

Department of Community Planning and Economic Development - Planning Division
Conditional Use Permit
BZZ-4938

Date: September 20, 2010

Applicant: Milio's Sandwiches

Address of Property: 700 Lake Street W

Project Name: Milio's Sandwiches

Contact Person and Phone: Vicki Arneson (608) 212-1441

Planning Staff and Phone: Kimberly Holien (612) 673-2402

Date Application Deemed Complete: August 24, 2010

End of 60 Day Decision Period: October 28, 2010

Ward: 10 **Neighborhood Organization:** Lowry Hill East

Existing Zoning: C3A Community Activity Center District, PO Pedestrian Oriented Overlay District

Zoning Plate Number: 24

Legal Descriptions: Not applicable

Existing Use: Restaurant

Concurrent Review:

Conditional Use Permit: To extend the hours of operation for an existing restaurant to 2:00 a.m. Sunday through Wednesday and 3:00 a.m. Thursday through Saturday.

Applicable zoning code provisions: Chapter 525, Article VII Conditional Use Permits; Chapter 548 Commercial Districts

Background: Milio's Sandwiches has submitted an application for a conditional use permit to allow extended hours of operation for an existing restaurant use. The site is zoned C3A and is in the PO Overlay district. The hours permitted in the C3A District are 6:00 a.m. to 1:00 a.m. seven days a week. The request is to extend the hours open to the public to 2:00 a.m. Sunday through Wednesday and 3:00 a.m. Thursday through Saturday. Milio's Sandwiches has operated on the site since 1994. A conditional use permit for extended hours until 12:00 midnight seven days a week was approved for the site in 1994, per C-1628. The site was zoned B3S at that time, which allowed hours of operation until 11:00 p.m. Sunday through Thursday and 12:00 midnight Friday and Saturday.

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The business recently received a violation notice for operating beyond the hours allowed under the C3A district regulations. Thus an application has been submitted to legally extend the hours of operation. Planning Staff has consulted with the applicable Police Precinct which has general concerns about parking and noise associated with late night hours in the area, but does not object to the extension of hours on the premises.

Staff has not received any official correspondence from any of the applicable neighborhood groups prior to the printing of this report. Any correspondence received prior to the meeting shall be forwarded on to the Planning Commission for consideration.

CONDITIONAL USE PERMIT (To extend the hours of operation for a restaurant from 1:00 a.m. to 2:00 a.m. Sunday through Wednesday and 3:00 a.m. Thursday through Saturday.)

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. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.

The permitted hours of operation in the C3A District are 6:00 a.m. to 1:00 a.m. seven days a week. The applicant proposes to be open until 2:00 a.m. on Sunday through Wednesday and 3:00 a.m. Thursday through Saturday. The site is on a commercial corridor and within the boundaries of an activity center. Planning Staff does not believe that granting extended hours in this location would endanger the public health, safety, comfort of general welfare. The surrounding area contains a variety of commercial and residential uses. The area is a designated Activity Center with numerous businesses that operate with late night hours.

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 uses the following criteria to determine compatibility of extended hours with the surrounding area:

- a) Proximity to permitted or conditional residential uses. The properties located within the immediate vicinity are zoned C3A. The subject parcel abuts C3A zoning to the north, south, east and west. There are no residential dwellings located immediately adjacent to the subject site. The site is located within a designated Activity Center, which typically have busy street life with activity throughout the day and into the evening.
- b) Nature of the business and its impacts of noise, light and traffic. Planning Staff does not expect extended operational hours for this business to result in substantive impacts on noise, light, and/or traffic within the immediate vicinity. The business is located within a designated Activity Center and there are numerous establishments within the immediate vicinity that have late night

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operational hours.

- c) Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards. The existing business is categorized as a delicatessen restaurant which is a permitted use in the C3A district. The use shares the ground floor of the building with a tobacco shop and Army recruiting center. Should the conditional use permit for extended hours be approved and the business comply with the specific development standards that pertain to delicatessen restaurants, the proposal would appear to be in conformance with the applicable zoning regulations.
- d) History of complaints related to the use. The business recently received a violation notice for operating beyond the hours allowed under the C3A district regulations; thus the application to legally extend the hours of operation. Planning Staff has consulted with the applicable Police Precinct which has general concerns about parking and noise associated with late night hours in the area, but does not object to the extension of hours on the premises.

The applicant has also provided a summary of police calls related to the site which references 15 calls in the last five years, two of which were for a faulty alarm system and one which was for internal employee theft. The applicant also specifies that only six of these calls occurred after 12:00 midnight.

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 or will be provided to minimize traffic congestion in the public streets.

The application for extended hours should not have any significant additional impacts on congestion in the public streets beyond that allowed under the existing hours. The capacity of the restaurant is small and there is no associated off-street parking for the business.

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

According to *The Minneapolis Plan for Sustainable Growth*, the subject property is located in a mixed-use area at the intersection of Lyndale Avenue South, a designated Community Corridor, and West Lake Street, a designated Commercial Corridor. The properties in the immediate vicinity are located within a designated Activity Center. The plan states that, "Activity Centers support a wide range of commercial, office, and residential uses. They typically have a busy street life with activity throughout the day and into the evening. They are heavily oriented towards pedestrians, and maintain a traditional urban form and scale. Activity Centers are also well-served by transit." The proposed hours are generally consistent with the following relevant policy and implementation steps that pertain to the request:

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Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.

1.2.3 Lessen the negative impacts of non-residential uses on residential areas through controls on noise, odors, and hours open to the public.

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.

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.

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

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

1.12.2 Encourage mixed use buildings, with commercial uses located on the ground floor and secure entrances for residential uses.

1.12.3 Encourage active uses on the ground floor of buildings in Activity Centers.

Allowing late night hours in an activity center, at the intersection of a community corridor and a commercial corridor is consistent with the above policies of the comprehensive plan.

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.

Restaurants are subject to specific development standards, as outlined below

1. The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet shall be inspected regularly for purposes of removing any litter found thereon.

With the approval of the conditional use permit, the use will conform to the applicable district regulations.

RECOMMENDATIONS:

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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 extended hours of operation from 1:00 a.m. to 2:00 a.m. Sunday through Wednesday and 3:00 a.m. Thursday through Saturday for property at 700 Lake Street West, 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.
2. E-mail from 5th Police Precinct.
3. Correspondence.
4. Zoning maps.
5. Site plans and floor plans.
6. Photos.