

city of saint paul
planning commission resolution
file number
date

WHEREAS, Syed Mahmood, in File # 17-073-754, has applied for a change of nonconforming use from bar to tobacco shop under the provisions of §62.109(c); §65.535 of the Saint Paul Legislative Code, for property located at 937 3rd St. E., Parcel Identification Number (PIN) 332922230071, legally described as Lot 13, Block 89 of Adam Gotzian's Sub. of Block 89, Lyman Dayton Addition; and

WHEREAS, the Zoning Committee of the Planning Commission, on September 14, 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 a change of nonconforming use to permit a tobacco shop use. The applicant plans to have the business open seven days a week from 9:00 a.m. to 9:00 p.m., with two full-time employees and one part-time employee.
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. A tobacco products shop is first allowed in the BC Community Business District, while a bar is first allowed in the less restrictive T2 Traditional Neighborhood District.
 - b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding is met. A tobacco products shop is anticipated to generate less traffic than a bar, as exemplified by its lesser parking requirement.
 - 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 use will need to abide by City and State licensing requirements for tobacco sales, including those intended to protect public health and general welfare. The Zoning Code ordinarily (when not a nonconforming use permit situation) requires a tobacco products shop to be located no closer than ¼ mile from another such shop; the nearest

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in favor _____

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known tobacco products shop is located about 4,000 feet to the northwest.

- d. *The use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan and District 4 Plan Summary contain no provisions specific to tobacco products shops. The District 4 Plan Summary, in Strategy C3, calls for the reuse, instead of demolition, of existing commercial buildings, such as is proposed.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Syed Mahmood for a change of nonconforming use from bar to tobacco shop at 937 3rd St. E. is hereby approved.

To the attention of 9.8.17
St. Paul Planning Commission Zoning Committee

In regards to file # 17.073.754

I Steve Hayne live at 930 Conway St.
I strongly oppose to the Change of
nonconforming use from Bar to Tobacco
Shop at property address 937 3rd St. East

Relatives, neighbors and friends have gone
to this bar for several years. Over the course
of time, we all have spent quality time
together conversing, enjoying pizza, tacos,
pool games and for me beer. Celebrating birth-
day, Halloween, Christmas, New Year Eve,
St. Patrick and several Viking parties.

Much more family activities also! Basically
a neighborhood friendly atmosphere.

A Tobacco Shop would provide none of this!
Quite the opposite. Tobacco Shop would have
the adverse effect on our Dayton's Bluff neighbor-
hood and family life as we have now, at least not
how I would define a family type atmosphere.

Sincerely *Steve Hayne*

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WHEREAS, John Abukhudeer, File # 17-071-969, has applied for a rezoning from B1 local business to B2 community business under the provisions of § 61.801(b) of the Saint Paul Legislative Code, for property located at 1543-1571 Maryland Ave. E., Parcel Identification Numbers (PINs) 222922430040, 222922430041, & 222922430042, legally described as The S 173 feet of the W 392 feet of the SW ¼ of SW ¼ of SE ¼ of Section 22 Township 29 Range 22, subject to street dedications and easements; and

WHEREAS, the Zoning Committee of the Planning Commission, on September 14, 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 B1 Local Business District to B2 Community Business District for approximately 1.2 acres at the northeast corner of Maryland Avenue E. and Hazelwood Street.
2. The proposed zoning is consistent with the way this area has developed. The area is characterized by a mix of uses, including commercial, institutional, parkland, higher-density multi-family, duplexes, and single-family homes. The proposed zoning would allow an expansion of commercial uses.
3. The proposed zoning is consistent with the Comprehensive Plan. The Comprehensive Plan, in Figure LU-B, designates the site as part of a Mixed Use Corridor. Strategy LU-1.46 is to *Encourage the expansion of compact commercial areas in Neighborhood Centers and Mixed-Use Corridors to further the objectives of both categories of neighborhoods.* The proposed zoning is consistent with this strategy, and would help to better balance the mix of uses on Maryland Avenue east of the Phalen Village Neighborhood Center.
4. The proposed zoning is compatible with the surrounding residential and institutional uses, which are of a higher intensity along the mixed use Maryland Avenue corridor.
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 zoning would not constitute

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in favor _____

against _____

spot zoning because the use classification is consistent with surrounding uses.

NOW, THEREFORE, BE IT RESOLVED, that the Saint Paul Planning Commission recommends to the City Council that the application of Zamzam, Inc. for a rezoning from B1 local business to B2 community business for property at 1543-1571 Maryland Ave. E. be approved.

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WHEREAS, Zamzam Inc., File # 17-072-067, has applied for a conditional use permit for an auto convenience market under the provisions of §61.501, §65.702 of the Saint Paul Legislative Code, for property located at 1543-1571 Maryland Ave. E., Parcel Identification Numbers (PINs) 222922430040, 222922430041, & 222922430042, legally described as The S 173 feet of the W 392 feet of the SW ¼ of SW ¼ of SE ¼ of Section 22 Township 29 Range 22, subject to street dedications and easements; and

WHEREAS, the Zoning Committee of the Planning Commission, on September 14, 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 conditional use permit approval for an auto convenience market on approximately 1.2 acres at the northeast corner of Maryland Avenue E. and Hazelwood Street. An auto convenience market is a “place where gasoline...(is) retailed directly to the public on the premises in combination with the retailing of items typically found in a convenience market or supermarket.”
2. The site is currently zoned B1 Local Business. It must be rezoned to B2 Community Business District in order to allow consideration of this conditional use permit. Therefore, any approval of the conditional use permit should be conditional on the approval of the accompanying rezoning application.
3. §65.702 establishes standards and conditions for an auto convenience market:
 - (a) *The construction and maintenance of all driveways, curbs, sidewalks, pump islands or other facilities shall be in accordance with current city specifications. Such specifications shall be developed by the planning administrator, traffic engineer and city fire marshal, and shall be approved by the planning commission, and filed with the city clerk. This finding will be met through site plan review.*
 - (b) *A ten-foot buffer area with screen planting and an obscuring wall or fence shall be required along any property line adjoining an existing residence or residentially zoned property. This finding will be met through site plan review.*

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- (c) *Outdoor accessory sales of goods or equipment shall not be located in a required setback, parking or maneuvering space, or substituted for required landscaping.* This finding can be met. Its compliance is an ongoing required condition of operation.
 - (d) *There shall be no exterior storage. Space for accessory outdoor sales of goods or equipment shall be limited to 200 square feet.* This finding can be met. Its compliance is an ongoing required condition of operation.
 - (e) *The zoning lot on which it is located shall be at least 12,000 square feet in area.* This finding is met. The zoning lot is approximately 1.2 acres in area.
4. §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.* This condition is met. The Comprehensive Plan, in Figure LU-B, designates the site as part of a Mixed-Use Corridor, which calls in Strategy LU-1.21 for supporting a mix of uses such as the expanded commercial uses requested by this application in this area more heavily characterized by residential uses. Mixed-Use Corridors should also support transit use and walking (Strategy LU-1.24) – the proposed auto-oriented use is not ideal in that respect, but provides necessary commercial products and, if designed well, can have a limited negative impact on the area's walkability. The proposed expanded commercial uses will provide a more active commercial hub at this location adjacent to a bus stop.
 - (b) *The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.* This condition is met. Ingress/egress will be provided via a one-way (exit only) driveway along Hazelwood and a two-way driveway near the property's eastern end along Maryland Avenue, close to where the fuel pumps are proposed to be located. These driveways replace three existing two-way driveways, two of which are closer to the intersection and do not meet normal separation standards.
 - (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. Maryland Avenue is a mixed-use corridor with much vehicle traffic and activity. The proposed auto convenience market will not have a significant effect on the existing character. The realignment of vehicular access driveways farther from the intersection, and the elimination of one driveway, will improve pedestrian safety. The site plan review process is involving Crime Prevention Through Environmental Design (CPTED) analysis from the Police Department to ensure that the final site and building design improve upon an existing crime problem at this site.
 - (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. There are no adjacent vacant sites. The use will not affect development and improvement of surrounding uses.
 - (e) *The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.* This condition is met. Conformance to applicable regulations will be enforced through site plan review. No variances are requested.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Zamzam Inc. for a conditional use permit for an auto convenience market at 1543-1571 Maryland Ave. E. is hereby approved subject to the following additional 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. The site is rezoned to B2 Community Business.
3. There shall be no exterior storage. Space for any accessory outdoor sales of goods or equipment shall be limited to 200 square feet.
4. Any outdoor accessory sales of goods or equipment shall not be located in a required setback, parking or maneuvering space, or substituted for required landscaping.
5. The gas pumps shall be turned off when the associated convenience store is closed.