

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit
BZZ-4510

Date: August 24, 2009

Applicant: Todd Paulus dba Social Dance Studio

Addresses of Property: 3742 23rd Avenue south

Project Name: Social Dance Studio

Contact Person and Phone: Todd Paulus 612-353-4445

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

Date Application Deemed Complete: July 28, 2009

End of 60-Day Decision Period: September 26, 2009

Ward: 9 **Neighborhood Organization:** Standish-Ericsson

Existing Zoning: C1 Neighborhood Commercial District

Zoning Plate Number: 27

Legal Description: Not applicable for this application

Existing Use: Mixed-use building with first floor dance studio and upstairs apartment.

Concurrent Review:

- **Conditional use permit:** To allow the dance studio to be open until 1:00 a.m. Sunday through Thursday and 4:00 a.m. Friday and Saturday.

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

Background: The subject site is located at the northwest corner of 23rd Avenue South and 38th Street East. The applicant opened Social Dance Studio in the building in 2008, at which time a parking variance from 36 spaces to 16 spaces, where 16 were grandfathered, was granted (BZZ-3911).

A dance studio is classified under the performing, visual, or martial arts school use in the zoning ordinance, which is a permitted use in the C1 Neighborhood Commercial District. In September of 2008, the applicant applied for a license to allow events where students and/or the public dance at the building. No alcohol is served, but admission is often charged. The only license this could be allowed under is a Dance Hall License. Dance Halls are not specifically listed in the zoning code and are not allowed in the C1 District. The zoning office signed off on this license, determining that the dances

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were an accessory use to the dance studio, but this did not authorize a Dance Hall, or the events as a principal use of the building. The principal use is a dance studio, where students receive instruction and practice dance.

The applicant now requests extend hours to allow the building to be open until 1:00 a.m. Sunday through Thursday and until 4:00 a.m. Friday and Saturday, although the 4:00 a.m. time would not be necessary every Saturday and Sunday, but for limited special events (please see the attached letter from the applicant detailing the extended hours operations); approximately four times a year.

As of the writing of this report, staff has not received comments from the neighborhood group, but will forward comments, if any are received, to the City Planning Commission at its meeting.

The trash enclosure of the building is in disrepair and is required to be fixed. This is the responsibility of the building owner.

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.

The permitted hours of operation in the C1 Neighborhood Commercial 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 every night until 1:00 a.m. and until 4:00 a.m. on approximately four Fridays or Saturdays a year. Staff is not aware of any other uses in the immediate area with late night hours of operation. The extension of hours should not prove detrimental to public health, safety, comfort or general welfare with the proposed conditions of approval and provided the use complies with all applicable zoning, licensing and life safety ordinances.

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.

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

- a) Proximity to permitted or conditional residential uses. There is a nursing home to the north and an assisted living facility proposed across the street to the east. To the south there are commercial uses along 38th Street East. Beyond these uses there are single and two-family dwellings.
- b) Nature of the business and its impacts of noise, light and traffic. The business is a dance studio where students receive instruction in dance and also practice dancing. There are occasional accessory dances and events open to the public. The use does not serve alcohol. The use should not

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generate significant noise, light, or traffic beyond that of a typical retail use, but there is potential for increased traffic during larger events.

- c) Conformance of use. The use has been cited by Regulatory Services for operating beyond the allowed hours of operation. This was done as apart of the normal patrol of the city by Regulatory Services staff to check for compliance with hours of operation. The Social Dance Studio is currently operating within the required hours of operation. If the conditional use permit for extended hours is approved, then the proposed hours and use will be in conformance with the code.
- d) Complaints received. The City has received no complaints regarding this use. The 3rd precinct has indicated that they have received no complaints about the Social Dance Studio and do not object to the extended hours. The site has five calls for service (three during the extended hours) since the use has been in operation. Please note that these are calls for service and are not necessarily related to problems with the business.

Considering the above noted factors the extension of operating hours is reasonable; however, staff is recommending that the events until 4:00 a.m. (or beyond 1:00 a.m.) on Saturdays and Sundays be limited to five times a year. The applicant has indicated that they will happen approximately four times a year and they are allowed as an accessory use. If they were allowed every weekend, which is not proposed by the applicant, then they would no longer be accessory.

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

The site is served by existing infrastructure and utilities and access roads are adequate.

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

The site has received a parking variance from 36 spaces to 16 spaces, where 16 are grandfathered, so effectively there is no on-site parking for the use. During larger events there is the potential for on-street parking to spill into the surrounding area, but there should be adequate on-street parking in the surrounding commercial district during the later hours.

5. The conditional use is consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan shows the intersection of 23rd Avenue South and 38th Street East as a Neighborhood Commercial Node. The plan does not speak directly to extended hours, but states the following about uses on Neighborhood Commercial Nodes: Neighborhood Commercial Nodes are the small-scale service locations and focal points for neighborhoods. Their character is defined by the limited impact and scale of businesses operating in these locations, making them good neighbors to the largely low-density residential areas that surround them. Commercial uses in Neighborhood Commercial Nodes operate with little negative impact on their neighborhoods, such as the production of fumes or noise or negative aesthetics, or even blight through minimal or deferred maintenance of buildings and land. These areas are generally pedestrian oriented in scale and design. Neighborhood commercial nodes have usually developed at intersections, and the intersecting streets are often

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designated as community corridors. Related to the city’s historical growth pattern, these nodes generally consist of traditional commercial storefront buildings, and maintain a building typology that is appropriate for the surrounding residential neighborhoods.

The Minneapolis Plan for Sustainable Growth (pending final approval) designates this intersection as a neighborhood commercial node and contains similar language as *The Minneapolis Plan* regarding neighborhood commercial nodes.

The site is on the western edge of the boundary of the *38th Street Station Area Plan*. The plan identifies this area the 23rd Avenue node and mirrors the policies in the comprehensive plan for small-scale commercial nodes, but it does not speak directly to the issue of extended hours.

The extended hours can be in conformance with the above noted language of the comprehensive plan with the conditions of approval and compliance with zoning and licensing regulations.

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, the use will conform to the applicable district regulations.

RECOMMENDATION:

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **approve** a conditional use permit to allow the Social Dance Studio to be open until 1:00 a.m. Sunday through Thursday and 4:00 a.m. Friday and Saturday for property located at 3742 – 23rd 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) Based on the accessory nature of the events that extend past 1:00 a.m., the extension of hours until 4:00 a.m., on Saturdays and Sundays, shall be limited to no more than five events in one calendar year. All other Saturdays and Sundays the dance studio shall close by 1:00 a.m.

Attachments:

1. Statements from the applicant.
2. Requests for service records.
3. Zoning map.
4. Photos.

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