

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

Conditional Use Permit

BZZ-4713

Date: March 8, 2010

Applicant: Nora, Inc. Attn: Abed el Aziz el Sayed, 923 W. Broadway, Minneapolis, MN 55414, (612)203-6727

Addresses of Property: 923 West Broadway (921 West Broadway)

Project Name: Olympic Café

Contact Person and Phone: Siegel, Brill, Greupner, Duffy & Foster, P.A., Attn: Mark Thieroff, 100 Washington Avenue South, Suite 1300, Minneapolis, MN 55401, (612)337-6102

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

Date Application Deemed Complete: February 5, 2010

End of 60-Day Decision Period: April 5, 2010

End of 120-Day Decision Period: Not applicable for this application.

Ward: 5 & 3 **Neighborhood Organization:** Northside Residents Redevelopment Council and Hawthorne Area Community Council

Existing Zoning: C1 (Neighborhood Commercial District) and WB (West Broadway) Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 8

Lot area: 7,260 square feet or approximately .17 acres

Legal Description: Not applicable for this application.

Proposed Use: Extend the operational hours of an existing business.

Concurrent Review: Mark Thieroff, on behalf of Nora, Inc., and Olympic Café, has applied for a Conditional Use Permit to extend the hours of operation for the Olympic Café located at 923 West Broadway (921 West Broadway) to 3 a.m. daily. Typically, the hours of operation allowed in the C1 district are 6:00 a.m. to 10:00 p.m., Sunday thru Thursday and 6:00 a.m. to 11:00 p.m., Friday and Saturday.

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

Background: The applicant proposes to extend the hours of operation for an existing business located on the property at 923 West Broadway (921 West Broadway). The property is zoned C1 and is located in the WB Overlay District. The WB Overlay District was established to preserve and encourage a high-density, transit-supportive and pedestrian oriented environment in the West Broadway commercial core, to attract destination goods and services, and to promote street life and activity by regulating building orientation and design and accessory parking facilities, and by prohibiting certain high impact and automobile-oriented uses. The Olympic Café is categorized as a delicatessen restaurant which is a permitted use in the C1 district; Olympic Café shares the multi-tenant building with two other tenants (Flora’s Hair Design and the other tenant space is currently vacant). The Olympic Café is approximately 2,000 square feet in size. The standard hours of operation in the C1 district are typically Sunday through Thursday from 6 a.m. to 10 p.m. and Friday and Saturday from 6 a.m. to 11:00 p.m. The applicant proposes to extend the hours of operation until 3 a.m. daily.

The business has previously been issued citations for operating beyond the hours allowed under the C1 district regulations; thus the application to legally extend the hours of operation. Planning Staff has consulted with the applicable Police Precinct which does not support any extension of hours on the premises beyond what is allowed under the C1 district regulations.

Staff has not received any official correspondence from the Northside Residents Redevelopment Council, Hawthorne Area Community Council, or any neighborhood letter prior to the printing of this report. Correspondence received prior to the meeting shall be forwarded on to the Planning Commission for consideration.

CONDITIONAL USE PERMIT – for extended hours to 3 a.m. daily

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – 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.**

After consulting with the applicable Police Precinct, Planning Staff does believe that allowing extended hours of operation in this location could potentially be detrimental to or endanger the public health, safety, comfort and/or general welfare. Based on information obtained from the Police Department, there have been several past license violations and the Police Department is concerned that extending the business hours would merely exacerbate the problems that exist in the area including loitering. There have been complaints about the business

operating illegally beyond the hours allowed under the C1 district regulations. The business has been cited on two occasions; information pertaining to the licensing issues has been attached. There have also been several police calls to the property over the years. Please see the attached Police Incidents Report which details the police calls from 2003-2010. The applicant has stated, however, that if the business is granted extended hours, the applicant is willing to have a security guard (either an off-duty police officer or private security officer) on site after 10:00 p.m. as a condition of the permit.

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.

After consulting with the applicable Police Precinct, Planning Staff is concerned that allowing extended hours of operation in this location until 3 a.m. daily could potentially be injurious to the use and enjoyment of other property in the vicinity and could potentially impact the normal or orderly development and improvement of surrounding property for uses permitted in the district. The surrounding area is developed; however, there are numerous opportunities for redevelopment along this segment of West Broadway. Commercial uses line both sides of the West Broadway corridor, the majority of which operate without extended hours. The commercial uses in the vicinity that have been granted extended hours include drive-thru fast food restaurants, a laundromat, gas station and grocery store. No sit-down or delicatessen type restaurants have been granted extended hours.

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

The utilities, access roads, and drainage are existing and adequate.

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

The application for extended hours should not have any significant additional impacts on congestion in the public streets beyond that allowed under the existing hours. The capacity of the restaurant is small and there is no associated off-street parking for the business other than employee parking located in a surface lot at the rear of the structure.

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

According to *The Minneapolis Plan for Sustainable Growth*, the subject property is located along West Broadway which is a designated Commercial Corridor in this location. The plan states that Commercial Corridors “serve as boundaries connecting a number of neighborhoods and serve as focal points for activity.” Further, the plan states that “Commercial Corridors can accommodate intensive

commercial uses and high levels of traffic.” The plan also mentions “While the character of these streets is mainly commercial, residential areas are nearby and impacts from commercial uses must be mitigated as appropriate. The plan has the following relevant policy and implementation steps:

Land Use Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan. This policy includes the following applicable implementation step: (1.1.5) “Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development”.

Land Use Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity. This policy includes the following applicable implementation step: (1.2.3) “Lessen the negative impacts of non-residential uses on residential areas through controls on noise, odors, and hours open to the public.”

Land Use Policy 1.4: Develop and maintain strong and successful commercial and mixed use areas with a wide range of character and functions to serve the needs of current and future users. This policy includes the following applicable implementation step: (1.4.3) Continue to implement land use controls applicable to all uses and structures located in commercial districts and corridors, including but not limited to maximum occupancy standards, hours open to the public, truck parking, provisions for increasing the maximum height of structures, lot dimension requirements, density bonuses, yard requirements, and enclosed building requirements.

Land Use Policy 1.10: Support development along Commercial Corridors that enhances the street’s character, fosters pedestrian movement, expands the range of goods and services available, and improves the ability to accommodate automobile traffic.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

If the conditional use permit were to be approved, the development would appear to comply with all of the applicable provisions of the C1 district. Any/all window signage would need to comply with Section 543.480 of the Zoning Code. Planning Staff considers this provision important to public safety/visibility, especially if extended hours are granted for the business. The use is also subject to specific development standards for delicatessen restaurants as follows:

- (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.

Additional Findings Required for Extension of Hours Open To the Public:

(1) Proximity to permitted or conditional residential uses.

The properties located within the immediate vicinity are predominantly zoned C1 and C2 along West Broadway, which is a designated Commercial Corridor in this location. The subject parcel abuts C1 zoning to the east and west, C2 to the north across West Broadway and R4 zoning to the south. The abutting lot to the south of the subject parcel (1838 Dupont Avenue North) is owned by the City and is currently vacant. The TP (Transitional Parking) Overlay District was applied to the parcel as part of the West Broadway rezoning study. It is likely that the parcel would be packaged with the adjacent City owner parcel located at 927 West Broadway as part of a larger redevelopment proposal. In order for the 1838 Dupont Avenue North parcel to be utilized as a parking lot, it would need to be improved in compliance with Chapter 530 standards. There are residential dwellings located directly south of the City owned parcel, or approximately 60 feet south of the subject site.

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

Planning Staff would not expect that an extension of operational hours would have substantive impacts on light within the immediate vicinity. However, there is the potential that extended hours of operation could impact noise due to potential loitering and traffic within the immediate vicinity. The majority of the businesses located within the surrounding neighborhoods including Hawthorne, Near North and Jordan that have extended hours are either drive-thru fast food restaurants, a laundromat, gas station and grocery store. Please see the attached spreadsheet. There is no off-street parking available for the business as two employee parking spaces are located at the rear of the building.

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

The existing business is categorized as a delicatessen restaurant which is a permitted use in the C1 district. The Olympic Café shares the building with two other tenants and occupies approximately 2,000 square feet. Should the conditional use permit for extended hours be approved and the business comply with the specific development standards that pertain to delicatessen restaurants, the proposal would appear to be in conformance with the applicable zoning regulations.

(4) History of complaints related to the use.

There have been complaints about the business operating illegally beyond the hours allowed under the C1 district regulations. The business has been cited on two occasions; information pertaining to the licensing issues has been attached. There have also been several police calls to the property over the years. Please see the attached Police Incidents Report which details the police calls from 2003-2010. Planning Staff has consulted with the applicable Police Precinct which does not support any extension of business hours at this location.

RECOMMENDATIONS:

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

The Department of Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the findings above and **deny** the conditional use permit to allow the existing restaurant to operate until 3 a.m. daily for the property located at 923 West Broadway (921 West Broadway).

Attachments:

1. Statement / Findings – Conditional Use Permit
2. Correspondence – CM, neighborhood letters
3. Zoning map
4. Plans –site plan / floor plan /photos
5. Spreadsheet showing CUP hours for Hawthorne, Near North and Jordan
6. Police calls
7. License Issue documentation