

**Department of Community Planning and Economic Development—Planning Division**  
**Conditional Use Permit for Extended Hours and Site Plan Review**  
**BZZ-2218**

**Hearing Date:** 3/28/05

**Applicant:** Barb Schneider, Border Foods, 965 Decatur Ave. N., Golden Valley, MN 55427,  
763-489-2970

**Address of Property:** 215 E. Lake St., Minneapolis, MN

**Project Name:** Extended hours application and site plan review applications for an existing  
Taco Bell restaurant

**Contact Person and Phone:** Peter Roos, 3313 Rainbow Drive, Minnetonka, MN 55345, 612-  
269-2204, plroos@msn.com

**Staff Contact Person and Phone:** J. Michael Orange, Principal Planner. Phone: 612-673-2347;  
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**Date Application Deemed Complete:** 2/7/05

**End of 60-Day Decision Period:** 4/8/04

**End of 120-Day Decision Period:** N/A

**Ward:** 8      **Neighborhood Organization:** Central Neighborhood Improvement Assoc.,  
Phillips West Neighborhood Assoc.

**Existing Zoning:** C2, Neighborhood Corridor Commercial District

**Zoning Plate Number:** 24

**Proposed Use:** Application by Border Foods for a site plan review application and a conditional  
use permit to extend the allowable hours of operation from 10 pm to 4 am Sunday through  
Thursday and 11 pm to 4 am on Friday through Saturday at the existing Taco Bell located at 215  
E. Lake St.

**Prior approvals:** None

**Concurrent Review:** Conditional use permit for extended hours and site plan review

**Applicable zoning code provisions:** Chapter 525, Article VII, Conditional Use Permits; Chapter  
530 site plan review

**If you need more information or have special needs, please call the  
Minneapolis Planning Department at 612-673-2597.**

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**Background:** This is an existing building located within the commercial area of E. Lake St. The Inspections Department cited the owner for operating until 4 am without the appropriate conditional use permit. The applicant has stated that the business is currently complying with the business hours called for in the C2 District pending the outcome of the subject conditional use permit.

The City implemented limits on hours that business may be open to the public on June 16, 1983. Hours businesses can be open to the public in the C2 District are 6:00 a.m. to 10:00 p.m. Sunday through Thursday and 6:00 a.m. through 11:00 p.m. Friday and Saturday. According to the applicant, the restaurant including its drive through window has been open 7 days a week from 6 a.m. until 4 a.m. for many years.

Noise is the most serious impact of the proposed extended hours application on nearby residential areas located to the south (75 feet from the drive through lanes) and southeast (more than 150 feet from the drive through lanes). Planning staff believe that limited extended service would be acceptable provided the noise and headlight glare are mitigated through landscaping and screening. The other recommended conditions of approval address the existing deficiencies of the site relative to the current Zoning Code.

Attachment 9 includes letters regarding the application. Attachment 5 includes the applicant's arguments in favor of the application.

**A. CONDITIONAL USE PERMIT**

**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.**

According to the applicant, "Any additional noise or traffic generated in the area should have a negligible impact on the properties located on the block."

Fast food restaurants with drive-through service can generate a substantial amount of traffic, noise (e.g., vehicles, speaker boxes), and light pollution (e.g. headlight glare and parking lot lighting) compared to other uses allowed in the C1 and C2 Districts. Residential uses are located to the south and southeast of the site (refer to Attachment 2). Headlight glare and noise from vehicular movements and especially loud vehicle radios might impact the residences when vehicles access the parking lot and especially when they use the drive-through facility. The proposed extended operation would expand these impacts after normal business hours. Vehicles access the site primarily via Lake St. and

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secondarily via 3<sup>rd</sup> Ave. S. Existing parking lots separate the site from the closest residences to the south and southeast.

The area has other businesses with 24-hour service and 24-hour work shifts. The Planning Commission approved on 9/13/04, the extension of hours to the McDonalds restaurant located across Lake St. to the north to allow 24-hour operation of the drive-through service only. A limited extension of the hours of operation to 4 a.m. would be acceptable provided the site improvements described in the portion of this report regarding the site plan review application are implemented. These improvements would provide additional screening and landscaping on all sides of the site. This will limit the potential for off-site impacts from headlight glare and noise, and will significantly enhance the aesthetics of the site.

**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.**

The applicant's statement follows: "The site is zoned C-2 Commercial Corridor District. It is bordered to the north (across Lake Street) by a fast food use (C-2) and a used car lot (C-4). Across the alley to the west, there are retail/office uses (zoned C-2 and C-1). Directly to the south is a parking lot zoned OR-1. To the east across 3<sup>rd</sup> Street are retail and auto repair uses zoned C-1 and C-2 respectively.

"The immediate area is comprised of a diverse mix of commercial service businesses and retail uses serving the immediate population and the broader community. The Taco Bell proposes to operate from 10:00 a.m. to 4:00 a.m. daily. The presence of automobiles and pedestrians coming and going from the site should have a negligible impact on the immediate surroundings. To our knowledge the hours of operation have never been a cause for complaint or concern in the past."

Refer to the response to the prior finding.

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

The extended hours will have no impact on access, parking, or drainage. There is sufficient parking on site for the use and to accommodate customers during the proposed extended hour period.

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

With two curb cuts, the site has adequate access. The extension of the hours will have no significant impact on traffic congestion.

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

Applicable policies of the *Minneapolis Plan*:

**4.1 Minneapolis will support development in Commercial Corridors where it enhances the street’s character, improves its ability to accommodate automobile traffic and foster pedestrian movement, and expands the range of goods and services offered.**

**Implementation Steps (selected)**

- Ensure that commercial uses do not negatively impact nearby residential areas.
- Regulate impacts of commercial uses, and in some cases prevent some uses from locating on designated Commercial Corridors, due to their adverse impacts on the viability of nearby residential areas.
- Develop parking facilities and management strategies that balance the following goals: improved customer access, protection of sidewalk traffic; reduced visual impacts and shared use of parking facilities.
- Ensure that parking structures and surface lots conform to identified design principles. (See discussion of traditional urban form in Chapter 9.)
- Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

**4.2 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.**

**Implementation Steps (selected):**

- 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.**

**Implementation Steps (selected):**

- 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 uses.

**City’s Eight Goals (selected):** Create strong, vital commercial corridors city-wide through mixed-use development, including a variety of businesses and creative housing.

**Consistency of the Project with the *Minneapolis Plan* and the City’s Eight Goals:**

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The site is located within the Commercial Corridor area designated for E. Lake St. The use is an appropriate one consistent with the plan. The area has other businesses with 24-hour service and 24-hour work shifts. A limited extension of the hours of operation to 4 a.m. would be acceptable provided the site improvements described in the portion of this report regarding the site plan review application are implemented. These improvements would provide additional screening and landscaping on all sides of the site. This will limit the potential for off-site impacts from headlight glare and noise, and will significantly enhance the aesthetics of the site.

**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 applicant's statement follows: "The restaurant shall adhere to all rules and regulations governing its operation. It has been serving the area for over 27 years and is committed to continuing to be a good neighbor."

As stated above, implementation of the recommended site plan improvements would limit the potential for off-site impacts from headlight glare and noise, and will significantly enhance the aesthetics of the site. This will bring the site more into compliance with the site plan requirements of the Zoning Code.

**In addition, the following findings must be addressed if applying for a conditional use permit for extension of hours open to the public:**

**1. Proximity to permitted or conditional residential uses.**

Residential uses are located to the south and southeast.

**2. Nature of the business and its impacts of noise, light and traffic.**

Refer to the response to Finding # 1 above.

**3. Conformance with applicable zoning regulations, including but not limited to use, yards, gross floor area and specific development standards.**

Refer to the response to Finding # 6 above.

**4. History of complaints related to the use.**

According to Police Dept. incident reports, the property had the following incidents (available upon request):

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	<b>Incidents</b>	<b>between 11 pm and 4 am</b>	<b># of Reports Files</b>
2005	5 (non violent)	2/40% of total	1
2004	78 (8 possibly violent)	6/8% of total	5
Prior	231	not counted	25
Total	314 (16 possibly violent)		31

**B. SITE PLAN REVIEW**

**Findings as Required By the Minneapolis Zoning Code:**

Section A. The site plan conforms to all applicable standards of Chapter 530, Site Plan Review. (See Section A below for evaluation.)

Section B. The site plan conforms to all applicable regulations of the zoning ordinance and is consistent with applicable policies of the comprehensive plan (refer to the above discussions).

Section C. The site plan is consistent with applicable development plans or development objectives adopted by the City Council (refer to the above discussions).

**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.**

**Planning Division Evaluation of Building Placement and Façade Requirements:**

- The drive-through service drive separates the existing building from Lake Street and 3<sup>rd</sup> Ave. The existing parking lot is to the side of the building.
- Between the building and Lake St. are three mature trees and grass. There are no site amenities between the building and 3<sup>rd</sup> Ave., however, staff are recommending screening in this area of the site.
- The primary entrance faces Lake and 3<sup>rd</sup> Ave.
- The windows on the north, east, and west façades equal at least 30% of the facades.

**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 on-site snow storage are provided.**
- **Site plans shall minimize the use of impervious surfaces.**

**Planning Division Evaluation of Access and Circulation:**

- Walkways connect the entrance to the sidewalks on Lake St. and 3<sup>rd</sup> Ave.
- Two-way vehicular access is via Lake St. and 3<sup>rd</sup> Ave. The Lake St. access to the one-way, counter-clockwise circulation for the drive-through drive minimizes vehicle-pedestrian conflicts.
- All areas of the site not used for buildings or parking are landscaped, however the landscaping and screening do not fully meet the Code requirements.

**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.**

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- **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.**

**Planning Division Evaluation of Landscaping and Screening:**

- The lot area is 22,886 sq. ft. After subtracting the footprint of the building (2,207 sq. ft.), the net site is 20,679 sq. ft. The site includes 4,200 sq. ft. of landscaping, which equals 20% of the net site.
- Yard, screening, and landscaping requirements are as follows.
  - Front (Lake St.): Section 530.160 (b) requires a 5-ft. landscaped yard with 4 trees and screening between the street and the parking stall and the drive-through lane. Section 530.150 (1) (b) requires 21 shrubs on the site, most of which should be in Lake St. yard. The existing 5 trees exceed the minimum requirements. The applicant will add a minimum of 18 bushes in the front yards and will add a 3-ft.

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decorative fence that will run along the northern property line and down to the first parking stall on the west side.

- Corner side (3<sup>rd</sup> Ave.): Section 530.160 (b) requires a 5-ft. landscaped yard on 3<sup>rd</sup> Ave., 6 trees, and screening due to the presence of the drive-through lane, however, the drive is located at the property line. To come more into compliance, the applicant should add a 3-ft. decorative fence to partially screen the drive-through lane from the street and sidewalk, and should add at least 3 bushes to the area just north of the curb cut on 3<sup>rd</sup> Ave.
- Rear (south): The Code requires a 5-ft. yard due to the adjacency of the OR1 District and the existing site complies with this requirement. Planning staff recommend a 6-ft. fence that is at least 95% opaque to screen the site from the residences to the south and southeast.
- Interior side (west/alley side): No landscaping or screening is required. There is 6 ft. decorative fence on the adjacent property along the west side of the alley.

**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: The Police Division has reviewed the plans.**
- **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.**

**Planning Division Evaluation of the Additional Standards:**

- The existing lighting has full-cutoff fixtures but they are tipped up such that they can create off-site glare. The applicant will either adjust the direction or replace the fixtures.
- Residential properties are located to the south and southeast. Implementation of the site recommendations will significantly reduce the possibility that headlights will cause glare on to residential areas.
- The site is well lit. After adjusting the lights per the recommendations, there will be less glare on the site. The Police Department reviewed the plans as regards crime prevention design elements.
- There are no issues regarding blocking of significant views, casting of significant shadows, pedestrian-level winds, nor historic districts.

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

**ZONING CODE:**

**Hours of Operation:** Hours businesses can be open to the public in the C2 District are 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. through 11:00 p.m. Friday and Saturday.

Approval of the subject conditional use permit would allow an extension of these hours.

**Dumpster screening:** Section 535.80. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses.

The site has a fully screened trash enclosure but there is a second dumpster on the site. The applicant shall enclose all dumpsters in a fully screened enclosure.

**Signage:** All new signage is required to meet the requirements of the Zoning Code and permits are required from the Zoning Office.

There will be no change to the existing signage.

**MINNEAPOLIS PLAN:**

Refer to Section A of this report.

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

There are no development plans or objectives approved by the City Council for this specific area beyond the Comprehensive Plan.

**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.**

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- **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.**

**Planning Division Analysis Regarding Alternative Compliance:**

- The site is not in compliance with the Code in the following ways:
  - Inconsistent with the Code, this is an existing building that is set back from Lake St.
  - The drive-through lane and parking lot triggers the requirements for landscaped yards and screening requirements on the north and east sides of the site.
  - Existing lighting needs to be redirected or replaced to prevent off-site glare.
  - The applicant must enclose all dumpsters in a fully screened enclosure.
- The addition of decorative fencing, additional landscaping, and redirected parking lot lighting will mitigate the potential adverse impacts from noise, vehicle headlights, and parking lot lighting, and it will enhance the aesthetics of the site. The applicant will enclose all dumpsters in a fully screened enclosure.

**RECOMMENDATIONS**

The 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 extend the allowable hours seven days a week to 4 a.m. for the Taco Bell restaurant located at 215 Lake St. E., with the following condition: The applicant shall post signs for drive-through customers instructing them to turn down car speakers consistent with the City's noise ordinance in order to protect the nearby residents from noise.

The Community Planning and Economic Development—Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the site plan review application for 215 Lake St. E., with the following conditions:

1. The Community Planning and Economic Development—Planning Division shall review and approve the final site and landscaping plans.
2. The applicant shall improve the site with the following changes:
  - The applicant will add a minimum of 18 bushes in the front yards and will add a 3-ft. decorative fence that will run along the northern property line and down to the first parking stall on the west side.
  - The applicant shall add a 3-ft. decorative fence to partially screen the drive-through lane from the street and sidewalk, and should add at least 3 bushes to the area just north of the curb cut on 3<sup>rd</sup> Ave. An acceptable alternative is to obtain an encroachment permit and to add bushes in the right-of-way back of the sidewalk on 3<sup>rd</sup> Ave. to serve as a screen for the drive-through lane.

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- The applicant shall construct a 6-ft. fence that is 95% opaque along the southern property line.
  - The applicant shall redirect all lighting fixtures that might cause glare to leave the site or replace the fixtures as required by section 535.590 of the zoning code.
  - The applicant will enclose all dumpsters in a fully screened enclosure as required by section 535.80 of the zoning code.
3. The applicant shall police on a daily basis all litter on the property out to the street and ensure litter does not leave the site as required by section 536.20 of the zoning code.
  4. If the site improvements exceed \$2,000 in value, the applicant shall submit a performance bond for these improvements prior to the issuance of building permits.
  5. The site improvements shall be completed by March 31, 2006, or the application may be revoked for noncompliance, unless extended by the Zoning Administrator or the City Council.

**ATTACHMENTS**

- 1) Site and zoning map
- 2) Uses in the area
- 3) Site plan
- 4) Floor plan
- 5) Information from the applicant
- 6) Photos of the site and surrounding area
- 7) Data sheet
- 8) Letters from citizens