

Department of Community Planning and Economic Development – Planning Division
Expansion of Nonconforming Use
BZZ-4292

Date: March 2, 2009

Applicant: Royal Cigars and Tobacco

Addresses of Property: 403 14th Avenue SE

Project Name: Royal Cigars and Tobacco

Contact Person and Phone: Ibrahim El-Sayed, (612) 331-7250

Planning Staff and Phone: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: February 6, 2009

End of 60-Day Decision Period: April 7, 2009

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

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

Zoning Plate Number: 15

Legal Description: Not applicable for this application

Proposed Use: Extension of hours of operation from 6:00am to 10:00pm Sunday through Thursday and 6:00am to 11:00pm Friday and Saturday to 6:00am to 3:00am, seven days a week, for an existing, nonconforming tobacco shop.

Expansion of a nonconforming use: to allow for extended hours of operation to 6:00am to 3:00am, seven days a week, for an existing tobacco shop in the C1 Neighborhood Commercial District.

Applicable zoning code provisions: Chapter 531, Nonconforming Uses and Structures and Chapter 548 Commercial Districts

Background: The subject property includes a tobacco shop within an existing storefront building. In 1999, as part of the Zoning Ordinance update and the citywide rezoning, the classification of the subject property was changed from B3S-2 Community Service District to C1 Neighborhood Commercial District. The tobacco shop was established in the structure prior to November 12, 1999, and was a permitted use at the time. The Zoning Ordinance prohibits tobacco shops in the C1 District. Therefore, the existing tobacco shop use is legally nonconforming.

The applicant is proposing to extended hours of operation from 6:00am to 10:00pm Sunday through Thursday and 6:00am to 11:00pm hours Friday and Saturday to 6:00am to 3:00am, seven days a week, for an existing tobacco shop located at 403 14th Avenue SE in the C1 Neighborhood Commercial District and PO Pedestrian Oriented Overlay District. Therefore, the applicant is applying for an expansion of a nonconforming use to allow for the extended hours of operation.

As of the writing of this staff report, staff has not received any correspondence from the Marcy-Holmes Neighborhood Association. Staff will forward comments, if any are received, at the City Planning Commission meeting.

EXPANSION OF A LEGAL NONCONFORMING USE - to allow for extended hours open to the public for an existing tobacco shop in the C1 Neighborhood Commercial District.

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development – Planning Division has analyzed the application and makes the following findings:

The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):

1. A rezoning of the property would be inappropriate.

The subject property is an existing storefront building located on the corner of 4th Street NE and 14th Avenue South. The uses within the storefront building include a bank, hair salon, two restaurants and the tobacco shop. All of the uses in the building, with the exception of the tobacco shop, are permitted uses in the C1 Neighborhood Commercial District. The site is located within an Activity Center and rezoning to a higher commercial classification, such as C2 or C3A would make the tobacco shop a permitted use, however, it still would not authorize the requested hours of operation. Staff believes that rezoning the property may be inappropriate. The subject property and majority of the surrounding area is zoned C1 Neighborhood Commercial District and C2 Neighborhood Corridor Commercial District.

2. The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.

The subject property is an existing storefront building with multiple commercial tenants located on the corner of 4th Street NE and 14th Avenue South. The applicant has requested to extend the hours of operation to 3am, seven days per week. The adjacent uses on the block and at the intersection are predominately commercial. The site is located within an Activity Center and the nearest residential use is located in an adjacent building along 14th Avenue SE on the second floor. Staff believes that the proposed hours will be compatible with adjacent properties and the neighborhood.

- 3. The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

The existing use is located in a storefront building. There are no proposed changes to the building, so the intensification of the use should not result in off-site impacts to dust or odor. The applicant has requested to extend the hours of operation to 3am, seven days per week. The adjacent uses on the block and at the intersection are predominately commercial. The site is located within an Activity Center and the nearest residential use is located in an adjacent building along 14th Avenue SE on the second floor. In addition, staff does not believe that the nature of the business will result in significant increases of adverse, off-site impacts of noise. Finally, the subject property is located within the Dinkytown Pedestrian Oriented Overlay District and the area is pedestrian in nature and well-served by transit. Staff does not believe that the proposed hours of operation will create adverse, off-site impacts to traffic or parking congestion.

- 4. The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

The subject property is an existing storefront building with multiple commercial tenants located on the corner of 4th Street NE and 14th Avenue South. The applicant has requested to extend the hours of operation to 3am, seven days per week. There are no proposed changes to the building. The adjacent uses on the block and at the intersection are a predominately commercial. The site is located within an Activity Center and is located within the Dinkytown Pedestrian Oriented Overlay District. Staff believes that the proposed hours of operation may improve the stability and economic vitality of the neighborhood.

- 5. In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

No dwelling units are existing or proposed.

- 6. The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The site is not located in a Floodway District.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the expansion of a nonconforming use:

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The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the expansion of a nonconforming use to allow for extended hours of operation from 6:00am to 10:00pm Sunday through Thursday and 6:00am to 11:00pm hours Friday and Saturday to 6:00am to 3:00am, seven days a week, for an existing tobacco shop located at 403 14th Ave. SE in the C1 Neighborhood Commercial District.

Attachments:

1. Statement of use
2. Copies of e-mails sent to MHNA and CM Hofstede
3. Correspondence from the Dinkytown Business Association and *The Minnesota Daily*
4. Zoning map
5. Survey and floor plans
6. Photos of the site and surrounding area
7. Oblique aerial photos