

city of saint paul  
planning commission resolution  
file number 13-05  
date February 8, 2013

WHEREAS, Craig Thaemert and Maureen Herring, File # 13-143-806, have applied for a rezoning from B2 Community Business to T2 Traditional Neighborhood under the provisions of § 61.801(b) of the Saint Paul Legislative Code, on property located at 1537 White Bear Ave N, Parcel Identification Number (PIN) 222922140019 and 222922140020, legally described as J A Humphreys Subdivision A, Lots 28 29 And Lot 30 Blk 1; and

WHEREAS, the Zoning Committee of the Planning Commission, on January 31, 2013, 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 rezoning from B2 to T2 in order to allow for consideration of a drive-through addition to the existing restaurant. The restaurant meets the definition of a fast-food restaurant in §65.616 and is a legal nonconforming use in the B2 district. The drive-through is prohibited in B2. Both the fast-food restaurant and the drive-through can be considered through a conditional use permit in T2.
2. The proposed zoning is consistent with the way this area has developed. The T2 district allows most, but not all of the commercial uses prevalent along White Bear Avenue. The T2 district also allows residential uses that would not be inconsistent with the surrounding area, which is predominantly residential to the west.
3. The property is located within the Hillcrest Village Overlay District (HVOD). The HVOD prohibits certain uses including auto service stations, auto repair facilities, pawn shops, and currency exchange businesses. The HVOD is unaffected by the proposed rezoning.
4. The proposed zoning is consistent with the Comprehensive Plan, which designates the property as being part of a Mixed Use Corridor, as shown in the Generalized 2030 Future Land Use Map (Figure LU-B). The property is also on the edge of a Neighborhood Center, as designated by the Comprehensive Plan. Both the Mixed Use Corridor and Neighborhood Center designations call for a mix of uses, such as those allowed in T2. The District 2 Plan has no provisions specific to this site.
5. The proposed zoning is compatible with the surrounding uses, including commercial uses to the north and south along White Bear Avenue and residential uses to the west.
6. Court rulings have determined that "spot zoning" is illegal in Minnesota. Minnesota courts have stated that this term "*applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and create an island of*

moved by Nelson  
seconded by \_\_\_\_\_  
in favor Unanimous  
against \_\_\_\_\_

*nonconforming use within a larger zoned property.*” The proposed zoning is not “spot zoning” because it allows uses consistent with the adjacent B2 uses along White Bear Avenue and provides a potential transition between the commercial uses and residential uses to the west.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of Craig Thaemert and Maureen Herring for a rezoning from B2 Community Business to T2 Traditional Neighborhood for property at 1537 White Bear Ave N be approved.