MINUTES OF THE ZONING COMMITTEE
Thursday, June 30, 2022 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Grill, Hood, Ochoa, Rangel Morales, Reilly, Syed, and Taghioff
STAFF: Bill Dermody and Samantha Langer

The meeting was chaired by Commissioner Syed.

918 E. 5th St. Rezoning - 22-058-214 - Rezone from RT1 two-family residential to RM1 multiple-family residential. 918 5th St E, between Forest Street and Mendota Street.

Bill Dermody presented the staff report with a recommendation of denial for the rezoning. He said District 4 made no recommendation, and there were 0 letters in support, and 2 letters in opposition.

Commissioner Taghioff said that given the lot size and the .6 maximum FAR requirement were it to be rezoned to RM1 no one could build a multifamily building with 4 to 6 units on the lot. He asked for more information on what the spot zoning finding was based on.

In response to Commissioner Taghioff, Mr. Dermody said it is not a hard and fast obvious line between spot zoning and not spot zoning and is a judgement call that will need to be made by the Committee. Minnesota courts in their rulings have said that spot zoning is something that establishes a use classification inconsistent with the surrounding uses and creates an island of nonconforming use within a larger zoned property. You could argue that a 3-unit residential is not inconsistent or nonconforming with 2-unit residential, but we are recommending that it is spot zoning because these are different use classifications. We have RL zoning in the city which is residential and we also have RM3 and you need to draw the line somewhere and these are obviously very different when you are talking about multiple acres per site and a hundred plus units per acre. It is not 100% clear that the inconsistency is drawn right at the line of RT1 and RM1, but they are clearly different. Finding that there is a regulation of density in our code and that density does matter as far as consistency and zoning we typically, in this area, have not had midblock three-family residential.

Commissioner Hood asked what the status is of the 1-4 Unit Study and how would this project be impacted by that study. Mr. Dermody said the status of the 1-4 Unit Study is that we are going out for community engagement and there is not a staff recommendation at this point. There is not a firm timetable and he thinks that they are a few months out before it would come back to the Planning Commission. They have considered allowing duplexes and triplexes throughout the city including RT1, R4, and other zoning districts. The idea that this property could host a triplex is plausible after the 1-4 Unity Study, but we are not far enough along with the study to be able to say with complete certainty. The 1-4 Unit Study would most likely not change the spot zoning issue, but it may just allow a triplex at this site without a rezoning.

Commissioner Grill said we have been looking for more of these gentle density improvements in the city and this is not a huge rebuild. She acknowledges that the RM zoning changes what can be done at the property, but the parcel is already limited by its size and other rules that apply so it doesn't feel the same as other cases where you are putting RM in somewhere that is predominantly single family. It feels like this is one of the cases where they got rid of the duplex-

triplex guidelines so that we could have an easier time of allowing items like this. She is struggling with understanding the staff recommendation because the property itself has limitations placed on it and it supports the Comprehensive Plan. She asked for staff to provide insight into the discussion on staff's side that resulted in this recommendation of denial.

In response to Commissioner Grill, Mr. Dermody said that this issue for spot zoning for minor density increase has been thoroughly debated on this site and numerous other sites in the last year or two. Even for staff internally it is a gray area. The most compelling argument to him is that zoning is meant to provide predictability and consistency for land use. If this 5,000 square foot lot can be rezoned to RM1 than why not every other lot in the entire neighborhood and would this be granting a special privilege that all the other lots do not enjoy. They city has not made a policy call that states we should have triplexes on all these lots at this point.

Commissioner Rangel Morales asked how the city learned about this project. He said that someone invested in putting in two kitchens' downstairs and one upstairs and he is wondering if this was already being used as a triplex.

In response to Commissioner Rangel Morales, Mr. Dermody said that our department has only learned about it because of this application. There was a past history with the Department of Safety and Inspections (DSI) and he isn't aware specifically of how it was discovered that there were additional kitchens, but this generally has been a problem property in more ways than land use. This owner has just acquired the property, but previously it had a lot of quality of life disturbances and he believes that called a lot of attention to the property and DSI had to investigate.

Commissioner Rangel Morales said by allowing the parcel to be zoned RM1 would allow any permitted use in RM1 at the property. What hesitations does staff have outside of the triplex of giving the property a RM1 designation?

Mr. Dermody said the number one reason that we are recommending against the rezoning is to abide by the spot zoning rules in Minnesota.

Commissioner Rangel Morales said the city has already approved other mechanisms to accomplish density that could possibly allow more density at this parcel. He questions if this is spot zoning if it just becomes a triplex other than by the way we play with words and the designation of it. By the terms and definitions it could be spot zoning, but by the practically of it the City already allows it through accessory dwelling units or through splitting lots. What else would be allowed in RM1. Mr. Dermody said RM1 allows certain institutional uses and other multifamily as well.

In response to Commissioner Taghioff, Mr. Dermody said he estimates that the current structures FAR is around 0.6 or 0.7.

The applicant was not in attendance.

No one spoke in support or opposition. The public hearing was closed.

In response to Commissioner Grill, Mr. Dermody said that even with the recent accessory dwelling units zoning code amendments they are for one family dwellings only.

In response to Commissioner Rangel Morales, Mr. Dermody said that under this current zoning district this lot could not be split into two properties. It hosts a duplex and does not meet the minimum lot size. He said in RT1 the minimum lot size per unit is 3,000 sq. ft. and minimum width is 25 ft. It would meet it if it was a single family, but you couldn't split it into two parcels. You would need at least 6,000 sq. ft.

Commissioner Hood said that he would like to find a legally viable way to find a way for this not to be spot zoning, but he believes that it is. It pains him to vote against this project because it meets the city's goals and is in character with the city's neighborhood. It highlights the importance of getting the 1-4 Unit Study done. This is the type of project we should be encouraging. This could improve neighborhoods, commercial districts, and help property owners reinvest in their property.

In response to Commissioner Rangel Morales, Mr. Dermody said that carriage homes are only permitted on Summit Avenue. Carriage homes are not a citywide use at this point. Mr. Dermody said that RT1 and RM1 are both residential districts. They have a little bit different intent statements and different dimensional standards which basically come down to density, but they both allow residential. RM1 is specifically called a low density multiple family residential district and the dimensional standards reflect that compared to RM2 and RM3 where you can do quite a bit more.

Commissioner Grill moved denial of the rezoning. Commissioner Ochoa seconded the motion.

Commissioner Taghioff requested more in depth legal information on spot zoning to be presented at the Planning Commission meeting.

Commissioner Hood asked Mr. Dermody to check with the applicant on how they understood the property to exist at the time of purchase and report back to the Planning Commission.

Commissioners voiced their frustrations with not being able to approve this application and agreed that the 1-4 Unit Study needs to move forward quickly and hopefully this will help with the city's goals.

The motion passed by a vote of 6-0-0.

Adopted Yeas - 6 Nays - 0 Abstained - 0

Drafted by:	Submitted by:	Approved by:
Samantha Langer	Bill Dermody	omarsyed omarsyed (Jul 14, 2022 16:39 CDT)
Samantha Langer Recording Secretary	Bill Dermody City Planner	Omar Syed Chair