

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit for Extended Hours
BZZ-2107

Date: March 7, 2005

Applicant: Pete Roos, Roos & Associates, dba, Border Foods, Inc

Address of Property: 4020 East Lake Street

Project Name: Taco Bell Extended Hours

Contact Person and Phone: Pete Roos, (612) 269-2204

Planning Staff and Phone: Lonnie Nichols, (612) 673-5468

Date Application Deemed Complete: November 18, 2004

End of 60-Day Decision Period: January 16, 2005

End of 120-Day Decision Period: March 17, 2005, however on December 10, 2004, the applicant submitted a letter extending the City's decision period to no later than June 30, 2005.

Ward: 9 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: C-2 (Neighborhood Corridor Commercial)

Proposed Zoning: No change proposed, not applicable for this application.

Zoning Plate Number: 28

Legal Description: Lots 16 and 17 and N. 30 ft of lot 15, Block 006, Dormans Addn to MPLS

Proposed Use: Extension of hours of operation to 2:00 am (daily) Sunday through Saturday for an existing sit down and drive through fast food restaurant located at 4020 East Lake Street in the C-2 district. Regular hours of operation allowed under the C2 district are from 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 has rights to operate 6:00 a.m. to 11:00 p.m. Sunday through Thursday and 6:00 a.m. to 12:00 a.m. (midnight) Friday and Saturday due to their establishment date.

Concurrent Review: Conditional Use Permit for extended hours of operation.

Applicable zoning code provisions: Chapter 520 Introductory Provisions, Chapter 521 Zoning Districts and Maps, Chapter 525 Administration and Enforcement-specifically, Article VII, Conditional Use Permits, Chapter 530 Site Plan Review, Chapter 535 Regulations of General Applicability, Chapter 536 Specific Development Standards, Chapter 541-Off Street Parking and Loading, Chapter 543 On-premise Signs, Chapter 548 Commercial Districts.

Background: A restaurant building has existed at 4020 East Lake Street since 1977. In 1984, Border Foods purchased the property and began operating a Taco Bell restaurant with drive through service. A site plan (PR 59) for the existing development footprint and configuration was approved by the City Planning Commission on July 11, 1984. Additional landscaping has already been planted at the site and the applicant's representative has verbally agreed to rebuild the dumpster enclosure and re-stripe the HC parking stall(s) to be code compliant. The applicant's representative has indicated that the Taco Bell restaurant had been operating until 1:00 am Sunday through Thursday and until 2:00 am on Friday and Saturday nights (without complaint) until City staff notified them those hours were allowed only by conditional use permit. As per a letter from City Licensing to the applicants, Taco Bell is grandfathered to operate until 11:00 pm Sunday through Thursday and until 12:00 am (Midnight) on Friday and Saturday. The Longfellow Community Council met with the applicant on November 11th and voted nine to zero with one abstention to deny the conditional use permit for the extension of hours. LCC staff provided City Planning with a letter of suggested changes to project, and staff has received six written statements in opposition to the extension of hours. On June 7, 2004 the City Planning Commission approved an application to increase the maximum hours of operation at the Super America automobile convenience facility from 6:00 a.m. to 12:00 a.m. Sunday through Thursday and 6:00 a.m. to 1:00 a.m. Friday and Saturday located on the 4300 block of East Lake Street. This item was continued from December 13, 2004, and February 7, 2005.

Findings as required by the Minneapolis Zoning Code:

The Community Planning and Economic Development 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.

The proposed extension of operating hours may be detrimental to the general comfort but should not endanger the public health, safety, or welfare in the area. Twelve nearby residents submitted statements in opposition to the extension of hours. The menu board faces a residential district.

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 zoned C2 (Neighborhood Corridor Commercial District) and is located on East Lake Street, which is a community corridor from 36th Avenue east to the Mississippi River. The property fronts Lake Street, which contains a mix of commercial and retail uses. The property is bordered by C1 (Neighborhood Commercial) zoned properties to the South (Carpenters Union and Vacant building), East (Animal Clinic), Southeast (Dental Clinic), and West (Ad Print T-shirt and El Norteno Restaurant). A C2 district (Starr Automotive) is located to the Southwest of the subject property. An R1A (single family) zoning district of established single family homes is located to the North, NE and NW of the subject property.

- b) Nature of the business and its impacts of noise, light and traffic. Taco Bell proposes to operate from 10:00 am to 2:00 am (daily) Sunday through Saturday. Taco Bell is a fast food restaurant with a drive through facility. Given that Lake Street is a commercial corridor west of 36th Avenue and a community corridor to the East connecting to Marshall Street in St. Paul, and there are other sit down dining options in the general vicinity, staff has estimated that the majority of Taco Bell's customers arrive by motor vehicle from Lake Street.
- c) Conformance of use. The existing fast food restaurant with drive through window is a permitted use in the C2 (Neighborhood Corridor Commercial) District. Restaurants, fast food have the specific development standard of regularly inspecting and removing any litter found on or within 100 feet of the premises. The zoning code limits operating hours from 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 in the C2 district. The existing Taco Bell pole sign and wall mounted signs are code compliant. The property has grandfather rights to the 8 foot tall wooden fence located along the North property line that screens the drive through from a residential area.
- d) Complaints received. Staff printed a police incidents report from the City of Minneapolis property information webpage. There have been no incidents reported from January 1, 2005, through February 23, 2005. From January 1, 2004, to December 31, 2004, there were 13 incidents reported and 3 reports filed, none which occurred during extended hours. In all of 2003, there were 10 incidents with 1 report filed at 7:37 pm. From 1999 through 2002 there were 41 incidents and 7 reports filed and 2 bookings. The bookings and one report occurred during extended hours (12:22 am, 1:05 am, and 1:35 am). Staff received 12 written statements from nearby residents and a letter from the neighborhood organization in opposition to the extension of hours.

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

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

The site provides parking to the South and West of the building along the perimeter of the site. Eleven parking stalls ($516 \text{ sf} \times .30 = 154.8/15 = 10.32$), including one HC stall are required. Taking into account proposed modifications to the dumpster enclosure and HC stall(s), the applicant should still be able to provide 12 parking stalls, including one van accessible HC stall.

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

MINNEAPOLIS PLAN: The comprehensive plan shows East Lake Street from 36th Avenue to the Mississippi River as a community corridor. Chapter four of *The Minneapolis Plan* states the following applicable objectives and implementation steps about community corridors:

4.1 Minneapolis will encourage reinvestment along major urban corridors as a way of promoting growth in all neighborhoods.

Relevant Implementation Steps

Develop standards based on a recognition of the qualities that make urban corridors desirable, viable and distinctly urban, including; diversity of activity, safety for pedestrians, access to desirable goods and amenities, attractive streetscape elements, density and variety of uses to encourage walking, and architectural elements which add interest at the scale of the pedestrian.

Designate certain streets as community corridors with the adoption of this Plan.

Designate certain streets as commercial corridors with the adoption of this Plan.

4.2 Minneapolis will coordinate land use and transportation planning on designated Community Corridors streets through attention to the mix and intensity of land uses, the pedestrian character and residential livability of the streets, and the type of transit service provided on these streets.

Relevant Implementation Steps

Designate a network of Community Corridors. (See criteria above.)

Require that street design for these corridors preserves and enhances the strong residential character and pedestrian orientation of these streets while maintaining the street's capacity to carry current volumes of traffic.

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

Ensure that commercial uses do not negatively impact nearby residential areas.

4.4 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.

Relevant Implementation Steps

Provide for a range of commercial districts that provide the services required by the residents and businesses.

Plan, implement and monitor projects and programs that encourage and support the city's neighborhood commercial areas.

Encourage the economic vitality of the city's commercial districts while maintaining compatibility with the surrounding areas.

9.15 Minneapolis will protect residential areas from the negative impact of non residential uses by providing appropriate transitions between different land uses.

Relevant Implementation Steps

Provide appropriate physical transition and separation using green space, setbacks or orientation between residential and non residential uses.

Mitigate, through screening and buffering, limiting the size and scale of a building, and a business' hours of operation, the effects of commercial properties on residential areas.

The Minneapolis Plan, however, does not make specific recommendation for hours of operation.

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.

The existing fast food restaurant with a drive through facility is a permitted use in the C2 District. Restaurants, fast food have the specific development standard of regularly inspecting and removing any litter found on or within 100 feet of the premises. Provided the proposed modifications to the dumpster enclosure are completed and the parking area is re-striped to provide a minimum of 11 parking stalls, including one van accessible HC stall, the establishment will conform to the applicable regulations of the district in which it is located. The existing Taco Bell pole sign and wall mounted sign are allowed. Any additional signage, including window signs shall comply with Chapter 543 of the zoning code. The existing 8 foot tall wooden fence on the North property line is allowed for screening. The menu board for placing orders is located on the North side of the building adjacent to a residential district. Concerns about late night hours at fast food restaurants usually involve the operation of a drive through window.

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 conditional use permit for extended hours of operation to 11:00 pm Sunday through Thursday and 12:00 am (Midnight) Friday and Saturday for an existing fast food restaurant located at 4020 East Lake Street subject to following conditions:

1. The provision of a minimum of eleven (11) parking spaces, including one van accessible handicapped space to meet the parking requirement.
2. Any trash containers on site shall be enclosed with a solid wood or masonry fence compatible with the building, two (2) feet taller than the height of the dumpster as required by section 535.80 of the zoning code.
3. The premises, and all adjacent streets, sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.

Attachments:

1. Staff report including zoning code information
2. Statement of use and Findings
3. Correspondence from Neighborhood Organization and Residents
4. Police Incidents Report
5. Zoning maps, Site Plans and Floor Plans
6. Photos