

Department of Community Planning and Economic Development—Planning Division
Conditional Use Permit for Extended Hours
BZZ-1944

Hearing Date: 9/27/04

Applicant: Mr. Dick Engstrom, 1650 W 82 St Suite 900, Bloomington, MN 55431; 952-884-4355, fax: 952-885-4769

Address of Property: 4121 Hiawatha Ave., Minneapolis, MN

Project Name: Extended hours application (24-hour operation) for an existing McDonald's restaurant

Contact Person and Phone: Same as applicant

Staff Contact Person and Phone: J. Michael Orange, Principal Planner. Phone: 612-673-2347; facsimile: 673-2728; TDD: 673-2157; e-mail: michael.orange@ci.minneapolis.mn.us

Date Application Deemed Complete: 8/30/04

End of 60-Day Decision Period: 10/29/04

End of 120-Day Decision Period: N/A

Ward: 12 **Neighborhood Organization:** Longfellow Community Council.

Existing Zoning: I1, Light Industrial District

Zoning Plate Number: 33

Proposed Use: Application by Mr. Dick Engstrom for a conditional use permit to allow 24-hour operation of the existing McDonalds restaurant located at 4121 Hiawatha Ave. for both the restaurant and the drive-through service.

Prior approvals: PR-36

Concurrent Review: Conditional use permit for extension of hours open to the public (24-hour service)

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

Background: This is an existing restaurant located within the industrial area of Hiawatha Ave. Fast food restaurants are conditional uses in the I1 District. The Inspections Department cited the owner for operating a 24-hour business without the appropriate conditional use permit. The

**If you need more information or have special needs, please call the
Minneapolis Planning Department at 612-673-2597.**

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Inspections Department is currently not enforcing its order to operate within the allowable hours of the I1 District during the period the City is considering the subject conditional use permit.

Hours businesses can be open to the public in the I1 District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday, and 6:00 a.m. to 11:00 p.m. Saturday through Sunday.

To date, staff have received no comment for interested citizens or citizen groups.

Findings as required by the Minneapolis Zoning Code:

The 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.**

Refer to the response to findings for a conditional use permit for extension of hours open to the public in the next section.

- 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.**

Refer to the response to findings for a conditional use permit for extension of hours open to the public in the next section.

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

The 24-hour extension of hours will have no impact on access, parking, or drainage. There is sufficient parking on site for the use and to accommodate customers during the proposed 24/7 period. There are two curb cuts on the site, one on Hiawatha and the other on 4th St.

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

The 24-hour extension of hours will have no impact on traffic congestion. Hiawatha is classified as a Principal Arterial and designed to handle heavy traffic loads. During the period of extended hours, traffic is substantially lower than during peak periods.

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

Applicable policies of the *Minneapolis Plan*:

- 4.1 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 (selected):

- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

- 4.2 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 (selected):

- Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

- 9.33 Minneapolis will encourage both a density and mix of land uses in TSAs that both support ridership for transit as well as benefit from its users.**

Implementation Steps (selected)

- Support and encourage small-scale, pedestrian-oriented services and retail uses to locate near stations and within mixed-use buildings to serve transit riders and the immediate neighborhood (e.g., day care centers, cafés, dry cleaners, convenience grocery, etc.).
- Discourage automobile services and drive-through facilities from locating or expanding in these designated areas.

- 9.34 Minneapolis will require design standards for TSAs that are oriented to the pedestrian and bicyclist and that enforce traditional urban form.**

Implementation Steps (selected):

- Ensure that TSA building and site design is oriented to the pedestrian (e.g., reinforcing street walls, anchoring street corners, creating semi-public outdoor spaces, creating visual interest, providing adequate fenestration, and ensuring that principal building entrances open onto public sidewalks).
- Work in partnership with neighborhoods and businesses to enhance the safety and aesthetics of TSA streets and sidewalks through installation of streetscape elements (e.g., lighting, trees, and street furniture).
- Ensure that new development and renovation of existing structures adhere to the principles of Crime Prevention Through Environmental Design

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(CPTED) (See description of building form and context in *Chapter 9, City Form.*)

- Ensure that TSA development is well integrated into the surrounding neighborhoods through attention to building design, landscaping, and transitions in density and land use.

Consistency of the project with the Minneapolis Plan:

The *Minneapolis Plan* discourages commercial uses within industrial uses with the exception of those oriented to serve the workers in the area. The restaurant is consistent with this policy. The area has other businesses with 24-hour work shifts and workers who patronize the restaurant after the business hours allowed in the District.

The site is located within the recently designated Transit Station Area (TSA) of the 46th St. LRT station (1/4 mile to the southeast). Policy 9.33 encourages small-scale pedestrian-oriented service and retail uses for the benefit of transit riders and the immediate neighborhood. This fast-food, auto-oriented restaurant is not consistent with this policy, however, it preceded the establishment of the TSA and its concomitant policy. This policy also discourages automobile services and drive-through facilities from locating or expanding in these designated areas. The proposed extension of hours is inconsistent with this policy.

Policy 9.34 encourages pedestrian-oriented design in TSAs and enhanced streetscapes. The existing site includes an extensive amount of landscaping including all available portions of the site but it does not include the screening required by the current Zoning Code. (The 1963 Code did not require screening for the parking areas of this site.) Although the site fronts on Hiawatha and the residential located on the west side of the road, the width of the limited-access roadway and the LRT right-of-way separate the restaurant from the residences (over 200 feet of separation). The residences to the east are more than 200 feet away as well and separated by industrial uses, a massive elevator, and a railroad. The staff recommendation to include screening on the Hiawatha and 41st St. sides of the property consistent with the Zoning Code will help mitigate the above-described inconsistency with the *Minneapolis Plan* as regards the expansion of drive-through services. Screening, in addition to the existing landscaping, will enhance the site for pedestrians using the public sidewalks on Hiawatha and 41st St. as well as for motorists. The screening will help minimize the potential adverse impacts from vehicle headlights and the unsightliness of parking lots and drive-through facilities, and mitigate the project's above inconsistency with the *Minneapolis Plan* policy.

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.

Refer to the response to findings for a conditional use permit for extension of hours open to the public in the next section.

In addition, the following findings must be addressed if applying for a conditional use permit for extension of hours open to the public:

1. Proximity to permitted or conditional residential uses.

Although the site fronts on Hiawatha and the residential located on the west side of the road, the width of the limited-access roadway and the LRT right-of-way separate the restaurant from the residences (over 200 feet of separation). The residences to the east are more than 200 feet away as well and separated by industrial uses.

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

The primary off-site impacts of the restaurant include headlight glare and noise from vehicular movements and especially loud vehicle radios when vehicles access the parking lot and particularly when they use the drive-through facility. The 24-hour operation extends these impacts after normal business hours. However, since the site is surrounded by the noise generated by the major roadways, industrial uses, and the railroad, off-site impacts are minimal by contrast. Furthermore, the addition of screening will help minimize the potential adverse impacts from vehicle headlights and the unsightliness of parking lots and drive-through facilities, and mitigate the project's impacts on rest of the neighborhood and industrial area. Vehicles access the site via Hiawatha and 41st St. so traffic should not be a significant concern.

Attachment 4 includes the response from the applicant as regards the employment and other factors.

3. Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.¹

- Inconsistent with the Code, the existing building is set back from the two streets with parking surrounding it.
- The Zoning Code at 530.150 (b) requires a 5-ft. landscaped yard with screening between parking areas and the adjacent streets to screen headlights and unsightly parking and drive-through operations. The site lacks the required 3-ft. screening of the parking lots on Hiawatha and 41st St.
- The site equals 45,682 sq. ft. After subtracting the footprint of the building (5,783 sq. ft.), the net site is 39,899 sq. ft. The site includes 7,675 sq. ft. of landscaping, which equals 19% of the net site. The Code requires 20% of the net site be landscaped.

4. History of complaints related to the use.

¹ Chapter 531.110 requires all nonconforming uses maintain compliance with all general performance standards and with all landscaping and screening requirements in the district.

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According to Police Dept. incident reports, the property had the following incidents (available upon request):

	Incidents	# of Reports Files
2004	14	2
2003	37	7
1999-2002	106	20
Total (54 months)	157	29
Average per month	3	0.5

RECOMMENDATIONS

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for 4121 Hiawatha Ave. with the following conditions:

1. The Community Planning and Economic Development—Planning Division shall review and approve the final site and landscaping plans.
2. The applicant shall screen the parking lots on the Hiawatha and 41st St. sides of the site with a 3-ft.-high screen consistent with 530.150 (b) of the Zoning Code.
3. If the site improvements exceed \$2,000 in value, the developer shall submit a performance bond for these improvements prior to the issuance of building permits.
4. The site improvements shall be completed by September 30, 2005 or the application may be revoked for noncompliance, unless extended by the Zoning Administrator or the City Council.

ATTACHMENTS

- 1) Site and zoning map
- 2) Site plan
- 3) Required screening
- 4) Information from the applicant
- 5) Photos of the site and surrounding area.