

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit  
BZZ-4320

**Date:** March 23, 2009

**Applicant:** Mesa Pizza, LLC

**Address of Property:** 1323 4<sup>th</sup> Street Southeast

**Project Name:** Mesa Pizza

**Contact Person and Phone:** David Hathaway, (608) 469-5114

**Planning Staff and Phone:** Janelle Widmeier, (612) 673-3156

**Date Application Deemed Complete:** February 12, 2009

**End of 60-Day Decision Period:** April 13, 2009

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

**Existing Zoning:** C1 Neighborhood Commercial District and PO Pedestrian Oriented Overlay District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 15

**Legal Description:** Not applicable for this application

**Proposed Use:** Extend the hours open to the public for an existing restaurant.

**Concurrent Review:** Conditional use permit to extend the hours open to the public from 10:00 pm Sunday through Thursday and 11:00 pm Saturday and Sunday to 3:00 am seven days a week for an existing restaurant.

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

**Background:** Mesa Pizza, located at 1323 4<sup>th</sup> Street Southeast, is proposing to extend their hours open to the public to 3:00 am. In the C1 district, businesses are allowed to be open to the public from 6:00 am to 10:00 pm Sunday through Thursday and from 6:00 am to 11:00 pm Saturday and Sunday. A conditional use permit is required to extend the hours. As of the writing of this report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

**Findings as required by the Minneapolis Zoning Code:**

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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.**

The Business Licensing Division of the Regulatory Services Department was not aware of any complaints related to this use other than the use remaining open to the public later than the hours allowed by the C1 zoning district. Also, the Police Department did not cite any history of problems related to this use. The extension of hours should not prove detrimental to public health, safety, comfort or general welfare provided the use complies with all applicable licensing and life safety ordinances.

**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 site is located in an Activity Center. Uses adjacent to the restaurant are all nonresidential. Uses across the street are also nonresidential. In the immediate area, there are several nightclubs and restaurants that serve alcohol that are allowed to stay open until 2:00 am. The nearest residential uses are located on the north side of the block in mixed use buildings. These residences are separated from the restaurant by parking lots. The extension of hours should have little impact on surrounding properties.

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

The site is served by existing infrastructure.

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

In the Dinkytown Pedestrian Oriented Overlay District, nonresidential uses are not required to provide parking. The applicant leases three parking spaces in the parking area behind the building from the landlord. Those spaces are used for employee parking. Most of the patrons are pedestrians. There is bicycle parking located in front of the restaurant. On-street, metered public parking is available. The extension of hours should have little effect on traffic congestion.

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

The site is located within an activity center designated by *The Minneapolis Plan*. The University of Minnesota/SEMI area is designated as a growth center. In the update of the comprehensive plan, *The Minneapolis Plan for Sustainable Growth*, the area where the site is located will

remain designated as a activity center and a growth center. Fourth Street will become a community corridor. According to the principles and polices outlined in the plan, the following apply to this proposal:

**3.3 Minneapolis has adopted a Growth Center plan for the University of Minnesota/ SEMI area which guides land use decisions and investment in the area and recognizes the contributions from existing plans and planning processes.**

**Applicable Implementation Step**

Promote moderate to high density housing of a variety of affordability levels and supporting commercial uses adjacent to the University of Minnesota.

**4.7 Minneapolis will identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character.**

**Applicable Implementation Step**

Ensure that land use regulations support diverse commercial and residential development types which generate activity all day long and into the evening.

The *Master Plan for the Marcy-Holmes Neighborhood* small area plan designates the subject site as general commercial on the land use plan.

*Staff comment:* The extended hours would be consistent with the goals of these plans adopted by the City Council.

**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.**

Refuse storage containers are required to be effectively screened from the street and residential properties with materials that comply with the fencing standards in Chapter 535 of the zoning code and not less than two feet higher than the refuse container. Refuse is stored in the parking area behind the building, but is visible from a nearby street and residences. Whether or not the conditional use permit is approved, the screening of the refuse containers is required. The use will conform to the applicable regulations of the districts in which it is located upon the approval of the conditional use permit and the screening of the refuse containers.

**Additional Findings Required to Extend Hours Open to the Public:**

In addition to the conditional use standards, 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.**

The nearest residential uses are located on the north side of the block in mixed use buildings. These residences are separated from the restaurant by parking lots.

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

The use is pedestrian oriented and produces little vehicle traffic. Other impacts of the business, including light and noise, are also insignificant.

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

The development standard required for a delicatessen restaurant is regular inspection of the premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet for the purposes of removing any litter found thereon. Refuse storage containers are required to be effectively screened from the street and residential properties with materials that comply with the fencing standards in Chapter 535 of the zoning code and not less than two feet higher than the refuse container. Refuse is stored in the parking area behind the building, but is visible from a nearby street and residences. Whether or not the conditional use permit is approved, the screening of the refuse containers is required. The use will conform to the applicable regulations of the districts in which it is located upon the approval of the conditional use permit and the screening of the refuse containers.

**4. History of complaints related to the use.**

The restaurant has been in operation at this site since 2006. The Business Licensing Division of the Regulatory Services Department was not aware of any complaints related to this use other than the use remaining open to the public later than the hours allowed by the C1 zoning district. Also, the Police Department did not cite any history of problems related to this use.

**RECOMMENDATION**

**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 conditional use permit to extend the hours open to the public from 10:00 pm Sunday through Thursday and 11:00 pm Saturday and Sunday to 3:00 am seven days a week for a restaurant located at the property of 1323 4<sup>th</sup> Street Southeast, 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) Applicant's statement of proposed use and responses to findings
- 2) Correspondence
- 3) Zoning map
- 4) Plans
- 5) Photos