

city of saint paul
planning commission resolution

file number 18-24

date April 20, 2018

WHEREAS, Leang Sarin , File # 18-036-924, has applied for a conditional use permit for drive-through sales, with modification of the special condition for drive thru lane separation from residential property (60' required, 54.9' originally proposed) and vehicular ingress and egress separation from residential property (60' required, 20.9' proposed) under the provisions of §§ 61.501, 61.502, and 65.513 of the Saint Paul Legislative Code, on property located at 1330 Larpenteur Avenue West and 1672 Hamline Avenue, Parcel Identification Number (PINs) 22.29.23.12.0171, and 22.29.23.12.0023 legally described as Lots 28-30, Block 3, Chelsea Heights; and

WHEREAS, the Zoning Committee of the Planning Commission, on April 12, 2018, 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 is proposing to remove two existing commercial buildings (a restaurant and a dry cleaner) on the two properties and construct a new, approximately 3,000 square foot building, which would be occupied by the restaurant currently operating on the site and second, new restaurant, which would offer drive-through service.
2. § 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 condition is NOT met. The Future Land Use Map of the Comprehensive Plan identified Hamline Avenue as a Residential Corridor. Larpenteur Avenue is not classified by the Map, but in the area of the proposed project is characterized by a mix of residential uses, with commercial development around intersections with other arterial streets. This is similar in character to other identified Residential Corridors, such as Hamline, Como, Cleveland, and St. Clair Avenues. The Land Use Chapter describes Residential Corridors as “sectors of streets that run through Established Neighborhoods; predominantly characterized by medium density residential uses”. The area immediately to the west and south of the proposed development is categorized as an Established Neighborhood. Two policies in the Land Use Chapter address development in Residential Corridors. Policy 1.1 calls for the City

moved by Edgerton

seconded by _____

in favor Unanimous

against _____

to “Guide the development of housing in Established Neighborhoods, commercial area within Established Neighborhoods, and in Residential Corridors”. Policy 1.9 calls for the City to “Encourage the development of medium density multi-family housing along Residential Corridors”. One policy addresses commercial development in Established Neighborhoods: policy 1.7 calls for the City to “permit neighborhood serving commercial businesses compatible with the character of Established Neighborhoods” in locations where commercial development currently exists or at intersections of arterial and collector streets or transit routes. These policies suggest that some commercial development at the proposed project location is appropriate, but only provided it is neighborhood serving and compatible with the essential residential character of the surrounding area. Drive-throughs invite greater amounts of vehicular traffic than similar businesses without drive-throughs, and require extended vehicle idling time. They also result in additional noise impacts on adjacent properties. These inherent impacts of drive-through uses are not compatible with areas of an essential residential character, and therefore a drive-through at the proposed location is not consistent with the Saint Paul Comprehensive Plan.

A drive-through at the proposed location is also inconsistent with Policy HLU (Housing and Land Use) 1.3.3 of the Como Community Plan, which calls for “appropriate buffers and transitions” for redevelopment along Larpenteur to protect the residential character of the adjoining neighborhood. The project as proposed does not meet minimum standards for distance separation from adjacent residential uses, suggesting there is not adequate buffering of the use.

- (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* It is not clear whether this condition can be met. The site plan for the proposed use shows stacking for six vehicles in the drive-through lane, including one vehicle at the service window. However, any additional vehicles queueing would result in vehicles blocking internal circulation lanes and impairing ingress and egress via Hamline Avenue.
 - (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.* It is not clear whether this condition can be met. The underlying use of two restaurants is consistent with the character of the immediate neighborhood, and will not endanger the public health, safety, or general welfare. However, the potential for impacts to the public right-of-way resulting from drive-through traffic volumes exceeding the capacity of the site has not been sufficiently evaluated. Congestion in the public right-of-way increases the potential for conflicts between vehicles and between vehicles and pedestrians or bicycles, which can endanger public safety.
 - (d) *The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.* This condition is NOT met. The proposed use would result in increased vehicular traffic and noise in close proximity to existing residential uses on residentially-zoned lots. Excessive noise and traffic are incompatible with the reasonable enjoyment of residential properties, and would create a disincentive to continued investment in these properties.
 - (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is NOT met. The project as proposed would require modification of standards of § 65.513(a) and (b) for drive-through sales.
3. § 65.513 lists 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 finding is met. The original site plan showed the south curb of the drive-through lane as located 54.9' from the boundary with the multifamily residential property to the south. The applicant subsequently submitted a revised site plan that showed the south curb of the drive-through lane as located 60' from the boundary with the multifamily residential property to the south.
 - (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 finding is NOT met. The points of ingress and egress on Hamline and Larpenteur Avenues are both located more than 60' from the intersection of those two streets. However, the outside curb line of the Hamline Avenue site access, at its narrowest point, is located approximately 21' feet from the residential lot to the south of the site. The width of the subject site, measured north-south, is 107.95'. It is not possible on the Hamline frontage of the property to locate the point of vehicular ingress and egress the required minimum distance from both the intersection of Larpenteur and Hamline and the abutting residential property to the south.
 - (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 finding can be met. The drive-through speaker box is located as far from the abutting residential property as possible, and the applicant can provide required screening fencing and plantings. If the conditional use permit is approved, operation of the speaker box at the minimal functional volume should be a condition of approval.
 - (d) *A six-foot 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 finding can be met. The applicant is proposing 6' feet of landscaped area between the parking area and the common boundary with the adjoining residential property, and has proposed a 6' foot obscuring (opaque) fence atop a 2.6' concrete wall. If the conditional use permit is approved, provision of screening plantings, to be provided and maintained by applicant or applicant's agent, should be a condition of approval, with fulfillment of this condition to be demonstrated by final site plan approval and proof of an access agreement with the adjoining property owner for maintenance purposes if determined necessary by the zoning administrator.
 - (e) *Stacking spaces shall be provided for each drive-through lane. Banks, credit unions, and fast-food restaurants shall provide a minimum of four (4) stacking spaces per drive-through lane. Stacking for all other uses shall be determined by the zoning administrator.* This condition is met. The applicant proposes a total of six (6) stacking spaces.
4. The planning commission may approve modifications of special conditions when specific criteria of §61.502 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.* These criteria for modification of special conditions are NOT met. The standards for siting proposed drive-through lanes and points of

vehicular ingress and egress at a minimum distant from abutting residential properties are intended to protect the occupants of those abutting properties from external effects of drive-throughs, such as vehicle and speaker noise, traffic entering and exiting the site, exhaust from idling vehicles, etc. Modification of these standards would impair the intent and purpose of the special conditions and would be inconsistent with the reasonable enjoyment of the adjacent residential properties. The strict application of these conditions does not unreasonably limit or prevent the lawful proposed use of the subject property for two restaurants.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Leang Sarin for a conditional use permit for drive-through sales, with modification of special conditions for drive thru lane vehicular ingress and egress separation from residential property (60' required, 20.9' proposed), at 1330 Larpenteur Avenue West and 1672 Hamline Avenue is hereby DENIED.