

city of saint paul  
planning commission resolution  
file number  
date

WHEREAS, Larry and Tamara Kuenster, File # 21-299-256, have applied for an establishment of nonconforming use as a triplex under the provision of § 62.109(a) of the Saint Paul Zoning Code on the property located at 1124-1126 Lincoln Avenue, Parcel Identification Number (PIN) 03.28.23.41.0094, legally described as Manson & Simonton’s Addition, Lot 6, Block 5; and

WHEREAS, the Zoning Committee of the Planning Commission, on September 23, 2021, 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, current owner of the subject property, purchased the subject property at 1124-1126 Lincoln Avenue in 1998. The applicant states that they purchased the property as a three-family dwelling, with a unit in the basement, a unit on the main level, and a unit on the upper level. All three units were leased to tenants at the time of purchase and have been continually leased over the last 23 years with no gaps in occupancy. The Department of Safety and Inspections (DSI) Inspection in May 2021 found that the basement unit was not recognized as a legal unit by the City of Saint Paul.

The Truth In Sale Of Housing (TISH) Inspection from June 14, 1995 designates the property as a duplex. The Certificates of Occupancy (C of O) issued on May 14, 2008 and June 4, 2014 designate the property as having two residential units. The most recent C of O file from June 9, 2021 is pending, designates the property as having two units, and notes that the building permit from 1992 says basement was used as a bedroom, bathroom, and rec room, not as a third dwelling unit.

According to Ramsey County parcel data, the land use is designated as a three-family dwelling, and tax records reflect that the property has been taxed as such. The applicant has provided Certificates of Rent Paid filed for the past 10 years that demonstrate that three units on the property have been rented out, with the third unit on the basement level being rented out by the same tenant for the last eight years until May 2021. The applicant is applying for a nonconforming use permit to establish the property as a legal nonconforming triplex.

2. The triplex conversion guidelines adopted by the Planning Commission state that staff will recommend denial of applications for establishment of legal nonconforming status for a

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

triplex in a residential district unless, in addition to the required findings in § 62.109(a) of the Zoning Code, the following guidelines are met:

- A. *Lot size of at least 6000 square feet with a lot width or front footage of 50 feet.* This guideline is not met. The lot size of 1126 Lincoln Avenue is 6,398 square feet, which includes half of the alley. However, the lot is only 40 feet wide.
  - B. *Gross living area after completion of the conversion of at least 2100 square feet for the three units. No unit shall be smaller than 500 square feet.* This guideline is met. According to Ramsey County parcel data, the structure includes 3,678 square feet of living area. According to the information submitted by the property owner, the basement-level unit is 720 square feet, the main level unit is 1,479 square feet, and the upper-level unit is 1,479 square feet.
  - C. *Four off-street parking spaces (non-stacked) are preferred; three spaces are the required minimum.* This guideline, which was set based on minimum parking standards that will no longer be in effect as of October 1, 2021, can be met following the construction of a-proposed additional parking space to the west of the existing two-car garage, for a total of three off-street parking spaces.
  - D. *All remodeling work for the triplex 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.)* This guideline can be met. The third (basement) unit in the dwelling already exists. There would be no exterior remodeling for the triplex structure. Construction of a parking pad next to the two-car garage off the alley can be approved by the Planning Commission as part of the nonconforming use permit.
  - 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 can be met. If this application is approved, this would be a condition of the approval.
3. Section 62.109(a) of the zoning code provides that the Planning Commission may grant legal nonconforming status to uses or structures that do not meet the standards for legal nonconforming status in section 62.102 if the commission makes the following findings:
- a. *The use or a nonconforming use of similar or greater intensity first permitted in the same zoning district or in a less restrictive zoning district has been in existence continuously for a period of at least ten (10) years prior to the date of the application.* This finding is met. Ramsey County tax records reflect that the use has been taxed as a triplex. Although City records show that the property was never legally established as a triplex and the TISH report from 1995 and Certificates of Occupancy show the property as having two units, the applicant provided Certificates of Rent Paid filed for the past 10 years that demonstrate rent paid for the three units on the property.
  - b. *The off-street parking is adequate to serve the use.* This finding is met. The property currently has a two-car garage, and the property owner plans to construct an additional parking space to the west of the garage. As a result, the property would have a total of three off-street parking spaces, one for each of the three units.
  - c. *Hardship would result if the use were discontinued.* This finding is met. The applicant purchased and invested in the property as a triplex and has depended on income from the three units over the last 23 years. The basement unit, including kitchen and

bathroom improvements, is separated from the other units by common space and could not be used as part of one of the other units.

- d. *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* This finding is met. The property is located in a large, contiguous area of RT1 two-family zoning; the proposed use as a triplex is first allowed in the RT2 district and rezoning the property to RT2 would likely result in spot zoning.
- e. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. The evidence suggests that that the property has been used for at least 10 years as a triplex. Provided that the property receives a Certificate of Occupancy as a triplex, the proposed use will neither be detrimental to the existing character of the area nor endanger the public health, safety, or general welfare.
- f. *The use is consistent with the comprehensive plan.* This finding is met. Policy H-48 of the Housing Chapter of the 2040 Comprehensive Plan states, "*Expand permitted housing types in Urban Neighborhoods (as defined in the Land Use Chapter) to include duplexes, triplexes, town homes, small-scale multifamily and accessory dwelling units to allow for neighborhood-scale density increases, broadened housing choices and intergenerational living.*" The future land use of the subject property is designated as an Urban Neighborhood, which is a primarily residential area with a range of housing types. Establishment of the property as a legal, nonconforming triplex would allow for a triplex to legally exist within an Urban Neighborhood. Policy H-45 states, "*Support the preservation and maintenance of historic housing stock as an affordable housing option.*" Establishment of the property as a legal triplex would allow for the preservation of the 1923-built structure as a potentially more affordable housing option with three housing units.

Policy H8 Single-family and Multi-family Residences of the Summit Hill/District 16 Neighborhood Plan states, "*Maintain the existing residentially zoned area and retain the mix of housing types (single-family, duplex, townhouses, and apartments) in the Summit Hill neighborhood in existing and new housing developments...*" Establishment of the property as a legal triplex would maintain the existing zoning and retain the property as a triplex, which has been the property's use for at least 10 years. Policy H12 Housing Options states, "*Maintain rental housing options to continue some measure of affordability in the neighborhood.*" Establishment of the property as a legal triplex would allow for the property to maintain three existing rental units.

- g. *A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet the subject property has been submitted stating their support for the use.* This finding is met. A petition was not required at the time of the application due to Emergency Executive Order 2020-29, "Suspending Certain Requirements of the Zoning Code Pertaining to Consent Petitions", which was extended with Emergency Executive Order 21-36.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Larry and Tamara Kuenster for an establishment of nonconforming use as a triplex at 1124-1126 Lincoln Ave is hereby approved, subject to the following condition:

1. The applicant shall obtain the necessary permits, bring the entire structure into building and fire code compliance, and obtain a certificate of occupancy for the three dwelling units within six months.