

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit, Variance  
BZZ-2709

**Date:** July 31, 2006

**Applicant:** New York Latin Restaurant

**Address of Property:** 1312 E Lake St

**Project Name:** New York Latin Restaurant

**Contact Person and Phone:** Luis Caire, 1616 E 25<sup>th</sup> St, Minneapolis MN 55407, 612-290-1701

**Planning Staff and Phone:** Tara Beard, (612) 673-2351

**Date Application Deemed Complete:** June 29, 2006

**End of 60-Day Decision Period:** September 27, 2006

**End of 120-Day Decision Period:** Not applicable

**Ward:** 9      **Neighborhood Organization:** Midtown Phillips Neighborhood Association

**Existing Zoning:** C4 General Commercial District

**Zoning Plate Number:** 26

**Lot area:** 45,600 square feet

**Proposed Use:** Shopping Center, including a restaurant, in an existing building

**Concurrent Review:**

- A Conditional use Permit to allow a shopping center
- A variance to reduce the required parking from 15 spaces to 0 spaces

**Applicable zoning code provisions:** Chapter 525: Article VII Conditional Use Permits; Article IX Variances

**Background:** Luis Caire, on behalf of New York Plaza, LLC, is applying for a conditional use permit to allow a shopping center use and a variance from 15 to 0 required parking spaces for a restaurant use in the building at 1312 E Lake Street. The conditional use permit for a shopping center is required because the restaurant's entrance is located off a common hallway inside the building that also leads to other uses, including a grocery store, a food and beverage warehouse, and offices on the second floor.

There is off-street parking located on the site but the applicant has indicated that they are used entirely by an adjacent auto sales use and the food warehouse. The location of the restaurant in the building has been the same in the recent past, but different uses in that location further back indicate that no grandfathered rights to parking exist.

At this time staff has received no written comments from the Midtown Phillips Neighborhood Association.

## **CONDITIONAL USE PERMIT -**

### **Required Findings for the Conditional Use Permit:**

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

There is no evidence that a shopping center would be detrimental in this building. It has operated as such for some time.

- 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.**

There is no indication that the use of the building as a shopping center would negatively affect the use and enjoyment of other property in the vicinity. The building is located along a stretch of E Lake St with many shopping center type buildings that are owned and patronized largely by the Latino community.

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

There are no exterior changes proposed to the building. Adequate utilities, access roads, drainage, and other facilities are provided.

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

The applicant is requesting a variance to reduce the parking requirement from 15 stalls to 0 stalls. Metered on-street parking is in front of and near the site, and E Lake St is served by multiple bus routes that run frequently. The site is walking distance from large residential areas. Although some on-street parking may occur from this variance, staff does not believe it will have a significant effect on traffic congestion.

- 5. Is consistent with the applicable policies of the comprehensive plan.**

The project is located on a portion of E Lake St that is designated as a commercial corridor in *The Minneapolis Plan*. Commercial corridors are to be the activity focus of their communities

and their revitalization helps strengthen urban neighborhoods. According to other principles and polices outlined in *The Minneapolis Plan*, the following apply to this proposal:

*The Minneapolis Plan*, Chapter 4.4 states: “Minneapolis will continue to provide a wide range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas.” One of the implementation plans for this section of the plan is to “encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.” The building at 1312 Lake St has been underutilized for some time and allowing the shopping center use would allow a variety of businesses and a model that emulates many successful nearby markets where main entrances into the building lead to a variety of shops and services.

**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.**

In addition to the conditional use permit, the applicant is requesting a variance to reduce the required parking for their specific use within the shopping center. Furthermore, the building must comply with the specific development standards for a shopping center found in Section 536.20 of the zoning code:

1. Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.
2. Uses which require a conditional use permit, site plan review, or other land use approval shall comply with all review and approval requirements of this zoning ordinance.
3. 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.

**VARIANCE – to reduce the required parking for the New York Latin Restaurant within 1312 E Lake St from 15 spaces to 0.**

**Findings Required by the Minneapolis Zoning Code for the Proposed Variance:**

**1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Based on the existing uses in the building (excluding the auto sales use which is not accessible from the main building and the east parking lot that serves it) 33 parking spaces are required. Twenty-three spaces are proposed in the northwest parking lot after some landscaping is added, although staff believes closer to 20 spaces would be allowed after handicapped stall and loading area maneuvering requirements are met. Furthermore, staff has met with other prospective tenants of the building and it is likely the future uses will change such that more parking will be required. Because of the size of the building and the long term lease of the auto sales use, very few uses could be found that did not exceed the parking requirement.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The amount of available parking and the auto sales lease precedes the current building's owner. Proposed improvements to the available parking will remove some stalls but will bring the lot further into compliance with Chapter 530 of the zoning code.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The spirit and the intent of the ordinance is to, in part, prevent traffic and parking congestion on the public streets. E Lake St is well served by transit and just off the Midtown Greenway. Metered on-street parking is available in front of the building and many residential uses are within walking distance of the building. However, providing no parking for a restaurant located on a busy commercial corridor could potentially cause parking problems. Obtaining rights to some of the available on-site parking or a shared parking agreement with a neighboring use within 300 feet to provide some, if not all, of the required parking off-street, is more reasonable and would be more consistent with the intent of the ordinance.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The variance granted as requested could substantially increase the congestion of the public streets. With so many alternative methods of travel (walking, biking, transit) available, it is likely that decreasing the required parking somewhat would not be detrimental to the public. Staff would require that a minimum of 5 spaces should be provided by the business to ensure this finding can be met.

### **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 application for a conditional use permit to allow a shopping center at 1312 E Lake St, subject to the following condition:

The building will comply with the specific development standards for a shopping center found in Section 536.20 of the zoning code:

1. Only uses allowed in the zoning district in which the shopping center is located shall be allowed in the shopping center.

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2. Uses which require a conditional use permit, site plan review, or other land use approval shall comply with all review and approval requirements of this zoning ordinance.
3. 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.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for a variance to reduce the parking requirement:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** a variance to reduce the required parking for the New York Latin Restaurant at 1312 E Lake St from 15 to 5 spaces.

**Attachments:**

1. Statement of use
2. Findings
3. Correspondence
4. Site Plan, Floor Plans, Elevations, & Zoning map
5. Photos