

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**MEMORANDUM**

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DATE: November 14, 2007

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 November 13, 2007

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The following actions were taken by the Planning Commission on November 13, 2007. 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, El-Hindi, Huynh, LaShomb, Mains, Nordyke, Norkus-Crampton, Schiff and Tucker – 9

Not present: Williams (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

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**9. Metro Check Cashing (BZZ-3817, Ward: 4), 2211 Lowry Ave N (Hilary Dvorak).**

**A. Rezoning:** Application by Mitchell Curtis, on behalf of Lowry Avenue Properties, for a rezoning of the property located at 2211 Lowry Ave N from the C1 zoning district to the C2 zoning district to permit a currency exchange. Please note that the currency exchange that the applicant intends on locating in this building is currently located at 3207 Penn Ave N and is being relocated due to the Lowry Ave streetscape project.

**Action:** The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning petition to change the zoning of the property located at 2211 Lowry Ave N from C1 to the C2 district.

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 (El-Hindi seconded).

The motion carried 8-0.

**13. Megusta Place (BZZ-3826, Ward: 9), 1501-1507 E Lake St and 3013-3021 15<sup>th</sup> Ave S (Jim Voll).**

**A. Rezoning:** Application by Modesto Reyes for a rezoning from the C1 Neighborhood Commercial District to the C2 Neighborhood Corridor Commercial District for property located at 1501-1507 and 3013-3021 15th Ave S. Removal of TP Transitional Parking Overlay District.

**Action:** The City Planning Commission recommended that the City Council adopt the findings and **approve** the rezoning from the C1 Neighborhood Commercial District to the C2 Neighborhood Corridor Commercial District for property located at 1501 -1507 E Lake St; **deny** the rezoning from the C1 Neighborhood Commercial District to the C2 Neighborhood Corridor Commercial District for property located at 3013-3021 15th Ave S; and **approve** the removal of the TP Transitional Parking Overlay District for property located at 3013-3017 15th Ave S.

**B. Conditional Use Permit:** Application by Modesto Reyes for a conditional use permit to allow extended hours until 2:00 a.m. Friday, Saturday, and Sunday for property located at 1501-1507 and 3013-3021 15th Ave S.

**Action:** The City Planning Commission adopted the findings and **denied** the conditional use permit for extended hours until 2:00 a.m. and in lieu thereof **approved** extended hours, for the reception or meeting hall only, until 1:00 a.m. Friday and Saturday and 12:00 a.m. (midnight) on Sundays for property located at 1501-1507 E Lake St and 3013-3021 15th Ave S 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.

**C. Variance:** Application by Modesto Reyes for a variance to reduce the required parking for property located at 1501-1507 and 3013-3021 15th Ave S.

**Action:** The City Planning Commission adopted the findings and **approved** the variance to reduce the required parking from 31 spaces to zero spaces for property located at 1501-1507 E Lake St and 3013-3027 15th Ave S subject to the following condition:

1. The provision of leased off-street spaces or a shared parking agreement or a reduction in the size of the meeting hall space to provide the required parking for the reception hall space during operation hours. The lease agreement or shared parking agreement shall be recorded with Hennepin County.

Staff Voll presented the staff report.

President Motzenbecker opened the public hearing.

Ernesto Reyes (1501-1507 E Lake St) [not on sign-in sheet]: I'm here because I would like to obtain a permit to operate my building. This building is a four year old building. It costs about 2.5 million dollars; I owe the bank 1.5. In the last two years, I have problems with my tenants because they're gone because Lake Street was renovated. This affects a lot. I lose about \$280k a year in the last two years. At this point, last week, I paid \$80k in property tax because the last two years the taxes go up on my building 1000.8%. I really need to have this permit, but if you deny it, I accept. The city has to understand what is the problem in this brand new building because I support Lake Street and I don't have any answer since I deposit my permit that I suggest to the city since June 2005 and today is my hearing. It's one and half years and I lose a lot of money. I try to get everything to pay the taxes. I get a loan, plus a loan, plus a loan. I really need that you think a little bit about the problem and that the city gives us a developer on Lake Street to have a nice building. My family is a good family. I was running my restaurant for 14 years and I never have any problems with my license or with the alcohol. Never. My criminal record can show that I never have any tickets. I don't have any problems and I don't know what I have to do to get this permit. All the time I respect all the rules, everything that the city asks me to do. I'm here because one of the points is that I was trying to help Lake Street. I was one of the first person to start renovating Lake Street. I invest 10 years of my savings that I was working pretty hard with my family and then at this point I'm losing everything. If I don't rent this building, next year I'm going to lose everything. Please, I need you to think a little bit about if it's possible to give me this permit to open Friday and Saturday until 2 a.m. and Sunday by midnight. If not, I can accept that, but you have to think about all my money and everything is invested in this project. It's a brand new building and there are a lot of things I have to do still in there. I need you to help me at this time because I helped the city with the renovation of Lake Street and now I need back something from you guys. Thank you.

Commissioner Norkus-Crampton: It talks in one of the things that the staff is recommending approval of the variance to reduce the required parking from 31 spaces to zero on your property

with the proviso that there are 19 leased off-street spaces to meet the zoning code requirement; do you have such an arrangement at this point? Is that already existing?

Ernesto Reyes: Yes.

Commissioner Norkus-Crampton: Ok. So you don't anticipate any problem with that moving forward? That lease will continue to hold? Ok, thank you very much.

Commissioner Schiff: To follow up on that point, as I spoke with Jim Voll, for Planning Commissioners to understand, Mr. Reyes, how big is your lease with that property owner for parking? How many spaces?

Ernesto Reyes: I have 43 parking spaces of my own and in front of the other Mercado, they're going to lease me the rest, I believe it's 19.

Staff Voll: Ernesto gave us a lease for 32 spaces, but because of the required parking for the other uses that are using that parking lot, by the zoning code we can only count 19 of those.

Commissioner Schiff: So this is the dynamic that our zoning code creates. He has a lease for 32 spaces, but because those other uses are taken up by a business that happens to be closed at the time, he can only count 19 of them towards this application. It doesn't show up on paper, but there is a lease. That's something that we're going to have to discuss; how our zoning requirements don't allow us to look at parking that is under contract for this use. I just wanted to point that out. Mr. Reyes, can you clarify on the hours of operating, what's the difference between being open until midnight, 1 a.m. or 2 a.m. for the type of uses? Who do you think your customers are going to be for this type of business?

Ernesto Reyes: The big thing is we are [spoke Spanish - catolicos]...all the parties are family parties. It's not private parties for pay to enter. Most of the people, we work Saturday's and Sunday's. Most of the Latin-American people, we do that kind of job. When they have opportunities to have a party for baptism or weddings, Quincineros, they do after they work. This is one of the big reasons is because this is a tradition; this is a culture that we have. Also, we don't have any problems since I opened my restaurant on Lake Street. All the time, I close by 10. If I say 10 p.m., the doors have to be closed by 10 p.m. At this point, I understand if it's 2 a.m., I'm going to close at 2 a.m. I am going to close the door and say to my customers "ok, we need to clean up everything." Until 2 a.m., everything is going to be set up. Also, all the time that we have the restaurant, we have security and we have good relationship. Never in our records have we had any problems with criminals or something. This is one of the big reasons that I would like to offer to my culture because I was working a lot for everybody. Most of you know who I am and what I am doing and what I am working for. I understand that people think that it's going to be a problem, but in the history of this building, we don't have any problems in this building or on Lake Street or my parking lot. It's a beautiful building that we are now closed. It's very sad for me. I was working too hard to give a nice view. One of the most important things...

Commissioner Schiff: Mr. Reyes, what time does the restaurant close on the first floor... the Chinese restaurant that's there now?

Ernesto Reyes: 10 p.m.

Commissioner Norkus-Crampton: About the security arrangement you have, I can imagine that some of the concerns of the surrounding neighbors would be that after 2 a.m. everybody has been having a really fun night, they're all out in the parking lot making a lot of noise; with the security that you utilize now, could that be utilized in that sort of parking situation to sort of help keep things under control so it doesn't become a nuisance for the neighbors? Have you thought about that and do you have a plan for that sort of situation? I can imagine that that would be one of the concerns from the neighbors surrounding your property.

Ernesto Reyes: Actually, on the lease that we're going to provide to the customers, said that we have to have in the whole time of the party, a security outside and inside. The parking lot, they have to check what the people are doing. Also, the last two parties that we had with a permit with one day, we don't have any problems and the noise for outside is inside because all the codes that require the city to do a building, the building can leave the noise outside. At this point, we have an arrangement with a company of security guards. They have worked with us for many years. I don't think that is going to be a problem.

President Motzenbecker closed the public hearing.

Commissioner Schiff: I'm very sympathetic with the position the business owner is in because this was a new investment, privately financed and no surprise to some of us, but retail on the second floor doesn't work outside of the central business district where it's connected by skyways. The original business plan here was for retail, not only on the second floor but in the basement. Now, in looking at this space and asking ourselves what is a viable use, I think because there is parking lots to the south that separate this property from the residential neighborhoods that in some ways this is a good fit. We've got many applicants for rental halls along Lake Street with no parking lots whatsoever. We had one previously on the agenda today that we have postponed through December and those are the ones that I think we need to be worried about. When there is an opportunity, particularly for shared parking, I think these rental halls can work. We have to look at the license conditions, the hours of operation very carefully and make sure we achieve that balance between the commercial corridors that we want to succeed and the residential neighborhoods that we need to thrive. I think staff has done a good job in analyzing this and I think the recommendations on the rezoning are right on. I want to concur with staff on approving the rezoning. On the parking, as Mr. Voll explained, there is other parking here under contract that we're not allowed to look at and so the applicant is being required to apply for a variance through the oddities of the code. I don't think that's understood to the neighborhoods who reviewed this project. If you could clarify, Mr. Voll, if we were to tell the applicant to seek additional shared parking, no variance would be needed at all. Or we could approve the variance contingent on additional shared parking, correct?

Staff Voll: I think the latter is a better way to work because if you do the original where you don't grant the variance then what we're obliged to do as staff is make Mr. Reyes come up with parking agreements that consider the parking for each use in each lot for 24 hours a day rather than the shared. The second option allows us flexibility and gets the goal that you're looking for. It seems counterintuitive to grant a variance to zero and then require parking but it works better that way.

Commissioner Schiff: I know the Bloomington-Lake Business Association has been wanting shared parking for so long and here we have the opportunity to recognize shared parking with all these parking lots and so I think that's how we should act tonight is to encourage more of that

shared parking so it doesn't get out on the streets and doesn't affect the neighborhoods. That's what I'd like to do is approve the variance contingent on shared parking arrangements.

Staff Voll: I just want to clarify, shared parking for the whole deal of would there be some amount that you'd be willing to consider?

Commissioner Schiff: As I understand, the more parking that is achieved, the larger the venue can be. If that parking can't be found and agreed to, then the venue becomes slightly smaller.

Staff Voll: Yes. You could say "variance to zero subject to shared parking or reducing the size of the meeting space."

Commissioner Schiff: Ok.

Commissioner Mains: I understand there's a rental hall near there, does anyone know the hours of operation of that hall is?

Staff Voll: I saw that in one of the letters and I don't know if that's across the street in the green building, but if it is, I'm not sure that that has had city approvals. I don't know the hours.

Commissioner Schiff: I will make a motion to approve the rezoning from C1 to C2. With that, we note that we can remove that previous application that was unnecessary for the rezoning of 3013 – 3021 15<sup>th</sup> Ave S and instead approve the transitional parking overlay for that property.

President Motzenbecker: I think we were removing it. The recommendation was to...

Commissioner Schiff: Approve the removal, sorry.

Commissioner Tucker: Is Commissioner Schiff moving the staff recommendation?

Commissioner Schiff: Yes.

Commissioner Tucker seconded the motion.

President Motzenbecker: All those in favor? Opposed?

The motion carried 8-0.

Commissioner Schiff: On the conditional use permit, I understand the business request to have it open as late as possible to 2 a.m. I do think that 1 a.m. is reasonable and suggest that the applicant come back in one year and seek that 2 a.m. if the 1 a.m. works out ok (Mains seconded).

Staff Voll: Just a clarification, I had split it up to be 1 a.m. on Friday, Saturday and Sunday.

Commissioner Schiff: I'd say 1 a.m. on Friday and Saturday and midnight on Sunday.

President Motzenbecker: All in favor? Opposed?

The motion carried 8-0.

Commissioner Schiff: On the variance, the language that Mr. Voll explained that allows us to count those other spaces that are under contract but we've not been able to recognize up until now is to approve the variance contingent on shared parking or a reduction of the venue space (Norkus-Crampton seconded).

President Motzenbecker: All in favor? Opposed?

The motion carried 8-0.