

city of saint paul
planning commission resolution
file number
date

WHEREAS, R. Scott Ramsay, File # 16-024-246, has applied for a change of nonconforming use from office to mixed-use office/residential under the provisions of §62.109 of the Saint Paul Legislative Code, on property located at 1338 Bayard Avenue, Parcel Identification Number (PIN) 102823430094, legally described as Hackett's Subdivision of Block 4, Lexington Park Plat 5 Lot 15; and

WHEREAS, the Zoning Committee of the Planning Commission, on April 21, 2016, 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 intends to purchase the property and operate a financial advising business, an office use, on the first floor and rent the two-bedroom unit on the second floor. The residential unit on the second floor is intact despite it being used for office space for many years. The business expects to employ two full-time and two part-time employees; the part-time employees will not work at the office at the same time, one will work in the morning and the other in the afternoon. The applicant states that 90 percent of client meetings take place away from the office. There is a two-car garage at the rear of the property. The basement is unfinished and used for storage.
2. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location if the commission makes the following findings:*
 - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use. This finding is met. The proposed mixed-use office/residential use is more appropriate to the neighborhood than the existing use because it increases the residential use of the property, which is surrounded by low density*

moved by _____
seconded by _____
in favor _____
against _____

residential uses.

b. The traffic generated by the proposed use is similar to that generated by the existing nonconforming use. This finding is met. The traffic generated by the proposed nonconforming use is anticipated to be similar to or less than the existing use because the proposed use would have four employees and the previous use is permitted up to ten at any time. In addition the applicant states that 90 percent of client meetings are anticipated take place away from the office. There is a two car garage at the rear of the property. There is also on-street parking available along the parcel's 125 feet of frontage on Hamline Avenue and 40 feet of frontage on Bayard Avenue.

c. 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 building has been used for office space for many years. The proposed change to allow a portion of the property to be used for residential use moves the property closer to a conforming use.

d. The use is consistent with the comprehensive plan. This finding is met. The future land use map identifies the property as *Established Neighborhoods*. This land use category is described as "Predominantly residential areas with a range of housing types. Single family houses and duplexes predominate, although there may be smaller scale multifamily housing scattered within these neighborhoods. Also includes scattered neighborhood-serving commercial, service, and institutional uses at the juncture of arterial and collector streets." Strategy 1.7 in the Land Use chapter of the Comprehensive Plan states, "Permit neighborhood-serving commercial businesses compatible with the character of established neighborhoods." Strategy 1.48 states, "Support compatible mixed-use within single buildings and in separate buildings in close proximity."

3. The existing nonconforming use permit limits the number of employees to not more than ten (10) at any time. Since the amount of office space would be decreased by approximately 50 percent under the proposed change of use, it would be appropriate to decrease the number of employees permitted, commensurate with the decrease in space devoted to office use.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application by R. Scott Ramsay for a change of nonconforming use from office to mixed-use office/residential at 1338 Bayard Avenue is hereby approved subject to the following conditions:

1. The number of employees may not be more than five (5) at any time.
2. The applicant, and any future occupant, shall comply with all regulations and requirements regarding licensing and certificate of occupancy.

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** R. Scott Ramsay **FILE #** 16-024-246
 2. **APPLICANT:** R. Scott Ramsay **HEARING DATE:** April 21, 2016
 3. **TYPE OF APPLICATION:** Nonconforming Use Permit - Change
 4. **LOCATION:** 1338 Bayard Ave, SE corner at Hamline
 5. **PIN & LEGAL DESCRIPTION:** 10.28.23.43.0094, Hackett's Subdivision of Block 4, Lexington Park Plat 5, Lot 15
 6. **PLANNING DISTRICT:** 15 **PRESENT ZONING:** R4
 7. **ZONING CODE REFERENCE:** §62.109(c)
 8. **STAFF REPORT DATE:** April 14, 2016 **BY:** Kady Dadlez
 9. **DATE RECEIVED:** April 5, 2016 **60-DAY DEADLINE FOR ACTION:** June 4, 2016
-

- A. **PURPOSE:** Change of nonconforming use from office to mixed-use office/residential.
- B. **PARCEL SIZE:** 5,002 sq. ft.
- C. **EXISTING LAND USE:** C-Office
- D. **SURROUNDING LAND USE:**
 - North: Low density residential (R4)
 - East: Low density residential (R4)
 - South: Low density residential (R4)
 - West: Low density residential (RT1)
- E. **ZONING CODE CITATION:** §62.109(c) authorizes the planning commission to allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location upon making certain findings (see Section I below).
- F. **PARKING:** The use has a legal nonconforming parking deficit. The proposed mixed-use office/residential nonconforming use requires 4 off-street parking spaces (2.2 parking spaces for the office use on the first floor and 1.5 spaces for the dwelling unit on the second floor).
- G. **HISTORY/DISCUSSION:** The property has been zoned for residential use since before 1975 and has historically been a mixed commercial residential building. In 2007 a permit was obtained to allow enlargement of nonconforming commercial use. (The applicant at that time had occupied the first floor of the structure for office use since 1984 and had expanded into the residential unit on the second floor in 1999. A December 2006 certificate of occupancy inspection revealed that there was no longer a residential tenant occupying the second floor and the commercial use was occupying both floors). At some point in time after the enlargement of nonconforming use permit was obtained the building occupant changed to Getten Credit Co. In 2014 there was a Zoning Administrator decision that the use of the property by Getten Credit Co., a state licensed regulated lender, is an alternative financial establishment not permitted to operate in the R4 one family residential zoning district and that Getten Credit Co. is not an "office use" as allowed under the 2007 nonconforming use permit. That decision was appealed to the Board of Zoning Appeals. An appeal of a decision by the Board of Zoning Appeals (BZA) upholding a decision by the Zoning Administrator was upheld by the City Council.
- H. **DISTRICT COUNCIL RECOMMENDATION:** The District 15 Council had not commented on the permit request at the time the staff report was drafted.
- I. **FINDINGS:**
 1. The applicant intends to purchase the property and operate a financial advising business, an office use, on the first floor and rent the two-bedroom unit on the second floor. The residential unit on the second floor is intact despite it being used for office space for many years. The

business expects to employ two full-time and two part-time employees; the part-time employees will not work at the office at the same time, one will work in the morning and the other in the afternoon. The applicant states that 90 percent of client meetings take place away from the office. There is a two-car garage at the rear of the property. The basement is unfinished and used for storage.

2. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to another use permitted in the district in which the existing nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the existing nonconforming use is first allowed, or permit another, related nonconforming use at the same location if the commission makes the following findings:*
 - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use.* This finding is met. The proposed mixed-use office/residential use is more appropriate to the neighborhood than the existing use because it increases the residential use of the property, which is surrounded by low density residential uses.
 - b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding is met. The traffic generated by the proposed nonconforming use is anticipated to be similar to or less than the existing use because the proposed use would have four employees and the previous use is permitted up to ten at any time. In addition the applicant states that 90 percent of client meetings are anticipated take place away from the office. There is a two car garage at the rear of the property. There is also on-street parking available along the parcel's 125 feet of frontage on Hamline Avenue and 40 feet of frontage on Bayard Avenue.
 - c. *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 building has been used for office space for many years. The proposed change to allow a portion of the property to be used for residential use moves the property closer to a conforming use.
 - d. *The use is consistent with the comprehensive plan.* This finding is met. The future land use map identifies the property as *Established Neighborhoods*. This land use category is described as "Predominantly residential areas with a range of housing types. Single family houses and duplexes predominate, although there may be smaller scale multifamily housing scattered within these neighborhoods. Also includes scattered neighborhood-serving commercial, service, and institutional uses at the juncture of arterial and collector streets." Strategy 1.7 in the Land Use chapter of the Comprehensive Plan states, "Permit neighborhood-serving commercial businesses compatible with the character of established neighborhoods." Strategy 1.48 states, "Support compatible mixed-use within single buildings and in separate buildings in close proximity."
3. The existing nonconforming use permit limits the number of employees to not more than ten (10) at any time. Since the amount of office space would be decreased by approximately 50 percent under the proposed change of use, it would be appropriate to decrease the number of employees permitted, commensurate with the decrease in space devoted to office use.

J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the change of nonconforming use from office to mixed-use office/residential subject to the following additional condition(s):

1. The number of employees may not be more than five (5) at any time.
2. The applicant, and any future occupant, shall comply with all regulations and requirements regarding licensing and certificate of occupancy.

ZF #16-024-246



Highland District Council
1978 Ford Parkway Saint Paul, Minnesota 55116
651-695-4005 Fax 651-695-4019
Email: info@highlanddistrictcouncil.org

Resolution in Support of a Nonconforming Use Permit for 1338 Bayard Ave

Whereas R. Scott Ramsay has a Purchase agreement with Denny Getten for the property at 1338 Bayard Ave; and

Whereas the Highland District Council's Community Development Committee held a community meeting on April 19th, 2016, with R. Scott Ramsay to discuss the application to change the nonconforming use from office to mixed use office with residential at 1338 Bayard; and

Whereas this was the original layout and use of the building from a previous owner and the building is not able to be used by the current owner as it is currently zoned; therefore .

Be it resolved, that the Highland District Council supports the application of R Scott Ramsay for a change of Nonconforming Use from office to mixed use office/ residential at 1338 Bayard Ave.

Adopted on April 19th, 2016
By the Community Development Committee of the Highland District Council