

Department of Community Planning and Economic Development – Planning Division

**Conditional Use Permit
BZZ-3886**

Date: December 17, 2007

Applicant: Taco Taxi, Inc.

Address of Property: 1511 E. Lake Street

Date Application Deemed Complete: November 15, 2007

End of 60 Day Decision Period: January 14, 2008

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

Contact Person and Phone: Luis Caire, 612-290-1701

Planning Staff and Phone: Michael Wee, (612) 673-5468

Ward: 9 **Neighborhood Organizations:** Powderhorn Park and Midtown Phillips

Existing Zoning: C1

Proposed Use: Not applicable for this application.

Concurrent Review: Conditional use permit to extend the hours of operation of a restaurant in the C1 district from 6:00 am to 10:00 pm Sunday through Thursday and from 6:00 am to 11:00 pm Friday and Saturday to 24 hours every day.

Applicable zoning code provisions: Conditional use permit, Article VII Chapter 525; and Chapter 536 Specific Development Standards for fast food restaurants.

Background:

The existing building located in a C1 zoning lot has two existing retail businesses. One is a clothing store and the other one is a restaurant. On behalf of the business owner for the restaurant, Luis Caire submitted a conditional use permit application for extended hours for Taco Taxi, Inc. from the permitted 6:00am to 10:00pm Sunday through Thursday and 6:00 am to 11:00pm Friday and Saturday to 24 hours every day.

The property is located along a commercial corridor and between two community corridors (Bloomington Avenue and Chicago Avenue) on East Lake Street. Adjacent properties are zoned C1 and C2 districts with varying businesses such as groceries, restaurants, and offices. Residential uses are located to the south and southwest, which are approximately 150 feet away from the subject business location. Taco Taxi provides five tables for dine in customers, but the bulk of their business is from

CPED Planning Division Report
BZZ-3886

walk-in customers who purchase food for take-out dining. The foods are prepared on site and do not require machineries that emit noise during production or preparation. With extended hours, the business owner will create two additional jobs.

Chapter 542 of the zoning code requires restaurants to provide parking spaces equal to 30% of capacity of persons. The restaurant has a total capacity of 22 persons. Based on Table 541.1 of the code, the restaurant is supposed to provide 6 parking spaces. However, the Golden Chicken that was at the same location before Taco Taxi took over, was not required any parking spaces. Therefore, staff deemed that parking for the same business location is grandfathered. An established parking overlay is located immediately south of the property that is owned by the adjacent building owner to the west. Curbside parking is also permitted in front of the business.

At the time of writing this staff report, no comments were received from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

CONDITIONAL USE PERMIT FOR EXTENDED HOURS

Findings as Required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department has analyzed the application and from the findings below 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 business has its front door facing Lake Street and most of the customers, according to the owner, are walk-ins for take out. Residential uses are located approximately 150 feet to the south. Customers will not likely be in proximity to the residential areas during the late hours at night. Staff believes that a minor extension of hours at this location are not likely to disturb residents of the surrounding area, however, staff is concerned that extending the hours past 1a.m. has the potential use be disruptive to the residential areas to the south.

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.

The surrounding area is fully developed, with commercial uses in both directions and across Lake Street. The proposed extended hours of an existing fast food restaurant will not impede the normal or orderly development of surrounding property for uses permitted in the district. The adjacent businesses to the west include another restaurant and a reception hall. A parking overlay district is located to the south where it is used for parking by businesses adjacent to the west. The Taco Taxi is a restaurant that is mostly pedestrian based wherein customers buy food and take out. Seating capacity of the business is only 20 seats based on the five tables with four chairs. The applicant anticipates customers during the extended hours will be walking in from other businesses in the area to buy food. These customers will not increase the traffic congestion already in the neighborhood. Staff believes that allowing extended hours beyond 1:00am has the potential of disturbing the residential areas to the south.

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

or will be provided.

Existing utilities, access roads, drainage and other facilities are adequate. No other utilities are required for this application.

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

The existing building was constructed in 1914 without provision of surface parking. Taco Taxi, Inc and the past businesses at the same location have no issues of on-street parking that is permitted along Lake Street. Majority of the Taco Taxi's business are pedestrian based who buy food for take out. Staff doesn't feel that traffic congestion in the public street will increase significantly as to impact its neighborhood as a result of the extended hours.

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

All of Lake Street is designated as a Commercial Corridor in *The Minneapolis Plan*. The plan has the following relevant policies:

Policy 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.

Relevant Implementation Step:

Ensure that commercial uses do not negatively impact nearby residential areas.

Policy 9.23 "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."

Relevant Implementation Step:

Encourage comprehensive and site specific solutions that address issues of compatibility of commercial areas with surrounding uses.

Staff comment: The existing fast-food restaurant is designed to accommodate pedestrian traffic along a commercial corridor. Because the building was constructed to lot lines, no surface parking is possible. The business relied on existing on-street parking along Lake Street. Off-street parking is deemed grandfathered. Since most of the activities will most likely be along Lake Street where the store entrance is located, the residential areas to the south will not be negatively impacted by the increase pedestrian traffic during the proposed 1:00am extended hours. Beyond that hour, staff believes that there is a potential of disturbing the residential area located to the south.

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

With the approval of the conditional use permit, the extended hours would comply with the applicable regulations of the zoning district where the property is located provided nearby residential districts are not negatively impacted. The applicant also furnished staff some photos of businesses in the surrounding area that are open 24 hours. These businesses are generally located within a quarter mile from subject property. Staff believes that allowing the business to open until 1:00 a.m. would still

CPED Planning Division Report
BZZ-3886

conform to the applicable regulations of the C1 District; and beyond the recommended hour, there might be a potential disruption to the existing residential area located to the south.

ADDITIONAL STANDARDS FOR EXTENDED HOURS

In addition to the conditional use standards above, the city planning commission shall consider, but not be limited to, the following factors when determining the hours open to the public:

- 1) Proximity to permitted or conditional residential uses.** There are residential developments located approximately 150 feet to the south and to the southwest. Since the existing business has its entrance door facing Lake Street, it is believed that customers during the extended hours will remain in the commercial corridor and not impact nearby residential uses. An existing parking overlay to the south separates the commercial buildings along Lake Street from the residential uses. This parking overlay is not owned by the applicant, but will serve as a transition to the residential development. The adjacent business to the west, MeGusta, recently was granted an extended hour until 1:00am. Staff recommendation to allow the applicant the same extended hours would be reasonable and should be negatively impact the residential district to the south.
- 2) Nature of the business and its impacts of noise, light and traffic.** Taco Taxi is a fast food restaurant that prepares and sells food at the same location. Dining room is provided with a total capacity of 22 people, but the bulk of the business is take-out. According to the applicant, there are no machineries required to prepare their food items; thus extended hours should not pose any problems in relation to noise. The applicant expects customers during the extended hours to be walking from other businesses in the area to buy food and go. Staff believes that light and traffic would be restricted on Lake Street and not impact the residential district.
- 3) Conformance of use.** If this conditional use permit to extend business hours is approved, the use will be in conformance with applicable regulations of the zoning code provided it does not negatively impact nearby residential district. Staff recommendation is to allow extended hour no later than 1:00am, which is the same hour granted to adjacent business by the Planning Commission.
- 4) Complaints received.** There were 4 minor police calls between February and November, 2007. The police department has no comment of the proposed extended hours.

RECOMMENDATION:

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Conditional Use Permit:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the conditional use permit for extended hours from the permitted 6:00 am to 10:00 pm Sunday through Thursday and 6:00 am to 11:00 pm Friday and Saturday to 24 hours every day for a restaurant located at 1511 E. Lake Street and in lieu thereof **approve** a conditional use permit to allow for an extended hours to no later than 1:00 a.m. every day, subject to the following conditions:

CPED Planning Division Report
BZZ-3886

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. Compliance of the required Specific Development Standards for restaurant specified in Chapter 536 of the zoning code.

Attachments:

Statement of Purpose

Applicant Findings

Site Plan/Floor Plan

Photos

CODEFOR with Police Comment

Resident support