

city of saint paul
planning commission resolution
file number 22-28
date June 24, 2022

ZONING CODE TEXT AMENDMENTS RELATED TO CONSENT
PETITION REQUIREMENTS FOR CERTAIN ZONING APPLICATIONS

WHEREAS, the Saint Paul Zoning Code, found in chapters 60 through 69 of the Saint Legislative Code, is established to promote and protect the public health, safety, morals aesthetics, economic viability and general welfare of the community; and

WHEREAS, Zoning Code § 61.801 calls for the periodic review of the code to reflect current city policies, and provides that amendments to the Zoning Code may be initiated by the City Council or Planning Commission; the Planning Commission having initiated a zoning study on February 18, 2022; and

WHEREAS, the City of Saint Paul has established zoning regulations related to nonconforming uses and consent petition requirements in chapter 62 of the Legislative Code and zoning regulations related to conditional uses and consent petition requirements in chapter 65 of the Legislative Code; and

WHEREAS, the 2040 Comprehensive Plan's implementation chapter calls for systematically reviewing and modifying the Zoning Code to remove unnecessary hurdles to small-scale commercial and residential development; and

WHEREAS, the Planning Commission, on April 1, 2022, released the draft *Zoning Study of Consent Petition Requirements for Certain Zoning Applications* for public review and set a public hearing date for May 13, 2022; and

WHEREAS, notice of the public hearing was published in the Legal Ledger April 28, 2022 and sent to the early notification system list April 4, 2022 and May 2, 2022; and

WHEREAS, on May 13, 2022, the Saint Paul Planning Commission held a duly noticed public hearing on the proposed zoning code text amendments regarding consent petition requirements for certain zoning applications, at which all persons present were allowed to testify; and

WHEREAS, the Planning Commission referred the zoning study and proposed amendments to the Comprehensive and Neighborhood Planning Committee for consideration, review of the public hearing testimony, and recommendation; and

moved by Holst
seconded by Presley
in favor Unanimous
against _____

WHEREAS, the proposed text amendments are consistent with the Saint Paul 2040 Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED, under provisions of Minnesota Statutes §462.367 and Legislative Code §61.801, that the Planning Commission hereby recommends to the Mayor and City Council the following amendments to Zoning Code §§ 62.109, 65.121, and 65.132 pertaining to consent petition requirements for nonconforming and conditional uses, as set forth on pages 2 through 5 of this resolution.

Sec. 62.109. Nonconforming use permits.

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(a) *Establishment of legal nonconforming status.* The planning commission may grant legal nonconforming status to uses or structures that do not meet the standards for legal nonconforming status in [section 62.102](#) if the commission makes the following findings:

- (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;
- (2) The off-street parking is adequate to serve the use;
- (3) Hardship would result if the use were discontinued;
- (4) Rezoning the property would result in "spot" zoning or a zoning inappropriate to surrounding land uses;
- (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; and
- (6) The use is consistent with the comprehensive plan; ~~and~~
- ~~(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.~~

The application for the permit shall include ~~the petition~~, evidence of a ten-year period of existence, evidence that conversion of the use and structure would result in hardship, a site plan meeting the requirements of [section 61.401](#), floor plans, and other information as required to substantiate the permit.

(b) *Nonconforming commercial and industrial parking use.* The planning commission may grant legal nonconforming status to allow the use of land without completely enclosed buildings as a parking lot to serve abutting property in OS-B5 Business and ITR-I1 industrial districts if the commission makes the following findings:

- (1) The commercial or industrial parking lot has been paved, maintained and used for commercial or industrial parking for at least ten (10) consecutive years prior to the date of the application;

- (2) The parking lot occupies a legally subdivided parcel that is too small for development and has not been owned by a different adjoining property owner for at least ten (10) years prior to the date of the application;
- (3) The parking lot is to serve abutting commercially or industrially zoned property;
- (4) The parking lot will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
- (5) The parking lot is consistent with the comprehensive plan; ~~and~~
- ~~(6) 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 parking lot.~~

The application for the permit shall include ~~the petition~~, evidence of a ten-year period of existence, a site plan meeting the requirements of [section 61.401](#), and other information as required to substantiate the permit.

...

- (d) *Expansion or relocation of nonconforming use.* The planning commission may permit the expansion or relocation of a legal nonconforming use if the commission makes the following findings:
 - (1) In residential districts, the expansion, or relocation will not result in an increase in the number of dwelling units;
 - (2) For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district;
 - (3) The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood;
 - (4) Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses;
 - (5) Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use;
 - (6) After the expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare; and
 - (7) The use is consistent with the comprehensive plan; ~~and~~
 - ~~(8) 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 expansion or relocation.~~

The application for a permit shall include ~~the petition~~, a site plan meeting the requirements of [section 61.401](#), floor plans, and other information as required to substantiate the permit.

- (e) *Reestablishment of nonconforming use.* 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;
 - (2) The proposed use is equally appropriate or more appropriate to the district than the previous legal nonconforming use;
 - (3) The proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare; and
 - (4) The proposed use is consistent with the comprehensive plan; ~~and~~
 - ~~(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.~~

The application for the permit shall include ~~the petition~~, a site plan meeting the requirements of [section 61.401](#), floor plans, and other information as required to substantiate the permit.

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Sec. 65.121. Dwelling, carriage house.

An accessory dwelling in a combined residential and garage building, separate from the main building on the lot, located above and/or adjacent to the garage.

Development standards:

- (a) A carriage house building may be regulated as an accessory building or as an additional principal residential building.

Standards and conditions in residential districts:

- (b) The building planned for use as a carriage house dwelling had space originally built to house domestic employees.
- ~~(c) The applicant shall obtain a petition signed by two-thirds (2/3) of the property owners within one hundred (100) feet of the applicant's property line consenting to the carriage house dwelling.~~
- ~~(d) The applicant shall not reduce the number of existing off-street parking spaces on the property and shall also provide additional off-street parking as required for the carriage house dwelling.~~
- ~~(e)~~ A site plan and a building plan shall be submitted to the planning commission at the time of application.

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Sec. 65.132. Reuse of large structures.

Conversion or reuse of residential structures of over nine thousand (9,000) square feet gross floor area and permitted nonresidential structures such as churches and schools.

Standards and conditions in residential districts:

- (a) The planning commission shall find that the structure cannot reasonably be used for a conforming use.
- (b) The planning commission shall find that the proposed use and plans are consistent with the comprehensive plan.
- (c) The planning commission shall find that the proposed use and structural alterations or additions are compatible with the surrounding neighborhood and land uses.
- (d) Applications for conversion or reuse shall include ~~a notarized petition of two-thirds (2/3) of the property owners within one hundred (100) feet of the property proposed for the reuse,~~ site plans, building elevations, and landscaping plans, and other information which that the planning commission may request. ~~The notarized petition requirement shall be waived for a proposed conversion or reuse to serve residents who are all considered handicapped under the Federal Fair Housing Act Amendments of 1988.~~