

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

Conditional Use Permit and Variance

BZZ-3824

Date: November 13, 2007

Applicant: Los Mestizos, Inc., Attn: Erin Ungerman, 3450 Lyndale Avenue South,
Minneapolis, MN 55408, (612) 822-8062

Addresses of Property: 910 West Lake Street (900 W. Lake Street)

Project Name: Taqueria El Indio

Contact Person and Phone: Boyd & Associates, Attn: Laura Boyd, 533 148th Avenue
NE, Ham Lake, MN 55304, (763) 413-8887

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

Date Application Deemed Complete: October 11, 2007

End of 60-Day Decision Period: December 9, 2007

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

Ward: 10 **Neighborhood Organization:** Lowry Hill East Neighborhood Association
(adjacent to CARAG)

Existing Zoning: C2 (Neighborhood Corridor Commercial) District, PO (Pedestrian
Oriented Overlay) District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 24

Lot area: 11,565 square feet or .27 acres

Legal Description: Not applicable for this application.

Proposed Use: Locate a new restaurant within an existing multi-tenant building.

Concurrent Review:

- Conditional Use Permit to extend the permitted hours of operation in the C2 district from 6am to 10pm Sunday thru Thursday, to 6am to 12am and from 6am to 11pm Friday and Saturday, to 6am to 2am.
- Variance of the off-street parking requirement to allow a new 1,475 square foot restaurant in an existing multi-tenant building.

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

Background: The applicant proposes to locate a new 1,475 square foot restaurant within a tenant space of an existing multi-tenant building at the northwest corner of Lake Street and Bryant Avenue South on the property located at 910 W. Lake Street (900 W. Lake Street). There are two other uses currently operating in the multi-tenant building including: The Corner Store and Bryant Lake Barbers. The property is zoned C2. Sit down restaurants are permitted uses in the C2 district and are subject to specific development standards. A conditional use permit for extended hours is being requested, as is a variance of the off-street parking requirement from 10 spaces to 4 spaces, where the four spaces are grandfathered for the proposed development as there is no on-site parking.

The proposal is to offer both sit down and take-out food items. Based on the proposed layout the restaurant would have seating for approximately 35-40 persons. The building was constructed in 1920 with no off-street parking. The applicant currently owns two other restaurants in Minneapolis which include El Meson and Café Ena.

Staff has not received any official correspondence on the proposed application from the Lowry Hill East Neighborhood Association (LHENA) or the adjacent neighborhood group the Calhoun Area Residents Action Group (CARAG), prior to the printing of this report. One neighborhood letter received has been attached for reference.

CONDITIONAL USE PERMIT – for extended hours

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.**

Planning Staff would not expect that granting a conditional use permit to extend the operational hours of a 1,475 square foot restaurant in an existing multi-tenant building would be detrimental to or endanger the public health, safety, comfort or general welfare. There are several bars and restaurants in the immediate vicinity, and the addition of another with late night hours would not be expected to have negative impacts on the surrounding area.

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.

Staff would not expect that locating a restaurant with extended hours within the development would be injurious to the use and enjoyment of other property in the vicinity and would not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district. As previously mentioned, there are numerous bars and restaurants located in close proximity to the subject site and many of these establishments have late operational hours. The proposed use and hours of operation are compatible with the adjacent land uses and zoning classifications.

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

The applicant would be expected to work closely with the Public Works Department and with the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development to ensure that all procedures are followed in order to comply with city and other applicable requirements.

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

There is no parking being provided for the proposed restaurant as the structure was constructed in the 1920's with no associated off-street parking. Based on the surrounding area and the fact that the site is located within a PO district between two Activity Centers, Planning Staff would expect that many of the customers would walk to the site or use alternative modes of transportation. The application for extended hours should not have any additional impacts on congestion in the public streets.

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

According to the *Minneapolis Plan*, the subject parcel is zoned C2, is located along Lake Street which is a designated Commercial Corridor, and in between two Activity Centers located at the intersections of Lake Street and Lyndale Avenue South and Lake Street and Hennepin Avenue. According to the Principles and Policies outlined in the *Minneapolis Plan*, the following apply to this proposal to extend the permitted operational hours:

4.1 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, 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.

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:

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

9.15 Minneapolis will protect residential areas from the negative impact of non-residential uses by providing appropriate transitions.

The proposal to extend the permitted operational hours of this restaurant should not have negative impacts on residential areas as the impacts from the business would be expected to be minimal and directed towards Lake Street and would not be expected to spill into the neighborhood. The proposal to allow the business to extend its permitted operational hours is in conformance with the above noted principles, policies and implementation steps of the comprehensive plan.

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

If all land use/zoning applications are approved, including a conditional use permit and variance, as well as compliance with the applicable specific development standards for a restaurant, sit down, the proposal will comply with all provisions of the C2 District.

The specific development standards for a restaurant, sit down, are as follows:

- (1) Where alcoholic beverages are served, not less than sixty (60) percent of total gross sales revenue shall be from the sale food and beverages not containing alcohol, and the use shall comply with the requirements of Title 14, Liquor and Beer, of the Minneapolis Code of Ordinances and Chapter 4 of the Minneapolis City Charter.
- (2) The premises, all adjacent streets, sidewalks, 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 C2 and C3A. The closest residential zoning classification is located south of Lake Street, where there is a large section of properties zoned R2B. There are residential uses located within close proximity to the proposed business, as the adjacent parcels to the north are residential uses. As previously mentioned the site is zoned C2 and is located within the PO district along a Commercial Corridor in between two Activity Centers; other businesses located in the vicinity have extended hours of operation.

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

Planning Staff would not expect that a relatively small restaurant, approximately 1,475 square feet in size, would result in substantive impacts of noise, light and traffic in the immediate vicinity. Any noise or light emanating from the business would be minimal and directed towards Lake Street and would not be expected to spill into the neighborhood. No parking for the proposed development is available on site.

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

The business would be locating into an existing single-story, commercial multi-tenant structure. With the approval of the conditional use permit for extended hours, the variance of the off-street parking requirement as well as compliance with the specific development standards, the proposal would be in conformance with the applicable zoning regulations.

(4) History of complaints related to the use.

Planning Staff has consulted with the City's CPTED officer regarding the proposed extension of operational hours. Staff was in agreement that allowing the extension of hours for a restaurant use was appropriate based on the location of the development. The CPTED officer did confirm that the current occupancies on this block do not have many calls for police service.

VARIANCE – (1) Variance of the off-street parking requirement from 10 to 4 where the four spaces are grandfathered for the proposed development as there is no on-site parking.

Findings as Required by the Minneapolis Zoning Code for the Variances:

- 1. The property cannot be put to a reasonable use under the conditions allowed**

and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

Variance of the off-street parking requirement: The property could not be put to a reasonable use under the conditions allowed and strict adherence to the regulations of the zoning code would cause undue hardship as there is no off-street parking located on site. The only possible means of providing some off-street parking for the site would be to enter into a shared parking agreement with an adjacent business. A total of 10 parking spaces would be required based on the proposed seating and dining area square footage.

2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Variance of the off-street parking requirement: The circumstances are unique to the parcel of land and have not been created by any persons presently having an interest in the property as the applicant is attempting to fill an empty tenant space within an existing multi-tenant building located on the site. The building was originally constructed without parking. Varying the parking requirement due to the existing unique circumstances is a reasonable request.

3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

Variance of the off-street parking requirement: Granting the variance to allow a reduction in the on-site parking requirement would likely be in keeping with the spirit and the intent of the ordinance. Further, granting the variance for the proposed development would likely not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. It is Staff's position that granting a variance for 10 parking spaces is a reasonable use of the subject site based on the circumstances that currently exist. The building was constructed without parking. Not allow a reduction in the parking requirement would essentially result in a vacant tenant space. Further, there is public off-street parking available one block to the east of the subject site and many transit alternatives in close proximity to the site.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Variance of the off-street parking requirement: Staff believes that the granting of the on-site parking variance would likely have little additional impact on the congestion of area streets or fire safety, nor would the proposed variance be detrimental to welfare or public safety. There is public off-street parking available one block to the east of the subject site.

RECOMMENDATIONS:

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a conditional use permit to extend the permitted hours of operation in the C2 district Sunday thru Thursday, from 6am to 12am and Friday and Saturday, from 6am to 2am for a restaurant on the property located at 910 West Lake Street (900 W. Lake Street) 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.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance of the off-street parking requirement from 10 to 4 for property located at 910 West Lake Street (900 W. Lake Street).

Attachments:

1. Statement of use and description of project
2. Findings – Conditional Use Permit and Variance
3. Correspondence – CM Remington, LHENA and CARAG
4. Zoning map
5. Plans –site plan and floor plan
6. Photos