

city of saint paul
planning commission resolution
file number
date

WHEREAS, Gary Gorman, File # 17-065-121, has applied for a rezoning from R4 one-family to RT1 two-family under the provisions of §61.801(b) of the Saint Paul Legislative Code, on property located at 858 Oakdale Ave., Parcel Identification Number (PIN) 08.28.22.34.0121, legally described as J Auers Rearrangement Part, N of Extended N Line of Lot 2, of Lot 1; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 17, 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 applicant wishes to rezone the property to RT1 in order to have the option of legally renting out the upstairs apartment, which the applicant states has been on the property since they purchased it in 1985.
2. Two-family dwellings are a permitted use in the RT1 district. The parcel and existing residential building appear to meet all the dimensional standards for the RT1 district:
 - Minimum lot size per unit: 3000 sq. ft.
 - Minimum lot width per unit: 25 ft.
 - Maximum height: 3 stories, 40 ft.
 - Minimum front yard setback: 25 ft.
 - Minimum side yard setback: 9 ft.
 - Minimum rear yard setback: 25 ft.
3. The proposed zoning is consistent with the way this area has developed. The immediate neighborhood is generally one of single- and two-family residences. The intent of the proposed RT1 district is to provide for an environment of predominantly low-density one- and two-family dwellings. The district recognizes the existence of older residential areas of the city, of which the West Side is one, where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life of these structures, and allow the owners to justify the expenditures for repair and modernization.
4. The proposed zoning is consistent with the Comprehensive Plan. The West Side Community Plan, adopted as an addendum to the Saint Paul Comprehensive Plan in 2013, focuses on providing housing choice, preserving and improving the existing housing stock, and creating

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additional housing opportunities. The Land Use chapter of the city-wide 2030 Comprehensive Plan designates this parcel as part of an “established neighborhood” on the Future Land Use Map. Established neighborhoods are predominantly residential areas with a range of housing types, where single-family and two-family dwellings predominate.

5. The proposed zoning is compatible with surrounding uses. The parcel is surrounded by single- and two-family residences. The abutting parcel to the east is zoned RT1.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of Gary and Elisa Gorman for a rezoning from R4 one-family to RT1 two-family for property at 858 Oakdale Avenue be approved.

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WHEREAS, Canadian Pacific Railway, File # 17-065-566, has applied for a conditional use permit for elevation of a structure on an alternative to fill in the FF flood fringe district. under the provisions of §61.501, §72.73, and §72.74 of the Saint Paul Legislative Code, on property located at 1213 Pigs Eye Lake Road, Parcel Identification Number (PIN) 04.28.22.41.0004, legally described as Section 4 Town 28 Range 22 Ex Area In Lease 82316 The Fol; Part Of Govt Lot 4 Sw Of C M St P & P Rr R/w & Ely Of St Paul Bridge & Terminal Rr R/w (subj To Rd Esmt) In Sec 4 Tn 28 Rn 22; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 17, 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 applicant proposes to construct a new office building for Car Department (rail car maintenance) operations. The new building will have approximately 1,700 finished square feet elevated to the Regulatory Flood Protection Elevation (RFPE, elevation of 708.8') and an approximately 795 square foot garage at grade (702.8'). The Base Flood Elevation (BFE, or 100-year flood) for the site has been calculated at 706.8'.
2. The garage and exterior foundation walls will be constructed to the FP-3 or FP-4 floodproofing standards. The garage is designed to flood internally, and required automatic openings are provided to allow movement of water and equalization of hydrostatic pressure. The remainder of the building will be elevated on fill within the foundation walls.
3. §72.74 lists standards for conditional uses in the FF flood fringe district. Subsections (a) through (d) are applicable to the proposed project:
 - (a) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls or above grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor if:
 - 1) the enclosed area is above grade on at least one (1) side of the structure; 2) is designed to internally flood and is constructed with flood-resistant materials; and 3) is used solely for parking of vehicles, building access or storage. The above-noted

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alternative elevation methods are subject to the following additional standards:

- (1) Design and certification. The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the Minnesota State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent floodwater from entering or accumulating within these components during times of flooding.
- (2) Specific standards for above grade, enclosed areas. Above grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:
 - a. A minimum area of "automatic" openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two (2) openings on at least two (2) sides of the structure and the bottom of all openings shall be no higher than one (1) foot above grade. The automatic openings shall have a minimum net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters without any form of intervention.
 - b. That the enclosed area will be designed of flood-resistant materials in accordance with the FP-3 or FP-4 classifications in the Minnesota State Building Code and shall be used solely for building access, parking of vehicles or storage.
- (b) Basements, as defined in §72.14, shall be subject to the following:
 - (1) Residential basement construction shall not be allowed below the regulatory flood protection elevation except as authorized in subsection (e) of this section.
 - (2) Nonresidential basements may be allowed below the regulatory flood-protection elevation, provided the basement is protected in accordance with subsection (c) or (e) of this section.
- (c) All areas of nonresidential structures including basements to be placed below the regulatory flood protection elevation shall be structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the Minnesota State Building Code. This shall require making the structure watertight, with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures floodproofed to the FP-3 or FP-4 classification shall not be permitted.
- (d) The storage or processing of materials that are, in times of flooding, flammable, explosive or potentially injurious to human, animal or plant life is prohibited. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the planning commission, or if elevated above the regulatory flood protection elevation by alternative methods which meet the requirements of subsection (a) above. Storage of bulk materials may be allowed provided an erosion/sedimentation control plan is submitted which clearly specifies methods to be used to stabilize the materials on site for a regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the planning commission.

(e) When the Federal Emergency Management Agency has issued a letter of map revision-fill (LOMR-F) for vacant parcels of land elevated by fill to the one (1) percent chance flood elevation, the area elevated by fill remains subject to the provisions of this chapter. A structure may be placed on the area elevated by fill with the lowest floor below the regulatory flood protection elevation provided the structure meets the following provisions:

- (1) No floor level or portion of a structure that is below the regulatory flood protection elevation shall be used as habitable space or for storage of any property, materials, or equipment that might constitute a safety hazard when contacted by floodwaters. Habitable space shall be defined as any space in a structure used for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage rooms, laundry or utility space, and similar areas are not considered habitable space.
- (2) For residential and nonresidential structures, the basement floor may be placed below the regulatory flood protection elevation subject to the following standards:
 - a. The top of the immediate floor above any basement area shall be placed at or above the regulatory flood protection elevation.
 - b. Any area of the structure placed below the regulatory flood protection elevation shall meet the "reasonably safe from flooding" standards in the Federal Emergency Management Agency (FEMA) publication entitled "Ensuring that Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding," Technical Bulletin 10-01, a copy of which is hereby adopted by reference and made part of this chapter. In accordance with the provisions of this chapter, and specifically section 72.33(g), the applicant shall submit documentation that the structure is designed and built in accordance with either the "Simplified Approach" or "Engineered Basement Option" found in FEMA Technical Bulletin 10-01.
 - c. If the ground surrounding the lowest adjacent grade to the structure is not at or above the regulatory flood protection elevation, then any portion of the structure that is below the regulatory flood protection elevation must be floodproofed consistent with any of the FP-1 through FP-4 floodproofing classifications found in the Minnesota State Building Code.

These standards can be met. The applicant has proposed a building consistent with the requirements of this section. As a condition of approval, the applicant should provide building and foundation plans and record of as-built condition for the building signed by a registered professional engineer or architect and verifying consistency with the applicable requirements of §72.74 of the Saint Paul code, the Minnesota State Building Code, and FEMA Technical Bulletin 10-01. Storage may be allowed in the garage of the proposed building, provided all stored materials are removed in times of flooding. Review and acceptance by the Department of Safety and Inspections of an updated flood response plan for the CP Rail Pig's Eye yard that incorporates the proposed building should be a condition of approval.

4. §72.32 lists thirteen (13) factors to be considered in evaluating applications for conditional use permits in the FF flood fringe district:
 - (a) The relationship of the proposed use to the comprehensive plan and floodplain management program for the city. Subject to meeting the standards listed in §72.74, this proposed use is in compliance with the Saint Paul Comprehensive Plan and the City's floodplain management program. Policy 5.1.3 of the river corridor chapter of the comprehensive plan supports continuation of and additions to industrial uses in the Childs Road industrial area if said additions will not have significant adverse impacts on

air or water quality nor impair river valley views. The proposed additions are to an existing facility located in a large industrial area, and will not significantly alter river valley views. The proposed building is replacing an existing building that will be demolished, and will not result in air or water quality impacts.

- (b) The importance of the services provided by the proposed facility to the community. This finding is not applicable. The proposed building will be part of an existing facility.
 - (c) The ability of the existing topography, soils, and geology to support and accommodate the proposed use. The proposed use is a new building within an existing railyard facility. The area is characterized by flat topography. While soils and geology of the area have long supported railyard operations and associated structures, the proposed building is to be constructed on helical piles to ensure sufficient foundational support.
 - (d) The compatibility of the proposed use with existing characteristics of biologic and other natural communities. The proposed building is to be located in an existing railyard; the area is industrial in character, and does not contain significant biological communities. Impacts of the proposed building will not extend beyond the immediate area.
 - (e) The proposed water supply and sanitation systems and the ability of those to prevent disease, contamination, and unsanitary conditions. The area is already served by adequate water supply and sanitation systems. The proposed building will replace an existing building, which is to be demolished, and will not create significant additional demand for water supply or sanitation capability.
 - (f) The requirements of the facility for a river-dependent location, if applicable. The proposed building is part of an existing railyard facility that is located within the river corridor.
 - (g) The safety of access to the property for ordinary vehicles. Safe access to the site is available via Childs Road and Shop Road.
 - (h) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner. The proposed structure will be built to FP-3 or FP-4 wet floodproofing standards. In times of flooding, the building will be evacuated per the applicant's flood response plan. The applicant is self-insured.
 - (i) The dangers to life and property due to increased flood heights or velocities caused by encroachments. The proposed encroachments are of limited footprint and located in the flood fringe where impacts on flood flows are negligible.
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site. The proposed building is located in the flood fringe, where the velocity of flood flow is generally minimal.
 - (k) The danger that materials may be swept onto other lands or downstream to the injury of others. The proposed building will be constructed of floodproof materials, and any items stored below the RFPE will be removed in times of flooding. The proposed building will also be located in the flood fringe, where velocity of flood flows is generally minimal.
 - (l) The availability of alternative locations or configurations for the proposed use. The proposed building is part of an existing facility which is located within the flood fringe.
 - (m) Such other factors as are relevant to the purposes of this chapter. The factors and findings enumerated and described herein adequately evaluate the proposed use for the purposes of this chapter.
5. §61.501 lists five standards that all conditional uses must satisfy:
- (a) The extent, location and intensity of the use will be in substantial compliance with the

Saint Paul Comprehensive Plan and any applicable subarea plans which were approved by the city council. Subject to meeting the standards listed in §72.74, this proposed use is in compliance with the Saint Paul Comprehensive Plan and the City's floodplain management program. Policy 5.1.3 of the river corridor chapter of the comprehensive plan supports continuation of and additions to industrial uses in the Childs Road industrial area if said additions will not have significant adverse impacts on air or water quality nor impair river valley views. The proposed additions are to an existing facility located in a large industrial area, and will not significantly alter river valley views. The proposed building is replacing an existing building that will be demolished, and will not result in air or water quality impacts.

- (b) The use will provide adequate ingress and egress to minimize traffic congestion in the public streets. This condition is met. The proposed facility will be served by Childs and Shop Roads. The use is not expected to generate additional traffic.
- (c) The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety and general welfare. This condition is met. The proposed facility is consistent with the existing industrial character of the immediate neighborhood.
- (d) The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. This condition is met. The use is industrial in nature, and will not impede improvement of surrounding properties for allowed uses.
- (e) The use shall, in all other respects, conform to the applicable regulations of the district in which it is located. This condition can be met. Subject to the acceptance by the Department of Safety and Inspections of a flood response plan for the proposed building and certification of plans by a registered engineer or architect, the use conforms to all applicable regulations of the I2 general industrial district, RC2 river corridor district, and the FF flood fringe district.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Canadian Pacific Railway for a conditional use permit for elevation of a structure on an alternative to fill in the FF flood fringe district at 1213 Pigs Eye Lake Road is hereby approved subject to the following conditions:

1. Site plan approval. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plans submitted and approved as part of this application.
2. A flood response plan including the proposed building shall be accepted by the Department of Safety and Inspections, and the applicant shall conduct operations consistent with said plan.
3. At or prior to building permit review, the plans for the proposed structure must be certified by a registered engineer or architect as consistent with the applicable requirements of §72.74 of the Saint Paul code, the Minnesota State Building Code, and FEMA Technical Bulletin 10-01.
4. After construction, the applicant shall submit to the zoning administrator the required elevation certification certifying the as-built elevation of the proposed building, and as-built plans certified by a registered professional engineer or architect as consistent with the applicable requirements of §72.74 of the Saint Paul code, the Minnesota State Building Code, and FEMA Technical Bulletin 10-01.

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WHEREAS, Auto Sales USA, File # 17-065-797, has applied for a reestablishment of nonconforming use for auto sales under the provisions of §62.109(e) of the Saint Paul Legislative Code, on property located at 847 Hudson Road, Parcel Identification Number (PIN) 33.29.22.32.0156, legally described as Lot 1, Block 68, Subdivision of Block 68, Lyman Dayton's Addition by H.A. Boardman; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 17, 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 approval to reestablish a nonconforming use of auto sales at 847 Hudson Road, which contains a vacant building previously used for auto repair that is a contributing building within the Dayton's Bluff Historic District and is zoned RT1 Two-Family Residential. The previous auto repair use has been discontinued for more than one year.
2. A permit to reestablish a nonconforming use for auto repair was approved in 2014, but expired in 2016. The Gold Line Station Area Plans were adopted as a Comprehensive Plan addendum in 2015.
3. 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. The structure is a single-story building with a garage bay door and a small office space and surrounding surface parking, originally designed for a service station.
 - (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 outdoor auto sales use and the previous auto repair use are both first permitted in the B3 General Business District with a conditional use permit.
 - (3) *The proposed use will not be detrimental to the existing character of development in the*

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immediate neighborhood or endanger the public health, safety, or general welfare. This finding can be met. The site contains four curb cuts, three of which are very wide (in excess of 30' width) and connect to the parking area. Removal of at least one curb cut would improve the safety of individuals walking adjacent to the site. More specifically, the 42'-wide curb cut onto Hudson Road at the pointed intersection of three streets (Hudson/Bates/Plum) is a potential public safety hazard for street traffic and traffic entering/exiting the subject site. Removal of the corner curb cut, as is proposed in the submitted site plan, would preserve the safety of both pedestrians and vehicles, and would allow this finding to be met. Also, auto sales are usually limited by the Zoning Code to B3 General Business and IT-I2 Industrial districts, with a minimum lot size of 15,000 square feet. In order to prevent neighborhood detriment on this smaller (<5,000 sq. ft.) lot in a more residential area, the number of vehicles for sale should be limited, and storage of vehicles on the street should be prohibited.

(4) *The proposed use is consistent with the comprehensive plan.* This finding is met. The District 4 Plan Summary (2009) calls for the reuse, rather than demolition, of existing commercial buildings (Strategy C3) as well as fostering neighborhood-scale commercial (Strategy C8.2). The Gold Line Station Area Plans call for a "pedestrian orientation in any new development/redevelopment." However, this is a reestablishment of a nonconforming use, not a development or redevelopment. Both plans are adopted as addenda to the Comprehensive Plan.

(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 August 2, 2017: 8 parcels eligible; 6 parcels required; 6 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 Auto Sales USA for a reestablishment of nonconforming use for auto sales at 847 Hudson Road is hereby approved subject to the following conditions:

1. The site plan shall be reviewed and approved by the Department of Safety and Inspections prior to establishment of the use.
2. Parking provision and site layout shall be in substantial conformance with the application materials, except as revised through site plan review in order to comply with City Code requirements.
3. There shall be a maximum of four (4) vehicles parked outside for sale, assuming that all eight (8) parking spaces shown on the site plan are approved through site plan review. Any reduction in the total number of spaces required through site plan review shall result in a corresponding reduction in the number of vehicles parked outside for sale (e.g. if site plan review results in only seven (7) total spaces, then only three (3) of those spaces may be dedicated to vehicles for sale).
4. There shall be no auto repair conducted on the site.
5. There shall be no vehicles associated with the use parked on the adjacent streets, besides those for short-term (not overnight) customer use. No employee nor for-sale vehicles may be parked on the adjacent streets.
6. HPC approval for any exterior changes.
7. The driveway curb cut closest to the intersection shall be eliminated.

From: [Casie Radford](#)
To: [Dermody, Bill \(CI-StPaul\)](#)
Cc: [Aron Thomas](#)
Subject: 17-065-797 Fred Niaz; Zoning Committee Meeting
Date: Thursday, August 17, 2017 1:07:35 PM

Bill,

We live at 742 Plum Street, just up the street from the property under consideration. Living in an historic district gives us a great sense of pride. We enjoy being part of a community that actually cares about the history and maintaining the character. While we would love nothing more than to see 847 Hudson be redeveloped and reused, we do not feel that the non-conforming use of auto sales is appropriate.

We would like to voice the following concerns regarding its proposed business use:

1. As before, not convinced auto sales space is feasible without spilling onto street. The lot is tiny, and we are already tired of having a plethora of cars for sale at this end of the block. It would be nearly impossible for the auto sales to not spill into the street.
2. In addition, there is a fairly high level of foot traffic at this corner and on the adjoining streets, not to mention dozens of kids who play around this area. Increasing auto traffic due to sales and test drives, etc., would create a greater life-safety hazard for this area (an area where STOP signs are already not respected).
3. Not convinced that visibility (or lack thereof) justifies using this corner as a sales location.
4. Proposed Gold line Bus Rapid Transit traffic is not conducive to this type of commercial in this area.
5. Bigger Picture, this building is a historical asset to the neighborhood, reflective of history pre-I-94. Not convinced that proposed use is compatible w/ its long-term preservation and rehabilitation.
5. While we acknowledge this building was a gas station, current zoning of RT-1 already recognizes this as non-conforming use. Would be best to be consistent w/ zoning code.
6. Not convinced that proposed business will be an improvement on current corner (already historically compromised due to infill by Daytons Bluff Housing Authority).

Generally we are strongly opposed to this and similar proposed uses of this property and support staff's recommendation for denial of the request. There are better uses for this building that would be more in conformance to the current zoning and a better asset to this community. Additionally, this is not the first time that this type of use has been proposed for this property. Would it not be better for the planning commission to bring this property into alignment with the zoning of the surrounding neighborhood so that such proposals do not continue in the future? As a neighborhood there is some interest small café/gallery space, would this not be a better use for this property?

Thank you,

Casie Radford and Aron Thomas

Owners of 742 Plum Street

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WHEREAS, Saint Paul Housing And Redevelopment Authority, File # 17-064-027, has applied for a rezoning from RM2 multiple family and B2 community business to T2 traditional neighborhood under the provisions of § 61.801(b) of the Saint Paul Legislative Code, on property located at 838-844 Selby Ave., Parcel Identification Number (PIN) 02.28.23.12.0153 (838 Selby) and 02.28.23.12.0257 (844 Selby), legally described as Lots 5 – 9, Block 9, Nininger and Donnelly’s Addition to Holcombe’s Addition; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 17, 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 applicant is seeking to rezone the subject parcels from B2 and RM2 to T2, in order to construct a new mixed use building with 24 senior housing units, 2,891 sq. ft. of commercial space, and 3 flex live work units. The live work units are not a permitted use in the B2 or RM2 zoning districts, requiring the applicant to apply to rezone the subject parcels to T2, traditional neighborhood.
2. The proposed zoning is consistent with the way this area has developed. Selby Avenue has developed with a mix of commercial and residential uses of varying densities. From 1922 to 1975 Selby Avenue was zoned “C” commercial which would have permitted all residential and commercial uses. In 1975 when the modern zoning code was established parcels on Selby Avenue were rezoned to a mix of zoning districts that generally corresponded to the underlying land uses of the parcels. The proposed T2 zoning district is designed for use in existing or potential pedestrian and transit nodes. Its intent is to foster and support compact, pedestrian-oriented commercial and residential development that, in turn, can support and increase transit usage. It encourages, but does not require, a variety of uses and housing types, with careful attention to the amount and placement of parking and transitions to adjacent residential neighborhoods. T2 zoning is consistent with the historic pattern of development on Selby Avenue and also the mix of RM2, B2, and B3 zoning districts along the corridor, specifically in regards to the allowed density and the uses that are permitted in both the business and multifamily residential zoning districts.
3. The proposed zoning is consistent with the Comprehensive Plan. Selby Avenue is identified

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in the comprehensive plan as a mixed use corridor. In mixed use corridors two or more of the following uses can be located: residential, commercial, retail, office, small scale industry, institutional, and open space. The proposed mixed use building is consistent with the comprehensive plan's mixed use corridor land use designation and strategy LU 1.24 which calls for supporting a mix of uses on mixed-use corridors. All of the senior housing units are priced at 30% to 60% of area median income, which is consistent with strategy 3 of the comprehensive plan housing chapter calls for ensuring the availability of affordable housing across the city. The inclusion of senior housing is consistent with strategy 26 of the district 8 neighborhood plan, which calls for increasing the housing options for seniors that wish to continue living in the neighborhood.

4. The proposed zoning is compatible with the surrounding mixed use, commercial, one- family residential, two- family residential, and multifamily land uses. All of the adjacent land uses are permitted in a T2 traditional neighborhood zoning district.
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 of these parcels from B2 and RM2 to T2 would not constitute spot zoning. The uses that are permitted in a T2 traditional neighborhood zoning district are consistent the uses permitted in the RM2 multi-family residential zoning district and the B2 community business district.
6. The petition for rezoning was found to be sufficient on July 27, 2017: 22 parcels eligible; 15 parcels required; 15 parcels signed.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of Saint Paul Housing And Redevelopment Authority for a rezoning from RM2 multiple family and B2 community business to T2 traditional neighborhood for property at 838-844 Selby Ave. be approved.

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WHEREAS, CHDC Rondo Limited Partnership, File # 17-061-488, has applied for a variance for front yard setback (10' max., 12' proposed) and parking (20 required, 19 proposed) under the provisions of §61.202(b) of the Saint Paul Legislative Code, for property located at 838-844 Selby Ave., Parcel Identification Number (PIN) 02.28.23.12.0153 (838 Selby) and 02.28.23.12.0257 (844 Selby), legally described as Lots 5 – 9 Block 9, Nininger & Donnelly's Addition to Holcombe's Addition; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 17, 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:

Section 61.601 states that the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

- (a) *The variances are in harmony with the general purposes and intent of the zoning code. This finding is met.* In a T2 traditional neighborhood zoning district, the front setback for residential uses is determined by the average setback of the block if 50% of the block is built up with principle structures. In cases where the block is not built up 50% or more with principle structures, residential uses in a T2 district have a front set-back of 10 – 25 feet. Nonresidential or mixed use buildings in a T2 district have a front yard setback of 0 -10. Because there is a commercial component in the building, it is considered mixed use, and the whole building is subject to the non-residential/commercial setback of 0 – 10 ft. The portion of the building that is setback beyond the 10 foot maximum setback is the portion of the building with the live work units on the first floor. According to the applicant, exceeding the maximum setback for the live work units is desirable because of the residential nature of the live work units. Considering the traditional neighborhood zoning districts have different front setback requirements for residential and non-residential uses, allowing the live work portion to exceed the maximum setback is in keeping with the intent of the code because of the residential nature of the use.

The parking variance is necessary in order to allow flexibility for the live work units to function as entirely commercial spaces if necessary. If the live work units are used

entirely as commercial spaces then the parking requirement for the commercial uses

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against _____

would likely be 1 per 400 square feet of GFA, which would increase their minimum parking requirement to 20 spaces. The traditional neighborhood districts are intended to encourage a compatible mix of uses within buildings, sites, or blocks. The variance for one parking space in the event that the live work units are used entirely for commercial uses is consistent with the intent of the traditional neighborhood districts to allow a range and mix of compatible commercial and residential uses on site.

- (b) *The variances are consistent with the comprehensive plan. This finding is met.* The subject property is located in a mixed corridor, and therefore it is in a location where a range of land uses are appropriate. The variances are necessary in order to give the applicant flexibility in the way that are used the live work units in the future, and to make them more in keeping with the existing character of the adjacent residential uses. Allowing the applicant to have flexibility in the way that the live use spaces are used going forward is consistent the mixed-use corridor land use designation which is intended to support and promote a mix of uses.
- (c) *The applicant has established that there are practical difficulties in complying with the provision; that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties. This finding is met.* The design of the building and site layout are intended to be sensitive to the context of the existing development in the area. One of the intentions of having a maximum set-back in the traditional neighborhood districts is to ensure that commercial uses help active adjacent street scape. Because of the residential nature of the live work units it's reasonable to have this portion setback further than the maximum setback in the T2 district to give the occupants a larger front yard.

The parking variance is necessary only in the event that the live work units are used for entirely commercial purposes. Because of the site constraints, it is not possible to add another parking space without altering the entire layout of the site. The design of the building and the orientation on of the structure on the lot is consistent with the traditional neighborhood design standards, and it is reasonable to grant a parking variance of one parking space to avoid the applicant having to make major alterations to the site layout in order to accommodate another parking space.

- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner. This finding is met.* One of intentions of the setting back the live work units beyond the maximum setback is so that that portion of the building is more line with front setbacks of existing residential uses on the rest of the block. The average setback of the existing residential uses on the block is roughly 21' feet and the existing context of those other residential uses on the block is a unique circumstance not created by the land owner.

The limited parcel depth makes it impossible to create more than one row of parking with the way the building is designed and situated on the lot. Because of need to have a large trash enclosure to service the mix of uses of site, adding an additional parking spot on the east side of the row of parking is not feasible without altering the site layout.

- (e) *The variance will not permit any use that is not allowed in the zoning district where the affected land is located. This finding is met.* The variances to exceed the maximum

setback and to reduce the parking requirement by 1 space would not constitute a use variance.

- (f) *The variance will not alter the essential character of the surrounding area. This finding is met.* The two variances are intended to make the new development more in keeping with the essential character of the surrounding area. One of the intentions of setting back the live work units beyond the maximum setback so that that portion of the building is more in line with the front setbacks of the adjacent residential units. The parking variance is necessary in large part because of the placement of the trash enclosure. The trash enclosure is situated where it is on the lot in order to maximize the distance of the trash enclosure from the public right-of-way, thereby reducing the impact of this use on pedestrians in the public right-of-way and helping preserve the essential character of the surrounding area.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of CHDC Rondo Limited Partnership for a variance for front yard setback (10' max., 12' proposed) and parking (20 required, 19 proposed) at 838-844 Selby Ave. is hereby approved subject to the following conditions:

1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
2. Approval of the rezoning of the subject parcels to T2 traditional neighborhood.

city of saint paul
planning commission resolution
file number
date

WHEREAS, Housing and Redevelopment Authority, File # 17-061-494, has applied for a rezoning from T1 traditional neighborhood to T2 traditional neighborhood under the provisions of §61.801(b) of the Saint Paul Legislative Code, for property located at 934-940 Selby Ave., Parcel Identification Number (PIN) 02.28.23.21.0243 and 02.28.23.21.0159, legally described as Lots 4, 5, and W 17 ft. of lot 3, Block 3, Smith and Taylor’s Addition; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 17, 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 Rondo Community Land Trust is applying to rezone the subject parcels from T1 traditional neighborhood to T2 traditional neighborhood in order to construct a new mixed use building with 10 senior housing units and 2,912 sq. ft. of commercial space. A mix of commercial and residential uses are allowed in a T1 traditional neighborhood zoning district, however, the commercial uses that are permitted in a T1 district are fairly limited and the maximum floor area ratio (F.A.R) for a mixed use building is limited to 1.0. The applicant is proposing to construct a building with a 1.33 F.A.R (1.24 F.A.R with half the alley) which exceeds the maximum 1.0 F.A.R allowed in a T1 zoning district. In a T2 zoning district the maximum F.A.R is 2.0 and there is a greater range of commercial uses that are permitted in the zoning district. Rezoning the parcels to T2 will give the applicant more flexibility in the type of commercial tenants that would be allowed to occupy the space in the future and will also allow the proposed structure to be constructed with an F.A.R of 1.33.
2. The proposed zoning is consistent with the way this area has developed. Selby Avenue has developed with a mix of commercial and residential uses of varying densities. From 1922 to 1975 Selby Avenue was zoned “C” commercial which would have permitted all residential and commercial uses. In 1975 when the modern zoning code was established parcels on Selby Avenue were rezoned to a mix of zoning districts that generally corresponded to the underlying land uses of the parcels. The proposed T2 zoning district is designed for use in existing or potential pedestrian and transit nodes. Its intent is to foster and support compact, pedestrian-oriented commercial and residential development that, in turn, can support and increase transit usage. It encourages, but does not require, a variety of uses and housing types, with careful attention to the amount and placement of parking and

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in favor _____
against _____

transitions to adjacent residential neighborhoods. T2 zoning is consistent with the historic pattern of development on Selby Avenue and also the mix of RM2, B2, and B3 zoning districts along the corridor, specifically in regards to the allowed density and the uses that are permitted in both the business and multifamily residential zoning districts.

3. The proposed zoning is consistent with the Comprehensive Plan. Selby Avenue is identified in the comprehensive plan as a mixed use corridor. In mixed use corridors two or more of the following uses can be located: residential, commercial, retail, office, small scale industry, institutional, and open space. The proposed mixed use building is consistent with the comprehensive plan, mixed use corridor land use designation, and specifically strategy LU 1.24 which calls for supporting a mix of uses on mixed-use corridors. All of the residential units are priced at 30% to 60% of area median income, which is consistent with strategy 3 of the comprehensive plan housing chapter calls for ensuring the availability of affordable housing across the city. All of the proposed residential units are senior housing which is consistent with strategy 26 of the district 8 neighborhood plan which calls for increasing the housing options for seniors that wish to continue living in the neighborhood. Strategy 28 of the neighborhood plan specifically identifies the subject parcel and calls for pursuing high quality development at 940 Selby Avenue consistent with the underlying zoning and acknowledging a community interest in live-work housing at the site. The housing chapter of the neighborhood plan lists certain priorities which includes a statement of support for the Rondo Land Trust in their work to provide affordable housing.
4. The proposed zoning is compatible with the surrounding single family residential, two-family residential, and mixed use commercial and residential land uses. All of the surrounding uses would be permitted in a T2 zoning district and the scale of the proposed structure is compatible with the existing scale of the surrounding land uses. The mixed use building east of the subject parcels has 10,600 sq ft of commercial and residential floor area. The proposed structure has a gross for area of 13,753 which, although slightly larger than the adjacent mixed use structure, is still compatible with the scale of this adjacent mixed-use structure.
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 of these parcels from T1 to T2 would not constitute spot zoning. The uses that are permitted in a T2 traditional neighborhood zoning district are consistent the uses permitted in the RM2 multi-family residential zoning district and the B2 community business district.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of Housing and Redevelopment Authority for a rezoning from T1 traditional neighborhood to T2 traditional neighborhood for property at 934-940 Selby Ave. be approved.

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

WHEREAS, CHDC Rondo Limited Partnership, File # 17-061-506, has applied for variances for trash enclosure setback (3' required, 1' proposed) and using the alley to access 8 off street parking spaces in a non-residential zoning district abutting residentially zoned land across from an alley (7 spaces permitted, 8 proposed) under the provisions of §61.202(b) of the Saint Paul Legislative Code for property located at 934-940 Selby Ave., Parcel Identification Number (PIN) 02.28.23.21.0243 and 02.28.23.21.0159, legally described as Lots 4, 5, and W 17 ft. of lot 3, Block 3, Smith and Taylor's Addition; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 17, 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. Section 61.601 states that the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

(a) *The variance is in harmony with the general purposes and intent of the zoning code. This finding is met.* One of the intentions of the zoning code is to regulate the location, construction, reconstruction, alteration and use of buildings, structures and land. In conjunction with the variance applications the applicant has applied to rezone the parcels to T2 traditional neighborhood. The traditional neighborhood zoning districts have additional design standards including sec.66. 341 (B)(1) which states that parking should be located to the rear of the principle building or within the rear yard of a principle building. Because of the limited width of the parcel and the width of the proposed structure, accessing the surface parking from the street frontage on Selby Ave is impossible. The applicant attempted to obtain an easement agreement from the neighboring commercial property owner to access the eight rear parking space through the neighboring parking lot, but was unsuccessful, leaving the unimproved alleyway as the only means available to access to the surface parking lot placed to the rear of the principle structure.

Another intention of the zoning code is to lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial vehicles. The applicant is proposing to construct 8 off-street parking

moved by _____

seconded by _____

in favor _____

against _____

spaces in order to comply with the minimum parking requirement in sec. 63.207. Because of the limited width of the lot, providing 8 spaces and meeting the set-back requirements for the trash enclosure and surface parking lot is not possible. The applicant could have applied for a variance to reduce the number of parking spaces by one spot, which would have negated the need for the two variances being applied for in this application. The applicant has chosen to meet the minimum parking requirement, but in doing so was forced to place the trash enclosure 1 foot from the property line. The two variances that have been applied for in order to provide an extra parking space are consistent with the zoning code intention to provide off street parking and constant with the traditional neighborhood design standard regarding the placement of parking to the rear of the principle structure.

- (b) *The variances are consistent with the comprehensive plan. This finding is met.* The subject property is located in a mixed use corridor and in conjunction with this application for variances the applicant is also applying to rezone the parcels to T2. All of the Traditional Neighborhood zoning districts are intended to foster pedestrian oriented development. One of the ways that this intent to foster pedestrian oriented development has been codified in the traditional neighborhood design standards is by regulating the placement of parking. The two variances are necessary in order to place the parking and trash pickup at the rear of the building. The proposed site layout is consistent the traditional neighborhood design standards and is characteristic of the type of development that the comprehensive plan calls for in mixed use corridors.
- (c) *The applicant has established that there are practical difficulties in complying with the provision; that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties. This finding is met.* There is 97 ft. of frontage on Selby Avenue. Because of the limited frontage on available on Selby Avenue and the width of the propose structure, accessing the parking from Selby Avenue is impossible with current site layout. The traditional neighborhood design standards call for the parking to be placed at the rear of the structure which has created a practical difficulty in regards to accessing the parking, resulting in the variance to use the alleyway to access the rear surface parking lot. The side yard setback variance for necessary in order to meet the minimum parking requirement 8 spaces, and to create a trash enclosure for the dumpsters. Because of the minimum width of the parking spaces and required setback for surface parking, there is a practical difficulty in complying with the 3 foot side yard setback for the trash enclosure.
- (d) *The plight of the landowner is due to circumstances unique to the property not created by the landowner. This finding is met.* The subject property is located midblock and there is limited frontage on Selby Avenue. Complying with the traditional neighborhood design standards regarding the placement of parking to the rear of the principle structure and creating a 20 ft maneuvering lane to access the rear parking lot from the street would have significantly limited the developable area for the principle structure. The close proximity of the neighboring property's curb-cuts would have also potentially forced the applicant to move any vehicular access from Selby away from either property line, further limiting the developable area. The limited width of the subject parcel also created a circumstance unique to the property that made the side yard setback variance for the trash enclosure necessary. The lot is not wide enough to meet the minimum parking requirement, the side yard setback for the surface parking lot, and the side yard setback for the trash enclosure.

- (e) *The variances will not permit any use that is not allowed in the zoning district where the affected land is located. This finding is met.* The two variances would not create uses not allowed in the current T1 zoning district or in the proposed T2 zoning district.
- (f) *The variances will not alter the essential character of the surrounding area. This finding is met.* Allowing access to the surface lot parking through the alleyway and a side yard back variance for the trash enclosure would not alter the essential character of the area. A number of other multi-family residential development in the immediate area use alley ways to access rear surface parking lots, however, because they are zoned for multifamily residential uses. In RM2 access for surface parking is permitted unless it's deemed harmful to public safety.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of CHDC Rondo Limited Partnership for variances for trash enclosure setback (3' required, 1' proposed) and using the alley to access 8 off street parking spaces in a non-residential zoning district abutting residentially zoned land across from an alley (7 spaces permitted, 8 proposed) at 934-940 Selby Ave. is hereby approved subject to the following conditions:

1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
2. Approval of the rezoning the subject parcels to T2 traditional neighborhood.