

Department of Community Planning and Economic Development - Planning Division
Conditional Use Permit
BZZ-4737

Date: May 10, 2010

Applicant: Sabra, Inc.

Address of Property: 3801 Minnehaha Avenue

Project Name: Super USA

Contact Person and Phone: Mark Thieroff (612) 337-6102

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

Date Application Deemed Complete: April 14, 2010

End of 60 Day Decision Period: June 13, 2010

Ward: 12 Neighborhood Organization: Longfellow Community Council

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

Zoning Plate Number: 27

Legal Descriptions: Not applicable

Existing Use: Grocery store (convenience store)

Concurrent Review:

Conditional Use Permit: To extend the hours of operation for a grocery store use to 12:00 midnight each day of the week.

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

Background: Mark Thieroff, on behalf of Sabra, Inc., has submitted an application for a conditional use permit to allow extended hours of operation for an existing grocery convenience store. The subject site is located at the corner of Minnehaha Avenue and 38th Street E. The site is surrounded by a mix of uses, including commercial uses, multiple-family residential and single family residential. The permitted hours of operation in the C1 Neighborhood Commercial Districts are from 6:00 a.m. to 10:00 p.m. Sunday through Thursday and from 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant is proposing to be open from 6:00 a.m. to 12:00 midnight seven days a week.

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A site plan was approved for the use in 2001. The use is also subject to Specific Development Standards in Chapter 536 of the zoning code. Specifically, the standard requires that the premises, all adjacent streets, sidewalks and alleys within 100 feet be inspected regularly for purposes of removing litter.

CONDITIONAL USE PERMIT (to allow extended hours of operation to 12:00 midnight)

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 C1 District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday. The applicant proposes to be open until 12:00 midnight each day of the week. The business operations are conducted entirely within the building and the requested hours are not expected to detrimentally impact the surrounding area. There are other uses operating with late night hours in the area. Specifically, the Rail Station Bar and Grill at 3675 Minnehaha Avenue, one block from the site, operates until 2:00 a.m. per their liquor license. 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.

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

a) Proximity to permitted or conditional residential uses. The site is adjacent to single family homes to the south and east, a 42-unit apartment building to the west and a 12-unit apartment building to the north, across 38th Street. A landscaped buffer is provided between the use and the property to the south. At the opposite corner of the intersection of 38th Street and Minnehaha Avenue is a retail flower shop. While adjacent to residential uses, the grocery store use has been established on the property for a number of years and is not expected to negatively impact surrounding uses.

b) Nature of the business and its impacts of noise, light and traffic. The existing use is a grocery/convenience store that does not sell gasoline and conducts all business indoors. As such, the use is expected to have little impact of noise and light. Staff is recommending that the applicant modify the lighting on site to come into compliance with the previously approved site plan. The proposed late night hours are not expected to generate excessive vehicle traffic and therefore should not have a negative impact on the neighboring uses. The site is accessible by public transit and is located in an area that is accessible for pedestrians,

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further limiting the potential for excessive traffic. The statement prepared by the applicant states that the extended hours are intended to accommodate users of a nearby bus line and LRT users.

c) Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards. A site plan was previously approved for the site in 2001. A recent inspection by Zoning Enforcement staff found a number of items that deviate from the approved site plan. Specifically, the following items were cited:

- The dumpster must be moved inside the fenced enclosure, per Section 535.80.
- The landscaping must be brought into compliance with the approved site plan.
- The lighting was replaced above the freestanding sign rather than on separate light poles, per Section 525.60.
- Window signs exceed 30% limitation and the total sign allotment for the building, as regulated in Section 543.480.
- A bicycle rack is required along the north wall of the building, per section 525.60.
- The parking stalls must be painted in compliance with the approved plan, per Section 541.320.

Upon addressing these items, the property will be in conformance with the zoning code. These issues will be required to be remedied as a condition of any approval for this application.

d) History of complaints related to the use. The use has been operating on the site for a number of years with no history of complaints. The commander of the 3rd Police Precinct sent an e-mail to staff in support of the request for extended hours of operation.

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 additional hours of operation are not expected to contribute to congestion in the public streets. The site is accessible by public transit, including mid-day and rush hour bus service and the 38th Street LRT station.

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

The subject site is located at the intersection of two Community Corridors, Minnehaha Avenue and 38th Street. The site is designated as mixed use on the future land use map and is located within the boundaries of a Neighborhood Commercial Node. The site is within one-half mile of the transit station at 38th Street and Hiawatha Avenue, thus within the boundaries of the Transit

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Station Area. The following policies of *The Minneapolis Plan for Sustainable Growth* apply to the site:

Policy 1.9: Through attention to the mix and intensity of land uses and transit service, the City will support development along Community Corridors that enhances residential livability and pedestrian access.

1.9.1 Support the continued presence of existing small-scale retail sales and commercial services along Community Corridors.

1.9.2 Support new small-scale retail sales and services, commercial services, and mixed uses where Community Corridors intersect with Neighborhood Commercial Nodes.

Policy 1.11: Preserve and enhance a system of Neighborhood Commercial Nodes that includes a mix of housing, neighborhood-serving retail, and community uses.

1.11.1 Discourage the commercial territorial expansion of Neighborhood Commercial Nodes, except to adjacent corners of the node's main intersection.

1.11.2 Support the continued presence of small-scale, neighborhood serving retail and commercial services in Neighborhood.

Policy 1.13: Support high density development near transit stations in ways that encourage transit use and contribute to interesting and vibrant places.

1.13.1 Encourage pedestrian-oriented services and retail uses as part of higher density development near transit stations.

Staff finds that the request for extended hours of operation is consistent with the above policies of the comprehensive plan. The extended hours of operation will support the presence of the existing commercial use located on a Community Corridor and in a Neighborhood Commercial Node and Transit Station Area.

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 and satisfaction of outstanding site plan issues, the use will conform to the applicable district regulations.

RECOMMENDATIONS:

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 for

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extended hours of operation from 6:00 to 10:00 p.m. Monday through Thursday and 6:00 a.m. to 11:00 p.m. Friday and Saturday until 12:00 midnight each day of the week for a grocery store use located at the property of 3801 Minnehaha Avenue, 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) The dumpster shall be located inside the fenced enclosure, in accordance with Section 535.80 of the zoning code.
- 3) The landscaping shall be brought into compliance with the approved site plan.
- 4) All lighting shall be brought into compliance with the approved site plan, per Section 525.60 of the zoning code.
- 5) Window signs shall not exceed 30% of the window area and shall not block views into and out of the building in the area between four feet and seven feet above the adjacent grade, in accordance with Section 543.480 of the zoning code.
- 6) A bicycle rack is required along the north wall of the building as shown in the approved site plan, per Section 525.60 of the zoning code.
- 7) The parking stalls must be painted in compliance with the previously approved site plan, in accordance with Section 541.320 of the zoning code.

Attachments:

1. Statements from applicant.
2. Correspondence.
3. Zoning maps.
4. Site plans and floor plans.
5. Photos.