



MEMORANDUM

SUBJECT: 1-4 Unit Infill Housing Zoning Study – Duplex and Triplex Conversion Guidelines

TO: Comprehensive and Neighborhood Planning Committee

FROM: Michael Wade, *City Planner*

DATE: December 1, 2021

SUMMARY

This memo examines the Duplex and Triplex Guidelines used by Planning and Zoning staff during zoning case processes. Staff recommends that the Comprehensive and Neighborhood Planning Committee forward the attached Resolution to the Planning Commission with a recommendation for adoption, rescinding Resolution 09-52 and discontinuing the Duplex and Triplex Conversion Guidelines.

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1. Introduction

The Duplex and Triplex Conversion Guidelines were included for study in Phase 1 of the 1-4 Unit Infill Housing Zoning Study, initiated by the Planning Commission in Resolution 21-20. The following discussion of the Guidelines and recommended action was included in the Phase 1 memo which underwent a public hearing at Planning Commission on October 15, 2021. In Resolution 21-53, the Commission recommended zoning text amendments for City Council adoption on November 12, 2021. The Guidelines are not zoning text, having been adopted as policy by the Planning Commission, and needing to be amended or discontinued by Planning Commission resolution.

Adopted by the Planning Commission and Board of Zoning Appeals (“BZA”), the Duplex and Triplex Conversion Guidelines are lists of requirements and criteria that direct PED-Planning and DSI-Zoning staff as they form recommendations regarding variance, rezoning, or nonconforming use permit zoning cases which would, if granted, permit the conversion of a single-family home to a duplex or a duplex to a triplex. The Guidelines state that staff shall recommend denial of an application if it does not meet all of the criteria, even though it may meet all standards in the Zoning Code and be in conformity with adopted planning documents. The Guidelines are not adopted by the City Council as part of the Saint Paul Legislative Code, so they do not carry the legal authority of the Zoning Code. The current Guidelines are attached to this report as **Appendix B**.

2. Background

Both the Planning Commission and BZA approved interim Duplex Conversion Guidelines in 1981 for single-family-to-two-family dwelling conversions. This short document included:

- Minimum lot areas and frontages;
- Minimum gross living areas;
- Minimum parking provision;
- The requirement not to expand a structure without PED design team approval; and
- A prohibition on rezoning from a single-family zone to the RT1 two-family residential district (allowing duplexes) in a homogenous single-family neighborhood.

The Guidelines were intended to provide consistency in staff recommendations on zoning cases – for instance, one zoning staff member may consider a lot area variance of 300 square feet too high to approve, but another may consider the same variance allowable as long as all required findings for the variance are met. These minimums establish the maximum amount the Planning Commission and BZA would diverge from the Code to allow duplex conversions.

These interim Guidelines were used until the early 1990s, when a backlog of illegal duplex and triplex conversions brought zoning staff’s attention back to the document as a tool for evaluating conversion cases. In these situations, owners of single-family homes or duplexes had added a unit without required building permits – and sometimes in violation of the Zoning Code. These cases, along with



housing policy changes, resulted in the Commission and BZA approving permanent updates to the duplex and triplex conversion guidelines in 1992. (Planning Commission Resolution 19-42). In this 1992 update, the level of scrutiny was increased through:

- Increased parking requirements;
- An added section on nonconforming use permits – staff notes indicate that the intensity of criteria would be the least for variances, the most for rezonings, and that NCUPs would fall in between (with the same guidelines as variances, plus the normal NCUP zoning standards);
- Added requirements for inspection of illegally-converted duplexes and triplexes *prior* to the BZA/Zoning Committee determination, *or* a condition that an inspection take place; and
- Added requirement for an economic feasibility analysis where economic hardship was claimed; the worksheet would be analyzed by PED-Housing Division staff.

In 2009, “changes in City codes and plans” prompted another update. Planning Commission Resolution 19-52 still bases the value of these Guidelines on their use in “reviewing duplex and triplex conversion zoning cases arising from identification of illegal conversions as a result of City inspections of residential properties”. Aside from formatting changes, clarifications, and eliminating some redundancy, the updates include:

- Decreased minimum lot areas and gross living area requirements, but new minimum unit gross floor areas;
- Shifted burden of approving structural expansions from the understaffed PED design team to the reviewing body (Commission or BZA);
- An updated nonconforming use section reflecting current zoning standards;

This is the form of Guidelines in use today.

3. Elements of the Guidelines

- a) *Submission of a site plan and unit floor plans as part of the zoning case application.* Outside of the Guidelines, these documents are not required to be submitted to the Planning Commission or Board of Zoning Appeals (“BZA”) for new construction of a single-family home or duplex in the form of a site plan review process per § 61.402 of the Zoning Code, although all of these documents must be submitted during the building permit process. Submission of this information during a zoning case is helpful to ensure early on that the applicant is applying the City’s General Design Standards (§ 63.110).



- b) *Submission of the MLS listing from the most recent sale.* This makes staff's determination of the historic use of the property quicker and easier. Especially for nonconforming use permit-related applications, the historic use of a property must always be reviewed.
- c) *"...[S]taff will recommend denial unless the following guidelines are met...."* This criteria is required for each type of application (variance, nonconforming use permit, and rezoning), and the can distort a staff member's more nuanced recommendation. A recommendation for approval will only be received if all of the following criteria are met:
- Minimum lot and unit dimensional requirements;
 - Minimum parking provision requirements;
 - Requirement that all remodeling work should take place within the structure unless the reviewing body permits a structural expansion;
 - For existing illegal conversions, a required code compliance inspection or condition on the Commission/BZA resolution that the structure will be brought into code compliance and obtain necessary permits within a set amount of time;
 - For rezonings to higher-density residential zones, the area must already be mixed-density and not have already been previously rezoned as part of a community or small area plan.

4. Discussion

The requirements of the Guidelines have increasingly been perceived by Planning Commissioners and Planning staff as an obstructive formality in zoning cases where an application meets all standards in the Zoning Code and is in conformity with City policy. City policy regarding housing unit density has continued to evolve: while previous policy prioritized protection of and sensitivity to exclusive single-family zoning, which these Guidelines strengthened, current policy encourages incremental densification to areas of the city guided as Urban Neighborhoods and the addition of dwelling units in neighborhood-scale housing types. (See supportive 2040 Comprehensive Plan policies in the Background section above.) Additionally, the City is currently considering a reduction or elimination of parking minimums citywide. While the intent of consistency in staff review remains valuable, the intended aversion to densification of low-density neighborhoods no longer conforms to City policy.

Most criteria in the Guidelines, however, do contribute to thoughtful analysis by staff, as they bring attention to residential and building code issues, site layout dimensions, parking effects, and other land use and planning considerations. Individual guidelines may be diffused into other processes or tools that staff apply to zoning cases, such as standard conditions that are attached to Commission or BZA approvals, additional zoning case application requirements, and internal staff review protocol that can provide the consistency of staff review that the original Guidelines were intended to achieve. If the



Planning Commission were to officially discontinue use of this document as proposed – removing the requirement that staff recommend denial if the minimum criteria aren't met – staff could then sort and apply the individual guidelines, potentially leaving the final staff-level guidelines in a similar unified, concise document for reference, but without the required recommendation.

5. Staff Recommendation

Staff recommends that the Comprehensive and Neighborhood Planning Committee forward the attached Resolution to the Planning Commission with a recommendation for adoption, rescinding Resolution 09-52 and discontinuing the Duplex and Triplex Conversion Guidelines.

6. Appendices

- a. Appendix A: Draft Planning Commission Resolution**
- b. Appendix B: Duplex and Triplex Conversion Guidelines**

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

WHEREAS, the Saint Paul Planning Commission and the Board of Zoning Appeals (“BZA”) in 1981 approved interim duplex conversion guidelines used to provide consistency in review of single-family to duplex conversion cases; and

WHEREAS, in response to a large number of illegal duplex and triplex conversion complaints resulting in an increased conversion caseload for the Zoning Committee and the BZA, the Planning Commission and BZA approved the existing Duplex and Triplex Conversion Guidelines for zoning cases in 1992, and updated them in 2009; and

WHEREAS, 2040 Comprehensive Plan policies H-48 and H-49 direct City staff to “expand permitted housing types in Urban Neighborhoods to include duplexes, triplexes, town homes, small-scale multi-family...to allow for neighborhood-scale density increases, broadened housing choices and intergenerational living” and to “consider amendments to the zoning code to permit smaller single-family houses and duplexes to facilitate the creation of small-home development types, such as pocket neighborhoods and cottage communities”; and

WHEREAS, in pursuit of City Council Resolution 18-1204, which calls for broad action to address the growing housing shortage, cost-burdened population, and racial, social, and economic disparities in Saint Paul, the Planning Commission issued Resolution 21-20, which initiated the 1-4 Unit Infill Housing Zoning Study to consider amendments to the Zoning Code pertaining to low-density residential zoning districts and dwelling types, and consider the continuing use of the Duplex and Triplex Conversion Guidelines; and

WHEREAS, the adopted Duplex and Triplex Conversion Guidelines have been found by the Planning Commission to frequently and arbitrarily influence staff zoning recommendations in conflict with Comprehensive Plan policies supporting increased neighborhood-scale housing;

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission rescinds Resolution 09-52, known as the Duplex and Triplex Conversion Guidelines.

moved by _____
seconded by _____
in favor _____
against _____

DUPLEX CONVERSION GUIDELINES FOR ZONING CASES

**Approved by the Board of Zoning Appeals June 30, 2009
Approved by the Planning Commission August 21, 2009 (09-52)**

1. Application Requirements.

Plans. In addition to the general application requirements of Zoning Code §§ 61.301, 61.302, and 61.801(b) (for rezonings), applications shall include a site plan showing total lot area and proposed off street parking (improved with a durable, permanent, dustless surface). In calculating the floor area of habitable rooms, only those portions of the floor area of a room having a clear ceiling height in excess of five (5) feet may be included. At least half of the floor area of any habitable room shall have a clear ceiling height of seven (7) feet or more. If exterior changes are proposed, exterior changes shall be consistent with the General Design Standards in Zoning Code § 63.110. All plans and drawings must show dimensions or be drawn to scale.

Economic Feasibility Analysis. An economic analysis worksheet provided by the City shall be completed and submitted with the application.

MLS Listing from Most Recent Sale. A copy of the MLS listing from the most recent sale shall be submitted with the application.

2. Applications for *variances* in RT1 or higher residential zones.

For proposed conversions of existing single-family structures to duplexes, staff will recommend denial unless, in addition to the required findings for variances contained in Zoning Code § 61.600, 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.

3. Applications for *establishment of legal nonconforming use or reestablishment of legal nonconforming use.*

For residential uses in residential districts, staff will recommend denial unless the following guidelines are met:

- A. All required findings for nonconforming use permits in Zoning Code § 62.109(a) *Establishment of legal nonconforming use* or (e) *Reestablishment of nonconforming use* are met.
- B. That guidelines A - E in section 2 above are met.

4. Applications to *rezone single parcels to RT1 to provide for conversion to a duplex.*

Staff will assess the on-street parking conditions in the area as well as review the application against the following guidelines. Staff will recommend denial unless these guidelines are met:

- A. Lot size of at least 6000 square feet with a lot width or front footage of 50 feet.
- B. Gross living area after completion of the conversion of at least 1500 square feet for the two units. 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. The proposed duplex structure is located in a mixed density neighborhood, not in a homogeneous single-family area.
- E. Notwithstanding any other law to the contrary, for the purpose of protecting the welfare and safety of the occupants of any structure that was converted without building permits prior to the application for rezoning, a code compliance inspection shall be conducted, and the necessary permits obtained to bring the entire structure up to building and fire code standards; or the property owner must make the necessary improvements to bring the entire structure into building and fire code compliance prior to registration of the structure as a duplex.
- F. The lot and surrounding area have not been previously rezoned as part of a community-wide plan and zoning study (district plan or small area plan).

TRIPLEX CONVERSION GUIDELINES FOR ZONING CASES

Approved by the Board of Zoning Appeals June 30, 2009
Approved by the Planning Commission August 21, 2009 (09-52)

1. Application Requirements.

Plans. In addition to the general application requirements of Zoning Code §§ 61.301, 61.302, and 61.801(b) (for rezonings), applications shall include a site plan showing total lot area and proposed off street parking (improved with a durable, permanent, dustless surface). In calculating the floor area of habitable rooms, only those portions of the floor area of a room having a clear ceiling height in excess of five (5) feet may be included. At least half of the floor area of any habitable room shall have a clear ceiling height of seven (7) feet or more. If exterior changes are proposed, exterior changes shall be consistent with the General Design Standards in Zoning Code § 63.110. All plans and drawings must show dimensions or be drawn to scale.

Economic Feasibility Analysis. An economic analysis worksheet provided by the City shall be completed and submitted with the application.

MLS Listing from Most Recent Sale. A copy of the MLS listing from the most recent sale shall be submitted with the application.

2. Applications for *variances* in RT2 or higher residential zones.

For proposed conversions of existing single-family and duplex structures to triplexes, staff will recommend denial unless, in addition to the required findings for variances contained in Zoning Code § 61.600, the following guidelines are met:

- A. Lot size of at least 6000 square feet with a lot width or front footage of 50 feet.
- B. Gross living area, after completion of duplex conversion, of at least 2100 square feet. No unit shall be smaller than 500 square feet.
- C. Four off-street parking spaces (non-stacked) are preferred; three spaces are the required minimum.
- 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.)
- 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.

3. Applications for *establishment of legal nonconforming use or reestablishment of legal nonconforming use.*

For residential uses in residential districts, staff will recommend denial unless the following guidelines are met:

- A. All required findings for nonconforming use permits in Zoning Code § 62.109(a) *Establishment of legal nonconforming use* or (e) *Reestablishment of nonconforming use* are met.
- B. That guidelines A - E in section 2 above are met.

4. Applications to *rezone single parcels to RT2 or higher to provide for conversion to a triplex.*

Staff will assess the on-street parking conditions in the area as well as review the application against the following guidelines. Staff will recommend denial unless these guidelines are met:

- A. Lot size of at least 9000 square feet.
- 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.
- C. Four off-street parking spaces (non-stacked) are preferred; three spaces are a required minimum.
- D. The property is located in a mixed density or mixed use neighborhood.
- E. The units must be inspected by the Fire Marshal's Office as part of the Certificate of Occupancy program required for all residential structures with three or more units. The entire structure must meet building and fire code standards; or the property owner must obtain the necessary permits for the necessary improvements to bring the entire structure into building and fire code compliance.
- F. The lot and surrounding area have not been previously rezoned as part of a community-wide plan and zoning study (district plan or small area plan).