

city of saint paul
planning commission resolution
file number
date

WHEREAS, Donald and Alice Olson, Zoning File # 16-059-563, have applied for a rezoning from OS office-service to T1 traditional neighborhood under the provisions of Zoning Code § 61.801(b), for property located at 1445 White Bear Ave N, Parcel Identification Number (PIN) 22.29.22.14.0062, legally described as Moody's Rearrangement, Lot 6; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 11, 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 Zoning Code § 61.303; 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 proposal to rezone from OS office-service to T1 traditional neighborhood is to allow for use as a residential house. The previous commercial use for hearing aid dispensary services is no longer a business need. The intent is resale as residential property. The existing White Bear Avenue Overlay zoning will remain in place and is not affected by this request.
2. The proposed zoning is consistent with the way this area has developed. There are single-family homes to the north and west. There are office, retail, and civic uses along White Bear Avenue to the south and east. The proposed T1 zoning provides for a transition between uses. Also, it recognizes the site's variable history of uses and allows for future conversion.
3. The proposed rezoning to T1 is in conformance with the Comprehensive Plan. The Land Use Chapter designates the area as a mixed use corridor (Figure LU-B) which calls for compact, mixed-use areas of shopping, housing, community amenities and employment centers, such as allowed in T1.
4. The proposed T1 zoning allows residential and limited, neighborhood-serving commercial uses that are compatible with the surrounding uses including one- and two-family dwellings and mixed office/commercial uses along White Bear Avenue.
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 rezoning to T1 Traditional Neighborhood is not spot zoning. T1 intended to provide for compact, pedestrian-oriented mixed-use areas of limited size, with a variety of residential, office and service uses that primarily serve neighborhood needs, which is consistent with the surrounding mix of uses.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application for rezoning from OS office-service to T1 traditional neighborhood for property at 1445 White Bear Ave N be approved.

moved by _____
seconded by _____
in favor _____
against _____

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WHEREAS, E-Z Masonry Inc., Zoning File # 16-060-038, has applied for establishment of legal nonconforming use status for outdoor storage for a contractor's shop, under the provisions of Zoning Code § 62.109(a), on properties located at 496, 498, 500, and 502 Prior Ave N, Parcel Identification Numbers (PINs) 33.29.23.24.0051 and 33.29.23.24.0052, legally described as Hinkel's 3rd Amendment to Union Park, Lots 205 and 206; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 11, 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 Zoning Code § 61.303; and

WHEREAS, Zoning Code § 62.109(a) 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 § 62.102 if the commission makes the following findings, and 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 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.* Based on aerial photography and the materials submitted by the applicant, the outdoor storage area was established in 2002 when the applicant purchased the property. This finding is met.
- (2) *The off-street parking is adequate to serve the use.* There are no parking requirements for outdoor storage. This finding is met.
- (3) *Hardship would result if the use were discontinued.* The subject properties are used for storing materials and equipment for the masonry business. According to the information submitted with the application, acquiring off-site storage for the materials that are stored at the site would cost anywhere from \$15,000 - \$20,000 annually and could potentially force them to relocate the business. The applicant acquired property in 2002 and has had the outdoor storage area since that time. Requiring them relocate the outdoor storage would result in a significant financial hardship. This finding is met.
- (4) *Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses.* 496 and 500 Prior Avenue are adjacent to an I1 light industrial zoning district and rezoning the property would not result in spot zoning. Rezoning the property would however, be inappropriate, considering the property is in close proximity to a RM2 multi-family residential zoning district and that the property was recently rezoned to T3 from I1 as a part of the Central Corridor Zoning Study. The current T3 zoning serves as a transition between the I1 and RM2 zoning districts in the area and should remain intact. This finding is met.

moved by _____

seconded by _____

in favor _____

against _____

- (5) *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.* The property is located adjacent to an I1 light industrial zoning district, and was zoned I1 prior to being rezoned T3. The majority of the businesses that are now zoned T3 are light industrial uses and commercial services, including a black smith shop and multiple repair shops. Allowing the applicant to continue to use the outdoor storage area would not change the existing character in the immediate area, provided that the outdoor storage area is not expanded and the stored materials are not visible from residentially zoned property. This finding is met.
- (6) *The use is consistent with the comprehensive plan.* The Land Use chapter of the comprehensive plan identifies the subject properties as being within a Mixed Use Corridor. A mix of land-uses are appropriate in Mixed Use Corridors, including small scale industry. Strategy 2 of the comprehensive plan calls for providing land for jobs, and recognizes the importance of having industrial land-uses available for providing living wage jobs. This finding is met.
- (7) *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 16, 2016: 11 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 E-Z Masonry Inc. for establishment of legal nonconforming use status for outdoor storage for a contractor's shop at 496, 498, 500, and 502 Prior Ave N, is hereby approved subject the following conditions:

1. The applicant receives site plan approval from Department of Safety Inspections for the outdoor storage area.
2. The materials in the outdoor storage area shall be completely screened from view with an obscuring fence or wall that is at least six feet in height.
3. The outdoor storage area shall not be expanded to areas which are not approved in the site plan.
4. The height of the stacked materials shall not exceed the height of the obscuring fence or wall.

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WHEREAS, Phalenview Real Estate LLC, Zoning File # 16-060-576, has applied for a rezoning from RT1 two-family residential to RM2 multiple family residential under the provisions of Zoning Code § 61.801(b), for property located at 419 Whittall Street, Parcel Identification Number (PIN) 29.29.22.32.0195, legally described as Edmund Rice's First Addition, Lots 2, 3 & 4, Block 6 and Edmund Rice's Fourth Addition, Lot 12, Block 7; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 11, 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 Zoning Code § 61.303; and

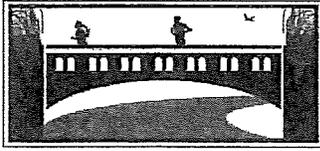
WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The proposal is to rezone from RT1 Two-Family Residential to RM2 Multiple-Family Residential to allow for development of multi-family housing on a vacant lot.
2. The proposed zoning is consistent with the way this area has develop, which includes a mix of residential uses to the north, and more intense, more recent office development along Phalen Boulevard to the south.
3. The proposed zoning is consistent with the Comprehensive Plan and is compatible with the Phalen Corridor Development Strategy residential strategy of "constructing new homes with neighborhood compatible designs on infill lots throughout the area" and "develop new medium density sites."
4. The proposed zoning is consistent with the surrounding uses, including a mix of one-family, duplex, and multi-family residential to the north, and the medical office campus to the south.
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 rezoning to RM2 is not spot zoning. RM2 allows residential uses that are consistent with the surrounding residential uses to the north as well as the more intense medical office campus to the south.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of Phalenview Real Estate LLC for a rezoning from RT1 two-family residential to RM2 multiple family residential for property at 419 Whittall Street be approved.

moved by _____
seconded by _____
in favor _____
against _____

ZC file # 16-060-576



Payne-Phalen

DISTRICT FIVE PLANNING COUNCIL

506 Kenny Road, Ste 130, St. Paul MN 55130 www.paynephalen.org 651-774-5234 district5@paynephalen.org

August 8, 2016

Zoning Committee
City of Saint Paul
Planning & Economic Development
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102

RE: file #16-060-576, Rezone at 419 Whittall St

To: Chair and members of the Zoning Committee

This letter is in response to the Rezoning application by Phalenview Real Estate LLC for a rezoning from RT1 two-family residential to RM2 multiple family residential at 419 Whittall Street.

The Payne-Phalen District Five Community Planning & Economic Development Committee met on August 3, 2016 at 6:30 PM at the Arlington Hills Community Center. The site plan with conceptual drawing was shared. Neighbors were present, and there was discussion both for and against the plans. The Committee voted to support the rezoning request as submitted, and that the final site design agrees with current city parking ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Al Oertwig'. The signature is fluid and cursive, with a large loop at the end.

Al Oertwig, Acting Chair
Payne-Phalen Community Planning & Economic Development Committee