

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

Conditional Use Permit

BZZ-4638

**Date:** December 14, 2009

**Applicant:** Taco Taxi, Attn: Hector Lopez, 1511 East Lake Street, Minneapolis, MN 55407, (612)310-7637

**Addresses of Property:** 1511 East Lake Street (1509 East Lake Street)

**Project Name:** Taco Taxi

**Contact Person and Phone:** Latino Economic Development Center, Attn: Monica Romero, Plaza Verde Building, 1516 E. Lake Street #202, Minneapolis, MN 55407, (612)724-5334

**Planning Staff and Phone:** Becca Farrar, Senior City Planner, (612)673-3594

**Date Application Deemed Complete:** November 19, 2009

**End of 60-Day Decision Period:** January 17, 2010

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

**Ward: 9 Neighborhood Organization:** Powderhorn Park Neighborhood Association, Midtown Phillips and East Phillips Improvement Coalition

**Existing Zoning:** C1 (Neighborhood Commercial District)

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

**Zoning Plate Number:** 26

**Lot area:** 4,411 square feet or .10 acres

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

**Proposed Use:** Extend the operational hours of an existing business.

**Concurrent Review:** Conditional Use Permit to allow 24 hour daily operation of the existing business including sit down and take-out. The business received approval of a conditional use permit in 2007 which allowed 24 hour delivery but limited the sit down and take-out hours to 12:00 am, Sunday thru Thursday, and to 1:00 am, Friday and Saturday.

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

**Background:** The applicant proposes to extend the hours of operation for an existing business located on the property at 1511 East Lake Street (1509 East Lake Street). The property is zoned C1. Taco Taxi is categorized as a delicatessen restaurant which is a permitted use in the C1 district; Taco Taxi shares the building with a luggage store (formerly the Golden Chicken) and occupies approximately 1,400 square feet. The standard hours of operation in the C1 district are typically Sunday through Thursday from 6 a.m. to 10 p.m. and Friday and Saturday from 6 a.m. to 11:00 p.m. The applicant applied for and received partial approval for an extended hours request in December of 2007 (BZZ-3886). The initial request was for 24 hour daily operation of all facets of the business including the sit down and take-out aspects of the restaurant. Planning Staff recommended partial approval of the request to the Planning Commission which would allow operation of the delicatessen restaurant until 1 a.m. daily. The Planning Commission modified Planning Staff's recommendation and approved 24 hour delivery but limited the sit down and take-out hours to 12:00 am, Sunday thru Thursday, and to 1:00 am, Friday and Saturday.

The business was recently issued a citation for operating beyond the extended hours allowed under the former conditional use permit. Apparently, the applicant was operating the entire facility 24 hours per day. The applicant is again requesting 24 hour daily operation for the sit down and take-out aspects of the restaurant. According to police records, there have been minimal disturbances at the property during the illegal hours of operation.

Staff has not received any official correspondence from Powderhorn Park Neighborhood Association, Midtown Phillips, East Phillips Improvement Coalition, or any neighborhood letter prior to the printing of this report. Correspondence received prior to the meeting shall be forwarded on to the Planning Commission for consideration.

**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 does not believe that allowing 24 hour operation of the sit down and take-out aspects of the delicatessen restaurant would be appropriate and could potentially be detrimental to or endanger the public health, safety, comfort or

general welfare. As previously mentioned, the business received approval for an extended hours request approximately two years ago. The applicant has not adhered to the allowable extended business hours for the take-out and sit down aspects of the restaurant. While there has not been a record of complaints or a significant number of police calls specific to the use, Staff is concerned about the impact on the residential uses to the south. The context of the neighborhood remains unchanged since the time of the original request for extended hours. There are still residential uses located approximately 150 to the south (the property does not directly abut residential uses as a surface parking lot for Megusta Place is located directly adjacent to the south) which could be impacted by a 24 hour operation that is open to the public. Planning Staff believes, however, that there is some compromise that would allow additional sit down/take-out hours beyond those that were formerly granted due to the fact that the business has demonstrated that it has operated during late night hours without significant police incidents to date and has not been a problem property.

Planning Staff consulted with the applicable Police Precinct which does not support the proposed 24 hour operation of the business. The Police Department has requested that with any additional extension of hours that a security plan be required that ensures that drivers have robbery prevention training, that any late night delivery system have robbery prevention safeguards and that they ensure security for their customers. Further, it was requested that the business deal with any problem behavior.

**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.**

Planning Staff does believe that allowing the business to fully operate 24 hours daily would be injurious to the use and enjoyment of other property in the vicinity; however, would unlikely impact the normal or orderly development and improvement of surrounding property for uses permitted in the district. The surrounding area is fully developed. Commercial uses line both sides of the Lake Street corridor, the majority of which operate without extended hours. Adjacent businesses to the west include the luggage store which occupies the remainder of the building, as well as a restaurant known as Lake China Buffet and a reception hall known as Megusta Place. Across the alley to the east is the Mercado Central. Megusta Place was granted a conditional use permit for extended hours in 2007 to allow the reception hall to operate until 1:00 a.m. Friday and Saturday and to 12:00 a.m. (midnight) on Sundays. Planning Staff believes that the proposed 24 hour operation of the business would not be compatible with the adjacent land uses and zoning classifications, however, granting an additional extension of hours may be appropriate.

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

The utilities, access roads, and drainage are existing and adequate.

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

The application for further extended hours should not have any 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. Is consistent with the applicable policies of the comprehensive plan.**

According to *The Minneapolis Plan for Sustainable Growth*, the subject property is located along East Lake Street which is a designated Commercial Corridor. The plan states that Commercial Corridors “serve as boundaries connecting a number of neighborhoods and serve as focal points for activity.” Further, the plan states that “Commercial Corridors can accommodate intensive commercial uses and high levels of traffic.” The plan also mentions “While the character of these streets is mainly commercial, residential areas are nearby and impacts from commercial uses must be mitigated as appropriate. The plan has the following relevant policy and implementation steps:

Land Use 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. This policy includes the following applicable implementation step: (1.1.5) “Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development”.

Land Use Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity. This policy includes the following applicable implementation step: (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.”

Land Use 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. This policy includes the following applicable implementation step: (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.

Land Use Policy 1.10: Support development along Commercial Corridors that enhances the street's character, fosters pedestrian movement, expands the range of goods and services available, and improves the ability to accommodate automobile traffic.

The proposal to extend the hours of operation for the sit down and take-out aspects of the restaurant to 24 hours daily are not in conformance with the above noted policies of the comprehensive plan. Planning Staff believes that additional operational hours may be appropriate with the application of conditions of approval that mitigate the extended hours request. Full service 24-hour operation, however, will adversely affect the residential uses that are located approximately 150 feet south of the subject site.

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

If the conditional use permit is approved, the development would appear to comply with all of the applicable provisions of the C1 district. Any/all window signage must comply with Section 543.480 of the Zoning Code. Planning Staff considers this provision important to public safety/visibility, especially in conjunction with the late night operational hours of the business. The use is also subject to specific development standards for delicatessen restaurants as follows:

- (1) The premises, all adjacent streets, sidewalks and 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 C1 and C2. The subject parcel abuts C2 zoning to the west, C1 zoning to the south and east and across East Lake Street to the north, the properties are zoned C2. There are residential uses located approximately 150 feet south of the subject site. A commercial surface parking lot that serves Megusta Place reception hall is located between the business and the residential uses.

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

Planning Staff would not expect that a minor extension of operational hours for the sit down and take-out aspects would have substantive impacts of noise, light and traffic within the immediate vicinity. The majority of the noise emanating from the business would be directed towards East Lake Street. No off-street parking for the business is available.

**(3) 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 C1 district. Taco Taxi shares the building with a luggage store (formerly the Golden Chicken) and occupies approximately 1,400 square feet. With the approval of the conditional use permit for extended hours and compliance with the specific development standards that pertain to delicatessen restaurants, the proposal would appear to be in conformance with the applicable zoning regulations.

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

While there has not been a record of complaints or a significant number of police calls specific to the use, the property does not directly abut residential uses (a surface parking lot for Megusta Place is located directly adjacent to the south) Staff is concerned about the impact on the residential uses to the south of the site if the restaurant is allowed to be open to the public 24 hours a day. Planning Staff consulted with the applicable Police Precinct which does not support the proposed 24 hour operation of the business. The Police Department has requested that with any additional extension of hours that a security plan be required that ensures that drivers have robbery prevention training, that any late night delivery system have robbery prevention safeguards and that they ensure security for their customers. Further, it was requested that the business deal with any problem behavior.

**RECOMMENDATIONS:**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit to allow extended hours:**

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **deny** the conditional use permit to allow 24 hour daily operation of the sit down and take-out aspects of the existing restaurant, and in lieu thereof **approve** a conditional use permit to allow the restaurant to be open until 3:00 a.m. on Friday and Saturday and to 2:00 a.m. Sunday thru Thursday for sit down and take-out customers, and continue to allow delivery 24 hours per day, seven days a week, subject to the following conditions:

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 with the window sign provision as stated in Section 543.480 of the Zoning Code.

**Attachments:**

1. Statement / Findings – Conditional Use Permit
2. Correspondence – CM, neighborhood letters
3. Zoning map
4. Plans –site plan / floor plan
5. Police calls