

# Community Planning and Economic Development Planning Division Report

## Conditional Use Permit and Site Plan Review

**BZZ-2242**

**Date:** April 25, 2005

**Date Application Deemed Complete:** March 8, 2005

**End of 60 Day Decision Period:** May 6, 2005

**End of 120-Day Decision Period:** The applicant extended the time for review to July 31, 2005.

**Applicant:** Peter Roos for Border Foods dba Taco Bell

**Address Of Property:** 425 West Broadway Avenue

**Contact Person And Phone:** Peter Roos, Roos & Associates, 612-269-2204

**Planning Staff And Phone:** Lonnie Nichols, 612-673-5468

**Ward: 5**      **Neighborhood Organization:** Near North

**Existing Zoning:** C-2

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

**Zoning Plate Number:** 8

**Legal Description:** Lot 1 and that part of Lot 2 Block 21 Christmas Lewis Reno & Shermans Addition to North Minneapolis lying East of 5<sup>th</sup> Street North as opened and that part of Lot 1 Block 33.

**Proposed Use:** Restaurant, fast food with drive through and extended hours of operation. The applicant has filed for extended hours of operation to 2:00 a.m. Sunday to Thursday and 3:00 a.m. Friday and Saturday. The existing permitted hours of operation at this establishment are from 6:00 a.m. to 11:00 p.m. Sunday through Thursday and 6:00 a.m. to 12:00 a.m. Friday and Saturday.

**Concurrent Review:** Site Plan Review and Conditional Use Permit for extended hours of operation

**Appropriate Section(s) of the Zoning Code:** 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.

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**Background:** The applicant has indicated that a restaurant business has existed at 425 West Broadway since 1987, and that Border Foods has owned the property and operated a Taco Bell with drive through service using extended hours of operation to approximately 2:00 am weekdays and 3:00 am weekends without a CUP over the past several years, until requested to stop the practice by the City. Due to a neighborhood concern with a nearby business, apparently all businesses in the area were notified by the City of the hours of operation permitted in their respective zoning districts, and asked to operate in compliance with those hours unless a conditional use permit for extended hours of operation is or had been granted. As per the zoning administrator, Taco Bell is grandfathered to operate until 11:00 pm Sunday through Thursday and until 12:00 am (Midnight) on Friday and Saturday, due to its previous classification in the B3C2 district. The Northside Residents Redevelopment Council met with the applicant in March 2005, and voted to deny the conditional use permit for the extension of hours. NRRC staff provided City Planning with a letter in opposition to the proposed extension of hours, and staff has received written statements from four other residential neighbors, including the President of the nearby Park Place town home association in opposition to the extension of hours. The applicant has countered that he was not allowed adequate presentation and discussion time at the neighborhood meeting. A list of existing hours of operation for businesses on West Broadway is being researched for discussion purposes. The item was continued from the April 11, 2005, City Planning Commission.

**Findings as required by the Minneapolis Zoning Code for a Conditional Use Permit:**

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 for extended hours of operation:

**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 of the area, particularly for nearby residents, but should not endanger the public health, safety, or welfare in the area. Three nearby residents submitted statements in opposition to the extension of hours.

**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 West Broadway Avenue, which is a commercial corridor from the Mississippi River to 26<sup>th</sup> Avenue North. The property fronts Broadway Avenue near Interstate 94, and the area contains a mix of commercial and retail uses. The property is bordered by C2 (Neighborhood Corridor Commercial) zoned properties to the South (vacant lot), East (Wendy's), and North (commercial/retail). A C3S (Community Shopping Center) district (Broadway Shopping Center) is located to the West, and I1 (light industrial) district (Kemp's Dairy) to the Northwest of the subject property. An R4 (medium density multiple-family) zoning district of town homes is located South of the site.

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- 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 Sunday through Thursday and from 10:00 am to 3:00 am Friday and Saturday. Taco Bell is a fast food restaurant with a drive through facility. Given that West Broadway Avenue is a commercial corridor in this area and the mix of other commercial/retail destinations in the general vicinity, staff has estimated that the majority of Taco Bell's customers arrive by motor vehicle, even though frequent bus service is available.
- 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 adopted in 1999 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. Taco Bell, however, is grandfathered to operate until 11:00 pm Sunday through Thursday and until 12:00 am (Midnight) on Friday and Saturday, due to its previous classification in the B3C2 district under the 1963 code. The existing freestanding Taco Bell pole sign has grandfather rights to 96 sf, 16 sf above that allowed in the C2 district. Two existing wall-mounted signs are code compliant.
- d) Complaints received. Staff printed a police incidents report for 425 West Broadway (Taco Bell) from the City of Minneapolis property information webpage. There have been 9 incidents, including one unknown trouble at 2:15 am, reported from January 1, 2005, through March 25, 2005. From January 1, 2004, to December 31, 2004, there were 51 incidents and 4 reports filed, including 10 disturbances during extended hours. In all of 2003, there were 42 incidents with 9 reports filed, including 7 disturbances during extended hours. As a comparison, staff printed a police incidents report for 421 West Broadway (Wendy's) from the City of Minneapolis property information webpage. There have been 12 incidents, including two during extended hours, reported from January 1, 2005, through March 25, 2005. From January 1, 2004, to December 31, 2004, there were 58 incidents and 4 reports filed, including 8 disturbances during extended hours. In all of 2003, there were 54 incidents with 4 reports filed, including 14 disturbances during extended hours. Staff received written statements from four (4) nearby residents and a letter from the neighborhood organization in opposition to the extension of hours for Taco Bell.

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

Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided. The applicants have an existing easement agreement with adjacent neighbor, Wendy's fast food, for access, ingress and egress to and from the site off of West Broadway Avenue.

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

The site provides parking to the North and West of the building along the perimeter of the site. Nineteen parking stalls ( $926 \text{ sf} \times .30 = 277.8/15 = 18.52$ ), and one HC stall are required. Taking into account increased landscaping proposed for the site and the removal of 3 nonconforming parking stalls adjacent to the drive through window, the applicant should still be able to provide 22 parking stalls, including two van accessible HC stalls.

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

**MINNEAPOLIS PLAN:** The comprehensive plan shows West Broadway Avenue as a commercial corridor from the Mississippi River to 26<sup>th</sup> Avenue North. 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 commercial corridors with the adoption of this Plan.

**4.3 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.**

**Relevant Implementation Steps**

Ensure that commercial uses do not negatively impact 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 with identified design principles.

Reduce the impact of non-residential uses on neighboring residential areas by considering appropriate access, buffering between incompatible uses and regulating hours of operation.

Require that street design for Commercial Corridor streets provide automobile access and parking in keeping with traditional urban form

Require that street designs provide high quality access to Commercial Corridors for pedestrians and cyclists, as well as facilitate transit service and through passage of traffic.

**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.

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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* identifies West Broadway from the Mississippi River to 26<sup>th</sup> Avenue North as a Commercial Corridor. Chapter 9, section 28 states 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. *The Minneapolis Plan* identifies the intersection of West Broadway Avenue and Lyndale Avenue North, where the 501 West Broadway strip-mall is located, as the Auto-Oriented Commercial Center for North Minneapolis. Chapter 9, section 30 of the plan states Minneapolis will support a limited number of Auto-Oriented Shopping Centers while promoting their compatibility with the surrounding area and their accessibility to bus, bicycle and foot traffic. Given the establishment date of Taco Bell (1987), its proximity to an existing auto-oriented commercial center, and the proposed physical improvements, the site is in conformance with these sections of the Minneapolis Plan. 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 modifications are implemented to provide additional landscaping, lighting is reviewed and updated to meet code as needed, and the parking area is re-stripped to provide a minimum of 20 parking stalls, including one van accessible HC stall and 22 foot width two-way drive aisles, the establishment will conform to the applicable regulations of the district in which it is located. The menu board for placing orders is located on the South side of the building and faces a vacant C-2 parcel that is adjacent to a residential district and currently for sale. Concerns about late night hours at fast food restaurants usually involve the operation of a drive through window.

**Required Findings for Major Site Plan Review**

**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 FAÇADE:**

- 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.

The one-story building was constructed in 1985 and has a building footprint of 2004 sq. ft. The primary building façade material is stucco and exterior appearance of the rear and side wall is similar to and compatible with the front of the building. The applicant is not proposing any changes to this existing building that is located approximately 75 feet back from both Broadway Avenue and 5<sup>th</sup> Street North. The area between the building and the lot lines does not currently include amenities, but the applicant has proposed perimeter landscaping along Broadway and 5<sup>th</sup> Street and in the drive through area as part of the proposed revisions to the site. Window percentages were not provided by the applicant, but the existing glazing facing Broadway Avenue appears to meet the 30 percent first floor façade requirement. The building is oriented so that one (1) principal entrance faces 5<sup>th</sup> Street North. The configuration of the site provides adequate natural surveillance and visibility.

**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.

The applicant has existing well-lighted walkways of at least four (4) feet in width on the North and West sides of building that connect the entrances to the on-site parking area. Vehicular access and circulation is designed to minimize conflicts with pedestrian traffic and surrounding residential uses. 5<sup>th</sup> Street North, at the Western edge of the site is a one way street headed North to Broadway Avenue, which reduces potential conflicts with the residential town homes located to the south of the site. The applicants have an existing easement agreement with adjacent neighbor, Wendy's fast food, for access, ingress and egress to and from the site off of West Broadway Avenue. The drive through pick up window is located on the East side of the building and directs traffic northward back to Broadway Avenue. The applicant has not shown a snow storage area on the site or landscaping plan. Staff is under the assumption snow will be removed from the site by a contract service. During the preliminary site plan review meeting the applicant indicated Border Foods would not object if the pay phone was removed from the public right of way at the northwest corner of the site. The site provides parking to the North and West of the building along the perimeter of the site. Nineteen parking stalls ( $926 \text{ sf} \times .30 = 277.8/15 = 18.52$ ), and one HC stall are required. Taking into account the proposed increase in landscaping which will reduce the amount of impervious surface area for the site and the removal of 3 nonconforming parking stalls adjacent to the drive through window, the applicant should still be able to provide 22 parking stalls, including two van accessible HC stalls.

## 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.
- 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.

The total lot area is 22,300 sf and the building footprint is 2004 sf. Section 530.150 of the zoning code requires that not less than twenty (20) percent of the site not occupied by buildings (or in this application 4059 sf) shall be landscaped, (calculation: lot area – building footprint x 20% = 22,300 sf – 2004 = 20,296 x .20 = 4059.2). The applicant has proposed 2895 sf or fourteen percent (14%) landscaping (calculation: 2895/20,296 = .1426). Section 530.150 of the code also requires not less than one (1) canopy tree for each one thousand (1000) sf and not less than one (1) shrub per each two-hundred (200) sf of the site not occupied by buildings. In order to be in full compliance, the required plant count for this site is four (4) trees and twenty-one (21) shrubs but not less than would also be required to meet the landscaped yard requirements along the public sidewalks. The applicant has proposed ten (10) trees, 97 shrubs and 6 perennials on the site. As per 530.160(3) of the code requires one tree be provided for each twenty-five (25) linear feet or parking or loading area lot frontage. The applicant will need to provide one more tree along Broadway and may need to space the trees differently along both streets to meet this requirement. There are eight (8) existing trees, smaller in stature, located at the North and South sides of the building that will be retained on the site. The applicant has proposed

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to remove asphalt from the site to create more landscaping area around the perimeter of the site. During the Preliminary Site Plan Review meeting the applicant was instructed to contact the sidewalks division regarding concrete in the interior boulevard and the status of the sidewalk panels, before the proposed asphalt removal occurred. The applicant has requested alternative compliance on landscape area percentage, but planning staff is recommending the applicants add more landscape area to the site, to meet the 4059 sf (20%) requirement, by widening the perimeter strips since there is still ample space available to provide the minimum 22 foot width drive aisle and 18 foot depth parking stalls. The applicant has also submitted a letter from an insurance company that requests Border Foods use materials other than wood mulch in their landscaping. Staff is recommending the rock mulch over filter material shown on the landscaping plan be replaced with sod, wood chip mulch, or another material other than rock mulch that is acceptable to planning staff.

**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.**

Lighting shall comply with the requirements of Chapter 535 and Chapter 541 of the zoning code. There are some existing flood lights on the building that may need to be removed or replaced to meet the code. The proposed site plan does not block views of important elements of the city, generate wind currents at ground level, or shadow public spaces or adjacent properties. The City's crime prevention through environmental design (CPTED) specialist has reviewed the plan and recommends that all vegetation should follow the 3 foot 6 foot rule, which states that screening should not exceed three feet in height and that the canopies of trees should be over six feet in height allowing a window of visibility into the site. The applicant has not proposed screening along the south property line due to safety concerns over creating a hiding place for undesirable activity on the vacant lot between the Taco Bell property and nearby residential properties. Since the lot is currently for sale, staff is recommending that appropriate screening be added to the south property line of the lot should the adjacent lot to the South be sold and developed for a residential use.

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

**ZONING CODE:**

**Specific Development Standards:**

Section 536, Specific Development Standards, requires that for a restaurant drive through, the premises,

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all adjacent streets, sidewalks, and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for the purposes of removing litter.

**Hours of Operation:**

Hours of operation allowed under the C2 zoning 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. However, due to the establishment date of the business, the applicant has grandfather rights to operate the Taco restaurant and drive through from 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.

**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.

**Window obstructions:**

543.350. Window signs. Window signs shall be allowed, provided that such signage shall not exceed thirty (30) percent of the window area, whether attached to the window or not, and shall not block views into and out of the building at eye level. Window signs shall be included in the calculation of the total permitted building sign area, except as provided for temporary signs in section 543.330.

**Signage:**

The existing freestanding Taco Bell pole sign has grandfather rights to 96 sf, 16 sf above that allowed in the C2 district. Two existing wall-mounted signs are code compliant. This signage is subject to Sections 531 and 543 of the Zoning Code. All other signage, including window signs, is required to meet the requirements of the code.

**MINNEAPOLIS PLAN:**

See finding #5 in the Conditional Use Permit Section of this report.

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

*Above the Falls: the Upper Mississippi River Master Plan* was approved by the City Council. Above the Falls calls for low density residential development in this area (land use map, page 59) over time. However, staff believes that since two fast food restaurants with drive through facilities (Wendy's and Taco Bell) already exist in this C2 district, and there is a strip mall located in an adjacent C3S zoning district that the Minneapolis Plan identifies as an Auto-Oriented Commercial Center, the use with site improvements and landscaping is in conformance with development plans and objectives adopted by the City Council.

**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.

The applicant has requested alternative compliance on landscape area percentage down to 14% of the site not occupied by the building, but planning staff is recommending the applicants add more landscaped area to the site, to meet the 4059 sf (20%) requirement, by widening the perimeter strips since there is still ample space available to provide the minimum 22 foot width drive aisle and 18 foot depth parking stalls.

**RECOMMENDATIONS OF THE COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT PLANNING DIVISION:**

**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 **deny** the conditional use permit for extended hours of operation from 11:00 pm to 2:00 am Sunday through Thursday and from 12:00 am (Midnight) to 3:00 am Friday and Saturday for an existing fast food restaurant located at 425 West Broadway Avenue.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Site Plan Review:**

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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 an existing fast food restaurant located at 425 West Broadway Avenue, subject to the following conditions:

- 1) CPED Planning Division review and approval of the final site and landscaping plans.
- 2) The final site plan shall show a minimum of 22 feet wide two-way drive aisles and twenty (20) parking spaces, including one van accessible handicapped space to meet the parking requirement.
- 3) The final site plan shall show landscaping on 20% of the site not occupied by the building footprint.
- 4) The final site plan shall show a note for fencing/screening compliant with the code along the South property line be added to the site should the adjacent lot be sold and developed for a residential use.
- 5) The final site plan shall include a description of the snow removal plan.
- 6) Lighting shall comply with the requirements of Chapter 535 and Chapter 541 of the zoning code.
- 7) If the applicant has an ambient adjustor for the drive-through speaker, it shall be replaced with a system that can be regulated and a maximum volume set. The applicant shall further work with Environmental Inspections to control noise generation.
- 8) 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 as required by Chapter 536 of the zoning code.
- 9) The applicant shall provide a performance bond in an amount equal to 125% of the cost of site improvements or the permit may be revoked for noncompliance.
- 10) All site improvements shall be completed by April 25, 2006, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

**Attachments:**

1. Extension letter, statement of use letters, and findings
2. Insurance letter about wood chip mulch and legal description
3. Correspondence from Neighborhood Organization and Residents
4. Police Incidents Reports
5. Preliminary Site Plan Review meeting notes
6. Zoning maps, Site and Landscaping Plans and Floor Plans
7. Photos