

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit, Variance and Site Plan Review
BZZ-2144

Date: January 24, 2005

Applicant: Mike Mulligan with Milkin Enterprises

Address of Property: 2037 Riverside Avenue

Project Name: Jimmy John's

Contact Person and Phone: Gary Fagerstrom with C.M. Architecture, P.A., (612) 547-1332

Planning Staff and Phone: Hilary Watson, (612) 673-2639

Date Application Deemed Complete: December 23, 2004

End of 60-Day Decision Period: February 21, 2005

End of 120-Day Decision Period: Not applicable

Ward: 2 Neighborhood Organization: West Bank Community Coalition

Existing Zoning: C1

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 21

Legal Description: Not applicable for this application

Proposed Use: Jimmy John's delicatessen

Concurrent Review:

Conditional use permit: to allow the delicatessen to stay open until 3 am, seven days a week.

Variance: to reduce the required number of off-street parking spaces for a delicatessen from 16 spaces to 14 spaces.

Site plan review: for a delicatessen.

Applicable zoning code provisions: Chapter 525, Article VII, Conditional Use Permits; Chapter 525, Article IX, Variances, specifically Section 525.520(6) "to reduce the applicable off-street parking, stacking or loading requirements by up to twenty (20) percent of the applicable regulations or one (1) space, whichever is greater"; and Chapter 530, Site Plan Review.

Background: The building located at 2037 Riverside Avenue has most recently been used as a coffee shop and a hair salon. The applicant is proposing to convert the building into a Jimmy John's sandwich shop. The zoning code classifies this use as a delicatessen. Initially a conditional use permit was submitted for a fast food restaurant. However, upon further investigation it was determined that Jimmy John's is in deed a delicatessen as it does not meet the six criteria that would classify it as a fast food restaurant. Please see the applicant's letter dated December 23, 2004 for an explanation of this scenario.

The parking requirement for a delicatessen is equal to thirty percent of the capacity of the seating area within the building. In this case there is 807 square feet of seating area available to the public. Based on this number the zoning code requires there to be 16 parking spaces. Based on the previous use of the building there are grandfathered parking rights for 13 vehicles. The applicant proposes to install a bicycle rack on the site to account for one of the required parking space and is seeking a variance of the other two parking spaces.

The permitted hours of operation in the C1 zoning district are Sunday through Thursday, 6 am to 10 pm and Friday and Saturday, 6 am to 11 pm. The applicant is seeking a conditional use permit to stay open from 11 am to 3 am, seven days a week.

CONDITIONAL USE PERMIT – to allow the delicatessen to stay open until 3 am, seven days a week

Findings as Required by the Minneapolis Zoning Code:

The Department of 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 be detrimental to or endanger the public health, safety, comfort or general welfare.

The Planning Division believes that extending the hours of operation for Jimmy John's would not be detrimental to or endanger the public health, safety, morals, comfort or general welfare. The site is located on the southwest corner of the intersection of Riverside Avenue and 21st Avenue South. Adjacent uses include a multiple-family residential building, the University of Minnesota dance school, vacant property and a parking lot for Augsburg College. In addition, there are a mixture of commercial uses located along Riverside Avenue, including other food and beverage uses.

2. Will 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:

Proximity to permitted or conditional residential uses. The site is immediately adjacent to a multiple-family residential building. However, the entrance to Jimmy John's will be located on the northeast corner of the building which is opposite of the residential building to the west. In addition, there are no windows on the west side of the Jimmy John's building facing the residential building.

Nature of the business and its impacts of noise, light and traffic. Given the location of the entrance to the building and the use of goose-neck lighting along the north and east sides of the building, the Planning Division does not believe that noise and light will have an impact on the adjacent residential building.

As for traffic, there is no on-site parking lot now, nor will there be once Jimmy John's occupies the building. There is on street parking on both Riverside Avenue and 21st Avenue South. In addition, there is a parking garage located one-and-a-half blocks away from the site. Although there is available parking nearby, the applicant is anticipating that the majority of the business conducted at this Jimmy John's will be by walk-in traffic and by delivery.

Conformance of use. A delicatessen is a permitted use in the C1 zoning district.

Complaints received. The building has been vacant since mid-October 2004. There were no 911-calls made during 2003 or 2004. However, between May of 1999 and October of 2002, thirty 911-calls were made in reference to this site.

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

Extending the hours of operation for this use will have no impact on utilities, access roads or drainage.

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

See finding number two above.

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

The site is designated as retail-commercial in the comprehensive plan. The site is located on Riverside Avenue which is a designated Community Corridor. This site is also located within the designated Cedar-Riverside Activity Center. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Identify and support Activity Centers by preserving the mix and intensity of land uses and enhancing the design features of each area that give it a unique and urban character (Policy 4.7)
- Ensure that land use regulations support diverse commercial and residential development types that generate activity all day long and into the evening (Implementation step for Policy 4.7).

This site is located in the Cedar-Riverside Activity Center. Locating a Jimmy John's in this location adds to the mix of uses found within the area and by operating until 3 am allows for activity to be occurring into the evening after other commercial uses have closed.

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

With the approval of the conditional use permit, variance and the site plan review this development will be in conformance with the applicable regulations of the zoning code.

VARIANCE - to reduce the required number of off-street parking spaces for a delicatessen from 16 spaces to 14 spaces

Findings as Required by the Minneapolis Zoning Code for the 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.

Parking reduction: The applicant is seeking a variance to reduce the required number of off-street parking spaces for a delicatessen from 16 spaces to 14 spaces. The applicant has indicated that there is no on-site parking lot now nor will there be once Jimmy John's occupies the building. The parking requirement for Jimmy John's is higher than the parking requirement for the coffee shop because the seating area available to customers is increasing in size.

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.

Parking reduction: The fact that there is no parking on this site is a unique circumstance of this parcel of land. In addition, the former coffee shop operated in this location for over twenty years which had a similar parking requirement and operated without off-street parking.

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.

Parking reduction: There is on street metered parking on Riverside Avenue and limited hour parking on 21st Avenue South. In addition, there is a parking garage located one-and-a-half blocks away from the site. Although there is available parking nearby, the applicant is anticipating that the majority of the business conducted at this Jimmy John's, in the midst of a large student population, will be by walk-in traffic and by delivery.

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.

Parking reduction: The Planning Division believes that the granting of the variance would have little or no impact on fire safety, nor would the parking variance be detrimental to welfare or public safety.

SITE PLAN REVIEW - for a delicatessen

Findings as Required by the Minneapolis Zoning Code:

- A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A Below for Evaluation.)**
- B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan. (See Section B Below for Evaluation.)**
- C. The site plan is consistent with applicable development plans or development objectives adopted by the city council. (See Section C Below for Evaluation.)**

Section A: Conformance with Chapter 530 of Zoning Code

BUILDING PLACEMENT AND FACADE

- Placement of the building shall reinforce the street wall, maximize natural surveillance and visibility, and facilitate pedestrian access and circulation.
- First floor of the building shall be located not more than eight (8) feet from the front lot line (except in C3S District or where a greater yard is required by the zoning ordinance). If located on corner lot, the building wall abutting each street shall be subject to this requirement.
- The area between the building and the lot line shall include amenities.
- The building shall be oriented so that at least one (1) principal entrance faces the public street.
- Except in the C3S District, on-site accessory parking facilities shall be located to the rear or interior of the site, within the principal building served, or entirely below grade.
- For new construction, the building façade shall provide architectural detail and shall contain windows at the ground level or first floor.
- In larger buildings, architectural elements shall be emphasized.
- The exterior materials and appearance of the rear and side walls of any building shall be similar to and compatible with the front of the building.
- The use of plain face concrete block as an exterior material shall be prohibited where visible from a public street or a residence or office residence district.
- Entrances and windows:
 - Residential uses shall be subject to section 530.110 (b) (1).
 - Nonresidential uses shall be subject to section 530.110 (b) (2).
- Parking Garages: The exterior design shall ensure that sloped floors do not dominate the appearance of the façade and that vehicles are screened from view. At least thirty (30) percent of the first floor façade that faces a public street or sidewalk shall be occupied by commercial uses, or shall be designed with architectural detail or windows, including display windows, that create visual interest.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- This development reinforces the street wall, maximizes natural surveillance and facilitates pedestrian access. The building is located on the property lines, there is an entrance on the northeast corner of the building that can be accessed by employees and customers and there are large windows along

both the Riverside Avenue and 21st Avenue South sides of the building where people can see in and out.

- The exterior materials of the building include brick and painted rock-face concrete block. The applicant is proposing to remove all of the existing windows and a portion of the east wall of the building and replace them with larger windows. Once the new windows have been installed the applicant will repair the walls. The Planning Division is recommending that when the applicant demolishes the east wall that the existing rock-face concrete block be saved and reused or that the applicant use the same type of rock-face concrete block so that the exterior walls of the building remain uniform. In addition, the three walls of the building, excluding the brick wall facing Riverside Avenue, are in need of painting. The Planning Division is recommending that these walls be painted.
- The percentage of windows required on the Riverside Avenue and 21st Avenue South sides of the building is 30 percent. According to the submitted drawings, there will be more than 30 percent windows on both sides of the building.

ACCESS AND CIRCULATION

- **Clear and well-lighted walkways of at least four (4) feet in width shall connect building entrances to the adjacent public sidewalk and to any parking facilities located on the site.**
- **Transit shelters shall be well lighted, weather protected and shall be placed in locations that promote security.**
- **Vehicular access and circulation shall be designed to minimize conflicts with pedestrian traffic and surrounding residential uses.**
- **Traffic shall be directed to minimize impact upon residential properties and shall be subject to section 530.140 (b).**
- **Areas for snow storage shall be provided unless an acceptable snow removal plan is provided.**
- **Site plans shall minimize the use of impervious surfaces.**

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- The building entrance is located at the property line directly off of the public sidewalk.
- There is an existing bus stop and bench located directly in front of the building which the applicant is not proposing to change.
- The applicant has indicated that snow will be kept on the site.

LANDSCAPING AND SCREENING

- **The composition and location of landscaped areas shall complement the scale of the development and its surroundings.**
- **Not less than twenty (20) percent of the site not occupied by buildings shall be landscaped as specified in section 530.150 (a).**
- **Where a landscaped yard is required, such requirement shall be landscaped as specified in section 530.150 (b).**
- **Required screening shall be six (6) feet in height, unless otherwise specified, except in required front yards where such screening shall be three (3) feet in height.**
- **Required screening shall be at least ninety-five (95) percent opaque throughout the year. Screening shall be satisfied by one or a combination of the following:**

- A decorative fence.
- A masonry wall.
- A hedge.
- Parking and loading facilities located along a public street, public sidewalk or public pathway shall comply with section 530.160 (b).
- Parking and loading facilities abutting a residence or office residence district or abutting a permitted or conditional residential use shall comply with section 530.160 (c).
- The corners of parking lots shall be landscaped as specified for a required landscaped yard. Such spaces may include architectural features such as benches, kiosks, or bicycle parking.
- Parking lots containing more than two hundred (200) parking spaces: an additional landscaped area not less than one hundred-fifty (150) square feet shall be provided for each twenty-five (25) parking spaces or fraction thereof, and shall be landscaped as specified for a required landscaped yard.
- All parking lots and driveways shall be defined by a six (6) inch by six (6) inch continuous concrete curb positioned two (2) feet from the boundary of the parking lot, except where the parking lot perimeter is designed to provide on-site retention and filtration of stormwater. In such case the use of wheel stops or discontinuous curbing is permissible. The two (2) feet between the face of the curb and any parking lot boundary shall not be landscaped with plant material, but instead shall be covered with mulch or rock, or be paved.
- All other areas not governed by sections 530.150, 530.160 and 530.170 and not occupied by buildings, parking and loading facilities or driveways, shall be covered with turf grass, native grasses or other perennial flowering plants, vines, mulch, shrubs or trees.
- Installation and maintenance of all landscape materials shall comply with the standards outlined in section 530.220.
- The city planning commission may approve the substitution or reduction of landscaped plant materials, landscaped area or other landscaping or screening standards, subject to section 530.60, as provided in section 530.230.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- The applicant has indicated that the building occupies approximately 98 percent of the site. The area that is not occupied by the building is grass. The applicant is not proposing to make any changes to this area.

ADDITIONAL STANDARDS

- Lighting shall comply with the requirements of Chapter 535 and Chapter 541. A lighting diagram may be required.
- Parking and loading facilities and all other areas upon which vehicles may be located shall be screened to avoid headlights shining onto residential properties.
- Site plans shall minimize the blocking of views of important elements of the city.
- Buildings shall be located and arranged to minimize shadowing on public spaces and adjacent properties.
- Buildings shall be located and arranged to minimize the generation of wind currents at ground level.
- Site plans shall include crime prevention design elements as specified in section 530.260.

- **Site plans shall include the rehabilitation and integration of locally designated historic structures or structures that have been determined to be eligible to be locally designated. Where rehabilitation is not feasible, the development shall include the reuse of significant features of historic buildings.**

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- A lighting plan showing footcandles was not submitted as part of the application. Staff is recommending that a lighting plan showing footcandles be submitted as part of the final plans.
- The building is existing and would not block views of important elements within the city.
- This building is existing and would cast no new shadows on surrounding properties.
- This development should not contribute to groundlevel winds.
- The existing building is not designated as historic, nor is the site.

Section B: Conformance with All Applicable Zoning Code Provisions and Consistency with the Comprehensive Plan

ZONING CODE

See conditional use permit finding number six above.

THE MINNEAPOLIS PLAN

The site is designated as retail-commercial in the comprehensive plan. The site is located on Riverside Avenue which is a designated Community Corridor. This site is also located within the designated Cedar-Riverside Activity Center. According to the principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

- Require that buildings incorporate a pedestrian orientation at the street edge (Implementation step for Policy 4.7).
- Provide appropriate physical transition and separation using green space, setbacks or orientation between residential and non-residential uses (Implementation step for Policy 9.15).
- Use the site plan review process to ensure that lighting and signage associated with non-residential uses do not create negative impacts for residentially zoned property (Implementation step for Policy 9.15).
- Integrate “eyes on the street” design principles into site plan review to foster safer and more successful commercial areas in the city (Implementation step for Policy 9.17).

Given the location of the entrance to the building and the use of goose-neck lighting along the north and east sides of the building, the Planning Division does not believe that noise and light will have an impact on the adjacent residential building. The additional windows that the applicant will be installing along the north and east walls of the building will allow better views into and out of the building during business hours.

Section C: Conformance with Applicable Development Plans or Objectives Adopted by the City Council

There are no small area plans adopted by the city for this particular location.

ALTERNATIVE COMPLIANCE

The Planning Commission may approve alternatives to any major site plan review requirement upon finding any of the following:

- The alternative meets the intent of the site plan chapter and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, transit facilities, bicycle facilities, preservation of natural resources, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
- Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
- The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

COMMUNITY PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT – PLANNING DIVISION RESPONSE

- Alternative compliance is not warranted for this development.

RECOMMENDATIONS

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 application to allow the delicatessen to stay open until 3 am, seven days a week located at 2037 Riverside Avenue.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to reduce the required number of off-street parking spaces for a delicatessen from 16 spaces to 14 spaces located at 2037 Riverside Avenue subject to the following conditions:

1. The applicant shall install a bicycle rack that can accommodate a minimum of four bicycles. The bicycle rack shall be located near the main entrance of the building.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the site plan review:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the site plan review application for a delicatessen located at 2037 Riverside Avenue subject to the following conditions:

1. All rock-faced concrete block on the east elevations shall be uniform in appearance.
2. The walls of the building, excluding the brick wall facing Riverside Avenue, shall be painted.
3. A lighting plan showing footcandles shall be submitted as part of the final plans.
4. Refuse storage containers shall not be stored outside of the building.
5. Approval of the final site, landscaping, fence and elevation plans by the Community Planning and Economic Development Department – Planning Division.
6. All site improvements shall be completed by January 24, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Attachments:

1. Statement of proposed use
2. Explanation of why Jimmy John's is not a fast food restaurant
3. Variance and conditional use permit findings
4. Police Incidents from Property Info (CNAP)
5. Parking maps
6. Letter to Council Member Zerby
7. E-mails to the West Bank Community Coalition and the Cedar-Riverside Business Association
8. Correspondence from adjacent property owners
9. Zoning Map
10. Site plan, floor plans and elevations
11. Photographs of the site and surrounding area