

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit  
BZZ-4848

**Date:** August 2, 1010

**Applicant:** Wally Sakallah

**Address of Property:** 423 14<sup>th</sup> Avenue Southeast

**Project Name:** Wally's Falafel and Hummus

**Contact Person and Phone:** Brittany Johnson, (612) 251-0671

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

**Date Application Deemed Complete:** July 9, 2010

**End of 60-Day Decision Period:** September 7, 2010

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

**Existing Zoning:** C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District, and UA University Area 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 p.m. Sunday through Thursday and 11:00 p.m. Saturday and Sunday to 2:00 a.m. seven days a week for an existing restaurant.

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

**Background:** Wally's Falafel and Hummus, located at 423 14<sup>th</sup> Avenue Southeast, is proposing to extend their hours open to the public to 2:00 a.m. daily. In the C1 district, businesses are allowed to be open to the public from 6:00 a.m. to 10:00 p.m. Sunday through Thursday and from 6:00 a.m. to 11:00 p.m. Saturday and Sunday. A conditional use permit is required to extend the hours. The use would continue to open at 10:00 a.m. The use is located in a multiple tenant building, which occupies the entire site. The applicant has submitted an application for sidewalk seating to the Business Licensing Division of the Regulatory Services Department. 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:**

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 was not aware of any complaints or violations related to this use. 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 directly 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 a.m. Since 2002, nine applications to extend hours open to the public have been processed for Dinkytown businesses. All were approved and all were for restaurants. These requests were to remain open until 2:00 or 3:00 a.m. The nearest residential uses are located on the second floor of the mixed use building to the south of the subject site and on the north side of the block in mixed use buildings. These residences are separated from the restaurant by parking lots and other businesses. 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. Most of the patrons are pedestrians. 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 future land use of the site is designated as commercial by *The Minneapolis Plan for Sustainable Growth*. The site is located within the Dinkytown activity center and the University of

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Minnesota/SEMI area growth center. According to the principles and polices outlined in the plan, the following apply to this proposal:

Policy 1.12: Support Activity Centers by preserving the mix and intensity of land uses and by enhancing the design features that give each center its unique urban character.

*Applicable Implementation Step*

1.12.1 Encourage a variety of commercial and residential uses that generate activity all day long and into the evening.

Policy 1.15: Support development of Growth Centers as locations for concentration of jobs and housing, and supporting services.

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 use provides a desired service for the area. The extended hours would be consistent with these policies.

**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.**

With the approval of the conditional use permit, the use will comply with the applicable zoning regulations.

**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 second floor of the mixed use building to the south of the subject site and on the northwest side of the block in mixed use buildings. These residences are separated from the restaurant by parking lots and other businesses.

**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.

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

The restaurant has been in operation at this site since May of 2009. The Business Licensing Division of the Regulatory Services Department was not aware of any complaints or violations related to this use. 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 p.m. Sunday through Thursday and 11:00 p.m. Saturday and Sunday to 2:00 a.m. seven days a week for a restaurant located at the property of 423 14<sup>th</sup> Avenue 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) Zoning map
- 3) Plans
- 4) Photos