



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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DATE: August 14, 2015
TO: Planning Commission
FROM: Zoning Committee
SUBJECT: Results of August 13, 2015 Zoning Committee Hearing

OLD BUSINESS

1. **Taco Bell/Border Foods (15-134-559)**
Conditional use permit with modification for drive-thru sales, to increase the maximum number of off-street parking spaces, and variances of minimum floor area ratio (0.5 required, 0.11 proposed), window and door openings of front facade length (50% required, 47% proposed), and interior parking lot landscaping (15% required, 12% proposed).

Address: 565 Snelling Ave N
SW corner at Edmund

District Comment: District 11 recommended denial

Support: 0 people spoke, 1 letter

Opposition: 4 people spoke , 5 letters

Hearing: closed

Motion: Approval with conditions (revised)

	<u>Recommendation</u>
<u>Staff</u>	<u>Committee</u>
Denial	Approval with conditions (5 - 0)

NEW BUSINESS

2. **Dr. Marie Wang (15-144-605)**
Change of nonconforming use from a law office to psychiatry office and apartment

Address: 1450 Frankson Ave
between Pascal and McKinley

District Comment: District 10 made no recommendation

	<u>Recommendation</u>
<u>Staff</u>	<u>Committee</u>
Approval With Conditions	Approval (5 - 0)

Support: 0 people spoke, 0 letters
Opposition: 0 people spoke , 0 letters
Hearing: closed
Motion: Approval

		<u>Recommendation</u>
	<u>Staff</u>	<u>Committee</u>
3. Mike and Joelle Olson (15-138-929) Establishment of nonconforming use as a triplex	Denial	Laid Over (4 - 1)
Address:	897 Goodrich Ave between Victoria St. S. and Milton St.	
District Comment:	District 16 recommended approval	
Support:	0 people spoke, 5 letters	
Opposition:	0 people spoke , 5 letters	
Hearing:	closed	
Motion:	Lay over to September 10, 2015	

city of saint paul
planning commission resolution
file number
date

WHEREAS, Border Foods Inc., File # 15-134-559, has applied for a conditional use permit with modification of the distance requirement for drive-through sales; a conditional use permit to increase the maximum number of off-street parking spaces; and variances of minimum floor area ratio (0.5 required, 0.11 proposed), window and door openings of front facade length (50% required, 47% proposed), and interior parking lot landscaping (15% required, 12% proposed). under the provisions of § 61.501; 61.601; 61.202(b); §63.207(c); §65.513; §65.615; §66.331; and §66.343 of the Saint Paul Legislative Code, on property located at 565 Snelling Ave N, Parcel Identification Number (PIN) 332923140031, legally described as R B Thompsons Addition Ex S 6.05 Ft Of W 37.42 Ft & Ex S 1 Ft Of E 10.5 Ft Lot 2 & All Of Lot 1 In Stirerle Mc Conville & Seegers Midway Add & In Sd R B Thompsons Add Lots 1 Thru Lot 3; and

WHEREAS, the Zoning Committee of the Planning Commission, on July 16, 2015, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, additional information was provided to the committee regarding the operations of fast food restaurants with drive-through windows within the Saint Paul city limits, conditions of operation of those restaurants; and the nature of the variance requests at the July 30, 2015 zoning committee meeting; and

WHEREAS the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant, Border Foods, intends to demolish the existing restaurant at 565 Snelling Avenue North and construct a new Taco Bell restaurant at the same location, but with a different site plan. As stated above, this triggers the requirement for a new conditional use permit application. The configuration of the drive-through and traffic flow will change, as will the number of parking spaces, and the location of the structure on the property. The applicant seeks a conditional use permit for a drive-through service lane, with a modification of the condition to allow the drive-through lanes to be closer than 60 feet to a residentially zoned or used structure and to increase the maximum number of off-street parking spaces. The applicant also has applied for variances detailed in Finding No. 7 of minimum floor area ratio (0.5 required, 0.11 proposed), window and door openings as a percentage of front facade length (50% required, 47% proposed), and interior parking lot landscaping (15% required, 12% proposed).

moved by _____
seconded by _____
in favor _____
against _____

2. The building presently located at 565 North Snelling Avenue was constructed in 1973. The land on which the building was constructed was, at that time, zoned "commercial." Fast-food restaurants were a permitted use in a commercial zoning district with a conditional use permit. Prior to 1975, there was one "commercial" zoning district classification for the entire city. In 1975, the zoning code was amended. One purpose of the amendments was to create "finer-grained" zoning districts. As a result, the subject property was rezoned to B3. In 2011, as part of the Central Corridor zoning study, the subject land was rezoned again, this time to T2. Fast-food restaurants are permitted in both B3 and T2 zoning districts with a conditional use permit if over 10,000 sq. ft. Drive-through sales and services are permitted with a conditional use permit in T2 zoning districts and permitted as-of-right in B3 zoning districts.

The first fast-food restaurant was known as Zapata. Consistent with the commercial zoning classification for the property, Zapata obtained a conditional use permit from the city in 1973. At the public hearing for the permit, the Zapata representative said the hours of the restaurant would be 11 a.m. to 11 p.m. during the week and 11 a.m. to 1 or 2 a.m. on weekends. This was not specifically included as a condition of the permits. Each fast-food restaurant occupying the subject property since 1973, including the present occupant, Taco Bell, has used the property subject to the 1973 conditional use permit. At some point in time after 1973, a drive-through window was added to this use. Staff has found no record of any zoning or building permits pulled for the construction and operation of this drive-through window.

Among the 1975 zoning amendments governing fast-food restaurants were two provisions under Leg. Code § 60.564.4(g) which regulated fast-food restaurants with drive-through windows by requiring, that "speaker box sounds from drive-through lanes shall not be plainly audible so as to unreasonably disturb the peace, quiet and comfort of abutting residential property and .4(i) that "impact on adjoining property by use of the site may not result in the following: (1) Loud, boisterous and disturbing noise levels; (2) Hazardous traffic conditions; (3) Offensive, obnoxious and disturbing odors; (4) Excessive litter; (5) Excessive artificial lighting; (6) Substantial decrease in adjoining property values." All of these remain in effect today.

In March 2014 an attorney representing the neighboring residential property owners, Kristine and Mark Vesley, alleged that the Taco Bell was a nonconforming use in a complaint to DSI. In April 2014 the Zoning Administrator issued a letter stating that the business was a conforming use but that if a new drive-through service with a different configuration was proposed, a new conditional use permit would be required for the drive through. This letter was appealed to the Board of Zoning Appeals, which denied the appeal. There are many complaints regarding noise associated with this use filed with the police department and there is a record in the AMANDA system of complaints to DSI regarding noise and the volume of the drive-through speaker box, among others.

3. §65.513 lists the following standards and conditions for drive-through sales and services:
 - (a) *Drive-through lanes and service windows shall be located to the side or rear of buildings, shall not be located between the principal structure and a public street, and shall be at least sixty (60) feet from the closest point of any residentially zoned property or property occupied with a one-, two-, or multiple-family dwelling. This standard is not met. The proposed drive-through service lane and windows are located to the sides and rear of the building's Snelling Avenue frontage. The drive-through service lane as proposed is not 60 feet away the closest point of residentially zoned and used property. The drive-through window is more than 60 feet from the*

adjacent residential zone. The applicant has requested a modification of this condition. See finding No. 4.

- (b) *Points of vehicular ingress and egress shall be located at least sixty (60) feet from the intersection of two streets and at least sixty (60) feet from abutting residentially zoned property.* This standard is met. The single ingress/egress point is at least 60 feet from the intersection of two streets and from abutting residentially zoned property.
- (c) *Speaker box sounds from the drive-through lane shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential property.* This standard **can** be met. According to the applicant, speaker box sounds will not be audible from the closest residential property, 100 feet to the west. A fence and landscaping will be installed along the west side of the property to further minimize noise impacts from the speaker box. The applicant has provided information that demonstrates that sound from the speaker box and drive-through-related sounds generally, will be minimized so as to not be plainly audible on abutting residentially zoned property.
- (d) *A six-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property.* This standard does not apply. There is no adjoining existing residence or residentially zoned property. There is an alley between this property and the existing residence or residentially zoned property to the west.

Additional conditions in the T2 traditional neighborhood district:

- (e) *There shall be no more than one (1) drive-through lane and no more than two (2) drive-through service windows, with the exception of banks, which may have no more than three (3) drive-through lanes.* This condition is met. There is only one drive-through lane and only one drive-through service window.
 - (f) *The number of curb cuts shall be minimized. In light rail station areas, there shall generally be no more than one (1) curb cut on a block face per drive-through. Drive-through sales and services are prohibited along the entire length of block faces adjacent to light rail transit station platforms.* This condition is met. This is in the Snelling Avenue Station area. There is only one curb cut on one block face, the Snelling Avenue face.
4. §65.615 lists standards and conditions for fast-food restaurants. The standards not duplicated elsewhere in these findings are:
- (f) *When the site abuts an alley which also serves residentially zoned land, no access from the site to the alley shall be permitted.* This standard is met.
 - (g) *Trash receptacles shall be housed in a three-sided masonry enclosure, six (6) feet high, or equal in height to the dumpster, whichever is greater, and have an entrance gate constructed of a durable, opaque material.* The site plan included with this application complies with this standard.
 - (h) *A litter collection plan shall be developed and submitted to the planning commission, which obligates the restaurant operator to keep the area surrounding said restaurant free of restaurant litter for a reasonable specified distance.* A litter collection plan has been submitted.
 - (i) *A landscaped area not less than fifteen (15) percent of the impervious surface area of the lot shall be provided and maintained.* This standard is met.
 - (j) *Impact on adjoining property by use of the site may not result in the following:*

- (1) *Loud, boisterous and disturbing noise levels.*
 - (2) *Hazardous traffic conditions.*
 - (3) *Offensive, obnoxious and disturbing odors.*
 - (4) *Excessive litter.*
 - (5) *Excessive artificial lighting.*
 - (6) *Substantial decrease in adjoining property values.*
5. The planning commission may approve modifications of special conditions when specific criteria are met: *Strict application of such special conditions would unreasonably limit or prevent otherwise lawful use of a piece of property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such special condition and is consistent with health, morals and general welfare of the community and is consistent with reasonable enjoyment of adjacent property.* This finding is met. The parcel is approximately 125 feet deep from the Snelling Avenue right-of-way to the alley. There is no way to design the drive through without violating multiple conditions. To meet the 60-foot distance standard for drive-through lanes and windows, the drive-through lanes would have to be placed between the building and the street. This would require that the building be moved away from the corner. Both of which are standards for the zoning district in which the property is located. Strict application of the standard would require a difficult and dangerous turning movement; increase potential for conflicts with pedestrians; and decrease the distance of the speaker box and windows from the abutting residentially-zoned property. The modification will not impair the intent and purpose of the condition and is consistent with health, morals, and general welfare, and is consistent with reasonable enjoyment of adjacent property, provided that design steps are taken to ensure that speaker box sounds are not plainly audible at the abutting residential property line.
6. §63.207(c) *Off-street parking maximum states: Surface parking facilities with more than fifteen (15) spaces that exceed the specified off-street parking minimum...shall not be created unless a conditional use permit is approved based on demonstration of need.* The applicant has requested a conditional use permit to increase the parking maximum. The applicant states that the franchise standards require a minimum of 20 spaces, but did not provide documentation of those standards. The current condition has 29 spaces. This request reduces the number of spaces on the site from the current condition to 20. The applicant's request for increased parking is based on high average daily traffic volumes along Snelling Avenue; lack of on-street parking availability in the neighborhood; a desire to prevent customers from parking in the neighborhood; a need to store snow on site during the winter months; and the inability to accommodate other forms of parking alternatives such as structured or shared parking. However, for an establishment of this size (1,847 square feet) the typical minimum requirement is five (5) spaces. The site is located in a T2 zoning district within ¼ mile of the Green Line LRT and within the Snelling Avenue station area. Given the requirements of §63.207(c) and the location of this facility, the maximum number of spaces at this location without a conditional use permit is 10. However, §63.207(b) *Off-street parking reductions*, allows for a reduction by 100 percent of required parking spaces within ¼ mile of University Avenue, for an effective minimum of zero (0). This reduction is permitted because of enhanced accessibility to sites within a ¼ mile of the light rail line by pedestrians and transit-riders. The supporting material provided by the applicant does not demonstrate enough need to justify permitting four times the minimum number of vehicle parking

spaces in this area. The applicant's representative states that employees are allowed to park in the lot, as are customers, in an attempt to mitigate congestion on the public streets. However, the applicant's documentation does not justify 20 spaces. Allowing 20 spaces also impacts the applicant's ability to meet the standard for interior landscaping, and results in a request for a variance request of three (3) percent less landscaping than required, or 12% instead of 15%.

7. §61.501 lists five standards that all conditional uses must satisfy:

- (a) *The extent, location and intensity of the use will be in substantial compliance with the Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council.* This standard is **partially** met. The use generally complies with the City of Saint Paul's city-wide Comprehensive Plan which seeks, in land use policy 1.24 to "support a mix of uses on Mixed-use corridors" of which Snelling is one and land use policy 1.50 "facilitate the redevelopment of commercial areas where existing buildings are no longer considered functional."

The proposed use is generally not consistent with the Snelling Station Area Plan. The plan includes the following policies regarding land use along Snelling Avenue on the north side of University Avenue:

- Under the introduction to section 4.3 entitled "Revitalize Snelling Main Street" the plan states "North of University Avenue, preserving and strengthening this Lower Main Street pattern [just north of University Avenue] through gradual intensification and infill will help to extend the activity along the corridor north towards Hamline University."
- 4.3.1.a) New development or expansion of existing buildings should be predominantly low to mid-rise in scale up to 3 commercial stories in height or 3 residential stories above one story of first floor retail..
- 4.3.1.f) Ensure first floor units and storefronts have at least one entrance that is oriented towards the Avenue, access points to the station platforms, and/or key gathering places.
- 4.3.2 a) Land uses along Snelling Avenue north of University should support a predominance of commercial and retail uses oriented to meeting local needs.

The use is also not in compliance with the Hamline-Midway Community Plan which included a request to study rezoning the area in question to T2. This was accomplished through the Central Corridor zoning study. The T2 district has standards and requirements for minimum floor area, maximum front yard setback, maximum parking and parking location, maximum signage, and a number of design standards. The applicant worked with staff to develop a site plan that moved somewhat closer to the intent of traditional neighborhood zoning standards and requirements. However, the application for this very auto-oriented use includes a request for three variances from these standards and requirements; the result is a use that does not meet the overall intent of the T2 zoning district, and is not in compliance with the Hamline-Midway Community Plan.

- (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The proposed plan provides a single right-in/right-out access from Snelling Avenue which will minimize congestion in the local streets, as will the stacking lanes provided for the drive through. The location of the drive through and parking spaces is designed to minimize conflicts between vehicles

and pedestrians and business operations' effect on abutting residential properties.

- (c) *The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare.* This condition **can be** met. The proposed new building and site plan replace an outdated and obsolete building and inefficient site. The new building, landscaping, and customer amenities like bicycle racks, may improve the existing character of the neighborhood. The reconfigured drive through will improve upon the existing situation and will provide better stacking of vehicles than in the existing condition. A number of conditions placed on operation of the property will mitigate any detrimental effect to the existing character of the development in the immediate neighborhood as identified in testimony during the public hearing.
 - (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* The fast-food with drive-through use, which is a reconstruction of the existing use, will not itself impede the normal and orderly development of the surrounding properties.
 - a) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition **may be** met subject to approval of a modification of a condition and the approval of several requested variances. The applicant has requested three (3) variances from the applicable regulations of the T2 Traditional Neighborhood District. They are:
 - 1) A variance from the minimum Floor Area Ratio (FAR) of 0.5. The applicant proposes an FAR of .11.
 - 2) A variance from the interior landscaping requirement in a parking area of 15%. The applicant proposes 12%.
 - 3) A variance from the length of required door and window openings of 50 % of the front façade length. The applicant proposes 47%.
8. MN Stat. 462.357, Subd. 6 was amended to establish new grounds for variance approvals effective May 6, 2011. The Board of Zoning Appeals and the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:
- a) *The variance is in harmony with the general purposes and intent of the zoning code.* This standard is **partially** met.
 - i. The proposed variance for Floor Area Ratio (FAR) is not in keeping with the spirit and intent of the code. The minimum FAR in the T2 district is 0.5, nearly five times greater than the FAR of .11 proposed by the applicant. This not in keeping with the Traditional Neighborhood District standards or intent. The T2 traditional neighborhood district is designed for use in existing or potential pedestrian and transit nodes. Its intent is to foster and support compact, pedestrian-oriented commercial and residential development that, in turn, can support and increase transit usage. It encourages, but does not require, a variety of uses and housing types, with careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods. This use is not pedestrian oriented, does not support increased transit usage, and does not pay careful attention to the transition to adjacent residential neighborhoods. Given the amount of landscaping required, the size of the restaurant required by the applicant, and the layout of the site and its proximity to a corner, meeting the floor area ratio (FAR) of .5 is likely to be difficult. The applicant's representative pointed out that

the effective floor area ratio of the site, given the required landscaping and setbacks, is closer to an FAR of .26.

- ii. The request for the proposed variance for the length of required door and window openings of 50% of the front façade length has been effectively withdrawn by the applicant's architect submitting new elevation drawings featuring 51% of the front façade as door and window openings, rather than the initially proposed 47%.
 - iii. The request for a variance of the landscaping requirement is generally in keeping with the general purposes and intent of the zoning code.
- b) *The variance is consistent with the comprehensive plan.* This finding is **partially** met. The use generally complies with the City of Saint Paul's city-wide Comprehensive Plan which seeks, in land use policy 1.24 to "support a mix of uses on Mixed-use corridors" of which Snelling is one and land use policy 1.50 "facilitate the redevelopment of commercial areas where existing buildings are no longer considered functional." However, the use is not in compliance with the Snelling Station Area Plan and Hamline-Midway Community Plan as stated in Finding 6(a) above.
- c) *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.* This finding is **not fully** met.
- i. The applicant has requested a variance from the FAR requirement for this zoning district. The lot size is 16,584 sq. ft. An FAR of .5 could be accomplished with a single-story building of 8,292 sq. ft., or a two-story building of 4,146 sq. ft. on each level. A number of suitable uses could be accommodated in such a structure or a larger restaurant could be constructed. Given that there is no minimum parking required within ¼ mile of University Avenue, a larger structure would not require more parking on the site. However, this variance is requested in order to maintain the existing use on the property, in an enhanced configuration to the one existing, thus the property owner proposes to use the property in a reasonable manner (the existing use).
 - ii. The applicant has requested a variance of the door and window openings. The applicant stated that the layout of interior programming for the franchise in question does not allow for door and window openings to comprise 50% of the length of the building. However, the applicant has provided new elevations that maximize window and door openings in the public areas of the restaurant and is able to achieve door and window openings that comprise 51% of the length of the building. As such, this variance request is effectively withdrawn.
 - iii. The applicant has requested a variance from the interior landscaping requirement for this zoning district. The applicant's request for an increase to the parking maximum of 100 percent or 20 parking spaces causes an inability to provide 15% of the interior landscaping in the parking area. If the applicant reduced the number of parking spaces, which is in excess of the both the minimum requirement and the standard maximum, the applicant could provide the required landscaping, or provide landscaping that results in a smaller variance request. Therefore there is no practical difficulty in complying with the landscaping provision.

- d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner.* This finding is **partially** met. Generally speaking strict adherence to corporate site plans and site programming is a plight created by the landowner.
- i. The applicant has requested a variance from the FAR requirement for this zoning district. The lot size is 16,584 sq. ft. An FAR of .5 could be accomplished with a single-story building of 8,292 sq. ft., or a two-story building of 4,146 sq. ft. on each level. A number of suitable uses could be accommodated in such a structure or a larger restaurant could be constructed. Given that there is no minimum parking required within ¼ mile of University Avenue, a larger structure would not require more parking on the site. However, this variance is requested in order to maintain the existing use on the property, in an enhanced configuration to the one existing, thus the plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - ii. The applicant has requested a variance of the door and window openings. The applicant stated that the layout of interior programming for the franchise in question does not allow for door and window openings to comprise 50% of the length of the building. However, the applicant has provided new elevations that maximize window and door openings in the public areas of the restaurant and is able to achieve door and window openings that comprise 51% of the length of the building. As such, this variance request is effectively withdrawn.
 - iii. The applicant has requested a variance from the interior landscaping requirement for this zoning district. The applicant's request for an increase to the parking maximum of 100 percent or 20 parking spaces causes an inability to provide 15% of the interior landscaping in the parking area. If the applicant reduced the number of parking spaces, which is in excess of the both the minimum requirement and the standard maximum, the applicant could provide the required landscaping, or provide landscaping that results in a smaller variance request. Therefore the plight of the landowner is created by the landowner.
- e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.* This finding is met. This use is allowed in this zoning district subject to approval of a conditional use permit by the Planning Commission.
- f) *The variance will not alter the essential character of the surrounding area.* This finding is met. Granting the variances with modifications of the requests and conditions reflecting those modifications will somewhat improve the essential character of the surrounding area, given that programming of the site is superior to what is in place in the existing condition.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Border Foods Inc. for a variance of window and door openings as a percentage of front facade length (50% required, 47% proposed) at 565 Snelling Avenue North is hereby denied, based on new elevations provided by the applicant demonstrating 51% of the front facade length being window and door openings is possible; and based on findings 7(a)(ii), 7(c)(ii), 7(d)(ii), 7(e), and 7(f); and

BE IT FURTHER RESOLVED, that the application of Border Foods Inc. for a variance of interior parking lot landscaping at 565 Snelling Avenue North is hereby approved based on findings

7(a)(iii), 7(c)(iii), 7(d)(iii) subject to the condition that a new site plan is submitted with no more than 18 parking spaces and demonstrating at least 14 percent interior landscaping for an effective variance of 1 percent; and

BE IT FURTHER RESOLVED, that the Commission hereby directs the Zoning Administrator to annually review the operations permitted under this permit and determine whether the operations are in compliance with the permit's conditions. The Administrator shall report the results of this review to the Commission together with any recommendation for the Commission to exercise its powers under Leg. Code § 61.108. The Administrator's review shall include a consultation with the Saint Paul Police Department for complaints it may receive regarding the operations permitted under this permit; and

BE IT FINALLY RESOLVED, that the application of Border Foods Inc. for a conditional use permit with modification of the distance requirement for drive-through sales; a conditional use permit to increase the maximum number of off-street parking spaces; and variance of minimum floor area ratio (0.5 required, 0.11 proposed) at 565 Snelling Ave N is hereby approved, based on findings two (2) through seven (7), subject to the following conditions:

1. The new building shall comply with the 50-percent code requirement of door and window openings and show at least 51-percent door and window openings on the appropriate facades.
2. A new site plan shall be submitted that shows no more than 18 parking spaces and at least 14 percent interior landscaping.
3. The hours of operation of the drive-through portion of the restaurant shall be no earlier than 7 a.m. and no later than midnight Sunday through Thursday and shall be no earlier than 7 a.m. and no later than 1 a.m. on Friday, and Saturday. In addition, the dining room shall close no earlier than two hours prior to the close of the drive through window.
4. No access from the site to the alley or from the alley to the site shall be permitted.
5. Trash receptacles shall be housed in a three-sided masonry enclosure, six (6) feet high, or equal in height to the dumpster, whichever is greater, and have an entrance gate constructed of a durable, opaque material. This structure shall have a permanent, roof, lid, or cover.
6. A revised litter collection plan shall be developed and submitted to the planning commission and the zoning administrator, which obligates the restaurant operator to keep the area surrounding said restaurant free of restaurant litter for a reasonable specified distance. The plan shall address the following operational issues:
 - a) A description of the hours of operation of the fast food restaurant and how those hours are divided into employee shifts.
 - b) A description of the numbers of times within each shift when restaurant employees will police the site to collect and to dispose of litter.
 - c) An inspection schedule for external trash receptacles on site of at least twice during each shift to determine whether the receptacles should be emptied.
7. Impact on adjoining property by use of the site may not result in the following:
 - a) Loud, boisterous and disturbing noise levels,
 - b) Hazardous traffic conditions,
 - c) Offensive, obnoxious and disturbing odors,
 - d) Excessive litter,
 - e) Excessive artificial lighting,
 - f) Substantial decrease in adjoining property values.

8. Parking in the lot shall be limited to 30 minutes and signed as such. Employees parking on the site during shifts are exempted. It shall be incumbent upon the management to alert any security or police officers patrolling the site to those vehicles owned and maintained on the site by employees during shifts.
9. Staff shall be trained to call the police when encountering any behavior that has the effect of impacting adjoining property.
10. A camera system shall be installed and maintained to monitor activity in the restaurant and parking area.
11. The drive-through intercom system installed shall be equivalent to that of the drive-through communication system specified in writing by the applicant. This intercom system shall not be plainly audible so as to unreasonably disturb the peace and quiet beyond a line drawn down the center of the alley adjoining the property. It shall also not be plainly audible so as to unreasonably disturb the peace and quiet across the street. In addition, the applicant, management, and employees must ensure that the intercom system is in working order which includes that the automatic reduction of sound volume for night-time operation as specified by the manufacturer is not altered or tampered with.
12. No more than three deliveries by semi-tractor-trailer vehicles may take place each week. Semi-tractor-trailer deliveries may not take place prior to 7 a.m. and may not take place later than 10 p.m.
13. Until such a time as becomes impracticable due to changing transit infrastructure, all deliveries shall take place on the Snelling Avenue side of the property, if possible, as determined in cooperation with Saint Paul Police Department's Western District FORCE Unit and/or with traffic engineering staff in the Saint Paul Department of Public Works.
14. A private-duty security company or off-duty police officer shall be present at the site between the hours of 10 p.m. and the time the last employee leaves the business during at least the Friday and Saturday late-night operations of the drive through. The management and staff shall work with the Saint Paul Police Department's Western District FORCE Unit on security measures.
15. A revised site plan and building design/elevations shall be submitted demonstrating any modifications or changes as specified by the committee, to the zoning administrator for approval by said zoning administrator.
16. That these conditional use permits supersede and effectively revoke any existing conditional or special use permits granted to this property.

city of saint paul
planning commission resolution
file number
date

WHEREAS, Dr. Marie T. Wang, M.D., File # 15-144-605, has applied for a change of nonconforming use from a law office to psychiatry office and apartment under the provisions of §62.109(c) of the Saint Paul Legislative Code, on property located at 1450 Frankson Ave, Parcel Identification Number (PIN) 222923310134, legally described as Franksons Como Park addition Ex W 74 Ft Lot 1 Blk 19; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 13, 2015, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant proposes conversion of the upper floor of the building at 1450 Frankson from a law office (professional office, first allowed in the OS office service district) to a psychiatrist's office, (medical clinic, first allowed in the OS office service district). The lower floor of the building would be converted to a rental one-family dwelling unit, which is allowed in the R4 one family district. The lot does not meet R4 minimum lot area requirements.
2. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location if the commission makes the following findings:*
 - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use.* This finding is met. The existing nonconforming use is as a law office with two attorneys and one support staff. The proposed use, as a sole-practitioner psychiatric office on one level and apartment on another is more appropriate to the neighborhood. The amount of the property used for a nonresidential use will be reduced, and the impacts of the use outside of the structure—primarily employees and customers coming and going—are similar for the existing and proposed uses.
 - b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding is met. The law office has employed up to five people at a time in the past, and according to the applicant serves as many as 30 clients a week. The proposed psychiatric office will have one employee, and according to information supplied

moved by _____
seconded by _____
in favor _____
against _____

the applicant, will serve approximately 10 clients per week. The lower-level apartment would have only one bedroom.

- c. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. The proposed use is more consistent than the present use with the existing character of the area. To protect the public health, safety, and general welfare, inspection of the property by a fire safety inspector and issuance of a Certificate of Occupancy for both the commercial and residential uses should be a condition of approval.
- d. *The use is consistent with the comprehensive plan.* This finding is met. Policy H1.1 of the Saint Paul Comprehensive Plan calls for the City to *Increase housing choices across the city to support economically diverse neighborhoods*. The proposed use will allow a portion of the building to be used as small rental unit in an area where single-family, owner occupied homes predominate.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Dr. Marie T. Wang, M.D. for a change of nonconforming use from a law office to a psychiatry office and apartment at 1450 Frankson Ave is hereby approved, subject to the following additional conditions:

1. The psychiatry office shall have no more than two employees; and
2. Inspection of the property by a fire safety inspector from the Department of Safety and Inspections, and issuance of a Certificate of Occupancy for both the commercial and residential uses.