DEPARTMENT OF PLANNING &
ECONOMIC DEVELOPMENT
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CITY OF SAINT PAUL
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DATE: August 31, 2012

TO: Planning Commission

FROM: Zoning Committee

SUBJECT: Results of August 30, 2012 Zoning Committee Hearing

NEW BUSINESS

		Recommendation: Staff	Recommendation: Committee
1.	**Falafel King (12-090-716)** Reestablishment of nonconforming use as a fast food restaurant with drive-through service	Approval with conditions	Approval with conditions (5 - 1) (Wickiser)

Address: 1199 7th St W
NE corner at View

District Comment: District 9 recommended approval with a condition

Support: 0 people spoke, 0 letters

Opposition: 0 people spoke, 0 letters

Hearing: Hearing is closed

Motion: Approval with conditions

		Recommendation: Staff	Recommendation: Committee
2.	**Stephen Nelson (12-091-512)** Establishment of legal nonconforming use status as a duplex	Approval with conditions	Approval with conditions (6 - 0)

Address: 19 Milton St S
between Summit and Grand

District Comment: District 16 recommended approval

Support: 0 people spoke, 1 letter

Opposition: 0 people spoke, 0 letters

Hearing: Hearing is closed

Motion: Approval with conditions

	Recommendation	
	Staff	**Committee**
3. **Yer Yang (12-093-010)** Reestablishment of nonconforming use as a 4-plex	Approval with conditions	Approval with conditions (6 - 0)

Address: 405 -407 Charles Ave
between Western and Arundel

District Comment: District 7 recommended denial

Support: 0 people spoke, 5 letters

Opposition: 2 people spoke, 0 letters

Hearing: Hearing is closed

Motion: Approval with conditions

	Recommendation	
	Staff	**Committee**
4. **Pastor Irene Stockett (12-091-208)** Conditional use permit for transitional housing for up to 6 residents, including the owner, with modification to exceed planning district density standard by 2 residents	Approval with conditions	Approval with conditions (6 - 0)

Address: 1093 Edgerton St
between Jessamine and Magnolia

District Comment: District 5 recommended denial

Support: 0 people spoke, 6 letters

Opposition: 3 people spoke, 0 letters

Hearing: Hearing is closed

Motion: Approval with conditions

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WHEREAS, Mr. Fouad Masroujeh, Zoning File # 12-090-716, has applied for reestablishment of nonconforming use as a fast food restaurant with drive-through service under the provisions of §62.109 of the Saint Paul Legislative Code, on property located at 1199 W 7th St., Parcel Identification Number (PIN) 11-28-23-42-0111, legally described as Clarkes Addition Subj To St Lots 1o 11 And Lot 12 Blk 5; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 30, 2012, 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 existing building was built with a drive through window in 1978. The applicant states that the previous establishment did not use the fully functioning drive through for a number of years. Therefore, the nonconforming use of the drive-through window for a fast-food restaurant in a B2 community business district has been discontinued. The applicant proposes to re-open the drive-through window and serve customers from 10 AM to 3 AM seven days a week.

2. Section 62.109(e) states: *When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings*:

   (1) The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose. This finding is met. In B2 community business districts, fast food restaurants are required to be incorporated within a multi-use center and cannot provide a drive through service. The continued use of the building as a fast-food restaurant with a drive-through window is a reasonable use of this property.

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seconded by _____
in favor _____
against _____

(2) *The proposed use is equally appropriate or more appropriate to the district than the previous nonconforming use.* This finding is met. The proposed use of the building as a fast-food restaurant with a drive-through service is equally appropriate to the previous use as a fast-food restaurant.

(3) *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 can be met provided that the operating hours of the drive-through service are limited so as not to disturb nearby residents at night. The proposed use of a fast-food restaurant with a drive-through service will not be detrimental to the existing character of development in the immediate neighborhood. Reestablishing the nonconforming use will put the infrastructure of the restaurant back into use with little change to the surrounding neighborhood. However, the proposed hours of operation will increase late-night traffic and noise. Provided that the hours of operation are limited, the finding is met.

(4) *The proposed use is consistent with the comprehensive plan.* This finding is met, provided that the hours of operation are limited so as not to disturb the nearby residential areas at night. Section 1.7 of the Land Use chapter of the Comprehensive Plan supports "neighborhood serving commercial businesses compatible with the character of established neighborhoods."

(5) *A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on August 2, 2012: 12 parcels eligible; 8 parcels required; 8 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 Mr. Fouad Masroujeh for reestablishment of nonconforming use as a fast food restaurant with drive-through service at 1199 W 7th St. is hereby approved subject to the following conditions:

1. The use must adhere to all applicable code requirements.

2. The drive through window service shall operate only between the hours of 10 AM to 10 PM Sunday through Wednesday, and 10 AM to 1 AM Thursday through Saturday.

city of saint paul
planning commission resolution
file number
date

WHEREAS, Stephen Nelson, File # 12-091-512, has applied for a establishment of legal nonconforming use status as a duplex under the provisions of §62.109 of the Saint Paul Legislative Code, on property located at 19 Milton St S, Parcel Identification Number (PIN) 022823310063, legally described as Summit Park Addition Tost Pa Ex W 5 Ft The S 95 Ft Of Lot 1 Blk 27; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 30, 2012, 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 seeking to establish an existing duplex as a legal nonconforming use. Duplexes are first allowed in the RT2 two-family residential district; the subject property is located in the R2 one-family residential district. The applicant has supplied documentation demonstrating that the structure was converted from a single family home to a duplex in 1994 and has been in use as a duplex since that time. The subject lot does not meet lot minimum size dimensional standards for the R2 zoning district.
2. Section 62.109(a) of the zoning code provides that the Planning Commission may grant legal nonconforming use status to use of structures if the commission makes eight findings. The findings and the applicant's ability to meet them are as follows:
   (1) *The use occurs entirely within an existing structure.* This finding is met. The use is by definition within the existing structure.
   (2) *The use or use of similar intensity permitted in the same clause of the zoning code or in a more restrictive zoning district has been existence continuously for a period of at least ten years prior to the date of the application.* This finding is met. The applicant has submitted a list of tenants occupying the lower unit (Unit 1) from January 1, 2000 through the present, and has provided documentation in the formed of signed lease agreements. The applicant has also provided evidence that he occupied the upper unit (Unit 2) until July 2009, and that Unit 2 has subsequently been occupied by rental tenants.
   (3) *The off-street parking is adequate to serve the use.* This finding is met. Section 63.207 of the Saint Paul Zoning Code requires that dwelling units located in one- or two-family structure provide 1.5 off-street parking spaces per unit. The subject property provides two off-street spaces in the paved area of the side yard to the south of the structure, and an additional space in the attached garage.
   (4) *Hardship would result if the use were discontinued.* This finding is met. The property provides reasonably priced, convenient housing for students of nearby William Mitchell College of Law. Discontinuation of the use would dislocate current tenants.

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in favor _____
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(5) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* This finding is met. Duplexes are first allowed in the RT2 two-family residential district. The property is completely surrounded by R2 and B2 districts, and no RT2 districts are in the surrounding area.

(6) *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. While some additions to the structure have been made, the structure has stood on the lot since 1939. The surrounding area is a mix of institutional, residential and commercial uses, with all of which the proposed use is consistent. The proposed use will not be detrimental to the existing character of the neighborhood, nor endanger the public health, safety, or general welfare.

(7) *The use is consistent with the comprehensive plan.* This finding is met. The subject property is located near the intersection of an established neighborhood, a residential corridor, and a mixed use corridor as identified in figure LU-B of the Land Use chapter of the Comprehensive Plan. The density of housing represented by the proposed use—which provides for affordable rental housing in an affluent area--is generally consistent with the range of housing densities called for in these generalized land use areas. The proposed use is also consistent with strategy H1.1 from the Housing chapter of the Comprehensive Plan, which calls for the city to *increase housing choices across the city to support economically diverse neighborhoods* by providing for "a mix of rental and ownership units, a range of housing types, and diversity of income levels."

(8) *A notarized petition of two-thirds of the property owners within one hundred (100) feet the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on August 8, 2012: 8 parcels eligible; 6 parcels required; 6 parcels signed.

3. The Planning Commission has established guidelines for applications for nonconforming use permits for duplexes. While note themselves requirements, these guidelines lay out additional more objective factors the Planning Commission wishes to consider in determining if the required findings for granting nonconforming use permits listed in §62.109(a) of the Zoning Code can be made. The Planning Commission's Duplex Conversion Guidelines state that for applications for nonconforming use permits for duplexes in residential districts, staff will recommend denial unless the following guidelines are met:

   A. Lot size of at least 5000 square feet with a lot width or front footage of 40 feet.

   B. Gross living area, after completion of duplex conversion, of at least 1500 square feet. Neither unit shall be smaller than 500 square feet.

   C. Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum.

   D. All remodeling work for the duplex is on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance. (The Planning Commission will approve these changes for the cases they handle.)

   E. For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex 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.

Guidelines A through C are met. The property owner has made unpermitted improvements and alterations to the subject property, including external improvements, over the course of several years. The subject property was originally converted to a duplex with internal remodeling circa 1994. Subsequent improvements have included external additions, including a dormer and three season porch on the west and south sides of the structure. The completion of fire safety and code compliance inspections, leading to the issuance of a fire certificate of occupancy and any improvements necessary to obtain the necessary permits and bring the entire structure into building and fire code compliance, should be a condition of approval.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Stephen Nelson for establishment of legal nonconforming use status as a duplex at 19 Milton St. S is hereby approved, subject to the following conditions:

1. The applicant shall immediately request a fire safety inspection of the subject property, with a provisional fire certificate of occupancy issued within one month, and a fire certificate of occupancy issued within a time period to be specified by fire safety inspections staff.
2. The applicant shall immediately request a code compliance inspection and shall obtain any necessary permits and make any necessary improvements so as to bring the structure at 19 Milton St. S into building and fire code compliance within one year.
3. The applicant shall reappear before the Zoning Committee for approval of any necessary external modifications required in order to bring the structure at 19 Milton St. S into building and fire code compliance before said improvements are made.

city of saint paul
planning commission resolution
file number
date

WHEREAS, Yer Yang, File # 12-093-010, has applied for reestablishment of nonconforming use as a 4-plex under the provisions of 62.109(e) of the Saint Paul Legislative Code, on property located at 405-407 Charles Ave, Parcel Identification Number (PIN) 362923240043, legally described as Smiths Sub Of Stinsns Div B9 1 Lot 9 Blk 9; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 30, 2012, 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, Yer Yang, purchased the home at 405-407 Charles as a four-plex. It is listed in Ramsey County property records as a four-plex. Due to unforeseen circumstances, the applicant was not able to renovate and occupy the house immediately following the purchase. The property is located in a one-family district and is thus non-conforming. It has been vacant for more than 365 days, which is why the applicant has come forward with an application for re-establishment of a non-conforming use as a four-plex.
2. Section 62.109(e) states: *When a nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of three hundred sixty-five (365) days, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings*:
   - *(1) The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose.* This finding is met. The original building permit from 1901 states that the building was built as a "double dwelling" with two addresses, 405 and 407 Charles. It is not clear how many dwelling units were in the double dwelling. However, the 1955 Polk Directory lists two telephone numbers for each address at 405 and 407 Charles. Ramsey County lists the dwelling as a four-plex. The layout of the interior of the building suggests that the property was built as a four-plex in that the only access to the upstairs units from the downstairs is from common areas. Each unit is exactly 610 square feet, with one bedroom each.
   - *(2) The proposed use is equally appropriate or more appropriate to the district than the previous nonconforming use.* This finding is met. The previous non-conforming use was as a four-plex. This would not change the use.

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seconded by _____

in favor _____

against _____

(3) *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. A four-plex is a residential dwelling and is in keeping with the residential character of the immediate neighborhood. There is adequate parking for four units in the back, which will mitigate congestion in the public streets. The lot size is 5,000 square feet and the lot coverage is approximately 30 percent, which is less than the maximum lot coverage for residential districts of 35 percent. It will not endanger the public health, safety, or general welfare.

(4) *The proposed use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan calls for increased housing choices in Policy 1.1 of the housing chapter of the Comprehensive Plan (2010). The District 7 Plan (2007) calls for the preservation of the character of the neighborhood, particularly to, "promote the rehabilitation and preservation of older buildings," stated in Action 1 of Objective 3, Goal 3: Land Use and Zoning. In Goal 4: Housing, of the District 7 Plan, Objective 1, Action 3, states, "encourage housing rehabilitation to help maintain existing housing stock."

(5) *A notarized petition of two-thirds of the property owners within one hundred (100) feet of the property has been submitted stating their support for the use.* This finding is met. The petition was found sufficient on August 10, 2012: 21 parcels eligible; 14 parcels required; 14 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 Yer Yang for reestablishment of nonconforming use as a 4-plex at 405-407 Charles Ave is hereby approved subject to the conditions that a certificate of occupancy is received for the units in the building and that four spaces are maintained for parking to the rear of the property.

city of saint paul
planning commission resolution
file number
date

WHEREAS, Irene Stockett, File # 12-091-208, has applied for a Conditional Use Permit for transitional housing for up to 6 residents, including the owner, with modification to exceed the planning disctrict density standard by 2 residents, under the provisions of § 65.159 and § 61.501 of the Saint Paul Legislative Code, on property located at 1093 Edgerton St, Parcel Identification Number (PIN) 292922210145, legally described as Lanbergs Rearrangement Of B13 Lot 3; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 30, 2012, 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, Pastor Irene Stockett, wishes to establish this property as a transitional housing facility. The facility will house up to five single women that have completed programs at Minnesota Teen Challenge or are referred by South Metro Human Services as well as Pastor Stockett as the owner. The applicant will have a Group Residential Housing agreement with Ramsey County, which will help support the program. A resource center, life coaching, and meals will be provided for the residents. Residents will live in the property until they can find housing of their own.

2. §65.159 lists six standards that transitional housing facilities must satisfy. Standards (a), (b), (c), (d), and (e) apply in this case.
   (a) *In residential, traditional neighborhood and OS-B2 business districts, a conditional use permit is required for facilities serving more than four (4) adults facility residents and minor children in their care.* This condition is met. The applicant has applied for a conditional use permit for five (5) residents and states that she will also live on site.
   (b) *In RL-RT2 residential districts, the facility shall be a minimum distance of one thousand three hundred twenty (1,320) feet from any other transitional housing facility with more than four (4) adult facility residents, licensed community residential facility, emergency housing facility, shelter for battered persons with more than four (4) adult facility residents or overnight shelter.* This condition is met. There are no other transitional housing facilities, licensed community residential facilities, emergency housing facilities, shelters for battered persons or overnight shelters within 1,320 feet of the property.
   (c) *Except in B4-B5 business districts, the facility shall not be located in a planning district in which one (1) percent or more of the population lives in licensed community residential facilities, emergency housing facilities, shelters for battered persons with more than four (4)*

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adult facility residents, overnight shelters, and/or transitional housing facilities with more than four (4) residents. This condition is not met. According to records from the Department of Safety and Inspections and the Department of Planning and Economic Development there are six community residential facilities in District 5 with a total of 304 residents in those facilities. The 2010 population of District 5 is 30,700, one percent of which is 307, which is the capacity of the district for community residential facilities. This leaves a balance of three residents allowed in the district. The applicant is requesting five residents and one staff, or two more than the maximum. She has requested a modification of this requirement.

(d) *In RL-RT1 residential districts, the facility shall serve six (6) or fewer adult facility residents and minor children in their care.* This condition is met. The facility will serve five residents and be managed by the owner, who will also live in the facility.

(e) *In RL-RT2 residential districts, the facility shall not be located in a two-family or multiple-family dwelling unless it occupies the entire structure.* This condition is met. The home is a duplex and the entire structure will be used for transitional housing.

3. §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 met. The property falls within the Established Neighborhood designation on the Generalized Future Land Use Map, which is characterized as predominantly residential areas with single family and duplex homes, as well as some smaller scale multifamily housing.

(b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. The property is located in the middle of the block on Edgerton between Magnolia and Jessamine, with alley access to the rear of the property. There is a two-car garage with a parking pad for a total of three spaces behind the house.

(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 is met, as the property will house up to six residents, and it is surrounded by residential uses similar in terms of scale. In addition, the building was last used as a duplex and as such could have up to eight residents on site.

(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 met. The proposed will put this formerly vacant home into use again.

(e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. The applicant has agreed to comply with the Code Compliance Letter from the Department of Safety and Inspections.

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.* This finding is met. Strict application of this condition would unreasonably limit or prevent otherwise lawful use of this property. A community residential facility with only three residents is not likely to be sustainable financially, and limiting the applicant to three residents would be unreasonable. In addition, the bulk of the beds in community residential facilities in District 5 are at the Union Gospel Mission. This location has a capacity of 260 beds in its facility, representing 85-percent of the beds available in District 5. This use is located in the far southwest of the district and is not proximate to

the proposed use at 1093 Edgerton. The Union Gospel Mission facility is also located in an industrial zoning district and not in a residential zoning district. Having these beds in a corner of the district in an industrial zone does not over-concentrate the residential portion of the district, which is the intent of the condition that only one percent of residents in the district live in these types of facilities. This modification will not impair the intent and purpose of this 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 Irene Stockett for a Conditional Use Permit for transitional housing for five facility residents and a resident owner or resident manager, with modification to exceed the planning district density standard by two (2) residents, at 1093 Edgerton Street, is hereby approved subject to the conditions that all deficiencies listed in the April 26, 2012, Code Compliance Report issued by the Department of Safety and Inspections are corrected; that a certificate of occupancy be issued for the property; and that the owner or manager of the facility continues to live on the premises.