

city of saint paul
planning commission resolution 17-64
file number 17-060-690
date October 20, 2017

WHEREAS, Rene & Kim Lerma, in File # 17-060-690, have appealed a Zoning Administrator similar use determination for Listening House to provide services at First Lutheran Church under the provisions of §61.106; §61.202; and §61.701(b-c) of the Saint Paul Legislative Code, on property located at 464 Maria Ave., Parcel Identification Number (PIN) 322922130011, legally described as Block 2 Lyman Dayton Addition, and northeasterly 1/2 of vacated Maria Ave accruing; and

WHEREAS, the Zoning Committee of the Planning Commission, on August 3, 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. On July 13, 2017, Rene & Kim Lerma filed an appeal of the zoning administrator decision to conditionally permit Listening House as an accessory use at First Lutheran Church, as detailed in a March 20, 2017 Statement of Clarification from DSI. The Listening House use occurs at 464 Maria Ave. in the sanctuary building of the First Lutheran Church campus.
2. In the March 20, 2017 Statement of Clarification, the proposed Listening House use of the site "to provide assistance to low-income, homeless or lonely adults for hospitality, practical aid and referrals to other agencies for specific needs, outreach, collaborating with art/health professionals, and maintaining a food shelf" was evaluated under the four required findings for a similar use determination in §61.106. The use was approved subject to the following conditions:
 1. The nonprofit tenant is limited to uses that are low profile, generate limited traffic, are compatible with the church's presence in the community, and have the potential to complement the activities of the church.
 2. Tenants shall meet the standards and conditions for "home occupation" as listed in Section 65.141 b, c, g and h of the Zoning Code, except that the use is accessory to a church rather than a dwelling unit (and therefore the person conducting the activity need not live on the premises), and that some limited classes may be offered.
 - (b) A home occupation shall not involve the conduct of a general retail or wholesale business, a manufacturing business, a commercial food service requiring a license, a limousine business or auto service or repair.

moved by Thao
seconded by DeJoy
in favor 14
against 2 (DeJoy, Rangel-Morales)

- (c) A home occupation shall be carried on whole within the main building. No occupation shall be allowed in detached accessory structures or garages.
 - (g) There shall be no exterior storage of equipment, supplies, or overweight commercial vehicles, nor parking of more than one (1) business car, pickup truck or small van, nor any additional vehicles except one business car, pickup truck or small van, nor any additional vehicles except those for permitted employees associated with the home business.
 - (h) There shall be no detriments to the residential character of the neighborhood due to noise, odor, smoke dust, gas, heat, glare, vibration, electrical interference, traffic congestion, number of deliveries, hours of operation, or any other annoyance resulting from the home occupation.
3. The church shall work with Listening House to prevent scheduling of multiple events that, taken together, would generate considerable traffic and congest neighborhood streets.
3. In 2004, the Planning Commission approved a similar use determination for St. Mary's Episcopal Church at 1895 Laurel Ave. (ZF #04-175-573), which was referred to in the March 20, 2017 Statement of Clarification. The 2004 approval found that leasing space to civic, educational, social, cultural, service, healing arts, performing arts, and studio arts organizations is similar to other accessory church uses, subject to five (5) conditions, including that the tenants meet the standards and conditions for a "home occupation" (except that it's for a church rather than a dwelling unit), and that some limited classes may be offered with no more than 10 persons. Accessory uses noted during a 2008 inspection include a yoga studio, a home health care office, a non-profit travel organization, a massage therapist, a psychologist, a piano teacher, and a counselor.
4. §61.106 states: When a specific use is not listed in the zoning code, ... the planning commission shall determine if a use is or is not similar to other uses permitted in each district. The ... planning commission shall make the following findings in determining one use is similar to another:
- (a) *That the use is similar in character to one (1) or more of the principal uses permitted.* This finding can be met. It has become apparent since the use has become established that it does not operate like the accessory uses permitted via Planning Commission action in ZF #04-175-573, nor like any other uses permitted in the RT1 zoning district. The use has not operated like a home occupation because of its detrimental effect on the neighborhood, with an increase in issues such as littering, public urination, and sleeping in outdoor public and private spaces causing such detriment, including during hours when the facility is closed. The use has not been compatible with the church's presence in the community. With no homeless shelter nearby, and the use's hours limited to 9:00 AM to 5:00 PM Monday through Friday, additional measures will be required to control the problem activities during other hours, such as providing bus fare for clients to leave the area, monitoring the area for nuisance behavior issues, maintaining open communication with neighbors, and prohibition of expanding hours into nighttime or overnight. Some problem activities have been exacerbated by the proximity to Swede Hollow Park.
 - (b) *That the traffic generated on such use is similar to one (1) or more of the principal uses permitted.* This finding is met. The property is on a corner lot and has two parking lots available for church and for Listening House staff/customers. The parking lots consist of one with 49 parking spaces of which Listening House will be using 11 parking spaces, and one with 24 parking spaces. The Church primarily uses the parking lot on Sundays

with occasional evenings or special events. The lease limits Listening House to Monday through Friday, 9:00 AM to 5:00 PM. The traffic generated is similar to that of a church with the same programs

(c) *That the use is not first permitted in a less restrictive zoning district.* This finding is met. The use has been classified as an accessory use, which is permitted in all zoning districts.

(d) *That the use is consistent with the comprehensive plan.* This finding can be met. The Comprehensive Plan in Housing Strategy H-3.4 calls for supportive housing for homeless, and generally commits the City to work to end homelessness (such as through programs like Listening House). Though the use is consistent with the Comprehensive Plan's general direction to provide support services to homeless, additional measures are needed to make it consistent with the Plan's Land Use policies. The Comprehensive Plan designates the site as part of a Mixed Use Corridor centered on E. 7th Street and, in Strategy LU-1.48, calls for compatible mixed uses in such areas whether within buildings or on adjacent properties. As noted in Finding 4(a) above, the use requires additional conditions to make it consistent with the Comprehensive Plan.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the appeal of Rene & Kim Lerma of a Zoning Administrator similar use determination for Listening House to provide services at First Lutheran Church at 464 Maria Ave. is hereby denied in part, thereby affirming the Zoning Administrator's decision in part, by permitting the services proposed by Listening House as an accessory use to the church with the following revised conditions:

1. The nonprofit tenant is limited to uses that are low profile, generate limited traffic, are compatible with the church's presence in the community, and have the potential to complement the activities of the church.
2. Tenants shall meet the standards and conditions for "home occupation" as listed in Section 65.141 b, c, g and h of the Zoning Code, except that the use is accessory to a church rather than a dwelling unit (and therefore the person conducting the activity need not live on the premises), and that some limited classes may be offered.
 - (b) A home occupation shall not involve the conduct of a general retail or wholesale business, a manufacturing business, a commercial food service requiring a license, a limousine business or auto service or repair.
 - (c) A home occupation shall be carried on whole within the main building. No occupation shall be allowed in detached accessory structures or garages.
 - (g) There shall be no exterior storage of equipment, supplies, or overweight commercial vehicles, nor parking of more than one (1) business car, pickup truck or small van, nor any additional vehicles except one business car, pickup truck or small van, nor any additional vehicles except those for permitted employees associated with the home business.
 - (h) There shall be no detriments to the residential character of the neighborhood due to noise, odor, smoke dust, gas, heat, glare, vibration, electrical interference, traffic congestion, number of deliveries, hours of operation, or any other annoyance resulting from the home occupation.
3. The church shall work with Listening House to prevent scheduling of multiple events that, taken together, would generate considerable traffic and congest neighborhood streets.
4. Hours of operation shall be limited to 9:00 AM to 5:00 PM.

5. Listening House will ensure that guests have left the area after Listening House has closed and will provide bus fares to its guests. Listening House staff must be on-site for two hours before and two hours after the times guests are served at the facility.
6. Listening House will not allow the consumption of alcohol or controlled substances anywhere on the First Lutheran Church properties.
7. Listening House will call emergency services when a guest is engaged in behavior that is harmful to self or others.
8. Listening House will give notice on a shared Google site of serious incidents observed that involve their guests.
9. No outdoor patio may exist anywhere on church grounds during Listening House's tenancy.
10. A sign must be posted in a plainly visible location to restrict after-hours use of the church grounds so as to aid in the enforcement of trespassing violations by Listening House guests or other persons when Listening House is closed.
11. Listening House will attend community policing meetings as invited by the Saint Paul Police Department.
12. Listening House will review on a daily basis their own camera footage and an online log maintained by neighbors in order to identify issues of concern and potential intervention.
13. Listening House will post guest policies regarding "good neighbor" expectations and consequences, including suspension or barring from Listening House and the church properties. Such policies must be readily visible to guests. Also, the policies must be provided to neighbors and the Zoning Administrator upon request.
14. The number of guests will generally be limited to 20 per day. If the number of guests exceeds 20 per day more than twice in any calendar month, notice shall be provided to the Zoning Administrator within 7 days of the end of said month. If the number of guests exceeds 20 per day more than four times in any month, a feasible written plan for reducing the number of guests on the site as soon as reasonably possible shall be prepared and provided to the Zoning Administrator within 30 days of the end of said month for review and approval. Any such written plan for reducing the number of guests approved by the Zoning Administrator must be executed according to the provisions of said plan in order to be in conformance with this condition of approval.