



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

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Saint Paul, MN 55102

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DATE: July 31, 2015
TO: Planning Commission
FROM: Zoning Committee
SUBJECT: Results of July 30, 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

	<u>Recommendation</u>
<u>Staff</u>	<u>Committee</u>
Denial	Approval with conditions (7 - 0)

NEW BUSINESS

2. **Joan Bassing (15-138-295)**
Reestablishment of nonconforming use as a triplex
- Address:** 900-902 Jenks Ave
between Forest and Mendota
- District Comment:** District 5 recommended denial
- Support:** 0 people spoke, 0 letters
- Opposition:** 0 people spoke , 1 letter
- Hearing:** closed
- Motion:** Denial

	<u>Recommendation</u>
<u>Staff</u>	<u>Committee</u>
Denial	Denial (7 - 0)

3. **Kowalski Companies (15-139-934)**
Rezone from R2 One-Family Residential to B2 Community Business

	<u>Staff</u>	<u>Recommendation</u> <u>Committee</u>
	Approval	Approval (7 - 0)

Address: 1261 Grand Ave
NE corner at Syndicate

District Comment: District 14 made no recommendation

Support: 0 people spoke, 1 letter

Opposition: 0 people spoke , 0 letters

Hearing: closed

Motion: Approval

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).
2. §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

moved by _____

seconded by _____

in favor _____

against _____

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.
3. §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.

4. 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.
5. §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%.
6. §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.
- (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%.

7. 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 façade 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 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% 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 dining room portion of the restaurant shall be from 7 a.m. to 11 p.m. daily.
4. The hours of operation of the drive-through portion of the restaurant shall be from 7 a.m. to midnight on Sunday, Monday, Tuesday, and Thursday and shall be from 7 a.m. to 1 a.m. on Wednesday, Friday, and Saturday.
5. No access from the site to the alley or from the alley to the site shall be permitted.
6. 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.
7. 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) Trash receptacles will be inspected at least twice during each shift to determine if there is sufficient space within each one to accommodate additional trash and emptied as needed.
8. 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.
9. Parking in the lot shall be limited to 30 minutes and signed as such. Employees parking on the site during shifts and any related breaks 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 and related breaks.
10. Staff shall be trained to call the police when encountering any behavior that has the effect of

impacting adjoining property.

11. A camera system shall be installed and maintained in order to facilitate prosecution of illegal activity, including, but not limited to public nuisance activity such as public drunkenness, public urination, and loitering.
12. 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 audible at the midpoint of the alley adjoining the property or across the street and 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 manufacture is not altered or tampered with.
13. No more than three deliveries per week may take place. Semi-tractor-trailer deliveries may not take place prior to 7 a.m. and may not take place later than 10 p.m.
14. 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.
15. 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 late-night operations of both the dining room and the drive through. The management and staff shall work with the Saint Paul Police Department's Western District FORCE Unit on security measures.
16. 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.
17. That these conditional use permits supersede and effectively revoke any existing conditional or special use permits granted to this property.
18. Pursuant to its authority to impose "conditions and limitations" when approving a conditional use permit as are "determined to be necessary to fulfill the spirit and purpose of the zoning code" under Leg. Code § 61.107 (2015), but not as an approval condition which the possessor of this permit is required to comply with subject to Leg. Code § 61.108 (2015), 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.

Border Foods, Inc.

565 N. Snelling - Taco Bell Restaurant

Litter Collection Plan

July 2015

Plan for clean up around the outside of the property to ensure it is well maintained and to take any corrective action where required.

ACTION: Employees will inspect and clean the entire perimeter, including the parking lot, the alley, the front of building along Snelling Avenue, and the boulevard along Edmund Street to pick up trash and debris.

SCHEDULE:

To be done five (5) times each day:

Morning opening by 9am

Pre-Lunch by 11am

Post lunch by 2pm

Pre Dinner by 5pm

Post Dinner by 8pm

OTHER:

Complete all other daily and weekly regularly scheduled cleaning and maintenance.

Barb Schneider

VP Development

Border Foods, Inc.

5425 Boone Ave N

New Hope, MN 55428

ZONING FILE NO. 15-134-559

565 N. Snelling

Border Foods

Proposed conditions of approval of the conditional use permits and variances:

1. The new building must comply with the 50% code requirement of door and window openings.
2. The site plan shall provide for no more than 19 parking spaces and no less than 13.2% interior parking lot landscaping.
3. The hours of operation of the drive through shall be no earlier 7 a.m. and no later than 2 a.m.
4. Any deliveries to be made semi-truck shall be made on Snelling Avenue, if possible, as determined in cooperation with St. Paul PD Western District FORCE Unit, and no more than three times per week.
5. Security measures to be employed shall include:
 - a. A private security service patrolling the property during hours of potential high need as determined in cooperation with St. Paul PD Western District FORCE Unit. (Currently, 11 p.m. to close on Wednesday, Friday, Saturday).
 - b. Exterior and interior security camera system be installed and maintained.
6. Litter collection must be done according to the plan submitted.
7. Drive through speaker sounds shall not be plainly audible so as to unreasonably disturb the peace and quiet of abutting residential zoned property.
8. 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
9. The conditional use permits granted supersede any previous conditional or special use permits for the property.

Submitted by:
Border Foods

city of saint paul
planning commission resolution
file number
date

WHEREAS, , File # 15-138-295, has applied for a reestablishment of nonconforming use as a triplex under the provisions of §62.109(e) and §62.104 of the Saint Paul Legislative Code, on property located at 900-902 Jenks Avenue, Parcel Identification Number (PIN) 28.29.22.23.0083, legally described as Nelsons Addition Lot 8 Blk 1; and

WHEREAS, the Zoning Committee of the Planning Commission, on July 30, 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 application requests reestablishment of a nonconforming triplex use at 900-902 Jenks Avenue. It is currently approved for use as a duplex.
2. The site was approved for a conversion from a duplex to a triplex in 1949. There is no evidence that the building was deconverted to a duplex until 2009, at which time a Truth-In-Sale of Housing report lists the property as a duplex. Also, the 2010 property sale information provided in the application refers to two (2) units. Per §62.104(e), the property must abide by the zoning district regulations once a permitted use (duplex) replaces a nonconforming use (triplex).
3. The Planning Commission's triplex conversion guidelines state that staff will recommend denial unless the following guidelines are met:
 - (a) *Lot size of at least 6,000 square feet with a lot width or front footage of 50 feet.* This guideline is met. The property is greater than 6,000 square feet with a 50 foot frontage width.
 - (b) *Gross living area, after completion of triplex conversion, of at least 2,100 square feet. No unit shall be smaller than 500 square feet.* This guideline is not met. The smaller 2nd floor unit, 900 Jenks- front, is approximately 14' x 26' including stairwells, for a total square footage of less than 364 square feet.
 - (c) *Four off-street parking spaces (non-stacked) are preferred; three spaces are the required minimum.* This guideline is met. The site has a two-car garage and a driveway wide enough for two cars, for a total of four off-street parking spaces, all accessed via the alley.
 - (d) *All remodeling work for the triplex is on the inside of the structure unless the plans*

moved by _____
seconded by _____
in favor _____
against _____

for exterior changes are approved by the Planning Commission or Board of Appeals. This guideline is met. No exterior changes are proposed.

- (e) For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a triplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution. This guideline is met. The property has abated all of the code violations noted in a series of recent inspections in 2015, excepting only the zoning issue addressed by this application.*
4. Section 62.109(e) states: *When a legal nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of more than one (1) year, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:*
- (a) The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose. This finding is not met. The property was sold to the applicant in 2010 as a duplex for \$72,500. Ramsey County estimates the current value at \$109,800. No building permits have been acquired for the property since prior to 2010.*
 - (b) The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use. This finding is not met. A duplex is a permitted use in the RT1 district, while the proposed triplex use is not.*
 - (c) The proposed 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. Adequate off-street parking is provided on the property. The conversion from a duplex to a triplex will not have a significant effect on the area's character.*
 - (d) The proposed use is consistent with the comprehensive plan. This finding is met. The Comprehensive Plan designates the site in Figure LU-B, Generalized 2030 Land Uses, as part of an Established Neighborhood, which calls for generally single- and two-family housing, but with scattered multi-family housing of higher densities such as triplexes.*
 - (e) A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the use. This finding is met. The petition was found sufficient on July 10, 2015: 15 parcels eligible; 10 parcels required; 11 parcels signed.*

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Joan Bassing for a reestablishment of nonconforming use as a triplex at 900-902 Jenks Avenue is hereby denied.

PAYNE PHALEN DISTRICT FIVE PLANNING COUNCIL

STRONG  SAFE  WELCOMING  CONNECTED  NEIGHBORHOODS

Date: July 29, 2015

To: Chair and Members of the Zoning Committee, Planning Commission – City of Saint Paul

From: Payne Phalen District Five Board of Directors

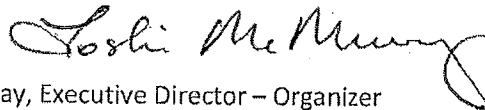
Re: 900-902 Jenks Avenue East, St. Paul 55106 – Recommendation for denial

I write on behalf of the Payne Phalen Board of Directors regarding the application for reestablishment of a nonconforming use for 900-902 Jenks Avenue East, St. Paul, MN. The application is to turn a duplex use into a triplex use. The Board unanimously passed a motion to recommend denial of this application to the Zoning Committee.

The Board of Directors met on Tuesday, August 28th, 2015 for its monthly public meeting at 6:30 PM at the Arlington Hills Community Center. The Board's discussion was informed by its CPED Committee (Community Planning & Economic Development Committee). This 25-member resident and business land use committee requested that the Board to take action to recommend denial. Reasons cited in online discussion included the substandard size of the proposed unit, the fact that the property was not in compliance for a period of time though the property was purchased as a duplex, concerns about having a more intensive use of the property with the end result and goal of increasing the income of the property owner. The District Five office received input from a concerned neighbor who recommended that the application be denied – citing livability concerns. As the Early Notification notice was received at the District Council after the July CPED meeting – the CPED Committee forwarded input online to the D5 Board of Directors for final action.

Please contact me with any questions at 651-774-5234. We respectfully urge your consideration of the neighborhood's input in your decision on this application.

Thank you,



Leslie McMurray, Executive Director – Organizer

506 KENNY ROAD, SUITE 130, SAINT PAUL, MINNESOTA 55130-4554

TEL # (651) 774-5234  FAX # (651) 774-9745

E-MAIL: DISTRICT5@PAYNEPHALEN.ORG

WWW.PAYNEPHALEN.ORG

city of saint paul
planning commission resolution
file number _____
date _____

WHEREAS, Grand Realty Company LLP, File # 15-139-934, has applied for a rezoning from R2 One-Family Residential to B2 Community Business under the provisions of § 61.801(b) of the Saint Paul Legislative Code, on property located at 1261 Grand Ave, Parcel Identification Number (PIN) 03.28.23.42.0113, legally described in the zoning file; and

WHEREAS, the Zoning Committee of the Planning Commission, on July 30, 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. Grand Realty Company LLP is requesting a rezoning of approximately 10,135 sq. ft. of their property at 1261 Grand Avenue from R2 One-Family Residential to B2 Community Business to accommodate the expansion of their existing building. A grocery store is not permitted in an R2 One-Family Residential zoning district. Plans submitted with this application indicate expansion to the east and to the west.
2. There was a significant addition to the north side of the building in 1994 that resulted in its current footprint. This addition required the acquisition of a piece of land north of the alley, which was acquired in August of 1994. At the time of that addition, the building was allowed to expand northward beyond the alley due to an inaccurate interpretation of §60.305, which states that "[W]henever any street, alley or other public way within the city shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it attaches." However, the transaction was a sale of property from the Saint Paul Housing and Redevelopment Authority to the property owner, and not the direct result of a transfer of vacated land. The project was allowed to move forward, and the zoning maps were not modified to reflect this automatic zoning change. The rezoning would apply to this northern area, including the newly vacated 13-foot strip to the east of the site. It would make the current use of the land conforming and allow the expansion of the building to the east.
3. The proposed zoning is consistent with the way this area has developed. The rezoning would be a minor expansion of the existing B2 zoning district, which is intended to "serve the needs of a consumer population larger than that served by the 'local business

moved by _____
seconded by _____
in favor _____
against _____

district,' and is generally characterized by a cluster of establishments generating large volumes of vehicular and pedestrian traffic." The block on which the rezoning would occur is unique from other blocks between Summit and Grand Avenues in that it is bounded by a major road with a wide right of way on the east and has never had a residential use on the northern half of the block. The presence of the institutional use to the northwest and associated parking lot also differentiates this block from other areas between Summit and Grand Avenues and is consistent with the proposed zoning.

4. The proposed zoning is consistent with the Comprehensive Plan. The Comprehensive Plan shows Grand Avenue as a mixed-use corridor and supports a mix of uses, including retail. The area to be rezoned is part of the parcel that fronts Grand Avenue. The zoning is consistent with the following policies of the Land Use Chapter of the Comprehensive Plan:

1.24 *Support a mix of uses on Mixed-Use Corridors.*

And the following policies from the Land Use section of the Macalester-Groveland Community Plan:

3. *Limit commercial expansion to existing commercial clusters.*

5. The proposed zoning is compatible with the surrounding uses. The Mount Zion parking lot on the same block will continue to be shared between Mount Zion and Kowalski's. The Grand Avenue corridor in this area is a mix of residential and business uses; the proposed zoning allows the expansion and continued use of a well-established business that has been a part of the neighborhood for many years. There are no use conflicts with Ayd Mill right of way to the east.
6. The rezoning from R2 to B2 would not be considered spot zoning because it is an expansion of an existing zoning district and would not create a district that would be inconsistent with surrounding uses (see Finding 5) and would not create an island of nonconforming use within a larger zoned property.
7. The petition for rezoning was found to be sufficient on July 16, 2015: 10 parcels eligible; 7 parcels required; 9 parcels signed.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of Grand Realty Company LLP for a rezoning of approximately 10,135 square feet of their property at 1261 Grand Ave from R2 One-Family Residential to B2 Community Business be approved.

ZONING COMMITTEE STAFF REPORT

- | | |
|---|---|
| 1. FILE NAME: Kowalski Companies | FILE #: 15-139-934 |
| 2. APPLICANT: Grand Realty Company LLP | HEARING DATE: July 30, 2015 |
| 3. TYPE OF APPLICATION: Rezoning - Consent | |
| 4. LOCATION: 1261 Grand Ave, NE corner at Syndicate | |
| 5. PIN & LEGAL DESCRIPTION: See vacation documents for existing and proposed legal descriptions. | |
| 6. PLANNING DISTRICT: 14 | EXISTING ZONING: B2 |
| 7. ZONING CODE REFERENCE: §61.801(b); §60.305 | |
| 8. STAFF REPORT DATE: July 23, 2015 | BY: Mike Richardson |
| 9. DATE RECEIVED: July 15, 2015 | 60-DAY DEADLINE FOR ACTION: September 13, 2015 |

- A. **PURPOSE:** Rezone from R2 One-Family Residential to B2 Community Business.
- B. **PARCEL SIZE:** Approximately 10,135 sq. ft., which includes recently vacated area of 2,376 sq. ft. between the existing building and Ayd Mill Road.
- C. **EXISTING LAND USE:** Retail – grocery store
- D. **SURROUNDING LAND USE:** Institutional parking lot to the north, Ayd Mill Road and right of way to the east, mix of retail and single family residential to the south, and a mix of commercial and single family residential to the west.
- E. **ZONING CODE CITATION:** §61.801(b) provides for changes to the zoning of property initiated by the property owner; §60.305 describes zoning of vacated areas.
- F. **HISTORY/DISCUSSION:** Grand Realty Company LLP is requesting a rezoning of approximately 10,135 sq. ft. of their property at 1261 Grand Avenue from R2 One-Family Residential to B2 Community Business to accommodate the expansion of their existing building. Plans submitted with this application indicate expansion to the east and to the west. The remaining 47,018 sq. ft. (approximate) of their property is already zoned B2.

Zoning on the parcel is currently split between B2 in the south and a smaller piece of R2 in the north. Much of the area to be rezoned is within the Summit Avenue West Historic District. Any future construction activity on the property and within the historic district would be subject to Heritage Preservation Commission review.

The building on this property was built in 1956. There was a significant addition to the north side of the building in 1994 that resulted in its current footprint. This addition required the acquisition of a piece of land north of the alley, which was acquired in August of 1994. At the time of that addition, the building was allowed to expand northward beyond the alley due to an inaccurate interpretation of §60.305, which states that "[W]henver any street, alley or other public way within the city shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it attaches." However, the transaction was a sale of property from the Saint Paul Housing and Redevelopment Authority to the property owner, and not the direct result of a transfer of vacated land. The project was allowed to move forward, and the zoning maps were not modified to reflect this automatic zoning change. The rezoning would apply to this

northern area, including the newly vacated 13-foot strip to the east of the site. It would make the current use of the land conforming and allow the expansion of the building to the east.

G. **DISTRICT COUNCIL RECOMMENDATION:** District 14 had not commented by the time of this report.

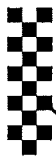
H. **FINDINGS:**

1. Grand Realty Company LLP is requesting a rezoning of approximately 10,135 sq. ft. of their property at 1261 Grand Avenue from R2 One-Family Residential to B2 Community Business to accommodate the expansion of their existing building. A grocery store is not permitted in an R2 One-Family Residential zoning district. Plans submitted with this application indicate expansion to the east and to the west.
2. There was a significant addition to the north side of the building in 1994 that resulted in its current footprint. This addition required the acquisition of a piece of land north of the alley, which was acquired in August of 1994. At the time of that addition, the building was allowed to expand northward beyond the alley due to an inaccurate interpretation of §60.305, which states that "[W]henever any street, alley or other public way within the city shall be vacated, such street, alley or other public way or portion thereof shall automatically be classified in the same zoning district as the property to which it attaches." However, the transaction was a sale of property from the Saint Paul Housing and Redevelopment Authority to the property owner, and not the direct result of a transfer of vacated land. The project was allowed to move forward, and the zoning maps were not modified to reflect this automatic zoning change. The rezoning would apply to this northern area, including the newly vacated 13-foot strip to the east of the site. It would make the current use of the land conforming and allow the expansion of the building to the east.
3. The proposed zoning is consistent with the way this area has developed. The rezoning would be a minor expansion of the existing B2 zoning district, which is intended to "serve the needs of a consumer population larger than that served by the 'local business district,' and is generally characterized by a cluster of establishments generating large volumes of vehicular and pedestrian traffic." The block on which the rezoning would occur is unique from other blocks between Summit and Grand Avenues in that it is bounded by a major road with a wide right of way on the east and has never had a residential use on the northern half of the block. The presence of the institutional use to the northwest and associated parking lot also differentiates this block from other areas between Summit and Grand Avenues and is consistent with the proposed zoning.
4. The proposed zoning is consistent with the Comprehensive Plan. The Comprehensive Plan shows Grand Avenue as a mixed-use corridor and supports a mix of uses, including retail. The area to be rezoned is part of the parcel that fronts Grand Avenue. The zoning is consistent with the following policies of the Land Use Chapter of the Comprehensive Plan:
 - 1.24 *Support a mix of uses on Mixed-Use Corridors.*And the following policies from the Land Use section of the Macalester-Groveland Community Plan:
 3. *Limit commercial expansion to existing commercial clusters.*
5. The proposed zoning is compatible with the surrounding uses. The Mount Zion parking lot on the same block will continue to be shared between Mount Zion and Kowalski's.

The Grand Avenue corridor in this area is a mix of residential and business uses; the proposed zoning allows the expansion and continued use of a well-established business that has been a part of the neighborhood for many years. There are no use conflicts with Ayd Mill right of way to the east.

6. The rezoning from R2 to B2 would not be considered spot zoning because it is an expansion of an existing zoning district and would not create a district that would be inconsistent with surrounding uses (see Finding 5) and would not create an island of nonconforming use within a larger zoned property.
7. The petition for rezoning was found to be sufficient on July 16, 2015: 10 parcels eligible; 7 parcels required; 9 parcels signed.

- I. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the rezoning from R2 One-Family Residential to B2 Community Business.



Mike Richardson

Kowalskis - Support

7-24-2015^{P. 1}

7th # 15-139-934

I support the rezoning for Kowalski 'S'.
They are an asset to the residential and
commercial neighborhood. I did see the
plan layout.

Greg Rotter

owner 1276-78 Grand Ave