

city of saint paul
planning commission resolution
file number
date

WHEREAS, R2C LLC / Joseph R. Yeary, in File # 17-052-150, has applied to rezone from B2 community business to T2 traditional neighborhood under the provisions of § 61.801(b) of the Saint Paul Legislative Code, on property located at 1051 Arkwright Street, Parcel Identification Number (PIN) 29.29.22.23.0052, legally described as Hendrickson’s Addition, E 1.2 ft. of S 32.1 ft. of Lot 4 and all of Lots 1, 2, and 3; and

WHEREAS, the Zoning Committee of the Planning Commission, on July 6, 2017, 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 application requests rezoning from B2 community business district to T2 traditional neighborhood district. The rezoning would allow more than 50% of the first floor to be for residential uses. The existing building and proposed use would be consistent with T2 dimensional standards.
2. The proposed zoning is consistent with the way this area has developed. There have been a mix of residential and commercial uses in the area, including commercial uses on the subject site and across the street to the east.
3. The proposed zoning is consistent with the Comprehensive Plan. The Comprehensive Plan, in Figure LU-B, designates the site as part of an Established Neighborhood, which allows for scattered multi-family housing and neighborhood-serving commercial uses. The intent of T2 is to foster and support compact, pedestrian-oriented commercial and residential development.
4. The proposed zoning is compatible with the surrounding business and residential uses, including offices to the east, multi-family residential to the south, and other surrounding residential.
5. Court rulings have determined that “spot zoning” is illegal in Minnesota. Minnesota courts have stated that this term “*applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and create an island of nonconforming use within a larger zoned property.*” The proposed T2 zoning does not constitute “spot zoning.” The uses permitted in the T2 zoning district are consistent with the surrounding mix of permitted uses.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of R2C LLC/Joseph R. Yeary to rezone from B2 community business to T2 traditional neighborhood for property at 1051 Arkwright Street be approved.

moved by _____
seconded by _____
in favor _____
against _____

ZONING COMMITTEE STAFF REPORT

FILE NAME: R2C LLC / Joseph R. Yeary

FILE #: 17-052-150

APPLICANT: R2C LLC

HEARING DATE: July 6, 2017

TYPE OF APPLICATION: Rezoning

LOCATION: 1051 Arkwright Street, SW corner at Cook

PIN & LEGAL DESCRIPTION: 29.29.22.23.0052; Hendrickson's Addition, E 1.2 ft. of S 32.1 ft. of Lot 4 and all of Lots 1, 2, and 3

PLANNING DISTRICT: 5

EXISTING ZONING: B2

ZONING CODE REFERENCE: § 61.801(b); § 65.143(a)

STAFF REPORT DATE: June 28, 2017; Rev. July 6, 2017

BY: Bill Dermody

DATE RECEIVED: June 20, 2017

60-DAY DEADLINE FOR ACTION: August 19, 2017

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- A. **PURPOSE:** Rezone from B2 community business to T2 traditional neighborhood.
 - B. **PARCEL SIZE:** 87 feet (Cook) x 80 feet (Arkwright) = 6,969 square feet
 - C. **EXISTING LAND USE:** Vacant building
 - D. **SURROUNDING LAND USE:** Multi-family residential to the south (RT2), office across Arkwright to the east (B2), and single-family residential to the west and across Cook to the north (R4).
 - E. **ZONING CODE CITATION:** § 61.801(b) provides for changes to the zoning of property initiated by the property owner. § 65.143(a) limits residential uses in B1-B3 business and IT industrial districts to no more than 50% of the first floor.
 - F. **HISTORY/DISCUSSION:** The existing 2-story building was mixed residential and commercial (law office) until becoming vacant in 2015 or 2016. It has been zoned B2 since 1975.
 - G. **Parking:** The amount of required parking does not change with the rezoning.
 - H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, District 5 has not provided a recommendation.
 - I. **FINDINGS:**
 1. The application requests rezoning from B2 community business district to T2 traditional neighborhood district. The rezoning would allow more than 50% of the first floor to be for residential uses. The existing building and proposed use would be consistent with T2 dimensional standards.
 2. The proposed zoning is consistent with the way this area has developed. There have been a mix of residential and commercial uses in the area, including commercial uses on the subject site and across the street to the east.
 3. The proposed zoning is consistent with the Comprehensive Plan. The Comprehensive Plan, in Figure LU-B, designates the site as part of an Established Neighborhood, which allows for scattered multi-family housing and neighborhood-serving commercial uses. The intent of T2 is to foster and support compact, pedestrian-oriented commercial and residential development.

4. The proposed zoning is compatible with the surrounding business and residential uses, including offices to the east, multi-family residential to the south, and other surrounding residential.
 5. Court rulings have determined that “spot zoning” is illegal in Minnesota. Minnesota courts have stated that this term *“applies to zoning changes, typically limited to small plots of land, which establish a use classification inconsistent with the surrounding uses and create an island of nonconforming use within a larger zoned property.”* The proposed T2 zoning does not constitute “spot zoning.” The uses permitted in the T2 zoning district are consistent with the surrounding mix of permitted uses.
- J. **STAFF RECOMMENDATION:** Based on the above findings, staff recommends approval of the rezoning from B2 community business to T2 traditional neighborhood at 1051 Arkwright Street.

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WHEREAS, United Business Group LLC, File # 17-051-362, has applied for a reestablishment of nonconforming use as a duplex. under the provisions of Zoning Code §62.109(e) of the Saint Paul Legislative Code, on property located at 548 Van Buren Avenue, Parcel Identification Number (PIN) 36.29.23.22.0038, legally described as Smith's subdivision of block 3 of Stinson's Division Lot 18 Block 3; and

WHEREAS, the Zoning Committee of the Planning Commission, on July 6, 2017, 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 duplex conversion guidelines adopted by the Planning Commission state that staff will recommend denial of applications for reestablishment of legal nonconforming status for a duplex in a residential district unless, in addition to the required findings in § 62.109(e) of the Zoning Code, the following guidelines are met:
 - A. *Lot size of at least 5000 square feet with a lot width or front footage of 40 feet. This guideline is met. The lot is 40 feet wide and, with half the adjoining alley considered as part of the lot for the purpose of applying lot area requirements according to Zoning Code § 66.231 (b), the area of the lot is 5300 square 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. This guideline is met. The total floor area of the structure is 2226 square feet, with a building footprint of 1113 square feet. The structure is an up-down duplex with each unit occupying a floor.*
 - C. *Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum. This guideline is met. There is currently a two car garage with additional surface parking on the east side of the garage.*
 - 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.) This guideline is met. No exterior changes to the property have been proposed as a part of this application.*
 - 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*

moved by _____

seconded by _____

in favor _____

against _____

into building and fire code compliance within the time specified in the resolution. This guideline is met. The subject property has been on the vacant building list since 2015 as a category 2 vacant building. In order to for the building to be reoccupied all of the necessary code compliance repairs will have to be completed prior to reoccupying the building and a certificate of occupancy will have to be issued if the two unit structure is not owner occupied.

2. Section 62.109(e) states: *When a legal nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of more than one (1) year, 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.* City records indicate that the property has been a duplex since at least 1970. The structure is laid out as a typical up-down duplex with nearly identical first and second floor layouts. Each unit has three bedrooms, a kitchen, and one bathroom. There are separate utility hook-ups and entrances for both units. Because of the existing layout and the property's long history as a two unit structure, this property cannot reasonably or economically be converted to a conforming use.
- (2) The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use. This finding is met.* The proposed duplex use is the same as the previous duplex use.
- (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.* The property has been a duplex since at least 1970 and there are a number of other non-conforming duplexes in the immediate area. Since 2008, there have been numerous property maintenance code complaints and abatements conducted on the property and the certificate of occupancy was revoked in 2015. The re-occupancy of the building and improved upkeep on the exterior of the property should help improve the general welfare of the immediate neighborhood.
- (4) The proposed use is consistent with the comprehensive plan. This finding is met.* The subject property is located in an established neighborhood which is land-use designation where single family and duplex housing types predominate. The proposed duplex use is consistent with this area's comprehensive plan land-use designation. Housing Plan Strategy H1.1 calls for increasing housing choice across the city to support economically diverse neighborhoods, including a mix of rental and ownership units and a range of housing types. Strategy H1 of the District 7 Neighborhood Plan calls for preserving the existing housing stock by rehabilitating units to accommodate future use.
- (5) A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the use. This finding is met.* The petition was found sufficient on June, 19, 2017: 18 parcels eligible; 12 parcels required; 12 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 United Business Group LLC for a reestablishment of nonconforming use as a duplex at 548 Van Buren Ave is hereby approved with the following conditions:

1. The property is maintained in accordance with all applicable property maintenance code requirements.
2. The applicant shall adhere to all applicable code requirements and obtain a certificate of occupancy for a two-unit building.

ZONING COMMITTEE STAFF REPORT

1. **FILE NAME:** United Business Group LLC **FILE #** 17-051-362
 2. **APPLICANT:** United Business Group LLC **HEARING DATE:** July 6, 2017
 3. **TYPE OF APPLICATION:** Nonconforming Use Permit - Reestablishment
 4. **LOCATION:** 548 Van Buren Ave, between Kent and Mackubin
 5. **PIN & LEGAL DESCRIPTION:** 36.29.23.22.0038; Smith's subdivision of block 3 of Stinson's Division Lot 18 Block 3
 6. **PLANNING DISTRICT:** 7
 7. **ZONING CODE REFERENCE:** §62.109(e) **PRESENT ZONING:** R4
 8. **STAFF REPORT DATE:** REVISED July 7, 2017 **BY:** Tony Johnson
 9. **DATE RECEIVED:** June 19, 2017 **60-DAY DEADLINE FOR ACTION:** August 18, 2017
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- A. **PURPOSE:** Reestablishment of nonconforming use as a duplex.
- B. **PARCEL SIZE:** 40 ft. x 125 ft. = 5000 sq. ft; including one-half the alley for density purposes, total lot area is 5300 Sq. ft.
- C. **EXISTING LAND USE:** Vacant Duplex
- D. **SURROUNDING LAND USE:**
 - North: One- and Two- Family Residential
 - East: One- Family Residential
 - South: One- and Two- Family Residential
 - West: One- Family Residential
- E. **ZONING CODE CITATION:** §62.109(e) lists the conditions under which the Planning Commission may grant a permit to reestablish a nonconforming use.
- F. **PARKING:** 1.5 spaces are required per unit. There is currently a 20 x 20 garage which can accommodate two cars and a parking pad which can accommodate 1 car.
- G. **HISTORY/DISCUSSION:** The structure was originally constructed in 1889 as a single family dwelling. Somewhere between 1925 and 1970 the property was converted to a duplex and has been used a duplex since that time. In 2015 the certificate of occupancy was revoked due to multiple code violations and the property was placed on the vacant building list. The property was recently acquired by United Business Group LLC through a public auction. The group has purchased the property with the intention of rehabbing it as a duplex.

In a 2011 historic resources inventory, the structure was identified as holding historic significance and as having potential eligibility for local or national register historic designation.
- H. **DISTRICT COUNCIL RECOMMENDATION:** No recommendation from the District 7 Council at the time of this staff report.
- I. **FINDINGS:**
 1. The duplex conversion guidelines adopted by the Planning Commission state that staff will recommend denial of applications for reestablishment of legal nonconforming status for a duplex in a residential district unless, in addition to the required findings in § 62.109(e) of the Zoning Code, the following guidelines are met:
 - A. *Lot size of at least 5000 square feet with a lot width or front footage of 40 feet. This guideline is met.* The lot is 40 feet wide and, with half the adjoining alley considered as part of the lot for the purpose of applying lot area requirements according to Zoning Code § 66.231 (b), the area of the lot is 5300 square 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. This guideline is met. The total floor area of the structure is 2226 square feet, with a building footprint of 1113 square feet. The structure is an up-down duplex with each unit occupying a floor.

- C. *Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum. This guideline is met. There is currently a two car garage with additional surface parking on the east side of the garage.*
 - 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.) This guideline is met. No exterior changes to the property have been proposed as a part of this application.*
 - 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. This guideline is met. The subject property has been on the vacant building list since 2015 as a category 2 vacant building. In order to for the building to be reoccupied all of the necessary code compliance repairs will have to be completed prior to reoccupying the building and a certificate of occupancy will have to be issued if the two unit structure is not owner occupied.*
2. Section 62.109(e) states: *When a legal nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of more than one (1) year, 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. City records indicate that the property has been a duplex since at least 1970. The structure is laid out as a typical up-down duplex with nearly identical first and second floor layouts. Each unit has three bedrooms, a kitchen, and one bathroom. There are separate utility hook-ups and entrances for both units. Because of the existing layout and the property's long history as a two unit structure, this property cannot reasonably or economically be converted to a conforming use.*
 - (2) *The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use. This finding is met. The proposed duplex use is the same as the previous duplex use.*
 - (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. The property has been a duplex since at least 1970 and there are a number of other non-conforming duplexes in the immediate area. Since 2008, there have been numerous property maintenance code complaints and abatements conducted on the property and the certificate of occupancy was revoked in 2015. The re-occupancy of the building and improved upkeep on the exterior of the property should help improve the general welfare of the immediate neighborhood.*
 - (4) *The proposed use is consistent with the comprehensive plan. This finding is met. The*

subject property is located in an established neighborhood which is land-use designation where single family and duplex housing types predominate. The proposed duplex use is consistent with this area's comprehensive plan land-use designation. Housing Plan Strategy H1.1 calls for increasing housing choice across the city to support economically diverse neighborhoods, including a mix of rental and ownership units and a range of housing types. Strategy H1 of the District 7 Neighborhood Plan calls for preserving the existing housing stock by rehabilitating units to accommodate future use.

- (5) *A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the use. This finding is met. The petition was found sufficient on June, 19, 2017:18 parcels eligible; 12 parcels required; 12 parcels signed.*

- I. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends approval of the reestablishment of nonconforming use as a duplex subject to the following conditions:
1. The property is maintained in accordance with all applicable property maintenance code requirements.
 2. The applicant shall adhere to all applicable code requirements and obtain a certificate of occupancy for a two-unit building.