

**Department of Community Planning and Economic Development – Planning
Division**

Conditional Use Permit, Site Plan Review
BZZ-2034

Date: November 22, 2004

Applicant: Ms. Barb Schneider, Border Foods Inc., 965 Decatur Avenue North, Golden Valley, MN 55427 (763)489-2970

Address of Property: 1931 Minnehaha Avenue

Project Name: Taco Bell

Contact Person and Phone: Mr. Peter Roos, Roos and Associates, 3513 Rainbow Drive, Minnetonka, MN (612) 269-2204

Planning Staff and Phone: Becca Farrar, (612)673-3594

Date Application Deemed Complete: September 30, 2004

End of 60-Day Decision Period: November 28, 2004

End of 120-Day Decision Period: January 27, 2005

Ward: 2 Neighborhood Organization: Seward Neighborhood Group

Existing Zoning: C2 (Neighborhood Corridor Commercial) District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 21

Lot area: 11,896 square feet or .27 acres

Legal Description: Not applicable for this application

Proposed Use: Continue existing use as a fast food restaurant (Taco Bell) and extend the permitted operational hours.

Concurrent Review:

- Conditional Use Permit to extend the permitted operational hours of a fast food restaurant in the C2 zone district.
- Major Site Plan review for a 2,184 square foot fast food restaurant (Taco Bell).

Applicable zoning code provisions: Chapter 525: Article VII Conditional Use Permits and Chapter 530 Site Plan Review.

Background: The applicant, Border Foods, Inc., proposes to extend the operational hours for the existing Taco Bell restaurant. Under the C2 district requirements, the business is allowed to operate Sunday through Thursday from 6:00 a.m. to 10:00 p.m. and Friday and Saturday from 6:00 a.m. to 11:00 p.m. The site is currently operating under grandfathered operational hours until 11:00 p.m. Sunday through Thursday and until 12:00 a.m. on Friday and Saturday. The applicant is proposing to extend the operational hours Sunday through Thursday from 10:00 a.m. to 3:00 a.m. and Friday and Saturday from 10:00 a.m. to 4:00 a.m.

Taco Bell has been operating out of the building on the property since 1987. From 1972 to 1987 Zantigo occupied the site. The applicant claims that the restaurant has operated with store hours that are identical to those that are now being formally applied for without neighborhood complaint or concern. After a review by the City, the applicant became aware that the restaurant hours were not in compliance with the zoning code thus the application for a conditional use permit to extend the operational hours. Major site plan review was also required for the site.

Staff did receive a letter of support from the Seward Neighborhood Group (SNG). A motion from the SNG Community Development Committee was forwarded to the SNG Board of Directors. The motion moved that the SNG support Border Food's request for a conditional use permit for extended hours, allowing the existing Taco Bell restaurant at 1931 Minnehaha Avenue South to stay open until 3 a.m. Sunday thru Thursday and until 4 a.m. on Friday and Saturday. Additionally, Border Foods was asked to return in 12 months or whenever asked to discuss crime concerns with the neighborhood. Furthermore, the neighborhood requested that the restaurant consider the installation of recording cameras to monitor the parking lot and exterior areas. The SNG Board of Directors passed the motion although concern was expressed regarding the potentiality of the restaurant being an attractive nuisance. The board members also endorsed the installation of recording cameras both inside and outside the restaurant to help control crime.

Staff has analyzed the site in regard to crime and police calls. The information has been attached for reference. The number of incidents is a bit misleading as a public phone is located on the premises and the majority of the police calls to the address were made via the public phone. The applicant has agreed to look into the possibility of removing the public phone from the property.

CONDITIONAL USE PERMIT -

Required Findings for the Conditional Use Permit:

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

The use is relatively small in scale and is located along a Community Corridor. The police incidents have been attached for reference. It is important to note that there have been some police incidents in 2004 and 2003, fights and assaults, during the late night hours. Crime Prevention Specialist, Shun Tillman discussed the 911 calls with a representative from the neighborhood group. The nature of calls was primarily in response to trespassers, vagrants and fights mostly due to passers-by. Tillman's impression was that the restaurant has acted responsibly in the past and that any business located in the area at those hours will draw problems not necessarily create them.

- 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.**

Given that the use is relatively small in scale and the location is generally non-residential in nature, extending the hours open to the public should not impede development of surrounding properties and would not affect the use and enjoyment of other properties in the area. There are no zoned residential uses or known legally non-conforming residential uses on the same block. However, there are multi-family apartment buildings (zoned R6) located to the northeast across 20th Avenue South.

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

Utilities, access roads, drainage and other facilities would not be affected by extended hours of operation.

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

The scale of the use is such that congestion of the public streets would not be substantially affected during the hours the applicant has requested.

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

The site is located along a Community Corridor. Some of the applicable characteristics of Community Corridors include: streets having high traffic

volumes, streets having a mix of uses with commercial uses dominating, as well as light industrial uses along the street.

Relevant Policy: 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.

Relevant Policy: 9.27. Minneapolis will coordinate land use and transportation planning on designated Community Corridors through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets and the type of transit service provided on these streets.

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 is subject to the standards of Chapter 530. The applicant has concurrently applied for major site plan review to bring the property into compliance. Upon approval of the major site plan review and conditional use permit for extended hours, the property shall conform to the applicable regulations of the C2 district.

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

(1) Proximity to permitted or conditional residential uses.

The use is not adjacent to or on the same block as residential uses. However, there is residential zoning (R6) and multi-family residential apartment buildings located across the street from the site along 20th Avenue South.

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

The use is small in scale and does not have a drive through facility. Staff will require that the applicant install security camera devices to monitor activity inside the restaurant as well as outside in the parking lot and patio areas.

(3) Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.

The project is in conformance with general standards of the zoning ordinance. The applicant has submitted a concurrent application for major site plan review.

(4) History of complaints related to the use.

Staff reviewed police incidents associated with the property. According to City records, eight police calls were made between the hours of 12:00 a.m. and 3:00 a.m. in 2003 and two calls in 2004. Crime Prevention Specialist, Shun Tillman discussed the 911 calls with a representative from the neighborhood group. The nature of calls was primarily in response to trespassers, vagrants and fights mostly due to passers-by. Tillman's impression was that the restaurant has acted responsibly in the past and that any business located in the area at those hours will draw problems not necessarily create them.

Required Findings for Major Site Plan Review

- 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. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FAÇADE:

- **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.**
- **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 façade shall provide architectural detail and shall contain windows at the ground level or first floor.**
- **In larger buildings, architectural elements shall be emphasized.**

- **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 where visible from a public street or a residence or office residence district.**
- **Entrances and windows:**
 - **Residential uses shall be subject to section 530.110 (b) (1).**
 - **Nonresidential uses shall be subject to section 530.110 (b) (2).**
- **Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.**

The building is existing. The main entrances are directly off of the plaza area located adjacent to Minnehaha Avenue. The building is located on a triangular shaped parcel and fronts on Minnehaha Avenue, Franklin Avenue East and 20th Avenue South. The exterior material is compatible on all sides of the building as it is predominantly composed of stucco. The 30% window requirement is not applicable as the building is existing, however, the building would meet the requirement along Franklin Avenue, Minnehaha Avenue and 20th Avenue. The parking lot which is located to the rear of the building has access off of Minnehaha Avenue and 20th Avenue.

The applicant is not proposing any additional landscaping, however, staff will require that the applicant plant additional vegetation and replace some of the existing landscaping as the majority is in poor condition. Staff will also require that the applicant provide some vegetative screening of the dumpster along 20th Avenue South. Additionally, the applicant will need to install either a wrought iron fence or landscape planters along the perimeter of the patio area along Minnehaha Avenue. The applicant is aware that the existing landscaping and signage located within the triangular shaped landscape bed adjacent to Franklin Avenue will require an encroachment permit as they encroach into the right-of-way.

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 530.140 (b).**

- **Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.**
- **Site plans shall minimize the use of impervious surfaces.**

Existing sidewalks and walkways connect the restaurant in conformance with the requirements of the zoning ordinance. The on site parking lot is accessed off of Minnehaha Avenue and 20th Avenue South. In its current configuration the parking lot provides parking for 19 spaces. At the very least, 2 of the spaces located along the north property line closest to Minnehaha Avenue will need to be eliminated as vehicles utilizing those spaces back over the sidewalk. Staff will require that the applicant curb the area and extend the landscaped area to prevent vehicles from parking in the area.

Additionally the parking lot must be re-stripped and redesignated for both the handicapped space and any compact parking spaces. Staff is concerned with the lack of accessibility for handicapped patrons. In order for a handicapped patron to enter the restaurant they have to go out to the public sidewalk to enter on a ramp. Either the handicapped space should be relocated closest to the public sidewalk or a new ramp provided to ensure convenient accessibility. Public Works has discussed chaining the curb cut located off of 20th Avenue South after specific hours to eliminate cut-through traffic or entirely eliminating it. The applicant will need to continue to work with Public Works to address this issue.

The applicant has indicated that snow will be removed from the site.

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 shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **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.**
- **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 530.160 (b).**
 - **Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).**

- **The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.**
- **Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.**
- **All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.**
- **All other areas not governed by sections 530.150, 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 530.220.**
- **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 530.60, as provided in section 530.230.**

The applicant is not proposing any additional landscaping on site. Based on the applicant's calculation, approximately 4,376 square feet of the site is landscaped. According to that calculation, the site would meet the minimum 20 percent requirement as 1,943 square feet would be required.

Staff will require that the applicant plant additional vegetation and replace some of the existing landscaping as the majority is in poor condition. Staff will also require that the applicant provide some vegetative screening of the dumpster along 20th Avenue South. Additionally, the applicant will need to install either a wrought iron fence or landscape planters along the perimeter of the patio area along Minnehaha Avenue. The applicant is aware that the existing landscaping and signage located within the triangular shaped landscape bed adjacent to Franklin Avenue will require an encroachment permit as they encroach into the right-of-way.

ADDITIONAL STANDARDS:

- **Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.**
- **Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.**
- **Site plans shall minimize the blocking of views of important elements of the city.**

- **Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.**
- **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.**
- **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.**

Due to its location on site the parking lot will be screened as much as possible to prevent headlights from shining on adjacent properties. It is unlikely that headlight glare from vehicles entering or leaving the parking lot would have much of an impact on the adjacent properties. There is existing lighting on site. All lighting will need to be downcast and shielded to avoid undue glare. All lighting will comply with Chapters 535 and 541. The City's CPTED officer has recommended that any additional plantings follow the 3' – 7' rule to allow visibility on site.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE:

Section 536, Specific Development Standards, requires the following for a Restaurant, fast food:

- (1) 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: Hours that the facilities can be open to the public under the C2 zoning 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 restaurant has been operating under grandfathered operational hours until 11:00 p.m. Sunday through Thursday and until 12:00 a.m. on Friday and Saturday. The business has applied for a conditional use permit for an extension of the above listed hours.

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 applicant will need to improve the existing enclosure by installing new solid doors on the dumpster enclosure.

Window obstructions: 543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330.

Signage: No new signage is proposed at this time. All new signage is required to meet the requirements of the code. The applicant shall submit a sign inventory, so the Zoning Office can review all new signage for compliance with the code before any new sign permits are issued.

MINNEAPOLIS PLAN:

See the above listed response to finding #5 in the conditional use permit application.

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

Staff is unaware of any conflict between the proposal and any development plan or objective adopted by the city council.

Alternative Compliance. The Planning Commission may approve alternatives to any major 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, 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 not necessary for this site.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the application for a conditional use permit to extend the maximum operational hours open to the public for an existing fast food restaurant Sunday through Thursday to 3:00 a.m. and Friday and Saturday to 4:00 a.m. for property located at 1931 Minnehaha Avenue.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission **approve** the site plan review application for property located at 1931 Minnehaha Avenue subject to the following conditions:

- 1) Staff review and approval of the final site, landscaping, lighting, and snow storage and removal plans before permits may be issued and improvements are installed. All site improvements shall be completed by December 1, 2005 (unless extended by the Zoning Administrator) or permits may be revoked for noncompliance.
- 2) If estimated site improvement costs exceed \$2,000, the applicant shall submit a performance bond in the amount of 125% of the estimated site improvement costs before permits may be issued.
- 3) The use is subject to the specific development standards for restaurant, fast food found in Section 536 of the Zoning Ordinance.
- 4) Installation of security cameras on the interior and exterior of the building to monitor activity.
- 5) The applicant will need to improve the existing enclosure by installing new solid doors on the dumpster enclosure.
- 6) The applicant must plant additional vegetation and replace some of the existing landscaping. The applicant must provide some vegetative screening of the dumpster along 20th Avenue South. The final landscape plan is subject to Staff review and approval.
- 7) The applicant will be required to install either a wrought iron fence or permanent landscape planters along the perimeter of the patio area along Minnehaha Avenue.
- 8) The applicant will need to attain an encroachment permit for any landscaping or other encroachments into the right-of-way.
- 9) The existing handicapped space must be relocated or a new ramp provided on the

parking lot side to ensure convenient accessibility.

- 10) The applicant will need to continue working with the Public Works Department to either chain the curb cut onto 20th Avenue South after specific hours to eliminate cut through traffic or entirely eliminate it.
- 11) Two of the parking spaces located along the north property line closest to Minnehaha Avenue will need to be removed. The applicant must curb the area and extend the landscaped bed to prevent vehicles from parking in the area. Additionally, the parking lot must be entirely re-stripped and redesignated for both the handicapped space and any compact parking spaces as applicable.
- 12) The applicant should look into removing the public phone from the premises.

Attachments:

1. Statement of use
2. Findings
3. Correspondence
4. Zoning map
5. Plans
6. Photos