

Department of Community Planning and Economic Development - Planning Division
Conditional Use Permit
BZZ-4327

Date: March 23, 2009

Applicant: Larry Domek/Lamar Ventures Inc.

Address of Property: 1316 4th Street SE

Project Name: Uncle Franky's

Contact Person and Phone: Larry Domek (612) 408-5306

Planning Staff and Phone: Jessica Thesing (612) 673-5887

Date Application Deemed Complete: February 18, 2009

End of 60 Day Decision Period: April 19, 2009

End of 120 Day Decision Period: June 18, 2009

Ward: 3 **Neighborhood Organization:** Marcy Holmes, Marcy Holmes Neighborhood Association

Existing Zoning: C1 Neighborhood Commercial District; PO Pedestrian Oriented Overlay District

Zoning Plate Number: 15

Legal Descriptions: Not applicable

Existing Use: Restaurant within an existing shopping center

Application Type:

- **Conditional Use Permit:** To extend the hours of operation of an existing restaurant to 3:00 a.m. 7 days a week.

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 548 Commercial Districts; and Chapter 551, Article II Pedestrian Oriented Overlay District.

Background: The applicant has operated Uncle Franky's restaurant at the 1316 4th Street SE location since October of 2008. He also operates a second restaurant under the same name at 728 Broadway NE however that address is not part of this application. When opening the business at the subject location, the applicant was unaware of the restricted hours of operation regulations in the C1 Neighborhood Commercial District and was cited by licensing for operating outside the district allowed hours. Permitted hours of operation in the C1 Neighborhood 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 until 3:00 a.m. 7 days a week. The hours open to the public for uses licensed

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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, Uncle Franky's restaurant does not have a license to sell alcoholic beverages or a late hour's 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.

Proposal: Larry Domek on behalf of Lamar Ventures Inc. is applying for conditional use permit to allow for extended hours beyond the district hours for the existing Uncle Frank's restaurant in an existing shopping center located at 1316 4th Street SE.

Correspondence:

The Ward 3 City Council member and the Marcy Holmes Neighborhood Organization were both notified of the proposal under consideration by the commission. Staff will forward further correspondence, if received, to the commission prior to or at the meeting.

In addition, after staff inquiry Lt. Skomra from the 2nd Precinct indicated in a March 3rd, 2009 email to staff that there were no objections to this use at this location.

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. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The permitted hours of operation in the C1 District are from 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 3:00 a.m. 7 days a week. The subject property is located on a Community Corridor and within a designated activity center and is not located near residential; the nearest residential is located across 13th Ave SE which is to the west. It is also believed that allowing late night hours will not directly affect the comfort and general welfare of those that live nearby and that allowing the restaurant to be open until the proposed hours is a reasonable use in the area.

2. The conditional use will not be injurious to the use and enjoyment of other property in the vicinity and may impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The extension of hours is for an existing restaurant within an existing shopping center. Allowing the hours to be extended within a designated activity center is not likely to impede on the surrounding property in any way.

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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 across 13th Ave SE; otherwise, the use is bordered by commercial on both sides.

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.

c) Conformance of use.

A restaurant is a permitted use in the C1 zone. If the application for extended hours is approved, the use will be in conformance with the Minneapolis Zoning Code.

d) Complaints received.

There doesn't appear to be any recent complaints regarding this use at this location other than the hours of operation violation that's being addressed with this application. The applicant also operates another Uncle Franky's restaurant at 728 Broadway NE and licensing has confirmed that no recent complaints have been filed for that location either.

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

Roads and utilities are existing and adequate.

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

The use is located in an existing building within the Dinkytown Pedestrian Oriented Overlay District. No additional parking is required for this use at this location.

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

The Minneapolis Plan shows this part of 4th Street SE as a community corridor and within the Dinkytown Activity Center. Community corridors support limited commercial uses that are generally measured against their impacts on residential character. Activity centers on the other hand encourage a mix of uses and activities throughout the day and into the evening and are heavily oriented towards the pedestrian. However, while the character of this street is primarily commercial, residential areas are located to the west of this property and city policy for both community corridors and activity centers stress that impacts from commercial uses within these areas must be mitigated as appropriate. Commercial uses in this area will be supported insofar as they do not create excessive negative impacts relative to the location and its surroundings.

The use of the restaurant within the existing shopping center is existing and there have been no recent complaints other than the operating hours violation which is being addressed with this application. In addition, extended hours of operation have been approved for previous restaurants within this building. Burrito Loco was approved a conditional use permit to extend the hours until 3:00 a.m. under the application BZZ 1449 in February of 2004. This business is no longer in the building however it's not believed that there were any complaints while in operation at this location.

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Therefore, staff believes that the new proposed use is consistent with the applicable policies of the comprehensive plan.

The currently adopted Minneapolis Plan has the following relevant policies and implementation steps for commercial areas:

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.

The soon to be adopted Minneapolis Plan for Sustainable Growth has the following relevant policies and implementation steps for commercial areas:

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.

Implementation Steps:

1.4.1 Support a variety of commercial districts and corridors of varying size, Intensity of development, mix of uses, and market served.

1.4.2 Promote standards that help make commercial districts and corridors desirable, viable, and distinctly urban, including: diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements to add interest at the pedestrian level.

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.

1.4.4 Continue to encourage principles of traditional urban design including site layout that screens off-street parking and loading, buildings that reinforce the street wall,

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principal entrances that face the public sidewalks, and windows that provide “eyes on the street”.

6. And, the conditional use shall 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 this conditional use permit, the use will in all other respects be conforming according to what has been submitted by the applicant to date.

RECOMMENDATIONS:

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 **approve** the conditional use permit to extend the hours of operation of Uncle Franky’s restaurant to 3:00 a.m. 7 days a week within the existing shopping center located at 1316 4th Street SE 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 and findings
2. Copies of e-mail correspondence from the applicant to the Council Member and the neighborhood organizations
3. Application authorization letter
4. Other correspondence
5. Documentation of past land use applications at this location
6. Zoning maps
7. Floor plans
8. Aerial Photos
9. Photos