

Department of Community Planning and Economic Development - Planning Division
Conditional Use Permit
BZZ-3907

Date: January 28, 2008

Applicant: Miguel Zagal - Taqueria La Hacienda 2 Inc.

Address of Property: 334 East Lake Street, C101

Project Name: Taqueria La Hacienda

Contact Person and Phone: Miguel Zagal (612) 327-0043

Planning Staff and Phone: Shanna Sether (612) 673-2307

Date Application Deemed Complete: December 31, 2007

End of 60 Day Decision Period: February 29, 2008

Ward: 6 Neighborhood Organization: Phillips West, adjacent to Central

Existing Zoning: C2 Neighborhood Corridor Commercial District

Zoning Plate Number: 25

Legal Descriptions: Not applicable

Existing Use: Restaurant in an existing shopping center

Concurrent Review:

Conditional Use Permit: To extend the hours of operation for the restaurant to 1:00 a.m. Monday through Thursday and 24 hours Friday through Sunday

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 548 Commercial Districts

Background: In 2004, the City Planning Commission approved the rezoning petition, conditional use permit, parking variance and site plan review application; and the City Council and Mayor gave final approval of the rezoning petition for the La Hacienda Plaza shopping center under the previous land use applications (BZZ 1887). Most recently, in 2007, the conditional use permit and site plan review applications for the shopping center were amended due to a land subdivision and development of M&I Bank.

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The restaurant is located within the La Hacienda shopping center and has been illegally operating until 1:00 a.m. Monday through Thursday and 24 hours Friday through Sunday. Permitted hours of operation in the C2 Neighborhood Corridor 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 has proposed to be open from 8 a.m. to 1:00 a.m. Monday through Thursday and 24 hours Friday through Sunday. The hours open to the public for uses licensed that sell alcoholic beverages may be increased, depending on the license for liquor, wine or beer or any special late hours entertainment license approved for the facility. However, the restaurant does not have a license to sell alcoholic beverages or a late hours entertainment license. Therefore, the applicant has applied for a conditional use permit to allow for hours open to the public beyond those permitted by the zoning code and licensing.

The City Council member-Ward 6, Phillips West Neighborhood Organization, and the Central Area Neighborhood Development Association were notified the proposal under consideration by the commission. Staff has received a letter of support from the Phillips West Neighborhood Organization and it is attached to this report. Staff will forward further correspondence, if received, to the commission at the meeting.

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 1:00 a.m. Monday through Thursday and open 24 hours Friday through Sunday. While there are other uses operating 24 hours on Lake Street, the extended hours are predominately for drive-thru facilities. In addition, there are a number of concerns from the Crime Prevention Specialists in the 3rd Precinct about the potential for increased gang and narcotic activity. Staff believes that a reasonable extension of hours would be until 1:00 a.m. Sunday through Thursday and 3:00 a.m. Friday and Saturday.

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 nearest residential uses are located to the northwest on the adjacent block, otherwise the use is bordered by commercial uses. The facility's parking lot is not immediately adjacent to a residential use.

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

The business is a restaurant; one which does not have a license to sell liquor or have late night entertainment. The business has little impact to noise and light. However, with the proposed late night hours, traffic may have a negative impact on the neighboring uses.

c) Conformance of use. The restaurant is a permitted use in the C2 zone. The site has received site plan review approval in 2004 and 2007. 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, then the proposed hours will be in conformance with the code.

d) Complaints received. The restaurant was cited by Licensing in December 2007, for operating hours beyond those permitted in the zoning ordinance. The restaurant is located within in existing shopping center. There have been 16 calls for service in 2007 to the shopping center, 6 of which are for audible business alarms at the restaurant (please see attached report); the remaining service calls do not identify a specific tenant.

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.

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

The restaurant and shopping center have previous approvals to reduce the parking requirement, both in 2004 from 55 spaces to 38 and 2007 from 38 spaces to 23. The shopping center has a lease agreement with M&I Bank, who share the parking facilities on the site after hours. The site is scheduled for reinspection in 2008, after the construction of M&I Bank and site improvements, to review for conformance with code requirements.

5. The conditional use is 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 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. Commercial uses on these streets will be supported insofar as they do not create excessive negative impacts relative to the location and its surroundings.

While the use of the existing use of the restaurant is in conformance with this language of the comprehensive plan, the potential impact on the residential uses to the northwest until 1:00 a.m. Monday through Thursday and 24 hours Friday through Sunday is not in conformance with this language of the plan.

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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.

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.

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

RECOMMENDATIONS:

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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 1:00 a.m. Monday through Thursday and 24 hours Friday through Sunday and in lieu thereof **approve** extended hours for the restaurant until 1:00 a.m. Sunday through Thursday and 3:00 a.m. Friday and Saturday for property located at 334 East Lake Street and subject to the following condition:

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.

Attachments:

1. Statements from applicant.
2. Copies of e-mail correspondence from the applicant to CM Lilligren and the neighborhood organizations.
3. Copy of a letter of support from Phillips West Neighborhood Organization.
4. Recap report.
5. Zoning maps.
6. Site plans and floor plans.
7. Photos.